

REPUBLIC OF VANUATU

THE NATIONAL COUNCIL OF CHIEFS (ELECTION PROCEDURE)
(RULES) ORDER No. 8 OF 1989

To provide for the election of the members of the National Council of Chiefs.

IN EXERCISE of the powers conferred by section 4 of the National Council of Chiefs (Organization) Act No. 13 of 1985, the Electoral Commission hereby make the following rules:-

INTERPRETATION

1. In these Rules, unless the context otherwise requires:-

"Council" means the National Council of Chiefs provided for under Article 27 of the Constitution of the Republic of Vanuatu;

"Section" means a section of the electoral college of chiefs as specified in rule 2.

CONSTITUTION OF ELECTORAL COLLEGE

2. (1) The members of the Council shall be elected by an electoral college of chiefs.
- (2) The electoral college of chiefs shall be divided into eleven sections, that is to say, one section for each Local Government Council region.
- (3) Subject to subrule (4), members of each section of the electoral college of chiefs shall be appointed by area council of chiefs on the basis of one member per Area Council of the Local Government region within which a member resides.
- (4) The following sections of the electoral college of chiefs shall be as follows:-
- (a) Pentecost region shall comprise six members. Two members each shall be chosen from each Area Council of that region by each area council of chiefs;
 - (b) Paama region shall comprise four members. Two members each shall be chosen from each Area Council of that region by each area council of chiefs;

- (c) Ambrym region shall comprise six members. Two members each shall be chosen from each Area Council of that region by each area council of chiefs.

ELECTION OF MEMBERS OF COUNCIL

3. (1) The election of the members of the Council shall be in accordance with Article 27 of the Constitution and the provisions of these Rules.

- (2) Each section shall elect members of the Council from amongst its own number as follows:-

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|------------------------------|------------------|
| (a) Banks and Torress region | 2 custom chiefs; |
| (b) Santo and Malo region | 2 custom chiefs; |
| (c) Ambae and Maewo region | 2 custom chiefs; |
| (d) Pentecost region | 2 custom chiefs; |
| (e) Paama region | 1 custom chief; |
| (f) Ambrym region | 2 custom chiefs; |
| (g) Malekula region | 2 custom chiefs; |
| (h) Epi region | 1 custom chief; |
| (i) Shepherds region | 2 custom chiefs; |
| (j) Efate region | 2 custom chiefs; |
| (k) TAFEA region | 4 custom chiefs. |

ELIGIBILITY FOR ELECTION

4. Any person duly recognised by or under local custom as a chief shall be eligible for election to the Council by the section of the the region within which he resides:

Provided that members of the Parliament, Municipal Councils and Local Government Councils shall not be eligible for election to the Council.

RETURNING OFFICERS

5. The secretaries of each Local Government Council shall be ex officio the returning officers for each section:

Provided that they may be replaced by any other person duly appointed by the Principal Electoral Officer for this purpose.

NOTICE OF ELECTION

6. Each section shall meet for the purpose of electing members of the Council at such date, time and place as the Electoral Commission shall appoint.

QUORUM

7. (1) The quorum shall be two thirds of the members of each section.

- (2) If at the time and place fixed for the election fewer than two-thirds of the members of the section shall be present, the returning officers shall adjourn the election from time to time and for such time not exceeding in the aggregate forty-eight hours to allow absent members to arrive.
- (3) Upon the expiry of such period, the returning officers shall -
 - (a) if not fewer than one-half of the members are present forthwith proceed to hold the election; or
 - (b) if fewer than one-half of the members of the section are present, forthwith countermand the election and report thereon to the Electoral Commission.
- (4) Upon receipt of such report, the Electoral Commission in its discretion may -
 - (a) appoint a date, time and place for the section to meet again to proceed with the election. The section meeting in pursuance of such directions shall be deemed to have been duly adjourned and to have duly met under and in accordance with the provisions of section 6;
 - (b) proceed de novo under the provisions of section 6:

Provided that in the exercise of its powers under paragraph (a) of this subsection, the Electoral Commission shall not appoint any date later than the tenth day next following the date appointed for the holder of the election under section 6.

METHOD OF ELECTION

8. (1) Each section shall meet at the appointed time and place in the presence of the returning officers in order to discuss the election of the members of the Council and if possible to agree unanimously thereon. The returning officers shall take no part in such discussions.
- (2) If a section shall after a reasonable period reach a unanimous decision upon the election of any one or more of the members to be elected; the members of the section shall inform the returning officers of their decision.
- (3) In such case, the returning officers shall in the presence of all members of the section call upon each member individually to confirm the election of the member or members named.
- (4) If the returning officers are satisfied that any one or more members have been elected by unanimous decision, such member or members shall be thereby elected.

