

REPUBLIC OF VANUATU

DECENTRALIZATION AND LOCAL GOVERNMENT  
REGIONS ACT NO. 1 OF 1994

LOCAL GOVERNMENT COUNCILS ELECTION  
(AMENDMENT) REGULATIONS NO. 23 OF 1994

To amend the Local Government Council Election Rules Order No. 61 of 1982.

IN EXERCISE of the powers conferred by section 35 of the Decentralization and Local Government Regions Act No. 1 of 1994, I, CHARLIE NAKO, Minister of Home Affairs, make the following regulations:-

**DEFINITION**

1. In these Regulations "Order" means the Local Government Council Elections Rules Order No. 61 of 1982.

**AMENDMENT OF RULE 1 OF THE ORDER**

2. Rule 1 of the Order is amended -

(a) by deleting the definition of "Act" and substituting the following definition -

"Act" means the Decentralization and Local Government Regions Act No. 1 of 1994;"

(b) by inserting after the definition of "Act" the following definition -

"ballot paper" means a printed paper in the form of Form D in Schedule 1 produced by the Electoral Commission containing the list of a single party;"

(c) by inserting after the definition of "electoral officer" the following definitions -

"example" means an example contained in the annex to Schedule 4 for explanatory purposes only;

"list" means a list containing the names of all of the candidates in a party contesting the election for a single local government council;

"party" means a political party or movement or association or coalition of parties or movements or a group of individuals who decide to combine together to seek election as local government councillors;"

- (d) by deleting the definition of "ward"; and
- (e) by inserting after the definition of "polling day" the following definition -

"return date" means the date prescribed by the Electoral Commission in respect of any local government council election as the last date on which a list may be lodged by a party."

#### REPLACEMENT OF RULE 4 OF THE ORDER

- 3. Rule 4 of the order is repealed and the following rule is substituted -

#### LODGING OF CANDIDATES LIST

- 4. (a) Any party wishing to have candidates elected to a Local Government Council shall prior to the return date deliver a list of candidates in the form of Form A contained in Schedule I together with a declaration of candidature in Form B in Schedule I in respect of each candidate appearing on the list personally to the electoral officer, which delivery shall constitute the lodging of the list.
- (b) At the time of lodging the list, the party will pay a fee of VT5,000 for each candidate listed and the list shall be deemed not to have been lodged unless and until the fee is paid. The fee will not be refundable under any circumstances.
- (c) The electoral officer receiving the list shall enter the date and time at which the list is received by him in the top right hand corner of the list and shall give a receipt for the list in Form C in Schedule I.
- (d) The electoral officer shall immediately thereafter deliver the list to the Electoral Office.
- (e) The Party lodging the list shall be entirely responsible for the proper completion of the list. Any list which is not in the form of Form A of Schedule I, does not contain the names of the requisite number of candidates and their photographs or is not accompanied by properly-completed declarations of candidature will be rejected by the Electoral Office.

- (f) If the name of any candidate (being the same person) is entered on two or more lists for the same Local Government Region only the list lodged first will be valid. Any other list will be void.
- (g) It shall be the duty of the Electoral Commission to determine whether the name of any person appearing to be the same on any two or more lists is in fact the same person. If the Electoral Commission is satisfied that the person appears on two or more lists, it must notify the party concerned that their list is void as soon as reasonably possible.
- (h) If a candidate whose name appears on a list dies after the time at which the list is lodged, the list will remain valid.
- (i) If, after the list is lodged, up to two candidates whose names appear on the list are declared to be disqualified or ineligible for or withdraw from the election, the list shall remain valid. If more than two candidates are declared ineligible or disqualified, or withdraw the list will be void.
- (j) The number of candidates appearing on the list shall be equal to the number of seats in the Local Government Council concerned plus five. Example A. Any list containing less than this number shall be rejected. If any list is lodged which contains more than this number the excess names shall be deleted by the Electoral Office, starting at the foot of the list.
- (k) No alteration may be made to the list or the order in which candidates' names appear on the list after the list has been lodged.

