

THE LOCAL GOVERNMENT (AMENDMENT) BILL
(No. ~~XXIV~~ of 2013)

Explanatory Memorandum

The objects of this Bill are to provide –

- (a) for the filling, by means of a by-election, of the vacancy which has occurred in the office of a Village Councillor following the declaration by the Supreme Court that, at the Village Council election held in 2012, a Councillor was unduly elected and his election was invalid; and
- (b) that, where, in future, a vacancy occurs for the same reason in the office of a Municipal City Councillor, Municipal Town Councillor or Village Councillor, as the case may be, the vacancy shall be filled by the unreturned candidate who obtained the highest number of votes after the elected candidates at the election.

L. H. AIMÉE
*Minister of Local Government
and Outer Islands*

15... November... 2013

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ARRANGEMENT OF CLAUSES

Clause

- 1. Short title
 - 2. Interpretation
 - 3. Section 42 of principal Act amended
 - 4. Transitional provisions
 - 5. Commencement
-

A BILL

**To provide for the filling of certain vacancies in a local authority,
other than a District Council**

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Local Government (Amendment) Act 2013.

2. Interpretation

In this Act –

“principal Act” means the Local Government Act.

3. Section 42 of principal Act amended

Section 42 of the principal Act is amended –

(a) by repealing subsection (2) and replacing it by the following subsection –

(2) The vacant seat shall –

(a) where the vacancy occurs following a declaration of the Supreme Court that a person was unduly elected or returned, be filled, subject to subsection (4)(a), by the unreturned candidate who obtained the highest number of votes after the elected candidates at the election; or

(b) in every other case, be filled, subject to section 18(5), by the first available person on the Municipal City Councillor’s, Municipal Town Councillor’s or Village Councillor’s group’s reserve list in the order of precedence in which the name appears on the list.

(b) by repealing subsection (4) and replacing it by the following subsection –

- (4) A person's name may only be so notified where –
- (a) he is willing to serve as a Municipal City Councillor, Municipal Town Councillor or Village Councillor, as the case may be; and
 - (b) in the case of the filling of a vacancy pursuant to subsection (2)(b) –
 - (i) the group does not, within one week of the notice of declaration of vacancy being published in the *Gazette* under section 39(2), inform the Electoral Commissioner of its objection to his name being notified to the Minister; or
 - (ii) in the case of a group that was registered as an alliance of 2 or more groups under section 18(1), all the groups jointly do not, within one week of the notice of declaration of vacancy, inform the Electoral Commissioner of their objection to his name being notified to the Minister.
 - (c) in subsection (6), by deleting the words "Where no remaining person" and replacing them by the words "Where, in the case of the filling of a vacancy pursuant to subsection (2)(b), no remaining person";
 - (d) by repealing subsection (7) and replacing it by the following subsection –

(7) Where a vacancy occurs in the office of a Municipal City Councillor, Municipal Town Councillor or Village Councillor, as the case may be, and –

- (a) the filling of the vacancy is to be made pursuant to subsection (2)(a) and there is no unreturned candidate who can, and is willing to, serve as a Councillor; or
- (b) the filling of the vacancy is to be made pursuant to subsection (2)(b) and the person who vacated the seat was not a member of a group,

the Minister may appoint any other person who is qualified to be a Councillor to fill the vacancy.

4. Transitional provisions

(1) Where, pursuant to an election petition, a person who has been elected as a Village Councillor following the Village Council elections held in 2012 has been declared to have been unduly elected because he was not qualified to stand as candidate, the President, acting in accordance with the advice of the Prime Minister, shall, not later than 180 days from the date of the judgment of the Supreme Court, issue a writ of election in accordance with the Representation of the People Act, for the purpose of electing another Councillor in the place of the person who has been declared to have been unduly elected.

(2) Subject to subsection (3), an election under subsection (1) shall be held in accordance with the Village Council Elections Regulations 2012.

(3) For the purposes of an election under subsection (1) –

- (a) regulations 8, 9, 10, 11 and 15 of the Village Council Elections Regulations 2012 shall not apply;
- (b) Forms 4, 7 and 8 of the Village Council Elections Regulations 2012 shall not apply;
- (c) the Forms referred to in the Village Council Elections Regulations 2012 and listed in the first column of the Schedule are amended in the manner specified in the second column of that Schedule.

(4) Where subsection (3) does not provide for an amendment to the Village Council Elections Regulations 2012 for the purposes of an election under subsection (1), the President may make regulations to provide for such amendment.

5. Commencement

Section 4 shall be deemed to have come into operation on 23 June 2013.

SCHEDULE
[Section 4(3)(c)]

**FORMS OF VILLAGE COUNCIL ELECTIONS REGULATIONS 2012 TO BE AMENDED
FOR THE PURPOSES OF THE ELECTION UNDER SECTION 4(1)**

- FORM 1 (a) by deleting the words "9 Councillors" and replacing them by the words "one Councillor";
- (b) by deleting the word "Councillors" wherever it appears and replacing it by the word "Councillor";
- (c) by deleting the words "they have respectively" and replacing them by the words "he has"
- FORM 2 By deleting the words "Village Councillors" and replacing them by the words "one Village Councillor for the Village Council of"
- FORM 3 (a) by deleting the words "9 COUNCILLORS" and replacing them by the words "ONE COUNCILLOR";
- (b) by deleting the words "9 Councillors" wherever they appear and replacing them by the words "one Councillor";
- (c) by deleting the word "Councillors" and replacing it by the word "Councillor"
- FORM 5 By deleting the word "Councillors" and replacing it by the words "one Councillor"
- FORM 6 (a) by deleting the word "**ELECTIONS**" and replacing it by the word "**ELECTION**";
- (b) by deleting the word "elections" wherever it appears and replacing it by the word "election"
- FORM 9 By deleting the words "9 COUNCILLORS" and replacing them by the words "ONE COUNCILLOR"
- FORM 12 (a) by deleting the word "**ELECTIONS**" and replacing it by the word "**ELECTION**";

(b) by deleting the words "9 candidates" wherever they appear and replacing them by the words "one candidate"
