REPUBLIC OF VANUATU

CONSOLIDATION OF THE FRENCH AND ENGLISH TEXTS OF THE LAWS OF VANUATU ACT [CAP 295]

Approval of the English Text of the Malvatumauri Council of Chiefs Consolidation Edition 2024
Order No. 46 of 2024

In exercise of the powers conferred on me by subsection 9(1) of the Consolidation of the French and English Texts of the Laws of Vanuatu Act [CAP 295], I, the Honourable JOHN AMOS VACHER, Minister of Justice and Community Services, make the following Order:

1 Approval of the English Text of the Malvatumauri Council of Chiefs Consolidation Edition 2024

The English Text of the Malvatumauri Council of Chiefs Consolidation Edition 2024 is approved.

2 Appointed day

The appointed day for the coming into operation of the Malvatumauri Council of Chiefs Consolidation Edition 2024 is the day on which this Order is made.

3 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 01 day of MARCH, 2024.

REPUBLIC OF VANUATU Ministry of Justice & Community Service MINISTER Ministère de la Justice et services du Communautée RÉPUBLIQUE DE VANUATU

Honourable JOHN AMOS VACHER
Minister of Justice and Community Services

Commencement: 11 September 2006

MALVATUMAURI COUNCIL OF CHIEFS ACT NO. 23 OF 2006

Act 23 of 2006
Act 10 of 2008
Act 37 of 2013
Act 30 of 2019

ARRANGEMENT OF SECTIONS

PART 1 – PRELIMINARY
1. Interpretation

PART 2 – THE MALVATUMAURI COUNCIL OF CHIEFS

Division 1 – Establishment, Functions and Powers of the Council
2. Establishment of the Malvatumauri Council of Chiefs
3. Functions of the Council
4. Powers of the Council

Division 2 – Membership of the Council and Meetings
5. Composition of the Council
6. Chairperson of the Council
7. Meetings of the Council

Division 3 – Other Matters
8. Committees
9. Rules
10. Allowances and Gratuities

PART 3 – ISLAND COUNCILS OF CHIEFS AND URBAN COUNCILS OF CHIEFS
11. Establishment of Island Council of Chiefs and Urban Council of Chiefs
12. Composition of the Island Councils of Chiefs and the Urban Councils of Chiefs
13. Functions of an Island Council of Chiefs and an Urban Council of Chiefs
14. Powers of an Island Council of Chiefs and an Urban Council of Chiefs
14A. Island Council of Chiefs and Urban Council of Chiefs sitting allowance

PART 3A – AREA COUNCIL OF CHIEFS
14B. Establishment of Area Council of Chiefs
14C. Composition of an Area Council of Chiefs
14D. Functions of an Area Council of Chiefs
14E. Powers of an Area Council of Chief
14F. Area Council of Chiefs sitting allowance

PART 4 – MANAGEMENT AND STAFF
15. Chief Executive Officer of the Council
16. Removal of the Chief Executive Officer
17. Functions of the Chief Executive Officer
18. Staff of the Council
19. Transitional arrangements

PART 5 – FINANCIAL MATTERS AND MISCELLANEOUS
20. Funds of the Council
21. Accounts and auditing
22. Annual report
23. Regulations

SCHEDULE

MALVATUMAURI COUNCIL OF CHIEFS ACT NO. 23 OF 2006

To establish the Malvatumauri Council of Chiefs, the Island Councils of Chiefs throughout Vanuatu and the Urban Councils of Chiefs in the urban areas and for related purposes.

PART 1 – PRELIMINARY

1. Interpretation

In this Act, unless the contrary intention appears:

"Area Council of Chiefs" means the Area Council of Chiefs established under section 14B;

"Council" means the Malvatumauri Council of Chiefs.

"custom area" means an island or part of an island:

(a) that has the same language or the same custom; and

(b) that has been approved by the Island Council of Chiefs as a custom area;

"custom chief" means a person who is recognized by the custom governance structure or the custom practices of each custom area, to hold the position of a chief;

"Chairperson" means the Chairperson of the Malvatumauri Council of Chiefs.

"Island Council of Chiefs" means the Island Council of Chiefs established under section 11;

"Minister" means the Minister responsible for Malvatumauri Council of Chiefs.

