

# REPUBLIC OF VANUATU

## BILL FOR THE CONSTITUTION (EIGHTH)(AMENDMENT) ACT NO. OF 2023

### Explanatory Note

This Bill amends subarticle 4(3) of the Constitution of the Republic of Vanuatu which provides for political parties to be formed freely. This amendment will allow Parliament to enact legislation to regulate the registration of political parties.

The Bill for the Political Parties Registration Act requires all political parties intending to field candidates in an election to Parliament, to register as a political party in accordance with the procedures and criteria set out under that Bill.

Successive Governments since the 1980's have identified that the fragmentation of political parties and the complete lack of guidelines for the formation and operation of political parties and independent candidates are two key factors contributing to the instability of Government.

As such, in order to bring stability back into the formation and operation of Governments and improving the overall governance of the country, a legal and constitutional framework that ensures a strong sustainable political party system is required. The introduction of the political party legislation is a necessity to achieving such a strong sustainable political party system.

The proposed insertion of Articles 17A and 17B to facilitate political stability constitutes a change to the electoral system of Vanuatu. The proposed insertion of subarticle 43(3) to restrict motions of no confidence constitute a change to the parliamentary system of Vanuatu. Consequently, items 2 and 3 of this Bill do not commence unless they are supported in a national referendum as required under Article 86 of the Constitution.

The principle of this amendment has received the endorsement of the Constitutional Review Committee in its final report of 31st August 2016, to Parliament.

**Prime Minister**

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**BILL FOR THE  
CONSTITUTION (EIGHTH) (AMENDMENT)  
ACT NO. OF 2023**

**Arrangement of Sections**

<b>1</b>	<b>Amendment .....</b>	<b>2</b>
<b>2</b>	<b>Commencement.....</b>	<b>2</b>

## SCHEDULE

### AMENDMENTS OF THE CONSTITUTION OF THE REPUBLIC OF VANUATU

**1 Subarticle 4(3)**

Delete "Political parties", substitute "Subject to any restrictions imposed by law, political parties"

**2 After Article 17**

Insert

**"17A Vacation of seat where a member of Parliament resigns or is terminated for ceasing to support a political party**

- (1) This Article applies to a member of Parliament if the member, having been a candidate of a political party and elected to Parliament:
  - (a) resigns from the political party; or
  - (b) is terminated as a member of the political party for ceasing to support the political party.
- (2) The President of a political party must notify the Speaker in writing within 14 days after a member has resigned from, or has been terminated for ceasing to support, the political party in accordance with that political party's constitution.
- (3) The Speaker must, within 7 days of receiving the notice under subarticle (2), declare the seat of that member of Parliament vacant by Order published in the Gazette.
- (4) For the purposes of this Article, a member of Parliament representing a political party is deemed to have ceased support of the political party when he or she satisfies the grounds provided under the political party's constitution that indicate when a member is deemed to have ceased support for the political party.
- (5) This Article applies despite the provisions of subarticle 5(1) of this Constitution.

**17B Vacation of seat of an independent member**

- (1) This Article applies to a member of Parliament who:
  - (a) is elected to Parliament as an independent candidate; or
  - (b) is the only member representing a political party.
- (2) Within 3 months after the first day of the first sitting of Parliament at which the Speaker and the Prime Minister are elected, a member of Parliament referred to under subarticle (1) must submit to the Clerk of Parliament a declaration of his or her affiliation to a political party represented in Parliament, in the form approved by the Clerk of Parliament and counter-signed by the political party's President.
- (3) In the case of a by-election, a newly elected member of Parliament referred to under subarticle (1) must, within 3 months after the first day of the next sitting of Parliament after that by-election, submit to the Clerk of Parliament a declaration of his or her affiliation to a political party represented in Parliament, in the form approved by the Clerk of Parliament and counter-signed by the political party's President.
- (4) At the next sitting of the Parliament:
  - (a) in the case of a general election - the Speaker must, having received affiliations under subarticle (2), officially announce the affiliations of all members of Parliament; or
  - (b) in the case of a by-election - the Speaker must, having received the newly elected member of Parliament's affiliation under subarticle (3), officially announce the affiliation of that member of Parliament.
- (5) A member of Parliament who fails to make a declaration under subarticle (2) or (3) is deemed to have vacated his or her seat at the end of the 3 month period referred to in that subarticle.
- (6) The President of a political party must notify the Speaker in writing within 14 days after a member of Parliament has ceased to be affiliated with the political party in accordance with the political party's constitution.

- (7) The Speaker must, within 7 days of receiving the notice under subarticle (6), declare the seat of the member of Parliament vacant by Order published in the Gazette.
- (8) For the purposes of this Article, a member of Parliament is deemed to have ceased to be affiliated with a political party when he or she satisfies the grounds provided under the political party's constitution that indicate when a member is deemed to have ceased to be affiliated with the political party.
- (9) This Article applies despite the provisions of subarticle 5(1) of this Constitution."

**3 After subarticle 43(2)**

Insert

- "(3) Parliament must not pass a motion of no confidence in the Prime Minister within 12 months of the election of the Prime Minister."

**4 After subarticle 57(2)**

Insert

- "(2A) For the purposes of this Article, Special Envoy is not a public office."

**5 Transitional**

If:

- (a) an independent member of Parliament; or
- (b) a member of Parliament who is the only member representing a political party,

is elected to Parliament before the commencement of item 2, that member must affiliate with a political party represented in Parliament within 3 months after the commencement of item 2.

# REPUBLIC OF VANUATU

## BILL FOR THE CONSTITUTION (EIGHTH) (AMENDMENT) ACT NO. OF 2023

An Act to amend the Constitution of the Republic of Vanuatu.

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The Constitution of the Republic of Vanuatu is amended as set out in the Schedule.

### **2 Commencement**

- (1) Subject to subsection (2), this Act commences on the day on which it is published in the Gazette.
- (2) Items 2 and 3 do not commence unless supported in a national referendum under Article 86.