

(8 May 2024 - to date)

[This is the **current** version and applies as from **8 May 2024**, i.e. the date of commencement of the Electoral Matters Amendment Act 14 of 2024 – to date]

## **POLITICAL FUNDING ACT 6 OF 2018**

*(Short title substituted by section 28 of Act 14 of 2024)*

*(Previously known as the “Political Party Funding Act 6 of 2018.”)*

*(Government Notice 63 in Government Gazette 42188 dated 23 January 2019.*

*Commencement date: 1 April 2021 [GN 64 in Gazette No. 44125 dated 29 January 2021])*

**as amended by:**

*Electoral Matters Amendment Act 14 of 2024 - Government Notice 4790 in Government Gazette 50624 dated 7 May 2024. Commencement date: 8 May 2024 [Proc. No. 165 in Government Gazette 50628 dated 8 May 2024]*

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*(English text signed by the President.)*

*(Assented to 21 January 2019.)*

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## **ACT**

**To provide for, and regulate, public and private funding of political parties, independent candidates and independent representatives, in particular; the establishment and management of Funds to fund represented political parties and independent representatives sufficiently; to prohibit certain donations made directly to political parties, independent candidates and independent representatives; to regulate disclosure of donations accepted; to determine the duties of political parties, independent candidates and independent representatives in respect of funding; to provide for powers and duties of the Commission; to provide for administrative fines; to create offences and penalties; to repeal the Public Funding of Represented Political Parties Act, 1997, to provide for transitional matters; and to provide for related matters.**

*(Long title substituted by section 1 of Act 14 of 2024)*

## **PREAMBLE**

**WHEREAS** the Constitution establishes the foundational values of accountability and openness in a multi-party democracy;

Prepared by:

**AND WHEREAS** it is important to deepen democracy, promote the national interest and to protect the sovereignty of the Republic;

**AND WHEREAS** the Republic's public international law obligations require it to incorporate the principle of transparency in the funding of political parties;

**AND WHEREAS** section 236 of the Constitution, in promoting that principle, requires national legislation to provide for the funding of political parties participating in national and provincial legislatures on an equitable and proportional basis to enhance multi-party democracy;

**AND WHEREAS** effect is given to this section through money made available to those political parties from a fund created by law for that purpose;

**AND WHEREAS** section 44 of the Constitution affords Parliament legislative authority to pass legislation with regard to any matter, which would include to regulate public and private funding of political parties as well as the public and private funding of independent candidates and independent representatives;

*(Paragraph 6 of the Preamble substituted by section 2 of Act 14 of 2024)*

**AND WHEREAS** effect is given to this by—

- establishing an additional fund to receive funding from private sources subject to certain restrictions;
- prohibiting certain donations being made directly to political parties, independent candidates and independent representatives; and
- providing for the disclosure of donations,

*(Paragraph 7 of the Preamble substituted by section 2 of Act 14 of 2024)*

**BE IT THEREFORE ENACTED** by the Parliament of the Republic of South Africa, as follows: -

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## CHAPTER 1 INTERPRETATION

### 1. Definitions

In this Act, unless the context indicates otherwise –

**“Banks Act”** means the Banks Act, 1990 (Act No. 94 of 1990);  
*(Definition of “Banks Act” inserted by section 3(a) of Act 14 of 2024)*

**“chief executive officer”** means the person appointed in terms of section 21(2);

**“Commission”** means the Electoral Commission established by section 3(1) of the Electoral Commission Act;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996;

**“donation”** –

(a) includes a donation in kind; but

(b) does not include—

(i) a membership fee of a political party or any levy imposed by the party on its elected representatives; or

(ii) any funds provided to a political party, or an independent representative by the National Assembly and provincial legislatures respectively in terms of sections 57(2)(c) and 116(2)(c) of the Constitution;

