

Unofficial translation

**Ministry of Labor's Regulation on Criteria and Method of Election of Employers'  
and Employees' Representatives as Members of the National Labor Development Advisory Council (NLDAC)**

**B.E. 2555**

According as Article 75 and Article 84 (7) of the Kingdom of Thailand's Constitution stipulate a tripartite system Whereby workers have the right to elect their representatives, whereas the National Administrative Reform Party's Order No. 47, Item 2, dated 21 October B.E. 2519 stipulates that employers' associations and labor unions nationwide elect their 5 representatives each as members of the National Labor Development Advisory Council (NLDAC).

Resorting to Article 20 of the National Administration Act B.E. 2534 amended by the National Administration Act (No. 5) B.E. 2545, the Minister of Labor issues the following regulation:

1. This regulation is called "Ministry of Labor Regulation on Criteria and Method of Election of Employers' and Employees' Representatives as Members of the National Labor Development Advisory Council B.E. 2555."

2. This regulation takes effect on the day next to the date of its announcement in the Royal Gazette.

3. Any other existing announcement (s), regulation(s) or rule(s) contradicting to this regulation shall be replaced by this regulation.

4. In this regulation.

"Employers' associations" refers to employers' associations established under labor relations law.

"Labor unions" refers to labor unions established under labor relations law and state enterprise labor relations law.

"Director General" refers to Director General of the Department of Labor Welfare and Protection.

"Minister" refers to Minister of Labor.

5. The Office of the Permanent Secretary for Labor is to inform the Department of Labor Welfare and Protection to run the election required by this regulation no less than 120 days prior to the end of the term of membership of employers' and employees' representatives in the NLDAC.

Expenses for running the election according to this regulation are to be reimbursed from the Office of the Permanent Secretary for Labor.

6. The Director General of the Department of Labor Welfare and Protection is to keep this regulation.

## Section 1

### Nomination of Election Applicants and Voters

7. The Director General is to inform employers' associations and labor unions to nominate one representative each to apply for election as members of the NLDAC by submitting the application form within the specified deadline. Changes in nomination can also be made before the deadline.

Those persons nominated for the above-mentioned election must submit their application using an application form approved by the Director General.

8. The persons nominated as employers' and employees' candidates for the above-mentioned election must currently be members of the committees of either employers' associations or labor unions.

The Director General is to examine each applicant's qualifications to make sure that he/she is qualified to hold his /her office as member of the NLDAC, and then inform him/her and the employers' association/labor union who nominated him/her of the result.

In case of lacking qualifications, an appeal can be made in writing to the Permanent Secretary by nominators or the applicant within 5 days from the date of information. The Permanent Secretary is to judge the appeal within 15 days, and the judgment is final.

9. The Director General is to inform employers' associations and labor unions to give the name of the person (who is currently an association/union member) who will vote on their behalf in a specified form within the specified deadline. Changes of the voter's name can be made before the deadline.

The person who has been nominated as voter in an election cannot be re-nominated as voter in the same election.

In case of lacking qualifications, the respective association/ labor union can make an appeal in writing to the Permanent Secretary within 5 workdays from the day of information. The Permanent Secretary is to judge the appeal within 10 days, and the judgment is final.

## Section 2

### Preparation of the Election

10. The director General, after implementation of all the steps in Items 8 and 9, is to paste announcement of names and numbers of applicants and voters, date and time of voting and voting units at the Department of Labor Welfare and Protection, Provincial Office of Labor Welfare and Protection where employers' association and/or labor union is located and at voting units not less than 15 days prior to the voting day.

11. The Director General is to prepare the election by

(1) Making a list of names and numbers of applicants and a list of voters

(2) Providing voting materials as follows:

(a) ballot papers

(b) ballot paper boxes

(c) voting .....

(d) writing utensils

(e) vote marking boards, paper or similar equipment for vote counting.

The ballot papers are to be in the form specified by the Director General.

## Section 3

### Election Procedure

12. The Director General is to appoint an election committee, consisting of at least 5 members, namely chairman, 2 officials from the Department of Labor Welfare and Protection and the remaining members from voters of employers' associations and labor unions.

13. The election committee is authorized to

(1) Regulate and supervise election

(2) Provide voters with convenience and allow no access to the election unit for unauthorized persons during the election

(3) Check each voter's personal identification evidence, record his/her name together with remark (if any) in the voters' list

(4) Give final judgment in voting rights

(5) Decide validity of voting papers, recheck and add up all the votes, and make a report on the vote counting and announce the voting result.

(6) Revoke the right of voters who violate or do not comply with Item 20 or 21.

14. The Director General is to appoint officials of the Department of Labor Welfare and Protection and/or the Office of Permanent Secretary for Labor as vote counters.