"nakamal" has the same meaning as in the Custom Land Management Act No. 33 of 2013;

"Urban Council of Chiefs" means the Urban Council of Chiefs established under section 11;

PART 2 – THE MALVATUMAURI COUNCIL OF CHIEFS

Division 1 – Establishment, Functions and Powers of the Council

2. Establishment of the Malvatumauri Council of Chiefs

(1) The Malvatumauri Council of Chiefs is established pursuant to Article 29(1) of the Constitution.

(2) The Council is the governing body of the Island Councils of Chiefs, the Area Council of Chiefs and the Urban Councils of Chiefs.

3. Functions of the Council

(1) The Council has the functions as are conferred on it by Article 30 of the Constitution.

(2) In addition to and without limiting the generality of Article 30 of the Constitution, the Council also has the following functions:

(a) to keep and maintain a proper register of the members of the Council;

(b) to keep and maintain a proper register of the members of an Island Council of Chiefs, an Area Council of Chiefs and an Urban Council of Chiefs;

(c) to provide advice on matters relating to custom to an Island Council of Chiefs, an Area Council of Chiefs or an Urban Council of Chiefs;

(d) to facilitate the functioning of an Island Council of Chiefs, an Area Council of Chiefs or an Urban Council of Chiefs;

(e) to ensure that an Island Council of Chiefs, an Area Council of Chiefs and an Urban Council of Chiefs perform their functions as are conferred on them under this Act or any other Act.

(f) to undertake such other functions as are conferred on the Council under this Act or any other Act.

(3) The Council may delegate in writing any of its functions to the Chief Executive Officer.

4. Powers of the Council

The Council has powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

Division 2 – Membership of the Council and Meetings

5. Composition of the Council

(1) The Council consists of custom chiefs elected by the Island Councils of Chiefs and the Urban Councils of Chiefs.

(2) Each Island Council of Chiefs and Urban Council of Chiefs is to elect such number of representatives to be members of the Council, as set out in the Schedule.

(3) Subject to the Constitution and this Act, the Minister may by Order in writing provide for the regulation and conduct of elections of members of the Council by the Island Councils of Chiefs and the Urban Councils of Chiefs.

(4) Without limiting subsection (3), the Minister may provide for-

(a) the date of election of the members of the Council; and

(b) the procedure for the nomination of candidates for election as members of the Council; and

(c) the method of election.

(5) An elected member of the Council holds office for a period not exceeding 5 years and may be re-elected to the Council.

(6) A member of the Council may resign in writing at any time by giving his or her resignation in writing to the Chairperson.

(7) If a member of the Council resigns or dies, the Council must ensure that the relevant Island Council of Chiefs or Urban Council of Chiefs elects a custom chief from their island or urban area to replace that member of the Council.

6. Chairperson of the Council

(1) The Chairperson of the Council is to be elected by the members of the Council at the first sitting of the Council following an election of a new Council.

(2) The Chairperson is to hold office for so long as the Council that elects him or her exists.

(3) The Chairperson may resign from his or her office by giving a written resignation to the Council.

(4) If the Chairperson dies or resigns from office, the eldest member of the Council is to act as the Chairperson until the new Chairperson is elected by the Council.

(5) The Chairperson is to represent the Council in any official meetings or ceremonies.

(6) The Chairperson may in writing delegate his or her responsibility under subsection (5) to any member or staff of the Council.

7. Meetings of the Council

(1) The Council shall hold at least one meeting a year. Further meetings may be held at the request of the Council, Parliament or the Government.

(2) The Chairperson is to chair all meetings of the Council. If the Chairperson is absent, the members present must choose a member to chair that meeting.

(3) At the meeting of the Council, a quorum consists of 20 members present at the meeting.

(4) Each member present at the meeting has one vote and questions arising at the meeting are to be decided by a majority of votes. If the voting at the meeting is equal, the member chairing the meeting has a casting vote.

(5) Subject to this Act, the Council may determine and regulate its own procedures.

Division 3 – Other Matters

8. Committees

(1) The Council may form such committees as are necessary to assist the Council in the performance of its functions.

(2) The Council is to determine the composition of any committee and it may include persons who are not members or staff of the Council.

(3) A committee is to determine its own procedures.

9. Rules

The Council may make rules not inconsistent with this Act for the control, management, and good governance of the members of the Council.

10. Allowances and Gratuities

(1) The members of the Council including the Chairperson are entitled to the following allowances:

(a) a sitting allowance of not more than VT7,500 for each day in which the Council sits for a meeting;

(b) a subsistence allowance of not more than VT5, 000 for each day in which the Council sits for a meeting;

(c) a monthly allowance of VT103,468 per month.

