

Union of Myanmar

The State Peace and Development Council

The Attorney-General of the Union Law

(The State Peace and Development Council Law No. 22 / 2010)

The 5th Waning Day of Thadinkyut 1372 M.E.

(28th October , 2010)

Preamble

Since it is provided in Section 443 of the Constitution of the Republic of the Union of Myanmar that the State Peace and Development Council shall carry out the necessary preparatory works to implement the Constitution, it has become necessary to enact the relevant laws to enable performance of the legislative, administrative and judicial functions of the Union smoothly, to enable performance of works that are to be carried out when the various Hluttaws come into existence and to enable performance of the preparatory works in accord with law.

As such, the State Peace and Development Council hereby enacts this Law in accord with section 443 of the Constitution of the Republic of the Union of Myanmar, in order to determine the duties and powers of the Attorney-General of the Union and Advocate-General of the Region or State and duties and powers of the Law Officers at various levels of Law Office.

Chapter I

Title, Enforcement and Definition

1. (a) This Law shall be called **the Attorney-General of the Union Law**.
(b) This Law shall come into force commencing from the day on which the Constitution comes into force.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) **Constitution** means the Constitution of the Republic of the Union of Myanmar.
 - (b) **Hluttaw** means the Pyidaungsu Hluttaw, Pyithu Hluttaw, Amyotha Hluttaw and Region Hluttaw or State Hluttaw.
 - (c) **Union level Organization** means the Union Government, National Defence and Security Council, Financial Commission, Supreme Court of the Union, Constitutional Tribunal of the Union, Union Election Commission, Auditor-

General of the Union and the Union Civil Services Board or committee, commission and body formed by the Pyidaungsu Hluttaw, Pyithu Hluttaw and Amyotha Hluttaw in accord with the Constitution.

- (d) **The Region or State Level Organization** means the Region or State Government, High Court of the Region or State, Region or State Auditor-General and committee and body formed by the Region or State Hluttaw in accord with the Constitution.
- (e) **Original Case** means a case adjudicated firstly by a relevant Court under the original jurisdiction.
- (f) **Appeal case** means a case appealed to the appeal Court on the judgment, decree or order passed by a Court in accord with law.
- (g) **Revision case** means a case opened by a revisional Court to review a judgment or order passed by a Court in accord with law.
- (h) **Special Appeal case** means a case admitted for special appeal by the Supreme Court of the Union on the final judgment, decree or order passed by the Supreme Court of the Union by exercising its original jurisdiction or appellate jurisdiction or revisional jurisdiction.

Chapter II

Formation of the Office of the Attorney-General of the Union and Various levels of Law Office

3. The Office of the Attorney-General of the Union and various levels of Law Office are formed as follows:

- (a) Office of the Attorney-General of the Union;
- (b) Office of the Advocate-General of Region or State and under their supervision, within the relevant Region or State:
 - (i) if there is no Self-Administered Area:
 - (aa) District Law Offices;
 - (bb) Township Law Offices.
 - (ii) if there is Self-Administered Area:
 - (aa) In the Self-Administered Division:
 - Self-Administered Division Law Office;
 - District Law Offices;

- Township Law Offices.
- (bb) In the Self-Administered Zone:
 - Self-Administered Zone Law Office;
 - Township Law Offices;
- (cc) In the remaining areas:
 - District Law Offices;
 - Township Law Offices.
- (c) In the Union Territory:
 - (i) District Law Offices;
 - (ii) Township Law Offices.
- (d) Other Law Offices established by law.

Chapter III

The Attorney-General of the Union and the Deputy Attorney-General

Appointing and Assigning Duties

4. The Attorney-General of the Union shall be called the Attorney-General of the Union.
5. The President shall, with the approval of the Pyidaungsu Hluttaw, appoint a person from among Hluttaw Representatives or from among those who are not the Hluttaw Representatives who fulfil the qualifications contained in sub-section (a) of section 237 of the Constitution and section 10 of this Law as the Attorney-General of the Union to obtain legal advice and assign duties on legal matters.
6. The President shall appoint, on his own volition, the persons from among the Hluttaw Representatives or from among those who are not the Hluttaw Representatives who fulfil the qualifications of sub-section (a) of section 239 of the Constitution and section 11 of this Law, as Deputy Attorney-General to assist the Attorney-General of the Union.
7. If the Attorney-General of the Union and Deputy Attorney-General:
 - (a) are representatives of any Hluttaw or Civil Services personnel or members of a political party, it shall be carried out according to the provisions contained in sub-sections (f), (g) and (h) of section 237 and sub-section (c) of section 239 of the Constitution.
 - (b) in carrying out under sub-section (a), if a person is a member of a political party or an independently elected person or a citizen specifically appointed and assigned duty, and if such person is a person who will contest in the

