

NEW HEBRIDES CONDOMINIUM

JOINT REGULATION

No. 1 of 1978

TO PROVIDE for the appointment, powers and functions of the Council of Ministers and of its members.

MADE by the High Commissioners under the provisions of Articles 2 and 7 of the Anglo-French Protocol of 1914 and Article 37 of the Schedule to the Exchange of Notes of 15th September 1977 after consultation with the Representative Assembly.

PART I - COMPOSITION AND FORMATION OF  
THE COUNCIL

Establishment  
of Council of  
Ministers.

1. A Council of Ministers is hereby established for the New Hebrides.

Composition of  
Council.

2. The Council of Ministers shall consist of a Chief Minister and other members who shall have the title of Minister.

Election of  
Chief Minister  
and appointment  
of Minister

3. (1) The Chief Minister shall be elected by the Representative Assembly from amongst its members or from outside the Assembly within the fourteen days next following the opening of the first session of the Assembly.

(2) No candidature in an election for Chief Minister shall be valid unless it is supported by at least five members of the Assembly and is lodged with the Chairman of the Assembly not later than the day immediately preceding the day fixed by the Chairman for voting.

(3) The candidate who in the election obtains the votes of an absolute majority of the members of the Assembly shall be elected Chief Minister. If after two ballots no candidate has obtained the votes of such an absolute majority, a third ballot shall be held in which the candidate who obtains a simple majority shall be elected Chief Minister. In the event of an equality of votes between the candidates who head the third ballot, the other candidates shall be eliminated, and a further ballot or ballots shall be held until one candidate obtains a majority of the votes cast.

(4) Voting shall be by secret ballot, in which each member of the Assembly shall personally have one vote.

(5) Within seven days of his election, the Chief Minister shall appoint the other members of the Council of Ministers, from amongst the members of the

Assembly or from outside the Assembly, who shall take up their duties forthwith. The Chief Minister may dismiss any Minister.

(6) (a) No person shall be elected as Chief Minister or appointed as a Minister unless he is qualified to vote in elections to the Assembly and has attained the age of 25 years.

(b) The Chief Minister and the Ministers shall each be required to make the declarations provided for in Order 8 (b) of the Standing Orders of the Representative Assembly.

(c) No person who is not a member of the Assembly shall be appointed a Minister unless he is qualified to stand as a candidate for election to the Assembly.

(d) No expatriate person who during the immediately preceding five years has been an employee or officer in the British or French National Service in the New Hebrides shall be qualified to be a member of the Council of Ministers.

(e) The Resident Commissioners may by Joint Rules provide for other disqualifications for election or appointment as a member of the Council of Ministers.

(7) The members of the Council of Ministers who are members of the Representative Assembly shall retain their right to vote in the Assembly.

Notification and publication of election of Chief Minister.

4. The Chairman of the Representative Assembly shall immediately notify the Resident Commissioners of the result of the election of the Chief Minister, which they shall cause to be published in the Condominium Gazette.

Votes of no confidence

5. (1) If at any time the Representative Assembly passes a motion of no confidence in the Council of Ministers the Chief Minister shall forthwith submit his resignation to the Resident Commissioners.

(2) No motion of no confidence shall be voted on in the Assembly unless it is signed by at least one-quarter of the members of the Assembly.

(3) No motion of no confidence shall be passed unless, more than 48 hours after being tabled, it is supported by the votes of an absolute majority of the members of the Assembly. If a vote is not taken within one week of its being tabled, the motion of no confidence shall be deemed to have lapsed.

Duration of  
term of office  
of Chief  
Minister.

6. (1) The Chief Minister shall continue in office throughout the life of the Assembly which elected him or until that Assembly passes a vote of no confidence or until he resigns for any other reason. The resignation of the Chief Minister shall entail the resignation of all the other Ministers. The Chairman of the Representative Assembly shall immediately notify the Resident Commissioners of such resignation, which they shall cause to be published in the Condominium Gazette.

(2) A new Chief Minister shall be elected during the fourteen days next following the resignation of his predecessor. If necessary the Representative Assembly shall be convened in Extraordinary Session for this purpose and the time limit for the election of a new Chief Minister shall then be extended to one month.

(3) The Council of Ministers shall continue to deal with routine business until the appointment of a new Council of Ministers.

(4) In the event of the death of the Chief Minister or other serious impediment the Resident Commissioners shall appoint from amongst the members of the Council of Ministers an acting Chief Minister who shall be responsible for dealing with routine business pending the election by the Assembly of a new Chief Minister.

#### PART II - RULES OF PROCEDURE

Place of  
meetings of  
Council.

7. The Council of Ministers shall normally meet at Port Vila. It may fix another place for certain sittings.

Summoning  
meetings.

8. (1) The Council of Ministers shall be convened to meet at least once a week by the Chief Minister who shall draw up the Agenda, which shall include any matter required to be included by an absolute majority of the members of the Council of Ministers or by the two Resident Commissioners.

(2) The Secretariat and upkeep of records of the Council of Ministers shall be the responsibility of the Chief Minister.

(3) The Representative Assembly shall vote the necessary funds for the operation of the Council of Ministers.

Attendance of  
Resident  
Commissioners.

9. The Resident Commissioners shall have the right to attend meetings of the Council of Ministers. They may be represented by their deputies. They shall have the right to speak but not to vote.