*(Definition of “donation” substituted by section 3(b) of Act 14 of 2024)*

**“donation in kind”** –

(a) includes—

- (i) any money lent to a political party, independent representative or independent candidate other than on commercial terms;
  - (ii) any money paid on behalf of a political party, independent representative or independent candidate for any expenses incurred directly or indirectly by that political party, independent representative or independent candidate;
  - (iii) the provision of assets, services or facilities for the use or benefit of a political party, independent representative or independent candidate other than on commercial terms; or
  - (iv) a sponsorship provided to a political party, independent representative or independent candidate; but
- (b) does not include services rendered personally by a volunteer;  
*(Definition of “donation in kind” substituted by section 3(b) of Act 14 of 2024)*

**“Electoral Commission Act”** means the Electoral Commission Act, 1996 (Act No. 51 of 1996);

**“financial year”** means an accounting period of a year that ends on 31 March each year;

**“foreign person”** means any person or entity other than a –

- (a) citizen or permanent resident of the Republic;
- (b) company registered in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
- (c) trust registered in terms of the Trust Property Control Act, 1988 (Act No. 57 of 1988);

**“Funds”** mean the *Multi-Party Democracy Fund* and the *Political Representatives Fund*;  
*(Definition of “Funds” substituted by section 3(c) of Act 14 of 2024)*

**“independent candidate”** means a South African citizen contesting an election and who is not nominated on a list of a party;  
*(Definition of “independent candidate” inserted by section 3(d) of Act 14 of 2024)*

**“independent representative”** means an independent candidate with representation in the national or a provincial legislature;  
*(Definition of “independent representative” inserted by section 3(d) of Act 14 of 2024)*

**“Multi-Party Democracy Fund”** means the Multi-Party Democracy Fund established in terms of section 3(1);

**“political party”** includes any entity that accepts donations principally to support or oppose any registered political party or its candidates, in an election as defined in section 1 of the Electoral Act, 1998 (Act No. 73 of 1998);

**“prescribe”** means prescribed by regulations made under section 24;

**“represented political party”** means a political party with representation in the national or provincial legislatures;

**“Political Representatives Fund”** means the Political Representatives Fund established in terms of section 2(1);

*(Definition of “Represented Political Party Fund” substituted by the definition of “Political Representatives Fund” by section 3(e) of Act 14 of 2024)*

**“this Act”** includes regulations made under section 24.

## **CHAPTER 2 FUNDS**

### **2. Establishment of Political Representatives Fund**

*(Heading of section 2 substituted by section 4(a) of Act 14 of 2024)*

- (1) A Political Representatives Fund is hereby established for the purpose of enhancing multi-party democracy by providing for the funding of represented political parties and independent representatives.

*(Section 2(1) substituted by section 4(b) of Act 14 of 2024)*

- (2) The Commission must open an account for this Fund with any bank registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990).

- (3) The Commission must credit the account contemplated in subsection (2) with –

- (a) money appropriated by an Act of Parliament;
- (b) any money recovered in terms of section 17; and
- (c) interest earned on money invested in terms of section 4(1).

### **3. Establishment of Multi-Party Democracy Fund**

- (1) A Multi-Party Democracy Fund is hereby established for the purpose of funding represented political parties and independent representatives from private sources.

*(Section 3(1) substituted by section 5(a) of Act 14 of 2024)*

- (2) The Commission must open an account for this Fund with any bank registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990).
- (3) Subject to subsection (4), the Commission must credit the account contemplated in subsection (2) with—
  - (a) money received from any private source whether from inside or outside the Republic;
  - (b) any money recovered in terms of section 17; and
  - (c) interest earned on money deposited or invested in terms of section 4(1).
- (4) The Commission may not accept money received in terms of subsection (3)(a)—
  - (a) from any organ of state;
  - (b) from any state owned enterprise;
  - (c) from any foreign government or foreign government agency; or
  - (d) which the Commission has reason to believe is the proceeds of crime.

*(Section 3(4) substituted by section 5(b) of Act 14 of 2024)*
- (5) Any contributor contemplated in subsection (3)(a) may request the Commission not to disclose their identity or the amount of the contribution.
- (6) The Commission may charge a fee to defray the cost of administering and managing this Fund, which may not exceed five per cent of the money credited to this fund under subsection (3) during the previous financial year.

