

**Observations and Findings of the
Joint Study and Review Committee on the Bills for the Second Amendment of the Constitution
Regarding the Bills for the Second Amendment of the Constitution of the
Republic of the Union of Myanmar: A Report**

Date: 5 February 2020

Introduction

1. The Joint Study and Review Committee on the Bills for the Second Amendment of the Constitution was formed and assigned duties by Notification No. 2/2020 dated 27 January 2020 of the Office of the Pyidaungsu Hluttaw. The Notification specifies that the Joint Study and Review Committee shall study and review the following bills.

- (a) Bill submitted by 143 Pyidaungsu Hluttaw Representatives including U Thein Tun of Kyaung Kone Constituency on 8 February 2019
- (b) Bill submitted by 145 Pyidaungsu Hluttaw Representatives including Dr Maung Thin of Meikhtila Constituency on 15 March 2019
- (c) Bill submitted by 144 Pyidaungsu Hluttaw Representatives including Defence Services Representative of Pyithu Hluttaw Brigadier General Maung Maung on 10 September 2019
- (d) Bill submitted by 144 Pyidaungsu Hluttaw Representatives including Defence Services Representative of Pyidaungsu Hluttaw Brigadier General Aung San Chit on 17 September 2019
- (e) Bill submitted by 145 Pyidaungsu Hluttaw Representatives including U Sai Than Naing of Kayin State Constituency 5 on 18 September 2019
- (f) Two Bills for the Second Amendment of the Constitution submitted by 351 Pyidaungsu Hluttaw Representatives including U Tun Aung aka U Tun Tun Hein of Naung Cho Constituency, Chair of the Joint Committee for the Amendment of the Constitution 2008.

Overall Study and Review

2. The Joint Study and Review Committee finds that in the bills that have been submitted to the Hluttaw, the numbers of proposed Sections and Sub-Sections relating to Sub-Sections (a) and (b) of Section 436 of Chapter 12: Amending the Constitution are as follows:

No.	Person who submitted the bill representing others	No. of proposed Sections and Sub-Sections relating to Sub-Section 436(a)	No. of proposed Sections and Sub-Sections relating to Sub-Section 436(b)
1	U Thein Tun	-	6
2	Dr Maung Thin	2	4
3	Brigadier General Maung Maung	-	2
4	Brigadier General Aung San Chit	-	9
5	U Sai Than Naing	5	-
6	U Tun Aung aka U Tun Tun Hein	51	63
	Total	58	84

3. It has been observed that in the Bills for the Second Amendment of the Constitution, different amendments are proposed for Sub-Section 58 (c) and Sub-Section 201 (k), which are provisions relating to Sub-Section 436(a).

4. It has been observed that in the Bills for the Second Amendment of the Constitution, identical amendments are proposed for Sub-Sub-Section 262 (a) (1), which is a provision relating to Sub-Section Section 436(b).

5. In the Bills for the Second Amendment of the Constitution, the proposed amendments relating to Sub-Sections (a) and (b) of Section 436 may be broken down as follows:

(a) Proposed amendments relating to Sub-Section 436(a)

Amend/No change	Remove	Add	Total
33/1	19	5	58

(b) Proposed amendments relating to Sub-Section 436(b)

Amend	Remove	Add	Total
49	30	5	84

Observations on individual Amendment Bills

6. The numbers of proposed Sections/Sub-Sections in Amendment Bill submitted by 143 Pyidaungsu Hluttaw Representatives including U Thein Tun of Kyaung Kone Constituency are as follows:

(a) Breakdown

Section 436 (a) or (b)	Amend	Remove	Add	Total
Section 436 (a)	-	-	-	
Section 436 (b)	6	-	-	6
Total	6	-	-	6

(b) Proposed Sections/Sub-Sections

Introductory phrase of Sub-Section 261(b); Sub-Sub-Sections (1) and (2); Sub-Sections (c), (d) and (e)

(c) The proposed amendment in full is attached as Appendix A.

7. The numbers of proposed Sections/Sub-Sections in Amendment Bill submitted by 145 Pyidaungsu Hluttaw Representatives including Dr Maung Thin of Meikhtila Constituency are as follows:

(a) Breakdown

Section 436 (a) or (b)	Amend	Remove	Add	Total
Section 436 (a)	-	-	2	2
Section 436 (b)	3	-	1	4
Total	3	-	3	6

(b) Proposed Sections/Sub-Sections

(1) Proposed Sections/Sub-Sections relating to Sub-Section 436(a)

Section 2 Definition to be added; Sub-Section 248(c)

(2) Proposed Sections/Sub-Sections relating to Sub-Section 436(b)

Proposed addition in the Preamble to the Constitution; Sub-Sub-Section 264(b)(1); Sub-Section 322(b); Section 402

(c) The proposed amendment in full is attached as Appendix B.

