

Municipalities (Amendment) Act 2013

**REPUBLIC OF VANUATU**

**MUNICIPALITIES (AMENDMENT) ACT NO. 11 OF 2013**

**Arrangement of Sections**

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**REPUBLIC OF VANUATU**

**Assent: 14/10/2013**

**Commencement: 23/10/2013**

**MUNICIPALITIES (AMENDMENT) ACT NO. 11 OF 2013**

An Act to amend the [Municipalities Act](#) [CAP 126].

Be it enacted by the President and Parliament as follows-

**1 Amendment**

The [Municipalities Act](#) [CAP 126] is amended as set out in the Schedule.

**2 Commencement**

This Act commences on the day on which it is published in the Gazette.

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**SCHEDULE**  
**AMENDMENTS OF THE MUNICIPALITIES ACT [CAP 126]**

**1 Paragraph 4(e)**

Delete “or mayors”

**1A After section 4**

Insert

**“4A Reserved seat for female councillors in each ward of a municipality**

(1) The Minister must, in prescribing the number of councillors to be elected in respect of each ward under paragraph 4(c), ensure that one seat is reserved for a female councillor in each of those wards in a municipality.

(2) In addition to subsection (1) the Minister must, in making an Order under sections 4 and 7, make special provision for the arrangement set out in that subsection.

(3) A female who intends to contest in an election to a municipal council must, in the prescribed form, declare her intention to contest for either a reserved seat or the other general seats being prescribed for a ward in a municipality.

(4) To avoid doubt, a female candidate for an election to a municipal council cannot contest for both a reserved seat and a general seat in a ward in a municipality. She must follow the procedure set out in subsection (3).””

## **2 Section 5**

Repeal the section, substitute

### **“5. Municipal seal**

(1) A council is to have a seal that is approved by the council.

(2) The seal is to be used only by the clerk on documents approved and authorized by the council.”

### **3 Paragraph 7(2)(f) (second occurring)**

Re-letter the paragraph as “(j)”

### **4 After paragraph 10(b)**

Insert

“(ba) is convicted of an offence set out in section 27 of the Leadership Code Act [CAP 240];

(bb) is physically or mentally incapacitated;

(bc) is bankrupt;”

## **5 After Part 3**

Insert

## **“PART 3A ALLOWANCES AND GRATUITIES**

### **11A. Allowances**

Each member of the council including the mayor and deputy mayor are entitled to such allowances as may be prescribed by the Minister by Order.

### **11B. Gratuities**

Each member of the Council including the mayor and deputy mayor are entitled to a gratuity payment at the rate of one month salary for each year during which the person holds office and pro rata for each uncompleted year.”

## **6 Subsection 12(3)**

Delete “Standing orders”, substitute “Subject to subsection (3A), the standing orders”

## **7 After subsection 12(3)**

Insert

“(3A) The Minister may consult the Director of Local Authorities, before approving the standing orders of a council.”

### **8 Subsection 13(1)**

Repeal the subsection, substitute

“(1) A council may convene not more than 6 ordinary meetings in a year.

(1A) A council is to approve its budget at its 6th ordinary meeting, which is to commence in the month of October.

(1B) Apart from the ordinary meetings, a council may hold not more than 3 extraordinary meetings in a year.”

### **9 Subsection 17(3)**

Repeal the subsection, substitute

“(3) A committee is to consist of the following members which are to be appointed by the council:

(a) 5 councillors; and

(b) 2 persons not being councillors.”

### **10 Section 18**

Repeal the section, substitute

## **“18. Finance committee**

(1) A council is to appoint a finance committee for the purposes of formulating the financial policies of the council.

(2) A finance committee is to consist of not more than 5 councillors.

(3) The quorum at a meeting of the finance committee is 5 members present at that meeting.

(4) The finance committee is to regulate its own proceedings.

(5) The finance committee must not interfere with the financial administration of a council.

## **18A. Town planning committee**

(1) The town planning committee is to consist of 5 councillors.

(2) The town planning committee may request a staff of the Physical Planning Unit or a Civil Engineer of the Ministry of Infrastructure and Public Utilities to advise the committee on any matter.

(3) The council is to determine the term of office of the members of the town planning committee and determine the areas of the Municipality by which they are to exercise their functions.

(4) The quorum for a meeting of a town planning committee is 3 members present at the meeting.

(5) The town planning committee is responsible for assessing applications for permit to build an infrastructure or building within the relevant Municipality.

### **18B. Sitting allowance**

(1) In any meeting of a council or any committee set up by a council, the mayor, deputy mayor and councillors are entitled to a sitting allowance, which is to be determined by the council and must not exceed:

(a) for the mayor - VT10,000 for each day's meeting that he or she attends;

(b) for the deputy mayor - VT7,000 for each day's meeting that he or she attends;

(c) for a councillor - VT5,000 for each day's meeting that he or she attends.

(2) The sitting allowance is to be paid to the mayor, deputy mayor and a councillor only if the mayor, deputy mayor or councillor has been present throughout the period of a day's meeting.

(3) To avoid doubt a councillor who has been elected as mayor or deputy mayor must be paid the sitting allowance of mayor or deputy mayor only and must not receive a sitting allowance as a councillor.”

### **11 Subsection 19(2)**

Repeal the subsection, substitute

“(2) The clerk is to be the chief executive officer of the council and is to be responsible for the day to day administration of the council.”

### **12 After subsection 19A(4)**

Insert

“(5) The Minister on the advice of the council may by Order prescribe the design and colour of the uniform of a municipal warden which must be different to that of the members of the Vanuatu Police Force.”