#### **4. Investment of money in Funds**

- (1) Any money in the Funds that is not required immediately for making an allocation to represented political parties or independent representatives in terms of section 6 may be invested with—
  - (a) the Public Investment Corporation in terms of the Public Investment Corporation Act, 2004 (Act No. 23 of 2004); or
  - (b) any bank registered as a bank in terms of the Banks Act.

- (2) The Commission may, with the approval of the Minister of Finance, carry forward any money standing to the credit of the Political Representatives Fund at the end of the financial year to the next financial year as a credit balance.
- (3) The Commission must carry forward any money standing to the credit of the Multi-Party Democracy Fund at the end of the financial year to the next financial year as a credit balance.

*(Section 4 substituted by section 6 of Act 14 of 2024)*

## **5. Management and administration of Funds**

- (1) The chief executive officer is responsible for the management and administration of the Funds.
- (2) For each financial year, the Commission must keep records in accordance with the standards of generally recognised accounting practice in respect of each of the Funds, setting out –
  - (a) all money received or accruing to the Funds;
  - (b) all allocations and payments made;
  - (c) all expenditure arising from the allocation of money from the Funds; and
  - (d) the current record of the capital and liabilities of the Funds during that year.

## **6. Allocation and payment of money to represented political parties and independent representatives**

- (1) The Commission may allocate money from the Funds to represented political parties and independent representatives only.
- (2) Any allocation from the Funds must be made to a represented political party or independent representative in accordance with the prescribed formula.
- (3) The formula prescribed in subsection (2) must be based on—
  - (a) in part, an equitable allocation taking into account a weighted scale of representation for allocations to represented political parties and independent representatives; and
  - (b) in part, a proportional allocation taking into account—
    - (i) in the case of a political party, the relationship that the number of a represented political party's representatives in the National Assembly and the provincial legislatures bears to the sum of the seats in the legislature concerned; and



- (ii) in the case of an independent representative, the relationship that the independent representative's seat bears to the sum of the seats in the National Assembly or provincial legislature concerned.
- (4) The Commission must apply the formula prescribed in subsection (2) taking into account the number of representatives of each represented political party and each independent representative and the number of seats in the respective legislatures based on the results of the election.
- (5) The Commission may not take into account any money carried forward in terms of section 13(1) when it determines the allocation of money to a represented political party or an independent representative.
- (6) Any allocation of money from the Funds—
  - (a) to a represented political party ends when the party ceases to be a party with representation as contemplated in subsection (1); and
  - (b) to an independent representative ends when the independent representative vacates his or her seat in the National Assembly or provincial legislature concerned.
- (7) The Commission must pay the allocated amounts to each of the represented political parties and independent representatives at prescribed intervals.

*(Section 6 substituted by section 7 of Act 14 of 2024)*

#### **6A. Money in Funds may not be attached**

- (1) Money in the Funds may not be attached by any creditor of any political party or independent representative.
- (2) Section 179 of the Tax Administration Act, 2011 (Act No. 28 of 2011), does not apply to money held by the Commission in the Funds.

*(Section 6A inserted by section 8 of Act 14 of 2024)*

#### **7. Purposes for which money from Funds may be used**

- (1) Subject to subsection (2), the money paid in terms of section 6(7) may be used by that represented political party or independent representative for any purpose compatible with the functioning of a political party or independent representative in a modern democracy including—

*(Words preceding section 7(1)(a) substituted by section 9(a) of Act 14 of 2024)*

- (a) the development of the political will of the people;

- (b) bringing the political party's or independent representative's influence to bear on the shaping of public opinion;

*(Section 7(1)(b) substituted by section 9(b) of Act 14 of 2024)*

- (c) inspiring and furthering political education;
- (d) promoting active participation by individual citizens in political life;
- (e) exercising an influence on political trends;
- (f) ensuring continuous and vital links between the people and organs of state; and
- (g) complying with the provisions of this Act.