(2) Each member of the Council including the Chairperson is entitled to a gratuity payment of VT250, 000 payable at the end of a term of the Council.

PART 3 – ISLAND COUNCILS OF CHIEFS AND URBAN COUNCILS OF CHIEFS

11. Establishment of Island Council of Chiefs and Urban Council of Chiefs

The Island Councils of Chiefs and the Urban Councils of Chiefs are established.

12. Composition of the Island Councils of Chiefs and the Urban Councils of Chiefs

(1) An Island Council of Chiefs and an Urban Council of Chiefs consists of custom chiefs:

(a) for an Island Council of Chiefs- chiefs elected by their respective Area Council of Chiefs in the islands other than the urban area;

(b) for an Urban Council of Chiefs – chiefs appointed by their respective Island Council of Chiefs to represent their Island Council of Chiefs in the urban area.

(2) A custom chief must not be appointed to an Urban Council of Chiefs under paragraph 1(b), unless that custom chief resides in the relevant urban area.

(3) For the purposes of subsection (1), the Minister is to determine by Order:

(a) for an Island Council of Chiefs – the number of chiefs to be elected by their respective Island Council of Chiefs in the islands;

(b) for an Urban Council of Chiefs – the number of chiefs to be appointed by their respective Urban Council of Chiefs to represent their island.

13. Functions of an Island Council of Chiefs and an Urban Council of Chiefs

(1) The functions of an Island Council of Chiefs and an Urban Council of Chiefs are:

(a) to resolve dispute according to local custom;

(b) to prescribe the value of exchange of gift for a custom marriage;

(c) to promote and encourage the use of custom and culture;

(d) to promote peace, stability and harmony;

(e) to promote and encourage sustainable social and economic development;

(f) to undertake such other functions as are conferred on them under this Act or any other Act.

(2) To avoid doubt, each Island Council of Chiefs and Urban Council of Chiefs must only perform the functions referred to in subsection (1) in their respective islands or urban areas.

14. Powers of an Island Council of Chiefs and an Urban Council of Chiefs

An Island Council of Chiefs and an Urban Council of Chiefs have the power to do all things that are necessary or convenient to be done for or in connection with the performance of their functions.

14A. Island Council of Chiefs and Urban Council of Chiefs sitting allowance

The Minister may, by Order, prescribe sitting allowances for meetings of the Island Council of Chiefs and the Urban Council of Chiefs.

PART 3A – AREA COUNCIL OF CHIEFS

14B. Establishment of Area Council of Chiefs

An Area Council of Chiefs is established within each custom area.

14C. Composition of an Area Council of Chiefs

(1) An Area Council of Chiefs consists of the custom chiefs nominated by each nakamal and any other custom governance structure recognised by the rules of custom located within the relevant custom area.

(2) A meeting held and any decision made for the purposes of nominating a member under subsection (1), must be held and made in accordance with the accepted rules of custom of that nakamal or other custom governance structure.

14D Functions of an Area Council of Chiefs

The functions of an Area Council of Chiefs are:

(a) to resolve disputes according to the custom of the relevant custom area; and

(b) to prescribe the value of exchange of gifts for a custom marriage in the relevant custom area; and

(c) to promote and encourage the use of custom and culture in the relevant custom area; and

(d) to promote peace, stability and harmony in the relevant custom area; and

(e) to promote and encourage sustainable social and economic development in the relevant custom area; and

(f) to undertake such other functions as are conferred on it under this Act or any other Act.

14E. Powers of an Area Council of Chief

An Area Council of Chiefs has the power to do all things that are necessary or convenient to be done for or in connection with the performance of their functions.

14F. Area Council of Chiefs sitting allowance

The Minister may, by Order, prescribe sitting allowances for meetings of an Area Council of Chiefs.

PART 4 – MANAGEMENT AND STAFF

15. Chief Executive Officer of the Council

(1) The Public Service Commission is to appoint a Chief Executive Officer who is to be an employee of the Public Service Commission, upon such terms and conditions as may be determined by the Public Service Commission.

(2) The Chief Executive Officer is the Secretary of the Council.

(3) To avoid doubt, the Chief Executive officer has no voting right at a meeting of the Council.