- (5) If the section is unable to reach a unanimous agreement within a reasonable period upon the election of all members in each respective section, a secret ballot shall forthwith be held under the supervision of the returning officers for the election of the members remaining to be elected:

Provided that if the number of candidates for election is equal to the number of members remaining to be elected, such candidates shall be deemed to be elected by unanimous agreement.

ELECTION BY SECRET BALLOT

9. (1) For the purpose of holding an election by secret ballot under subrule (5) of rule 8, the returning officers shall provide a ballot box, a polling booth, ballot papers of white colour for the respective candidates and such other equipment as may be necessary. The returning officers shall write the respective names of the candidates on the ballot papers.
- (2) Every ballot box shall be so constructed that the envelopes containing ballot papers can be placed therein but cannot be withdrawn save as provided in rule 11.

VOTING

10. (1) Each member of a section on receiving a ballot paper containing the names of all candidates and one envelope shall go into the polling booth and there place a symbol "X" against the candidate or candidates of his choice inside the envelope. He shall leave the polling booth and place the envelope in the ballot box in the presence of the other members of the section.
- (2) The elector shall not place -
 - (a) any mark, writing or symbol other than the symbol specified in subrule (1) on the ballot paper;
 - (b) any mark, writing or symbol on the envelope.

COUNTING OF VOTES

11. After the voting is completed, the returning officers shall in the presence of the members of the section open the ballot box, withdraw the envelopes and count the votes in such manner as to preserve the secrecy of the vote of each elector.

INVALID VOTES

12. Any ballot paper which -
 - (a) reveals the name of the elector;
 - (b) is found in the ballot box without an envelope or in a non-official envelope;

- (c) bears any marks enabling identification of the elector;
- (d) bears any remarks about a candidate or any other person;
- (e) is found in an envelope with the symbol "X" placed against more candidates than required;
- (f) bears any mark, writing or symbol other than that symbol specified in rule 10(1);

shall be considered to be a void ballot paper.

DETERMINATION OF POLL

13. (1) The candidates equal in number to the number of members required to be elected who have obtained the highest number of votes shall be declared to have been elected.
- (2) If after the ballot held in accordance with the provisions of subrule (1), any one or more members remain to be elected, a further secret ballot shall be held, under the same conditions as the first, among the candidates who were not elected. Such further ballots shall be held as may be necessary to complete the election.
- (3) In the case of an equality of votes between two or more candidates, the result shall be decided by seniority of age, according to the number of members required to be elected.

REPORT OF RETURNING OFFICERS

14. (1) The returning officers shall upon completion of the counting and after the result has been declared by them make out an official report on the election to which the ballot papers and any other relevant documents shall be annexed. The report shall include a statement of any objection made to the regularity of the poll. The report shall be signed by the returning officers and countersigned by at least three members of the section present. The report shall be forwarded to the Electoral Commission who shall retain it for not less than twelve months.

NOTIFICATION AND PUBLICATION OF RESULTS

15. As soon as practicable after the conclusion of the elections in all the sections of the electoral college of chiefs, the Electoral Commission shall cause the results to be published in the Gazette.

CALCULATION OF PROPORTIONS

16. For the purpose of calculating a proportion of members or votes under the foregoing provisions of this Rules if the exact proportion is not a whole number the proportion shall be deemed to be the next highest whole number above such exact proportion.

ELECTORAL DISPUTES

17. (1) Every elector shall have the right to challenge the regularity of the poll in the section in which he is a member by petitions to the Supreme Court within a period of twenty-one clear days from the date of publication in the Gazette of the results of the poll.
- (2) Petitions made under subrule (1) shall specify each of the grounds giving rise to the petition and shall clearly express as its object either -
- (a) that the election of a candidate declared elected be declared void; or
 - (b) that the election of a candidate declared elected be declared void and that another candidate be declared elected in his place.
- (3) The Supreme Court may make rules of procedure to be observed in relation to election petitions under this rule.
- (4) For the purposes of this rule, "elector" means a member of a section of the electoral college of chiefs as specified in rule 2.

COMMENCEMENT

18. This Order shall be deemed to have come into force on the 19th day of January, 1989.

MADE at Vila this 19th day of January, 1989.

MASING R LAURU
Chairman

MARCEL SAM
Member

JAMES MORRISON
Member