- (2) The money paid in terms of section 6(7) may not be used by a represented political party—

*(Words preceding section 7(2)(a) substituted by section 9(c) of Act 14 of 2024)*

- (a) for the purpose of directly or indirectly paying any remuneration, fee, reward, perquisite or other benefit to any person –
  - (i) representing the party in any legislature at national or provincial level, or in a Municipal Council; or
  - (ii) who is appointed by or in the service of the state and receives remuneration for that appointment or service;
- (b) to finance or contribute, whether directly or indirectly, to any matter, cause, event or occasion, in contravention of any code of ethics binding on the members of Parliament or members of a provincial legislature;
- (c) directly or indirectly for the purpose of establishing any business, or acquiring or maintaining any right of financial interest whatsoever in any business, or in any immovable property, except where the right or interest in the immovable property is to be used by the party solely for party political purposes;
- (d) to defray legal costs relating to internal political party disputes; or
- (e) for a purpose as may be prescribed.

- (3) The money paid in terms of section 6(7) may not be used by an independent representative—

- (a) for the purpose of directly or indirectly paying any remuneration, fee, reward, perquisite or other benefit to any person who is appointed by or in the service of the State and receives remuneration for that appointment or service;
- (b) to finance or contribute, whether directly or indirectly, to any matter, cause, event or occasion, in contravention of any code of ethics binding on the members of Parliament or members of a provincial legislature;
- (c) directly or indirectly for the purpose of establishing any business, or acquiring or maintaining any right of financial interest whatsoever in any business, or in any immovable property, except where the right or interest in the immovable property is to be used in the performance of the duties of an independent representative; and
- (d) for a purpose as may be prescribed: Provided that any money received from the Fund may not be used for personal use.

*(Section 7(3) added by section 9(d) of Act 14 of 2024)*

### **CHAPTER 3**

## **DIRECT FUNDING OF POLITICAL PARTIES, INDEPENDENT REPRESENTATIVES AND INDEPENDENT CANDIDATES**

*(Heading of Chapter 3 substituted by section 10 of Act 14 of 2024)*

### **8. Prohibited donations**

- (1) Political parties, independent representatives and independent candidates may not accept a donation from any of the following sources:  
*(Words preceding section 8(1)(a) substituted by section 11(a) of Act 14 of 2024)*
  - (a) Foreign governments or foreign government agencies;
  - (b) subject to subsection (4), foreign persons or entities;
  - (c) organs of state; or
  - (d) state-owned enterprises.
- (2) A political party may not accept a donation from a person or entity in excess of the prescribed amount within a financial year.
- (3) A political party, independent representative or independent candidate may not accept a donation that it knows or ought reasonably to have known, or suspected, originates from the proceeds of crime and must report that knowledge or suspicion to the Commission.

*(Section 8(3) substituted by section 11(b) of Act 14 of 2024)*

- (4) Subject to subsection (5), nothing in subsection (1)(b) prevents a political party, independent representative or independent candidate from accepting donations from foreign entities for the purpose of—
- (a) training or skills development of a member of a political party or independent representative or independent candidate; or
  - (b) policy development by a political party, independent representative or independent candidate.

*(Section 8(4) substituted by section 11(c) of Act 14 of 2024)*

- (5) The total donations contemplated in subsection (4) is limited to a prescribed amount within a financial year.

#### **8A. Right to refuse donation or allocation**

Political parties, independent candidates and independent representatives may, for any reason, refuse to accept a donation from any person or an allocation from the Multi-Party Democracy Fund.

*(Section 8A inserted by section 12 of Act 14 of 2024)*

#### **9. Disclosure of donations to political parties, independent candidates and independent representatives**

*(Heading of section 9 substituted by section 13(a) of Act 14 of 2024)*

- (1) A political party, independent representative or independent candidate must disclose to the Commission all donations received—

*(Words preceding section 9(1)(a) substituted by section 13(b) of Act 14 of 2024)*

- (a) above the prescribed threshold; and
  - (b) in the prescribed form and manner.
- (2) A juristic person or entity that makes a donation to a political party, independent representative or independent candidate above the threshold prescribed in terms of subsection (1)(a) must disclose that donation to the Commission in the prescribed form and manner.