Decisions of  
Council.

10. The Council of Ministers shall take its decisions in the presence of the two Resident Commissioners or their deputies and when a majority of the Ministers is present at the meeting. The Resident Commissioners may by Joint Decision annul any decision taken where those conditions are not complied with. The decisions of the Council of Ministers shall be taken by a majority of members present. In the event of an equal number of votes the Chief Minister shall have a casting vote.

Privacy  
of meetings.

11. (1) Meetings of the Council of Ministers shall not be open to the public. Its proceedings shall not be secret except when the Council so decides by a majority of the members present.

(2) Members of the Council are bound to observe secrecy on matters which may come to their knowledge in the exercise of their functions.

(3) Unless otherwise decided by the Council of Ministers the results of their work shall be brought to the knowledge of the public by means of communiqués.

Allowances.

12. (1) The Chief Minister and the members of the Council shall receive a responsibility allowance and, where appropriate, travelling and subsistence allowances in accordance with scales determined by the Representative Assembly based on the salaries and allowances of Civil Servants.

(2) Civil Servants who are members of the Council may not receive the responsibility allowance in addition to their salaries. Where appropriate they may receive the difference between the two.

(3) The Representative Assembly may allocate a fixed annual representation allowance to the Chief Minister.

PART III - POWERS OF THE COUNCIL OF  
MINISTERS AND OF ITS MEMBERS

General

Responsibilities  
of Council.

13. (1) Subject to the provisions of this Regulation, the Council of Ministers shall be responsible for the administration of the Group and for that purpose shall direct and control the public services.

(2) The Chief Minister shall issue Rules in exercise of the power of delegated legislation conferred on the Council of Ministers. He is the head of the local administration and in that capacity shall recruit, administer and manage the personnel of the local Public Service. He shall implement the Budget and control expenditure. In the event of his temporary absence or incapacity the Chief Minister shall appoint a Minister who shall exercise in his place the duties set out in this article and who shall be authorised to sign documents on his behalf.

(3) The Chief Minister may by decision entrust other Ministers with the conduct of one or more government departments and may delegate to them certain of his powers for this purpose. Decisions issued by the Chief Minister shall be counter-signed by the Ministers responsible for their execution.

Particular  
Responsibilities  
of Council.

14. The following in particular shall be decided upon by the Council of Ministers :

- (i) drafts concerning matters to be submitted to the Representative Assembly or its General Committee, particularly the Development Plan and the draft Budget.
- (ii) Rules made in application of the Assembly's decisions.
- (iii) Decisions on the following matters :
  - (a) appointment of Heads of Government Departments;
  - (b) subject to the approval of the Representative Assembly, the establishment of posts in the Public Service and the grading of such posts, the salary scales and allowances applicable to them, leave entitlement, medical benefits, pension and retirement rights, management of public property including acquisition, sales, exchanges or leases;
  - (c) acceptance or refusal of gifts and legacies;
  - (d) granting of concessions for the operation of Public Services; placing of contracts for public works;
  - (e) making of rules and fixing of charges for public services : fixing the basis and the rates of fees for services rendered (excluding fiscal dues);
  - (f) the conduct of legal proceedings whether as Plaintiff or Defendant;
  - (g) the supervision of Municipalities and Rural Community Councils.

Consultation  
by Resident  
Commissioners.

15. The Resident Commissioners may consult the Council of Ministers on any question which they consider it useful to submit to the Council.

Power to reduce or suspend taxation. 16. (1) When exceptional circumstances so require, the Council of Ministers may decide to suspend or reduce, provisionally, all import and export duties and any indirect taxation on goods at the stage of production, distribution or consumption.

(2) Decisions under subsection (1) shall immediately be submitted for ratification to the Representative Assembly if it is in session, and otherwise they shall be referred to the General Committee, which shall report on them to the Representative Assembly at its next Session. The Representative Assembly's ratifying decisions shall come into operation with effect from the date on which the Council of Ministers' decision was made.

(3) If the Council's decisions are not ratified by the Representative Assembly they shall cease to have effect from the date on which the Representative Assembly makes its decision.

Annulment of acts of Council.

12. (1) The Resident Commissioners shall by Joint Decision declare any act of the Council of Ministers which they consider to relate to a subject which is not within their competence to be null and void. The Council of Ministers may request the Joint Court to rule on the validity of such a decision of the Resident Commissioners. In this event, the Joint Court shall deliver judgment within the fifteen days next following the receipt of the request. The judgment of the Joint Court shall be binding on the Resident Commissioners and on the Council of Ministers.

#### PART IV - TRANSITIONAL PROVISIONS

Enforcement of Joint Regulations.

18. The Council of Ministers shall execute Joint Regulations in force which fall within the competence of the Representative Assembly.

Notification of election of Chief Minister on 13th December 1977.

19. Official publication as provided for in section 4 of this Regulation recording the election of the Chief Minister by the Representative Assembly on the 13th December 1977 shall be effected immediately on the publication of this Regulation.

Short title and commencement.

20. This Regulation may be cited as the Council of Ministers Regulation 1978 and shall come into operation on its publication in the Condominium Gazette.

MADE at Vila this eleventh day of January, 1978.

High Commissioner  
for the French Republic

Her Britannic Majesty's  
High Commissioner

J.G. ERIAU

R. J. STRATTON