### **13 Section 20**

Repeal the section, substitute

### **“20. Other staff**

(1) Other staff of the council are to be appointed by the council following a fair and transparent selection process.

(2) The clerk is to appoint the members of a selection panel which are to consist of the following persons:

(a) a person nominated by the council;

(b) a person nominated by the Public Service Commission;

(c) a person nominated by the General Manager of the Chambers of Commerce and Industry of Vanuatu.

(3) The selection panel is to conduct interviews and make a recommendation to the council on the successful candidate for the relevant position.

(4) To avoid doubt:

(a) the clerk may appoint a selection panel whenever necessary to undergo the process of recommending a person to the council for an appointment under subsection (1).

(b) this section does not apply to the positions of the clerk, deputy clerk, accountant, cashier and senior town planner.

(5) The council is to determine the terms and conditions for the appointment of the staff of the council.

(6) A person who has been appointed by a council as a staff of the administration of the council immediately before the commencement of this Act, is to continue to occupy his or her position as if he or she were appointed under this section.

## **21. Councillor not to interfere with administration of a council**

(1) Unless provided under this Act, a councillor must not:

(a) interfere either directly or indirectly in the management or administration of the council; or

(b) interfere, disturb or obstruct any staff of the council in the course of carrying out their duties in the administration of the council; or

(c) encourage or assist any staff of the council to commit a conduct that would have adverse effects on the administration of the council.

(2) A councillor who is not satisfied with:

(a) the conduct or performance of the duties of a staff of any department within the administration of the council; or

(b) any matter involving the management or administration of a department of the council,

is to direct his or her concerns to the clerk.”

## **14 Section 22**

(a) Delete “A council” substitute “The clerk”

(b) Delete “it ”, substitute “he or she,”

(c) After “workmen” insert “on a temporary basis”

## **15 Section 23**

Repeal the section, substitute

**“23. Staff manual**

(1) Subject to this Act and regulations made under this Act, a council may make a staff manual to provide for all or any of the following:

- (a) grades and salary scales;
- (b) appointments, promotions, leaves, termination of appointments and dismissals;
- (c) maintenance of discipline;
- (d) disciplinary offences;
- (e) interdiction and payment of salary or wages during any period of interdiction;
- (f) punishments in respect of disciplinary offences including the withholding or deferment of increments, fines, reductions in rank or salary and deductions from salary in respect of damage to property of the council by reason of misconduct or breach of duty by an officer, servant or employee;
- (g) training;
- (h) payment of allowances and the making of advances; and
- (i) terms and conditions of service generally, including matters relating to procedure and the duties and responsibilities of officers, servants and employees.

(2) Subject to subsection (3), the staff manual takes effect on the date on which the Minister approves it.

(3) The Minister is to consult the Director of Local Authorities prior to approving a staff manual.”

**16 After subsection 25(1)**

Insert

“(1A) In carrying out its duties, a council must ensure that it upholds national policies in relation to public health, land and education.”

**17 Subsection 31(3)**

After “[Land Reform Act](#) [Cap. 123]”, insert “and the [Land Leases Act](#) [CAP 163].”

**18 Paragraph 37(2)(b)**

Delete “.”, substitute “;”

**19 After paragraph 37(2)(b)**

Insert

“(c) send a copy of the notice to the department of Local Authorities.”

**20 Subsection 40(1)**

(a) Delete “20,000”, substitute “100,000”

(b) Delete “12 months”, substitute “2 years”

**21 Section 42**

Repeal the section, substitute

## **“42. Financial year**

The financial year of a council is to be for a period of 12 calendar months commencing on 1 January and ending on 31 December of that year.”

## **22 Paragraph 44(d)**

Delete “one half of”

## **23 Section 50**

Repeal the section, substitute

## **“50. Investment of surplus funds**

A council may, with the consent of the Minister, do any of the following with surplus funds of the council:

- (a) deposit the funds into a financial institution approved by the Minister of Finance and Economic Management; or
- (b) invest the funds in the Vanuatu Government securities as provided for under the [Reserve Bank of Vanuatu Act](#) [CAP 125]; or
- (c) use the funds in any other manner as approved by the Minister of Finance and Economic Management.”

## **24 Subsection 52(2)**

Delete “200,000”, substitute “500,000”

**25 Section 53**

After “The council may”, insert “on the advice of the Director of the Department of Provincial Affairs”

**26 After subsection 54(2)**

Insert

“(3) All books, accounts and records of a council must be kept in accordance with national and international accounting standards.”

**27 Paragraph 57(f)**

Delete “150,000” substitute “1,000,000”

**28 After subsection 61(3)**

Insert

“(3A) If the exercise of any of the powers of a council is suspended under paragraph (3)(a), the mayor, deputy mayor and councillors are not entitled during the period of such suspension, to receive any allowances which are payable to them under this Act.”

**29 After section 64**

Insert

### **“64A. Legal representation**

- (1) A council may retain the services of a private legal practitioner to represent it in any legal proceedings.
- (2) A councillor or an officer of the council must not use the council’s lawyer to pursue their personal matters.
- (3) A council must notify the Minister on any matters that might give rise to legal proceedings.
- (4) A council must notify the Minister on the progress of any pending legal proceedings, against the council or lodged by the council.”

### **30 Subsection 69(1)**

- (a) Delete “20,000 substitute, “1,000,000”
- (b) Delete “12 months” substitute, “5 years”

### **31 After section 69**

Insert

### **“70. Regulations**

The Minister may by Order make regulations not inconsistent with this Act, for and in respect of matters necessary for the better carrying out of the provisions of this Act.”