The appointed vote counters are to assist the election committee with whatever has been assigned as their responsibility.

15. The election committee's decision on any related matter is to be based on the majority of votes, 1 vote for 1 committee member. The committee chairman is to give his decisive vote in case of equal number of votes.

16. When the election starts, the election committee chairman is to open the voting box before voters who are at the election unit to witness that the voting box is empty and record the action, and then have at least 2 voters there sign their names on the recorded document except when there are no voters there.

17. During the voting period, voters are to show up before election committee members by showing their ID, expired ID or any other official document with a photograph and JD number which can identify its owner for checking his/her name on the voters' list. The ID number, card number and name of the agency issuing the card are to be recorded. Each voter is to sign his/her name or have his/her fingerprint stamped on the voters' list before being given a voting paper to vote.

Each voter must exercise his /her voting right by himself/herself. No one else can exercise the right on his/her behalf.

In case it is doubtful whether the person who shows up is the one whose name appears on the voters' list, the election committee is to decide whether he/she has the right to vote or not. The election committee's decision is final, and the decision is to be recorded and signed.

18. Each voter is to cast his/her vote by marking a cross in the box on the voting paper corresponding to the number of the candidate he/she wants to vote for. In case the voter does not want to vote for anybody, he/she is to mark a cross in the "No vote" box on the voting paper.

19. Each voter has the right to vote for a maximum of 5 candidates.

20. After receiving a voting paper, each voter is to proceed to any vacant voting corner, one at a time, to cast his/her vote by marking a cross in each box on the voting paper, folding it so that nobody else can see his/her voting, and then putting it into the voting box in the presence of election committee members before leaving the election unit.

21. No voter, without any exception, can bring any document or do anything that shows the names or numbers of the candidates when entering the election unit.

#### Section 4

##### Vote Counting and Collecting

22. As soon as voting has been closed, the election committee members are to count the votes at the respective election unit publicly until finished without postponement or delay.

23. Voting papers as follows are to be treated as invalid:

(1) Voting papers which are not those prepared as stated in Item 11 and are not given as stated in Item 17.

(2) Voting papers without any voting mark.

(3) Voting papers with marks other than the cross mark.

(4) Voting papers which cannot tell which candidates are voted for.

(5) Voting papers with voting marks exceeding the allowed number of candidates to be voted for, as stated in Item 19 or 29.

(6) Voting papers with voting and "no vote" marks.

(7) Voting papers with marks out of the marking boxes.

Such voting papers are to be endorsed as "Invalid" together with the supporting reason, and are to be signed by at least 3 election committee members.

During vote counting, invalid voting papers are to be separated and are not to be counted without any exception.

24. The election committee is to announce the voting result at the respective election unit, and prepare a list of those candidates who have been elected, beginning from the one with the highest number of votes to the one with the least number of votes and then submit it to the Director General without delay.

If more than one candidate gets the same number of votes, the election committee chairman is to draw lots to run their order accordingly.

25. When vote counting is over, the election committee is to separate unused from used voting papers, pack them in envelopes, seal them and have over half the number of the election committee members sign their names on the envelopes. As to the used voting papers, the election committee is to separate valid voting papers, those with “no vote”, and those invalid voting papers and submit them to the Director General together with evidence of operation specified in Item 17 and the list of elected candidates.

After announcement of the election result the Director General can have the voting papers and other documents destroyed after at least 7 days from the end of the election objection deadline.

26. The Director General is to submit the list of each top 5 elected candidates who will represent employers and employees, respectively to the Office of the Permanent Secretary for Labor, which will then propose the elected candidates to the Minister to appoint them NLDAC members.

Then the names of the remaining candidates on the list are to be moved up accordingly and will be effective up to the end of the term of office of the NLDAC members.

27. In case of pre-termination of the usual term of office of any NLDAC member, the Permanent Secretary for Labor is to propose the name on the prepared list in Item 26 to be appointed NLDAC member by the Minister to replace the vacant position. The appointed person will stay in the position for the remaining period of the term of the person he/she replaces.

## Section 5

### Objection to Election Result

28. In case any employers' association/labor union doubts whether a person has been legally elected, it has the right to submit an objection to the Director General within 7 days from the date of announcement of the election result.

The Director General is to consider the objection without delay. His /Her decision is final.

## Section 6

### Additional Election

29. In case the number of elected candidates does not meet the required number of representatives either on the side of employers or employees, or in case any representative has to leave before the end of his/her term and there is no spare list as stated in Item 26, the Director

General is to run an additional election to obtain the required number of representatives, using the content in Section 1 to Section 5 as the implementation guideline.

Announced on 7 September B.E. 2555

Phadermchai Sasomsap

Minister of Labor

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