*(Section 9(2) substituted by section 13(c) of Act 14 of 2024)*

- (3) The Commission must publish the donations disclosed to it in terms of subsections (1) and (2) –

- (a) on a quarterly basis; and

(b) in the prescribed form and manner.

- (4) Nothing in this section detracts from rights given effect to by the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

**10. Prohibition on donation to member of political party, independent representative and independent candidate**

*(Heading of section 10 substituted by section 14(a) of Act 14 of 2024)*

- (1) No person or entity may deliver a donation to a member of a political party, an independent representative or independent candidate other than for political purposes.

*(Section 10(1) substituted by section 14(b) of Act 14 of 2024)*

- (2) A member of a political party may only receive a donation contemplated in subsection (1) on behalf of the party.

- (3) No person may circumvent subsections (1) or (2), or any of the provisions of this Chapter.

**CHAPTER 4**

**DUTIES OF POLITICAL PARTIES, INDEPENDENT REPRESENTATIVES AND INDEPENDENT CANDIDATES**

*(Heading of Chapter 4 substituted by section 15 of Act 14 of 2024)*

**11. Political party, independent representative and independent candidate to furnish information to Commission**

In order for the Commission to monitor compliance with this Act, a political party, independent representative and independent candidate must, at the prescribed times, furnish the Commission with any information and documentation that is prescribed, or required in terms of a direction issued under section 15.

*(Section 11 substituted by section 16 of Act 14 of 2024)*

**12. Political party to account for income**

- (1) A political party must –

(a) deposit all donations received by that political party, membership fees and levies imposed by the political party on its representatives into an account with a bank registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), in that political party's name;

(b) keep a separate account with a bank registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), into which all money allocated to it from the Funds must be deposited;

- (c) appoint an office-bearer or official of that political party as its accounting officer; and
- (d) if it is represented in the National Assembly or a provincial legislature, appoint an auditor registered and practising as such in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005), to audit its books and financial statements.

*(Section 12(1)(d) substituted by section 17(a) of Act 14 of 2024)*

- (2) The accounting officer contemplated in subsection (1)(c) must –

- (a) account for all income received by the political party;
- (b) ensure that –
  - (i) any money allocated from the Funds is not paid out for a purpose not authorised by this Act; and
  - (ii) the political party complies with this Act;

- (c) keep separate books and records of account, in the prescribed manner, in respect of money allocated from the Funds and all transactions involving that money;

*(Section 12(2)(c) amended by section 17(b) of Act 14 of 2024)*

- (d) within the prescribed period –

- (i) prepare a statement showing all money received by the represented political party from the Funds during the previous financial year, the application of that money and the purposes for which the money has been applied; and

*(Section 12(2)(d)(i) amended by section 17(c) of Act 14 of 2024)*

- (ii) prepare a statement showing all donations and membership fees, and any levy imposed by the political party on its elected representatives during that financial year; and

- (iii) .....

*(Section 12(2)(d)(iii) deleted by section 17(d) of Act 14 of 2024)*

- (e) if the political party is represented in the National Assembly or a provincial legislature, submit those statements and the books and records of account to an auditor appointed in terms of subsection (1)(d); and

*(Section 12(2)(e) inserted by section 17(e) of Act 14 of 2024)*

- (f) if the political party is not represented in the National Assembly or a provincial legislature, submit those statements and the books and records of account together with a prescribed confirmation letter from its bank and affidavit confirming the correctness of their contents to the Commission in the prescribed form and within the prescribed period.