**REPLACEMENT OF RULE 5 OF THE ORDER**

4. Rule 5 of the Order is repealed and the following rule is substituted -

**"DECLARATION OF INVALIDITY OF CANDIDATURE BY  
THE ELECTORAL COMMISSION**

- 5. (1) When a list has been lodged in compliance with rule 4 the candidates on that list shall stand for election unless and until the Electoral Commission declares their candidature invalid or evidence is given to the satisfaction of the Electoral Commission that a candidate has died, or the candidate has withdrawn by notice in writing to the Electoral Office.

- (2) The Electoral Commission shall only declare a list invalid on the following grounds -
- (a) more than two candidates on the list are ineligible, are disqualified or have withdrawn after the lodging of the list;
  - (b) the list does not comply with the provisions of rule 4.
- (3) Where the Electoral Commission decides that a list is invalid it shall so endorse the list giving reasons for the decision."

**REPLACEMENT OF RULE 6**

5. Rule 6 of the Order is repealed and the following rule is substituted -

**"RESUBMISSION OF DECLARATION OF CANDIDATURE BY CANDIDATES**

6. Notwithstanding the provisions of rule 4(e) but subject to the provisions of rule 4(k), the Electoral Commission may, where it considers that a list is invalid by reason of a bona fide error, not less than 14 days before polling day request the party concerned to resubmit a valid list within 72 hours after such request."

**INSERTION OF NEW RULE 6A**

6. After rule 6, insert the following new rule -

**"BALLOT PAPER**

- 6A. (a) The Principal Electoral Officer shall prepare a ballot paper in respect of each Party in the form of Form D in Schedule I.
- (b) The ballot paper shall contain the name of the party and its logo (if any) and shall, subject to the provisions of sub-paragraph (c) be printed on paper of the colour chosen by the party on the list lodged by the party.
- (c) If two or more parties select the same colour or if the colour chosen by a party is not reasonably obtainable, the Electoral Commission may substitute a different colour. The choice of colour will be in the discretion of the Electoral Commission but they shall take account of any tradition of use of such colour by any particular party.

- (d) Each party's ballot paper shall contain the names of all of those candidates appearing on the list of the party concerned in precisely the same order as they were listed in that list.

**AMENDMENT OF RULE 7 OF THE ORDER**

7. Rule 7 of the Order is amended -

- (a) by deleting the words "A list of" and substituting the words "All lists of";
- (b) in paragraph (a) by deleting the words "District Commissioner" and substituting the words "former local government council"; and
- (c) in the last paragraph by deleting the words "re-submitted candidatures" and substituting the words "re-submitted lists"

**REPEAL OF RULE 8 OF THE ORDER**

8. Rule 8 of the Order is repealed and the following rule is substituted -

**"DECLARATION WITHOUT A POLL**

8. If only one valid list has been lodged by the return date, the Electoral Commission shall declare those candidates elected who appear on the list down to the number of seats available in the local government council region concerned."

**AMENDMENT OF RULE 12**

Rule 12 of the Order is amended -

- (a) in the headnote by deleting the words "ONE CANDIDATE" and substituting the words "ONE LIST";
- (b) in subrule (2) by deleting the words "one candidate" and substituting the words "one list".

**AMENDMENT OF PART V OF THE ORDER**

10. ~~Part V of the Order is amended -~~

- (a) by deleting the word "PRESIDENTS" and substituting the word "CHAIRMEN" wherever it occurs;
- (b) by deleting the word "PRESIDENT" and substituting the word "CHAIRMAN" wherever it occurs;

- (c) by deleting the words "DEPUTY PRESIDENTS" and substituting the words "DEPUTY CHAIRMEN" wherever they occur;
- (d) by deleting the words "DEPUTY PRESIDENT" and substituting the word "DEPUTY CHAIRMAN" wherever they occur;
- (e) in rule 19 in subrule (1) by deleting the words "president and a deputy president" and substituting the words "chairman and not more than three deputy chairmen";
- (f) in rule 19 by repealing subrule (4) and substituting the following subrule -  
"The election of each deputy chairman shall be in accordance with subrules (1), (2) and (3).";
- (g) by repealing rule 20;
- (h) in rules 21, 22, 23, 24, 25, 26 and 27 by deleting the word "president" and substituting the word "chairman";
- (i) in rules 21, 22, 23, 25, 26 and 27 by deleting the words "deputy president" and substituting the words "deputy chairmen" wherever they occur in those rules;
- (j) in rule 27 by deleting the word "presidents" and substituting the word "chairmen";
- (k) in rules 24 and 27 by deleting the words "deputy presidents" and substituting the words "deputy chairmen".