forthcoming general election, if it is in conformity with the provisions of sections 120 and 121 of the Constitution, he is entitled to carry out the works of electoral party-organization and territorial organization, commencing from the day of the announcement of the Union Election Commission to hold election, in order not to lose the right of being elected given to a citizen under sub-section (a) of section 38 of the Constitution.

8 The Attorney-General of the Union:

- (a) is a member of the Union Government ;
- (b) is responsible to the President of the Union.

9. The Deputy Attorney-General shall be responsible to the Attorney-General of the Union and also to the President through the Attorney-General of the Union.

Qualifications

10. The Attorney-General of the Union shall fulfil the following qualifications:

- (a) person who has attained 45 years of age;
- (b) person who fulfils the qualifications, of the Pyithu Hluttaw representatives mentioned in section 120 of the Constitution with the exception of the age limit;
- (c) person who has not infringed the provisions in section 121 of the Constitution, which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (d)
 - (i) person who has served as a Judge of the High Court of the Region or State for a minimum of five years;
 - or
 - (ii) person who has served as a judicial officer or law officer not lower than that of the Region or State level for a minimum of 10 years;
 - or
 - (iii) person who has practised as an advocate for a minimum of 20 years;
 - or
 - (iv) person who is, in the opinion of the President, an eminent jurist;
- (e) person who is loyal to the Union and its citizens.

11. The Deputy Attorney-General shall fulfil the following qualifications:

- (a) person who has attained 40 years of age;

- (b) person who fulfils the qualifications, entitled to be elected as Pyithu Hluttaw representatives mentioned in section 120 of the Constitution with the exception of the age limit;
- (c) person who has not infringed the provisions contained in section 121 of the Constitution, which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (d) (i) person who has served as a Judge of the High Court of the Region or State for a minimum of five years;
or
(ii) person who has served as a judicial officer or law officer not lower than that of the Region or State level for a minimum of 10 years;
or
(iii) person who has practised as an advocate for a minimum of 15 years;
or
(iv) person who is, in the opinion of the President, an eminent jurist;
- (e) person who is loyal to the Union and its citizens.

Duties and Powers of the Attorney-General of the Union

12. The duties of the Attorney-General are as follows:

- (a) performing the duties of member of the Union Government;
- (b) submitting the unusual situation relating to the legal matters, from time to time, at the session of the Pyidaungsu Hluttaw or the session of the Pyithu Hluttaw or Amyotha Hluttaw;
- (c) tendering legal advice when so requested by the President of the Union, the Speaker of the Pyidaungsu Hluttaw, the Speaker of the Pyithu Hluttaw or the Speaker of the Amyotha Hluttaw, any organization of the Pyidaungsu level, any Ministry of the Union or Nay Pyi Taw Council;
- (d) appearing on behalf of the State in original, appeal, revision and special appeal cases relating to the Union under the jurisdiction of the Supreme Court of the Union;
- (e) appearing on behalf of the State in applications to issue writs to the Supreme Court of the Union;
- (f) prosecuting criminal cases at the Court in accord with law;

- (g) appearing in criminal cases on behalf of the Union;
 - (h) appearing on behalf of the Union in original civil case, civil appeal case, civil revision case and special civil appeal case in which the Union is involved as the plaintiff or defendant;
 - (i) filing appeal or revision, if it is necessary to file appeal or revision to the Supreme Court of the Union on judgment, order or decision passed by any High Court of the Region or State, in cases relating to the Union;
 - (j) translating laws;
 - (k) tendering legal advice to the Union level organizations on matters relating to international, regional or bilateral or multilateral treaties;
 - (l) tendering legal advice to the Union level organizations on matters relating to memorandums of understanding, memorandums of agreement, local and foreign investment instruments and other instruments;
 - (m) tendering legal advice when so requested by the Advocate-General of the Region or State on matter relating to a legal problem;
 - (n) guiding and supervising the law officers of the Office of the Attorney-General of the Union and various levels of Law Office;
 - (o) submitting bills relating to the Office of the Attorney General of the Union to the Pyidaungsu Hluttaw in accord with the stipulated manners;
 - (p) carrying out other duties stipulated by the provisions of the Constitution or existing laws and rules or rules, procedures, orders and directives issued under this Law;
 - (q) carrying out other duties assigned by the Union Government or any law.
13. The powers of the Attorney-General of the Union are as follows:
- (a) determining the duties and powers of the Deputy Attorney-General;
 - (b) carrying out in accord with law if it is necessary to withdraw the entire case, any charge or any accused in a criminal case filed at the Court;
 - (c) making decision to close the criminal cases that cannot be prosecuted at the Court;
 - (d) filing appeal against acquittal order in accord with law to the Supreme Court of the Union if it is considered appropriate to file appeal against an acquittal order in criminal case passed by the High Court of the Region or State;

- (e) calling for necessary orders, decisions, directives, activities, proceedings and other documents from the relevant Union level organizations if it is necessary to scrutinize relating to the legal matters;
- (f) guiding and supervising the relevant Advocate-General of the Region or State, relating to the work performances of the various levels of Law Office in the Region or State as may be necessary;
- (g) giving consent in writing under the Code of Civil Procedure in order to institute a suit regarding public charities.

14. The Attorney-General of the Union may delegate the duties and powers conferred on him under sections 12 and 13 to the Deputy Attorney-General, Advocate-General of the Region or State and the Law Officers of the various levels of Law Office.

Duties and Powers of the Deputy Attorney-General

15. The Deputy Attorney-General shall exercise and perform the duties and powers assigned by the Attorney-General of the Union.

Term of Office

16. The term of Office of the Attorney-General of the Union and the Deputy Attorney-General is the same as that of the President.

Resignation from Office

- 17. (a) If the Attorney-General of the Union desires to resign from office on his own volition for any cause before the expiry of the term of office, he may resign from office by submitting his desire to resign in writing to the President;
- (b) If the Deputy Attorney-General desires to resign as contained in sub-section (a), he may resign from office by submitting his desire to resign in writing to the President through the Attorney-General of the Union.

Termination from Duty

18. The President may direct the Attorney-General of the Union or the Deputy Attorney-General to resign if he cannot discharge his duties efficiently. If the directive of the President is not complied with, he shall be terminated from duties.

Filling and Appointing at the Vacant Office

19. If the Office of the Attorney-General of the Union or the Deputy Attorney-General becomes vacant due to resignation, termination from office, death or any other cause, the President may appoint and assign duties to a new Attorney-General of the Union or Deputy Attorney-General in accord with the relevant provisions of the Constitution for the

appointment of the Attorney-General of the Union or the Deputy Attorney-General. The term of office of the new Attorney-General of the Union or the Deputy Attorney-General appointed and assigned duties as such shall be for the remaining term of office of the President.

Impeachment

20. If it is necessary to impeach the Attorney-General of the Union, it shall be carried out in accord with the provisions of the Constitution.

Chapter IV

Advocate-General of the Region or State

Appointing and Assigning Duties

21. The Advocate-General of the Region or State shall be called the Advocate-General of the Region or Advocate-General of the State.

22. When the Chief Minister of the Region or State, with the approval of the Region or State Hluttaw, submits to enable appointment of any person from among the Hluttaw representatives or from among those who are not the Hluttaw representatives who fulfil the qualifications contained in sub-section (a) of section 266 of the Constitution and section 25 of this Law as the Advocate-General of the Region or State to obtain legal advice and to assign legal duties, the President shall appoint such person as relevant Advocate-General of the Region or State.

23. If the Advocate-General of the Region or State:

- (a) is a Civil Services Personnel, it shall be carried out in accord with the provisions of clause (1) of sub-section (n) of section 262 of the Constitution.
- (b) is a person who will contest in the forthcoming general election, if it is in conformity with the provisions of sections 120 and 121 of the Constitution, he is entitled to carry out the works of electoral party-organization and territorial organization, commencing from the day of the announcement of the Union Election Commission to hold election, in order not to lose the right of being elected given to a citizen under sub-section (a) of section 38 of the Constitution.

24. The Advocate-General of the Region or State:

- (a) is a member of the relevant Region or State Government;
- (b) shall be responsible to the Attorney-General of the Union or to the relevant Chief Minister of the Region or State;

- (c) shall be responsible to the President through the Chief Minister of the Region or State.

Qualifications

25. The Advocate-General of the Region or State shall fulfil the following qualifications:

- (a) person who has attained 40 years of age;
- (b) person who fulfils the qualifications, of the Pyithu Hluttaw representatives stipulated in section 120 of the Constitution with the exception of the age limit;
- (c) person who has not infringed the provisions mentioned in section 121 of the Constitution, which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (d) (i) person who has served as a judicial officer or law officer not lower than that of the Region or State level for a minimum of five years, or person who has served as a judicial officer or law officer not lower than that of the District level for a minimum of 10 years;
or
(ii) person who has practised as an advocate for a minimum of 15 years;
- (e) person who is loyal to the Union and its citizens.

Duties and Powers

26. The duties of the Advocate-General of the Region or State are as follows:

- (a) performing the duties of a member of the relevant Region or State Government;
- (b) submitting the unusual situation relating to legal matters at the session of the relevant Region or State Hluttaw from time to time;
- (c) tendering legal advice when so requested by the relevant Chief Minister of the Region or State, the Speaker of the Region or State Hluttaw, any Region or State level organization, any Ministry of Region or State or Leading Body of the Self-Administered Division or Zone;
- (d) appearing on behalf of the State in cases relating to the Union on original, appeal and revision cases under the jurisdiction of the relevant High Court of the Region or State;
- (e) prosecuting criminal cases at the Court in accord with law;
- (f) appearing in criminal cases on behalf of the Union;

- (g) appearing on behalf of the Union in original civil case, civil appeal and civil revision in which the Union is involved as the plaintiff or defendant;
 - (h) submitting to the Attorney-General of the Union to file appeal or revision if it is necessary to file appeal or revision in cases relating to the Union to the Supreme Court of the Union on judgment, order or decision passed by the relevant High Court of the Region or State;
 - (i) requesting legal advice on legal matters from the Attorney-General of the Union if it is necessary;
 - (j) issuing necessary orders and directives with the approval of the Attorney-General of the Union to implement the duties and powers conferred on him;
 - (k) tendering necessary legal advice when so requested by the Committees and Bodies formed relating to the legislation in the relevant Hluttaw, for matters contained in the Region or State Hluttaw Legislative List prescribed in Schedule 2;
 - (l) supervising the various levels of Law Office in the relevant Region or State;
 - (m) carrying out functions as are assigned in accord with law by the Attorney-General of the Union or relevant Chief Minister of the Region or State;
 - (n) carrying out other duties prescribed by any existing law.
27. The powers of the Advocate-General of the Region or State are as follows:
- (a) carrying out in accord with law, if it is necessary, to withdraw the entire case, any charge or any accused in a criminal case filed at the Court;
 - (b) making decision, in accord with the stipulations, to close the criminal cases which cannot be prosecuted;
 - (c) filing appeal against acquittal order, in accord with law to the High Court of the Region or State, if it is considered appropriate to file appeal against an acquittal order in criminal cases of various levels of Court in relevant Region or State;
 - (d) calling for necessary orders, decisions, directives, activities, proceedings and other documents from the relevant Region or State level organizations if it is necessary to scrutinize relating to the legal matters.
28. The relevant Advocate-General of the Region or State may delegate to the Law Officers in his Region or State, the duties and powers conferred on him under sections 26 and 27.

Term of Office

29. The term of Office of the Advocate-General of the Region or State is the same as that of the President.

Resignation from Office

30. If any Advocate-General of the Region or State desires to resign from office on his own volition for any cause before the expiry of the term of office, he may resign from office by submitting his desire to resign in writing to the President through the relevant Chief Minister.

Termination from Duty

31. The President may direct the Advocate-General of the Region or State to resign if he cannot discharge his duties efficiently. If the directive of the President is not complied with, he shall be terminated from duties.