8. The numbers of proposed Sections/Sub-Sections in Amendment Bill submitted by 144 Pyidaungsu Hluttaw Representatives including Defence Services Representative of Pyithu Hluttaw Brigadier General Maung Maung are as follows:

(a) Breakdown

Section 436 (a) or (b)	Amend	Remove	Add	Total
Section 436 (a)	-	-	-	-
Section 436 (b)	-	-	2	2
Total	-	-	2	2

(b) Proposed Sections/Sub-Sections

Item (5) to be added after Item (4) of Sub-Section 232(a); Item (5) to be added after Item (4) of Sub-Section 262(a)

(c) The proposed amendment in full is attached as Appendix C.

9. The numbers of proposed Sections/Sub-Sections in Amendment Bill submitted by 144 Pyidaungsu Hluttaw Representatives including Defence Services Representative of Pyidaungsu Hluttaw Brigadier General Aung San Chit are as follows:

(a) Breakdown

Section 436 (a) or (b)	Amend	Remove	Add	Total
Section 436 (a)	-	-	-	-
Section 436 (b)	9	-	-	9
Total	9	-	-	9

(b) Proposed Sections/Sub-Sections

Sub-Sub-Sections (1) and (3) of Sub-Section 262(a); Sub-Sections (e), (f), (j), (k), and (l) (2); Sub-Sections (a) and (c) of Section 264

(c) The proposed amendment in full is attached as Appendix D.

10. The numbers of proposed Sections/Sub-Sections in Amendment Bill submitted by 145 Pyidaungsu Hluttaw Representatives including U Sai Than Naing of Kayin State Constituency 5 are as follows:

(a) Breakdown

Section 436 (a) or (b)	Amend/No Change	Remove	Add	Total
Section 436 (a)	3/1	-	1	5
Section 436 (b)	-	-	-	-
Total	4	-	1	5

(b) Proposed Sections/Sub-Sections

Section 5; Sub-Section 59 (c); Sub-Heading above Section 201; From introductory phrase to Sub-Section (k) of Section 201; Sub-Section (b) to be added to Section 201

(c) The proposed amendment in full is attached as Appendix E.

11. The numbers of proposed Sections/Sub-Sections in the two Amendment Bill submitted by 351 Pyidaungsu Hluttaw Representatives including U Tun Aung aka U Tun Tun Hein of Naung Cho Constituency are as follows:

(a) Breakdown

Section 436 (a) or (b)	Amend	Remove	Add	Total
Section 436 (a)	29	18	4	51
Section 436 (b)	31	30	2	63
Total	60	48	6	114

(b) Proposed Sections/Sub-Sections

(1) Proposed Sections/Sub-Sections relating to Sub-Section 436(a)

Sub-Sections (d) and (e) of Section 6; Section 7; Section 8; Section 14; Sub-Section 17 (b); Sub-Section 20 (c); Sub-Section 26 (a); Sub-Sections (a) and (b) of Section 32; Section 39; Sub-Sections (b) and (c) of Section 40; Sub-Sections (c), (d) and (e) of Section 59; Sub-Section 109 (b); Sub-Section 141 (b); Section 161 (d); Sub-Sections (h), (i) and (k) of Section 201; Section 294; Section 410; Sub-Section 411 (c); Sub-Sections (a) and (b) of Section 412; Introductory phrase and Sub-Sections (a) and (b) of Section 413; Section 415; Section 417; Introductory phrase and Sub-Sections (a) and (b) of Section 418; Section 419; Section 420; Introductory phrase and Sub-Sections (a) and (b) of Section 421; Section 422; Section 423; Section 425; Section 426; Introductory phrase and Sub-Section (a) of Section 427; Section 428; Section 429; Section 431; Section 432; Sub-Sections (a) and (b) of Section 436

(2) Proposed Sections/Sub-Sections relating to Sub-Section 436(b)