AMENDMENT OF RULE 33 OF THE ORDER

11. Rule 33 of the Order is amended -

- (a) by repealing subrule (1) and substituting the following subrule -  
"(1) There shall be an Election Disputes Committee which shall consist of 3 members, one of whom shall be the Chairman, who shall be appointed by the Chief Justice by notice published in the Gazette";
- (b) by deleting the words "Minister may" and substituting the words "Chief Justice may"; and
- (c) by repealing subrule (3).

**AMENDMENT OF RULE 40 OF THE ORDER**

12. Rule 40 of the Order is amended -

(a) in subrule (1)(b) -

(i) after the word "candidate" by inserting the words "or candidates";

(ii) after the word "person" by inserting the words "or persons";

(b) in subrule (1)(c) -

(i) after the word "person" by inserting the words "or persons";

(ii) by deleting the word "was" and substituting the word "were".

**AMENDMENT OF RULE 41 OF THE ORDER**

13. Rule 41 of the Order is amended -

(a) in the first line of subrule (1) by inserting after the word "candidate" the words "or candidates"; and

(b) in subrule (1)(c) by deleting the words "the candidate" and substituting the words "subject to the provisions of rule 4(1), a candidate".

**REPLACEMENT OF RULE 42 OF THE ORDER**

14. Rule 42 of the Order is repealed and the following rule is substituted -

**"EXAMINATION OF VOTES CAST**

42. The Election Disputes Committee may direct an examination of the counted and void votes and of the counting of votes."

**ADDITION OF NEW RULE 48 OF THE ORDER**

15. After rule 47, add the following new rule -

**" FILLING OF VACANCIES**

48.(a) If at any time, for whatever reason (whether death, resignation, disqualification or otherwise) any seat in a Local Government Council becomes vacant, the next unelected candidate appearing on the list on which the vacating candidate appeared will be elected.

(b) Such election shall be effective upon the Electoral Commission so declaring by notice in the Gazette."

REPLACEMENT OF SCHEDULE 1 OF THE ORDER

16• Schedule 1 of the Order is deleted and replaced with the following Schedule 1 -

"SCHEDULE 1

PART I

FORM A

BOX TO BE COMPLETED BY RECEIVING OFFICER DATE: TIME: FEE PAID VT: LIST RECEIVED: SIGNED:
--

List to be lodged by Party wishing to contest Local Government Council Elections.

Name of Party:

Identifying name:  
to appear on top  
of ballot paper (if different)

Logo:

Colour of ballot paper requested:

Candidates:(in order of preference)

No•	NAME (Block Capitals)	PHOTOGRAPH
1		
2		
3		





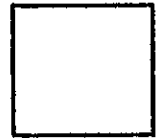
SCHEDULE 1

PART I

FORM B

Local Government Council Elections Rules

DECLARATION OF CANDIDATURE



To the electoral officer for .....  
district

I, ..... (name) of  
.....  
being a citizen of Vanuatu and aged 21 or more

HEREBY DECLARE

- 1. myself as a candidate for election to the .....  
local government council
- 2. that I am registered in the electoral roll for .....  
Polling District, electoral card no.....;
- 3. that I am not disqualified from voting;
- 4. that I am not serving a sentence of imprisonment and have not  
received a suspended sentence of imprisonment where the  
period of suspension has not ended;
- 5. that I am not an undischarged bankrupt;
- 6. that my occupation/profession is .....
- 7. my date of birth is .....

DATE..... SIGNATURE OF CANDIDATE .....

