

REPUBLIC OF VANUATU

BILL FOR THE POLITICAL PARTIES REGISTRATION ACT NO. OF 2023

Explanatory Note

This Bill provides for the registration of Political Parties and for related matters.

The Bill requires any associations of persons intending to field a candidate in an election to first be registered as a political party before fielding a candidate.

The Bill further provides that the Electoral Commission is responsible for registering a political party in accordance with set criteria. The Electoral Commission is also responsible for deregistering a political party should that political party fail to comply with certain requirements as set out under the Act. Before deregistering a political party, the Electoral Commission is required to give notice of that deregistration and must give an opportunity for that political party to respond and take any necessary steps to ensure compliance with the Act.

Furthermore, the Bill provides that the Principal Electoral Officer is responsible for administering and ensuring compliance with the Act. He or she is also responsible for receiving and screening applications and for recommending the registration of political parties to the Electoral Commission.

This Bill is necessary as it ensures a strong sustainable political party system by requiring political parties to be properly established according to criteria that support political integrity, good governance, development and nation-building and financial transparency.

Minister of Internal Affairs



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REPUBLIC OF VANUATU

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An Act to regulate political parties and for related matters.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY

1 Application of this Act

- (1) This Act applies to political parties intending to contest an election under the Electoral Act No. of 2023.
- (2) To avoid doubt, the provisions of this Act do not apply to independent candidates.

2 Interpretation

In this Act, unless the contrary intention appears:

Commission means the Electoral Commission established under Article 18 of the Constitution of the Republic of Vanuatu;

policy platform means the document (whether in written, printed or electronic form) that outlines the policies and priorities of a political party;

Principal Electoral Officer means the Principal Electoral Officer provided for under Article 19 of the Constitution of the Republic of Vanuatu.

PART 2 REGISTRATION OF POLITICAL PARTIES

Division 1 Functions and powers of the Principal Electoral Officer

3 Functions of the Principal Electoral Officer

In addition to the functions of the Principal Electoral Officer under the Electoral Act No. of 2023, he or she has the following functions:

- (a) to formulate, monitor and review policies relating to the regulation of political parties; and
- (b) to oversee the registration and administration of political parties; and
- (c) to administer and ensure compliance with this Act; and
- (d) to perform any other functions as provided for under this Act.

4 Powers of the Principal Electoral Officer

- (1) The Principal Electoral Officer has the power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions under this Act.
- (2) Without limiting subsection (1), the Principal Electoral Officer has the power to investigate and enquire into the affairs of a political party for the purposes of determining if there has been a breach of this Act.
- (3) For the purposes of subsection (2), the Principal Electoral Officer may:
 - (a) by notice in writing to an executive member or the secretary of a political party, require the political party to provide copies of any documents within the period specified in the notice; and
 - (b) require an executive member or the secretary of the political party to answer any questions, orally or in writing.

5 Delegation of functions and powers

- (1) The Principal Electoral Officer may, in writing, delegate to any staff of the Electoral Office, any of his or her functions or powers under this Act other than the power of delegation.

- (2) The delegation may be made generally or in respect of a particular matter or class of matters.
- (3) The Principal Electoral Officer may at any time revoke or vary a delegation.
- (4) A delegation does not prevent the Principal Electoral Officer from performing a function or exercising a power that he or she has delegated.

6 Principal Electoral Officer to be independent

- (1) Subject to subarticle 20(2) of the Constitution of the Republic of Vanuatu, the Principal Electoral Officer is not subject to the direction or control of any person in performing any of his or her functions or exercising any of his or her powers under this Act.
- (2) A person must not:
 - (a) obstruct, hinder or prevent the Principal Electoral Officer or any of his or her staff from performing any functions or exercising any powers conferred on them by or under this Act; or
 - (b) knowingly give false information in making an application under this Act to the Principal Electoral Officer or any of staff of the Electoral Office that has been authorised by the Principal Electoral Officer to receive information.
- (3) A person who contravenes subsection (2), commits an offence punishable on conviction by a fine not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both.

Division 2 Registration and deregistration process

7 Registration requirement of political parties

- (1) An association of persons or an organisation must not operate or function as a political party unless it is registered under this Act.
- (2) To avoid doubt, an association of persons or an organisation that is not registered as a political party under this Act is not eligible to lodge a declaration of candidature form under the Electoral Act No. of 2023.

- (3) Despite subsections (1) and (2), an association of persons or an organisation operating as a custom movement may lodge a declaration of candidature form under the Electoral Act No. of 2023 without being registered under this Act.
- (4) In addition to subsection (3), a custom movement must not lodge a declaration of candidature form for candidates in more than one island in Vanuatu.

8 Application for registration

- (1) An association of persons or an organisation which intends to register as a political party must apply to the Principal Electoral Officer in the form approved by the Commission and must include in its application:
 - (a) the information and documents referred to in subsection (2); and
 - (b) the prescribed application fee; and
 - (c) any other information or documents that may be required by the Principal Electoral Officer.
- (2) Upon receiving an application, the Principal Electoral Officer must ensure that the application contains the following information:
 - (a) the name and logo of the proposed political party; and
 - (b) the policy platform of the proposed political party; and
 - (c) a copy of the constitution of the proposed political party; and
 - (d) the names of all the office bearers of the proposed political party.