Filling and Appointing at the Vacant office

32. If the Office of the Advocate-General of the Region or State becomes vacant due to resignation, termination from Office, death or any other cause, the President may appoint and assign duties to a new Advocate-General of the Region or State in accord with the relevant provisions of the Constitution relating to the appointment of the Advocate-General of the Region or State. The term of office of the newly substituted person shall be for the remaining term of office of the President.

Impeachment

33. If it is necessary to impeach the Advocate-General of the Region or State, it shall be carried out in accord with the provisions of the Constitution.

Chapter V**Functions and Duties of the Law Officers****Law Officers of the Office of the Attorney-General of the Union**

34. The Law Officers of the Office of the Attorney-General of the Union shall carry out the functions and duties delegated by the Attorney-General of the Union in accord with the stipulations.

35. The Law Officers of the Office of the Attorney-General of the Union shall carry out compiling and publishing of law books and law manuals in accord with the stipulations.

Law Officers at the Various Levels of Law Office

36. The Law Officers at the various levels of Law Office shall, in accordance with the stipulations, carry out the following functions and duties:

- (a) tendering legal advice when so requested by any relevant Government department and organization;
- (b) scrutinizing and tendering legal advice on criminal cases to be in conformity with law before prosecution;
- (c) prosecuting criminal cases at the Courts in accord with law;
- (d) appearing in criminal cases on behalf of the Union;
- (e) tendering legal advice and appearing on behalf of the Union in original civil case, civil appeal case, civil revision case and special civil appeal case in which the Union is involved as the plaintiff or defendant;
- (f) scrutinizing and submitting as to whether or not the relevant prosecuting body complies with the legal advice tendered by the Law Office;
- (g) scrutinizing as to whether or not the request of remand by the prosecuting body is in conformity with the existing laws, orders and directives;
- (h) scrutinizing the case for sound construction before prosecuting at the relevant Court by the prosecuting body;
- (i) scrutinizing and making decision, in accord with the stipulations as to whether or not the entire case or any charge or any accused in the criminal case filed at the Court should be withdrawn;
- (j) scrutinizing and making decision, in accord with the stipulations, relating to closing of the criminal cases which cannot be prosecuted;
- (k) making decision to tender a pardon from being prosecuted to an approver in accord with the Code of Criminal Procedure who is accused of a criminal offence before prosecuting at the Court in criminal cases;
- (l) hiring a lawyer to appear for the accused in poverty who is accused of a criminal offence punishable with death;
- (m) supervising the lawyer hired by the complainant, in accord with the stipulations, in criminal cases in which the Law Officer appears;
- (n) filing revision to the relevant Court, if it is necessary to file revision on any judgment, order or decision of the Court in cases relating to the Union;
- (o) submitting in accord with the stipulations if it is considered that an appeal should be filed against the acquittal order passed by the Court in a criminal case;
- (p) carrying out other duties assigned by the Attorney-General of the Union and relevant Advocate-General of the Region or State.

Chapter VI

Miscellaneous

37. The preparatory work carried out by the State Peace and Development Council, before this Law comes into force for the implementation of this Law, shall be deemed to have been carried out in accord with the Constitution.

38. The Attorney-General and the Deputy Attorney-General appointed under the Attorney General Law, 2001 shall continue to carry out their duties and powers up to the day of the appointment of the Attorney-General of the Union and the Deputy Attorney-General under this Law.

39. The rules, notifications, orders, directives and procedures issued under the Attorney General Law, 2001 may be applied in so far as they are not contrary to the provisions of the Constitution and this Law.

40. This Law may be amended, inserted or repealed by the Pyidaungsu Hluttaw, formed in accord with the Constitution of the Republic of the Union of Myanmar. This Law is in force in so far as it is not repealed by the Pyidaungsu Hluttaw.

41. In implementing the provisions contained in this Law, the Attorney-General of the Union may:

- (a) with approval of the Union Government, issue such rules as may be necessary;
- (b) issue such notifications, orders, directives and procedures as may be necessary.

42. The Attorney General Law, 2001 (The State Peace and Development Council Law No. 1/2001) is hereby repealed.

(Sd.) Than Shwe

Senior General

Chairman

The State Peace and Development Council