Sub-Section 115(b); Sub-Section 121(k); Sub-Sections (a) and (b) of Section 124; Sub-Section 147(b); Sub-Sections (a) and (b) of Section 172; Section 188; Section 196; Sub-Sections (b) and (d) of Section 198; Sub-Section 204(b); Section 225; Sub-Sections (a) and (b) of Section 226; Sub-Sub-Section (a)(1) and (b)(1), Sub-Sub-Section (j)(2) and Sub-Section (k) of Section 232; Introductory phrase of Sub-Section (a) and Sub-Sections (f) of Section 234; Sub-Sub-Section 235 (c)(2); introductory phrase and item (dd) of Sub-Sub-Section 4 of Sub-Section 237 (a); introductory phrase and item (dd) of Sub-Sub-Section 4 of Sub-Section 239 (a); introductory phrase and item (cc) of Sub-Sub-Section 4 of Sub-Section 242 (a); introductory phrase and item (cc) of Sub-Sub-Section 4 of Sub-Section 244 (a); Sub-Sub-Section (a)(1) and (n)(2) of Section 262; Sub-Sub-Section 264(b)(2); Sub-Sub-Section (a)(4), and Sub-Sections (f) and (g) of Section 285; Sub-Sub-Sub-Section 286a(3)(bb); Sub-Sub-Section 301(d)(4); Sub-Sub-Section 310(d)(3); Section 319; Sub-Sub-Section 333(d)(4); Section 338; Section 339; Section 344; Section 359; Section 376; Sub-Section 396(b); Sub-Sub-Sub-Section 398(b)(3)(dd); Sub-Section 399(f); Sub-Section 405(a); Sub-Section 437(a); Chapter Heading of Chapter 14; Section 441; Section 442; Section 443; Sub-Sections (a) and (b) of Section 444; Section 445; Section 446; Section 447; Section 448; Sub-Sections (a) and (b) of Section 450

(c) The proposed amendment in full is attached as Appendices F1 and F2.

Review of Legislative Usage

12. The proposed amendments in each of the amendment bills have been reviewed and revised for consistency with legislative drafting conventions by responsible persons led by Deputy Attorney-General of the Union Attorney-General's Office. The revisions for consistency with legislative drafting conventions are attached as Appendices G1 and G2.

The Need for Hluttaw Resolutions

13. In Chapter 12 of the Constitution, Sub-Section (a) of Section 436 states that “If it is necessary to amend the provisions mentioned¹, it shall be amended with the prior approval of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw, after which in a nation-wide referendum only with the votes of more than half of those who are eligible to vote.” Sub-Section (b) states that “Provisions other than those mentioned in Sub-Section (a) shall be amended only by a vote of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw.” As there are 655 Pyidaungsu Hluttaw Representatives, it is hereby presented that supporting votes from more than seventy-five percent or more than 491 Pyidaungsu Hluttaw Representatives are required to approve the amendment bills in accordance with Section 436 of the Constitution.

14. It is also presented that following the discussion of amendment bills by Pyidaungsu Hluttaw Representatives, separate resolutions of the Hluttaw should be obtained for the tabulated revised amendment proposals in Appendix H2 and I2, which are the revised versions of amendment bills in Appendix H1 and I1.

15. As different amendment proposals have been made for Sub-Section (c) of Section 59 and Sub-Section (k) of Section 201, both of which are specified in Sub-Section (a) of Section 436, separate resolutions of the Hluttaw should be obtained for each of those proposed amendments on the basis of whether supporting votes of more than seventy-five percent of Pyidaungsu Hluttaw Representatives are obtained. It is presented that in case both proposed amendments obtain the required percentage of supporting votes, the proposed amendment that receives the higher percent of supporting votes should be adopted.

Recommendation on Voting in the Hluttaw

16. In obtaining the resolution of the Hluttaw on Constitutional amendment matters, “**secret voting using ballot papers**” is recommended.

Comments by the Committee

17. Relating to the points in Paragraphs 14 and 18 of the Report, members of the Joint Study and Review Committee, Brigadier General Maung Maung, Brigadier General Tint Lwin, Daw Nan Ni Ni Aye and U Stephen, express the view that for each of the constitutional amendment bills submitted by different

¹ Sections 1 to 48 in Chapter I, Sections 49 to 56 in Chapter II, Sections 59 and 60 in Chapter III, Sections 74, 109, 141 and 161 in Chapter IV, Sections 200, 201, 248 and 276 in Chapter V, Sections 293, 294, 305, 314 and 320 in Chapter VI, Sections 410 to 432 in Chapter XI and Sections 436 in Chapter XII of this Constitution

groups of Representatives, separate discussions should be conducted and resolutions obtained in accordance with Chapter 12 of the Constitution and Chapter 18 of the Rules Related to the Pyidaungsu Hluttaw Law.

18. All other members of the Joint Study and Review Committee are of the view that following the discussions of the amendment bills by Pyidaungsu Hluttaw Representatives in accordance with Sections 137 and 138 of the Rules Related to the Pyidaungsu Hluttaw Law, the resolution of Pyidaungsu Hluttaw should be obtained on Appendix H2 and I2, which are the revised versions of amendment bills in Appendix H1 and I1, in accordance with Sections 139 of the Rules Related to the Pyidaungsu Hluttaw Law.

Pyidaungsu Hluttaw Joint Study and Review Committee
on the Bills for the Second Amendment of the Constitution