*(Section 12(2)(f) inserted by section 17(e) of Act 14 of 2024)*

- (3) On receipt of the statements, books and records contemplated in subsection (2)(e), the auditor must perform an audit of the financial statements and express an opinion on those statements—

*(Words preceding section 12(3)(a) substituted by section 17(f) of Act 14 of 2024)*

- (a) indicating whether the donations received by the political party comply with section 8(1);
- (b) listing the donations required to be disclosed in terms of section 9(1);
- (c) listing the donations under the threshold prescribed in section 9(1);
- (d) indicating whether any income was received by the political party other than provided for in terms of this Act;
- (e) indicating whether the transactions in the financial statements related to the money allocated from the Funds are in accordance with this Act; and
- (f) indicating whether any money lent to a political party is on commercial terms.

- (4) The accounting officer of a political party represented in the National Assembly or a provincial legislature must submit the auditor's opinion and audited financial statements to the Commission within the prescribed period.

*(Section 12(4) substituted by section 17(g) of Act 14 of 2024)*

- (4A) Where a political party that previously was not represented in the National Assembly or a provincial legislature, becomes represented after an election of the legislature concerned—

- (a) its accounting officer must submit the statements and the books and records of account contemplated in subsection (2)(c) and (d) for the previous two financial years to an auditor appointed in terms of subsection (1)(d);
- (b) the auditor must perform an audit of the financial statements and express an opinion on those statements in compliance with subsection (3); and
- (c) its accounting officer must submit the auditor's opinion and audited financial statements to the Commission within the prescribed period.

*(Section 12(4A) inserted by section 17(h) of Act 14 of 2024)*

- (5) The Auditor-General may at any reasonable time audit any represented political party's books, records of account and financial statements relating to money allocated to the party from the Political Representatives Fund.

*(Section 12(5) substituted by section 17(i) of Act 14 of 2024)*

**12A. Independent representative and independent candidate to account for income**

- (1) An independent representative must—
- (a) deposit all donations received into an account with a bank registered as a bank in terms of the Banks Act, in the independent representative's name;
  - (b) separate from his or her personal account keep an account with a bank registered as a bank in terms of the Banks Act, into which all money allocated to him or her from the Funds must be deposited;
  - (c) appoint an auditor registered and practising as such in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005), to audit his or her books and financial statements;
  - (d) keep separate books and records of account, in the prescribed manner, in respect of money allocated from the Funds and all transactions involving that money; and
  - (e) within the prescribed period—
    - (i) prepare a financial statement showing all money received by the independent representative from the Funds during the previous financial year, the application of that money and the purposes for which the money has been applied;
    - (ii) prepare a statement, in the prescribed form, showing all donations received during that financial year; and
    - (iii) submit those statements and the books and records of account to an auditor appointed in terms of paragraph[sic] (c).
- (2) On receipt of the statements, books and records contemplated in subsection (1)(e)(iii), the auditor must perform an audit of the financial statements and express an opinion on those statements—
- (a) indicating whether the donations received by the independent representative comply with section 8(1);
  - (b) listing the donations required to be disclosed in terms of section 9(1);



- (c) listing the donations under the threshold prescribed in section 9(1);
  - (d) indicating whether the transactions in the financial statements related to the money allocated from the Funds are in accordance with this Act;
  - (e) indicating whether any income was received by the independent representative other than provided for in terms of this Act; and
  - (f) indicating whether any money lent to the independent representative is on commercial terms.
- (3) The independent representative must submit the auditor's opinion and audited financial statements to the Commission within the prescribed period.
- (4) An independent candidate must—
- (a) deposit all donations received by him or her into an account, separate[sic] from his or her personal[sic] account with a bank registered as a bank in terms of the Banks Act, in the candidate's name;
  - (b) prepare a statement, in the prescribed manner, showing—
    - (i) all donations received by the candidate during the previous two financial years before his or her nomination of whatever form and into whatever account and after his or her nomination;
    - (ii) any money lent to the independent candidate as well as the terms and conditions of such loan; and
  - (c) submit those statements and the books and records of account together with a prescribed confirmation letter from its bank and an affidavit confirming the correctness of their contents to the Commission in the prescribed form and within the prescribed period.
- (5) Where an independent representative first becomes a member of the National Assembly or a provincial legislature—
- (a) the independent representative must submit the statement contemplated in subsection (4)(b) to an auditor appointed in terms of subsection (1)(c);
  - (b) the auditor must perform an audit of the financial statements and express an opinion on those statements—