SCHEDULE 1

FORM C

Local Government Council Elections Rules

RECEIPT

Received from Mr/Mrs/Miss ..... on behalf of  
the ..... party this ..... day of  
..... 19..... at ..... o'clock in the  
..... noon a list of candidates for the election of members of  
the local government council of ..... to be held on  
the ..... day of ..... 19.....

Signed: .....

Electoral Officers for.....  
District

FORM D

Ballot Paper

Party Name:

Logo:

Candidates

No.	NAME	PHOTOGRAPH
1		
2		
3		
4		
5		
6		

**AMENDMENT OF RULE 3 OF SCHEDULE 3 OF THE ORDER**

17. Rule 3 of Schedule 3 to the Order is amended -

- (a) in subrule (1) by deleting the words "A candidate or political party" and substituting the words "A party";
- (b) by repealing subrule (3);
- (c) in subrule (4) by deleting the word "candidate" and substituting the word "party"; and
- (d) in subrule (5) by deleting the word "candidates" and substituting the word "parties".

**AMENDMENT OF RULE 4 TO SCHEDULE 3 OF THE ORDER**

18. Rule 4 of Schedule 3 to the Order is amended by deleting the word "candidate" in subrule (3)(e) and substituting the word "list";

**AMENDMENT TO RULE 8 OF SCHEDULE 3 OF THE ORDER**

19. Rule 8 of Schedule 3 to the Order is amended by deleting paragraph (c) of subrule (1) and substituting the following paragraph -

"(c) authorized representatives of parties nominated in accordance with rule 3;"

**REPLACEMENT OF RULE 10 TO SCHEDULE 3 OF THE ORDER**

20. Rule 10 of Schedule 3 to the Order is repealed and the following rule is substituted -

**"VOTING PROCEDURE**

10. (a) The Returning Officer shall provide a ballot paper in respect of each of the parties contesting the election and one envelope to each voter entering the polling station to cast his vote.
- (b) Immediately on receiving the ballot papers, the voter shall enter the polling booth and place the ballot paper of the party of his choice in the envelope and place all other ballot papers in the rubbish bin in the polling booth.
- (c) The voter shall then present himself to the returning officer who, without touching it, shall verify that the voter is tendering one envelope only and the voter shall place the envelope in the ballot box. This shall constitute the casting of the vote.
- (d) Immediately after casting his vote, the voter must leave the polling station."

**AMENDMENT OF RULE 13 TO SCHEDULE 3 OF THE ORDER**

21. Rule 13 of Schedule 3 to the Order is amended by deleting the words "candidate or his" and substituting the words "party's"

**AMENDMENT OF Rule 16 TO SCHEDULE 3 OF THE ORDER**

22. Rule 16 of Schedule 3 to the Order is amended in subrule (1) -

- (a) in paragraph (d) by deleting the words "name on" and substituting the words "colour of"; and
- (b) in paragraph (e) by deleting the words "each candidate" the words "each list".

**AMENDMENT OF RULE 18 TO SCHEDULE 3 OF THE ORDER**

23. Rule 18 of Schedule 3 to the Order is amended by deleting the words "candidate or his" and substituting the words "party's"

**AMENDMENT OF RULE 19 TO SCHEDULE 3 OF THE ORDER**

24. Rule 19 of Schedule 3 to the Order is amended -

- (a) in subrule (1) by deleting the word "candidate" and substituting the word "list";
- (b) in subrule (2) in paragraph (d) by deleting the word "candidate" and substituting the word "list";
- (c) in subrule (4) by deleting the word "candidates" and substituting the words "party representatives appointed under rule 3(1)".

**AMENDMENT OF RULE 20 TO SCHEDULE 3 OF THE ORDER**

25. Rule 20 of Schedule 3 to the Order is amended -

- (a) in the headnote by deleting the word "CANDIDATE" and substituting the word "LIST"; and
- (b) by deleting the words "candidate in the wards for which he is responsible" and substituting the word "list".

**AMENDMENT OF RULE 21 TO SCHEDULE 3 OF THE ORDER**

26. Rule 21 of Schedule 3 to the Order is amended -

- (a) in paragraph (a) by deleting the word "candidate" and substituting the word "list"; and
- (b) in paragraph (b) by deleting the words and figures "with rules 22, 23 and 24" and substituting the words "with Schedule 4".