9 Screening of applications

- (1) The Principal Electoral Officer must not make a recommendation to the Commission to register an applicant as a political party unless he or she is satisfied that:
 - (a) the prescribed rules relating to the names and logos of the proposed political party have been complied with; and

- (b) the policy platform of the proposed political party is of national scope after assessing it against the prescribed criteria; and
 - (c) the constitution of the proposed political party provides for the following matters:
 - (i) the method of election of the members of the executive and their respective functions and powers; and
 - (ii) the composition of the executive which must comprise at least 6 members, of which:
 - (A) there are three mandatory positions which are President, Treasurer and Secretary; and
 - (B) at least one member of the executive is a woman; and
 - (iii) the method of selection of candidates for election to Parliament, to a Municipal Council or to a Provincial Government Council; and
 - (iv) the procedure for disciplining members of the political party including termination of their membership from the political party; and
 - (v) provisions outlining the grounds on which a member is deemed to have ceased to support that political party; and
 - (d) the proposed political party meets any other additional requirements as may be prescribed by the Commission.
- (2) The Principal Electoral Officer must recommend to the Commission, the names of the proposed political parties that meet all the requirements under subsection (1).

10 Registration

- (1) The Commission may register a political party on the recommendation of the Principal Electoral Officer.

- (2) A political party which is registered under subsection (1) remains registered as a political party under this Act until it is deregistered under section 12.
- (3) If the Commission decides not to register a proposed political party as recommended by the Principal Electoral Officer:
 - (a) the Commission must inform the Principal Electoral Officer of the reasons for its decision; and
 - (b) the Principal Electoral Officer must, in writing, inform the applicant of the reasons for the decision of the Commission within 1 month after the date on which the decision was made.

11 Register of political parties

- (1) The Principal Electoral Officer must keep and maintain a register of political parties registered under subsection 10(1).
- (2) The register is to contain the details of each political party including its name, address, contact details and such other information as the Principal Electoral Officer may consider necessary to be included in the register.
- (3) The Principal Electoral Officer must ensure that the register is available for inspection by any person during the official hours of the Electoral Office.
- (4) A political party must inform the Principal Electoral Officer of any changes made to the information relating to it on the register within 1 month after the changes occur.

12 Deregistration

- (1) Subject to section 13, the Commission may, on the recommendation of the Principal Electoral Officer, deregister a political party if the Commission is satisfied that:
 - (a) the political party has failed to meet a requirement under subsection 9(1); or
 - (b) the political party has failed to provide annual financial reports to the Vanuatu Financial Services Commission under the Charitable Associations (Incorporation) Act [CAP 140]; or

- (c) the political party requests to be deregistered; or
 - (d) the political party was registered as a result of a mistake or fraud.
- (2) For the purposes of assessing whether to deregister a political party, the Commission may, in writing, request the secretary of the political party to provide:
- (a) the updated copies of the political party's constitution and policy platform; and
 - (b) any further information or documents as the Commission requires.
- (3) The Principal Electoral Officer must ensure that the names of all political parties which are deregistered are published as soon as practicable in the Gazette.

13 Notice of deregistration

- (1) If the Commission is of the opinion that a ground for deregistration of a political party exists, the Commission must provide 30 days written notice to the political party of its intention to deregister the political party.
- (2) A notice under subsection (1) is to be given to the secretary of the political party and must:
- (a) be in the prescribed form; and
 - (b) provide a period within which the political party is to:
 - (i) make representations in writing to the Commission as to why it should not be deregistered; or
 - (ii) take the necessary steps to ensure compliance with this Act.
- (3) If the political party fails to comply with paragraph (2)(b) at the expiry of the notice under subsection (1), the Commission is to give a second notice to the political party and provide it with a further 30 days in which to take the necessary steps to comply with the provisions of this Act as specified in the second notice by the Commission.
- (4) If the political party fails to comply with a second notice under subsection (3), the Commission is to deregister the political party.

14 Duty to affiliate with political party

- (1) If a political party is deregistered under subsection 13(4), members of Parliament, a Municipal Council or a Provincial Government Council who are affiliated with the political party must, within 6 months after the deregistration takes effect:
 - (a) affiliate with another existing political party; or
 - (b) affiliate with a new political party.
- (2) A member of Parliament, a Municipal Council or a Provincial Government Council who fails to comply with subsection (1) within the 6 month period is taken to be an independent member of the Parliament, Municipal Council or Provincial Government Council.

PART 3 MISCELLANEOUS PROVISIONS

15 Regulations

The Commission may, on the recommendation of the Principal Electoral Officer, make Regulations to prescribe anything which is necessary or convenient to be prescribed for the better carrying out or giving effect to the provisions of this Act.

16 Transitional provisions

- (1) A charitable association which is registered as a political party under the Charitable Associations (Incorporation) Act [CAP 140] immediately before the commencement of this Act, must comply with the requirements of this Act within 12 months after the commencement of this Act.
- (2) Section 14 applies to the members of Parliament, the members of a Municipal Council and the members of a Provincial Government Council who are affiliated to a political party referred to in subsection (1) that fails to be registered within 12 months after the commencement of this Act.

17 Commencement

- (1) Subject to subsection (2), this Act commences on the date prescribed by the Minister by Order published in the Gazette.
- (2) Any Order published in the Gazette under subsection (1) is of no legal effect unless:
 - (a) subarticle 4(3) of the Constitution of the Republic of Vanuatu has been amended to allow Parliament to regulate the formation of political parties; and
 - (b) the amendment to the Constitution has come into force.