- (i) indicating whether the donations received by the independent representative after his or her nomination comply with section 8(1);
  - (ii) listing the donations received after his or her nomination required to be disclosed in terms of section 9(1);
  - (iii) listing the donations received after his or her nomination under the threshold prescribed in section 9(1); and
  - (iv) indicating whether any money lent to the independent representative is on commercial terms.
- (c) the independent representative must submit the auditor's opinion and audited financial statements to the Commission within the prescribed period.
- (6) The Auditor-General may at any reasonable time audit any independent representative's books, records of account and financial statements relating to money allocated to the independent representative from the Political Representatives Fund.

*(Section 12A inserted by section 18 of Act 14 of 2024)*

### **13. Unspent money at end of financial year**

- (1) Any money allocated from the Funds to a represented political party or independent representative that is unspent at the end of the financial year must be shown as a credit balance carried forward to the next financial year in the—
- (a) account contemplated in section 12(1)(b) or section 12A(1)(b); and
  - (b) books and records of account contemplated in section 12(2)(c) or section 12A(1)(d).
- (Section 13(1) substituted by section 19(a) of Act 14 of 2024)*
- (2) If Parliament or a provincial legislature is dissolved in terms of section 50 or section 109 of the Constitution respectively, or when the terms of these legislatures expire, a represented political party or independent representative to whom money has been allocated from the Funds and that fails to obtain representation in any legislature in the next election must—
- (a) within 21 days after that election—
    - (i) close the books and records in respect of those Funds; and
    - (ii) repay to the Commission the unspent balance of the money allocated to that political party or independent representative;

- (b) within three months after that election, submit an audited financial statement of the books and records contemplated in paragraph (a)(i) to the Commission.

*(Section 13(2) substituted by section 19(b) of Act 14 of 2024)*

- (3) If a vacancy occurs or a member of a political party or an independent representative resigns from Parliament or a provincial legislature, a represented political party or independent representative to whom money has been allocated from the Funds, must—

- (a) within 21 days after that vacancy or resignation occurs—
  - (i) close the books and records in respect of those Funds; and
  - (ii) repay to the Commission the unspent balance of the money allocated to that political party or independent representative; and

- (b) within three months after resignation or after the vacancy occurs, submit an audited financial statement of the books and records contemplated in paragraph (a)(i) to the Commission.

*(Section 13(3) added by section 19(c) of Act 14 of 2024)*

## **CHAPTER 5 ENFORCEMENT**

### **14. Commission's monitoring and inspection powers**

- (1) The Commission must monitor compliance by political parties, independent representatives and independent candidates with this Act by, subject to subsection (2), evaluating the information and documentation provided by any person in terms of this Act.

*(Section 14(1) substituted by section 20(a) of Act 14 of 2024)*

- (2) In order to monitor compliance with this Act or investigate a complaint, the Commission may request any person –

- (a) to disclose any relevant information;
- (b) to produce, in whatever form, any relevant books, records, reports and other documentation;
- (c) for permission to –
  - (i) enter any premises during ordinary working hours to inspect any relevant book, record, report and other document; or

- (ii) copy or store in any format, any information, books, records, reports or other documentation produced in terms of paragraph (b) or discovered in terms of paragraph (c)(i); or

- (d) to answer a question about any relevant information.

- (3) If any person refuses or fails to comply with a request contemplated in subsection (2), the Commission may apply to the Electoral Court for an order to compel compliance with that subsection.
- (4) If a complaint relating to the income or expenditure of a political party, independent representative or independent candidate is lodged with the Commission, it must, if the chief executive officer is of the view that there is *prima facie* substance to the complaint, investigate the complaint.

*(Section 14(4) substituted by section 20(b) of Act 14 of 2024)*

## **15. