



Summary of key Drafting Instructions for new Electoral Act

Scope of new Electoral Act: The new Electoral Act will regulate Parliamentary, provincial government council and municipal council elections in a single harmonised law. The new Act will replace existing electoral laws.

Strengthening independence of the Electoral Commission: The new Act will include provisions to strengthen the independence of the Electoral Commission. There will not be a separate Act for the Electoral Commission.

Voter Register: The Vanuatu Electoral Office will no longer be responsible for collecting the information for “registration of electors in the field”. Instead, the VEO will be responsible for the “establishment and maintenance of the Voter Register” relying on information (“secondary information”) in the Central Civil Register for details of voter registration.

Electoral lists: Electoral lists of voters for each polling station will replace Electoral Rolls. Electoral lists will be prepared from information in the Voter Register and will be available for public inspection before being finalised. Electoral data can however be updated all year round through provincial offices or CRIM Department in Port Vila.

Campaign financing disclosure: The new Act will introduce basic campaign financing disclosure provisions to improve oversight of campaign contributions and donations, and expenditures in order to provide for greater transparency and accountability.

Special temporary measures for women’s voting: It is recommended that reserved seats for women that apply in municipal council elections be expanded so as to apply in parliamentary and provincial elections in certain multiple member constituencies e.g. multiple member constituencies with 3 or more members. Some provinces may not benefit from such a measure e.g. Torba and further consideration will be required for such provinces.

Single ballot paper: The new Act will provide for a single ballot paper with all candidates on it for each constituency. This is a cost saving measure to move away from the current ballot paper structure (with booklets of ballots per candidate and the use of envelopes). A single ballot paper will also facilitate expanded out of country and out of constituency voting.

By-elections: It is proposed that serious consideration should be given to doing away with by-elections. They are costly and time consuming. In their place, the Electoral Commission could be given a power to declare the candidate who obtained the second highest number

of votes at the last election (from same party where possible) as the candidate to fill a vacancy. This has been used in municipal council elections in the past.

Special measure for Internally Displaced Persons (IDPs): The new Act will introduce special measures for polling for IDPs resulting from natural disasters and civil disturbances within flexible timeframes set by the Electoral Commission.

Special voting (remote voting): The new Act will provide special voting measures for certain voters to cover polling outside their allocated polling stations. These are voters who are working for the election during polling day and limited out of constituency voting, including out-of-constituency polling stations in Port Vila and Luganville. Proxy voting will also be retained.

Out of country voting: Regulations can be made under the new Act will expand out-of-country voting to include countries other than New Caledonia. Out-of-country votes will go to the constituencies as had votes been cast in-country.

Election petitions: The current system whereby the Supreme Court determines election petitions for Parliamentary elections will be retained. However, it is proposed that election petitions for provincial and municipal council elections be determined by the Magistrates Court rather than relying on election committees which is the current situation.

Constituencies: There are to be national constituencies, provincial constituencies and municipal constituencies (wards) as is the current situation. However, it is proposed that the Electoral Commission be given the power to determine the provincial and municipal constituencies. Currently, the Minister has this power. The President will continue to determine national constituencies on the advice of the Electoral Commission.

Expanded electoral Offences: The new Act will provide for the expansion of electoral offences and higher penalties for electoral offences.

Regulations to provide for electoral procedural and operational details

Regulations under existing electoral laws will be revoked following a transitional period and replaced by new regulations under the new Electoral Act. The new regulations will provide for electoral procedural and operational details rather than overloading the new Act with such details.

Repeals and consequential amendments

The *Representation of the People Act [CAP 146]* will be repealed as well as certain provisions of the *Municipalities Act [CAP 126]* and the *Decentralization Act [CAP 230]*. Minor technical amendments will be made to the *Referendum Act [CAP 297]*.

31.01.22