**REPLACEMENT OF RULE 22 TO SCHEDULE 3 OF THE ORDER**

27\* Rule 22 of Schedule 3 to the Order is repealed and the following rule is substituted -

**"DETERMINATION OF SUCCESSFUL CANDIDATES**

22\* The method of determining which candidates are elected is set out in Schedule 4\*"

**REPEAL OF RULES 23, 24, and 25 TO SCHEDULE 3 OF THE ORDER**

28\* Rules 23, 24 and 25 of Schedule 3 to the Order are repealed.

**ADDITION OF NEW SCHEDULE 4 OF THE ORDER**

29\* The following schedule and annexes are added as Schedule 4 to the Order -

**"SCHEDULE 4**

**Method of determining which candidates are elected**

**DEFINITIONS**

1\* "primary seats" means a number of seats on a Local Government Council equal to one half of the total number of seats available on that council provided that if the total number of seats shall be an uneven number the number of primary seats shall be rounded up to the nearest whole number; Example B\*

"primary candidates" means those candidates of a list equal to the number of primary seats beginning with candidate number one at the top of the list and ending with (but including) the candidate with the number equal to the number of primary seats; Example C\*

"secondary seats" means the seats available for Councillors on a Local Government Council other than the primary seats; Example D

"electoral quotient" means the product of dividing -

(a) the number of valid ballot papers cast in a Local Government Council election by -

(b) the number of secondary seats in that Local Government Council,

shown arithmetically as -

(a)  $\frac{\text{total number of votes cast}}{\text{number of secondary seats}} = \text{electoral quotient}$

If the electoral quotient is a fraction it will be rounded up to the next whole number. Example E\*

"secondary proportion" means the number of times the electoral quotient will go exactly into the votes cast for a party; or the votes cast divided by the electoral quotient rounded down to the next lowest whole number; Example F.

"remainder" means the remainder of votes cast for each party after the electoral quotient multiplied by the secondary proportion has been deducted shown arithmetically as

votes cast - (electoral quotient x secondary proportion) = remainder; Example H

For the purpose of these rules, any candidate who has died, or (subject to the limit referred to in principal Rule 4(1) of this Order) withdrawn, been disqualified or declared ineligible shall be deleted and the list shall be re-numbered accordingly.

#### PRIMARY SEATS

2.(a) The primary candidates of the party which has had most votes cast in its favour will be elected to the primary seats. Example C.

(b) In the event that paragraph (a) does not apply because an equal number of votes has been cast for two or more parties, the primary candidates of the party, the average age in years of all of whose candidates appearing on their list is the greatest will be elected.

#### SECONDARY SEATS

3.(a) Subject to rule 4 of this Schedule, the number of secondary seats allocated to each party shall be equal to the secondary proportion. Example F.

(b) The unelected candidates who appear next in numerical order on the list of each party entitled to an allocation of votes under paragraph (a) shall be elected, down to the number of such secondary proportion. Example G.

#### REMAINING SEATS

4.(a) If any secondary seats remain without an elected councillor after the process referred to in rule 3 of this Schedule, the remaining secondary seat or seats shall be allocated to the party with the highest remainder, with any remaining seat going to the party with the next highest remainder and so on until all of the seats are allocated. Example I.

(b) The unelected candidate next appearing in numerical order on the list of the Party concerned shall be elected in respect of each such allocation. Example J.

(c) In the event of an equal remainder, the eldest candidate eligible for election to the seat shall be elected.



SCHEDULE 4

ANNEX I

E X A M P L E S

EXAMPLE A

Region X has 17 seats

$$17 + 5 = 22$$

Therefore 22 candidates must appear on the list of any party contesting the election.

Example B

$$17 \div 2 = 8.5$$

rounded-up

The number of primary seats in Region X is 9.

Example C

Candidates numbered 1 to 9 inclusive on the list of each party contesting the election in Region X are primary candidates.

EXAMPLE D

$$17 - 9 = 8$$

There are 8 secondary seats in Region X.