16. Removal of the Chief Executive Officer

(1) A person may be removed as the Chief Executive Officer if the person:

(a) is or becomes a member of Parliament, a Local Government Council or a Municipal Council; or

(b) is or becomes a member of the Malvatumauri Council of Chiefs; or

(c) fails to perform in a satisfactory manner the functions that are conferred on him or her under this Act or any other Act.

17. Functions of the Chief Executive Officer

(1) The Chief Executive Officer is the head of the Office of the Council.

(2) The Chief Executive Officer has the following functions:

(a) to convene meetings of the Council at the request of the Council, Parliament or the Government;

(b) to implement decisions of the Council;

(c) to provide adequate support services to the Council;

(d) to attend all meetings of the Council and prepare the minutes of the meetings;

(e) to manage the staff of the Council;

(f) to generally assist the Council in the performance of its functions;

(g) to manage the resources of the Council;

(h) to undertake such functions of the Council that is delegated to him or her by the Council.

18. Staff of the Council

The Public Service Commission may appoint other staff of the Council upon such terms and conditions as may be determined by the Public Service Commission.

19. Transitional arrangements

(1) This section applies to a custom chief who is a member of the Council, an Island Council of Chiefs or an Urban Council of Chiefs, and to any person who was employed at the office of the Council by the Public Service Commission immediately before the commencement of this Act.

(2) On and after the commencement of this Act, a custom chief who is a member of:

(a) the Council; or

(b) an Island Council of Chiefs; or

(c) an Urban Council of Chiefs,

continues to be a member of the Council, the relevant Island Council of Chiefs or the relevant Urban Council of Chiefs until the 30th day of September 2007.

(3) On and after the commencement of this Act, the person is to continue to be employed at the office of the Council by the Public Service Commission:

(a) on the same terms and conditions; and

(b) in the same position; and

(c) with the same accrued or accruing entitlements.

PART 5 – FINANCIAL MATTERS AND MISCELLANEOUS

20. Funds of the Council

(1) The funds of the Council consists of:

(a) money appropriated to, or for the purposes of, the Council under the Appropriation Acts; and

(b) any other money received by the Council from any other source.

(2) The Council may open and maintain such bank accounts in accordance with the provisions of the Public Finance and Economic Management Act No. 6 of 1998.

21. Accounts and auditing

(1) The Council must keep proper accounting records in relation to its financial affairs and must have annual statements of accounts prepared for each financial year.

(2) The Council's accounts for each financial year must be audited not later than 3 months after the end of the financial year by the Auditor General or a person authorised by the Auditor General.

22. Annual report

The Council must within 4 months after the end of each financial year furnish a report to the Minister relating to the operations of the Council for that year.

23. Regulations

The Minister may, on the advice of the Council, make regulations:

(a) for or with respect to any matter that by this Act is required or permitted to be prescribed;

(b) that is necessary or convenient to be prescribed for the better carrying out or giving effect to the Act.

SCHEDULE

Island Council of Chiefs	Urban Council of Chiefs	Representatives to the Council
Torres/Ureparapara		1
Gaua/ Merig/ Merelava		1
Vanualava/Mota/Motalava		1
Santo		3
Malo		1
Ambae		2
Maewo		1
Pentecost		2
Ambrym		2
Malekula		2
Paama		1
Epi		1
Tongoa/Tongoariki/Buniga		1
Emae/Mataso/Makira		1
Efate		2
Erromango		1
Futuna		1
Aniwa		1
Tanna		3
Aneityum		1
	Luganville	1
	Port Vila	1

Table of Amendments

1	*Amended by Act 30 of 2019*
2(2)	*Amended by Act 30 of 2019*
3(2)(a) – (e)	*Amended by Act 30 of 2019*
7(3)	*Amended by Act 30 of 2019*
10(1)(a)	*Amended by Act 30 of 2019*
10(1)(c)	*Amended by Act 30 of 2019*
12(3)(b)	*Amended by Act 10 of 2008*
14A	*Inserted by Act 30 of 2019*
Part 3A	*Inserted by Act 30 of 2019*
Whole of the Act	*Amended by Act 37 of 2013 Reference to National Council of Chiefs replaced with Malvatumauri Council of Chiefs*

Transitional

Act 30 of 2019 — *A custom chief nominated as a member of an Area Council of Chiefs before the commencement of this Act is to continue as member of that Area Council of Chiefs as if he or she was nominated under section 14C.*