EXAMPLE E

If 11,376 valid votes are cast in Region X

$$\begin{array}{l} \text{The electoral} \\ \text{quotient} \end{array} = \frac{11,376}{8} = 1,422$$

EXAMPLE F

If Party A receives 4,800 votes, its secondary proportion will be  $4,800 \div 1,422 = 3.38$ . Rounded down to 3. It will be allocated that number of secondary seats.

Example G

If Party A obtained the most votes so that its primary candidates were elected, candidates numbers 10, 11 and 12 will additionally be elected.

If Party A did not obtain the most votes, candidates 1, 2 and 3 will be elected.

EXAMPLE H

$$4,800 - (1,422 \times 3) = 534$$

Party A's remainder is therefore 534.

EXAMPLE I

If there are two seats remaining unfilled and there are two other parties who have remainders of -

Party B - 462  
Party C - 204

The first unfilled seat shall be allocated to party A, the second to party B.

EXAMPLE J

If party A obtained the most votes so that its primary candidates were elected, this will result in candidate No. 13 being elected (10, 11 + 12 having been elected under rule 4)."

If party A did not obtain the most votes, this will result in candidate No. 4 being elected (1, 2 and 3 having been elected under rule 4)."

ANNEX II

FURTHER EXAMPLES

\*\*\*\*\* Local Government Region; 19 seats need to be allocated:

Votes were cast as follows:

list a:	3 448
list b:	3 030
list c:	724
list d:	1 732
list e:	538
list f:	615
Total:	10 087

**I** Primary seats

List a, which obtained the most votes, receives 50% of seats, ie:  
 $19/2 = 9.5$ , rounded up to 10 - 10 seats.  
 $19 - 10 = 9$  secondary seats.

**II** Determining the electoral quotient

total votes cast/secondary seats =  $10\ 087/9 = 1,120.78$ ,  
rounded up to 1,121.

**III** Secondary proportion

list a:	3 448	:	1 121	=	3.08	=	3 seats
list b:	3 030	:	1 121	=	2.70	=	2 "
list c:	724	:	1 121	=	0.65	=	0 "
list d:	1 732	:	1 121	=	1.55	=	1 seat
list e:	538	:	1 121	=	0.48	=	0 seats
list f:	615	:	1 121	=	0.55	=	0 "

After allocating six seats in the above manner, three seats remain to be distributed.

**IV** Calculating the highest remainder

Number of votes obtained by list - votes used:

list a:	3 448	-	(3 x 1 121 = 3 363)	=	85	
list b:	3 030	-	(2 x 1 121 = 2 242)	=	788	1st highest remainder
list c:	724	-	(0 x 1 121 = 0)	=	724	2nd " "
list d:	1 732	-	(1 x 1 121 = 1 121)	=	611	
list e:	538	-	(0 x 1 121 = 0)	=	538	
list f:	615	-	(0 x 1 121 = 0)	=	615	3rd highest remainder

The 3 highest remainders were therefore obtained by lists b, c and f; the three remaining seats are therefore allocated to them:

list b: 1 seat  
list c: 1 seat

Election results:

	rule 2	rule 3	rule 4	TOTAL
list a:	10	3	-	13
list b:	-	2	1	3
list c:	-	-	1	1
list d:	-	1	-	1
list f:	-	-	-	0
list d:	-	-	1	1

The first 13 candidates of list a are declared elected.  
The first 3 candidates of list b are declared elected.  
The first candidate of list c is declared elected.  
The first candidate of list d is declared elected.  
The first candidate of list f is declared elected.

If lists d and f have equal remainders, the following procedure shall apply:

If the first candidate of list d is elected to a secondary seat, the eldest of the first candidate of list f and second candidate of list d shall be elected.

list a: 3 448  
list b: 3 030  
list c: 724  
list d: 1 732  
list e: 538  
list f: 615  
Total 10 092

COMMENCEMENT

29. These Regulations shall come into force on the 9th day of September, 1994.

MADE at Port Vila this 2<sup>TH</sup> day of SEPTEMBER 1994.



CHARLIE NAKO  
Minister of Home Affairs

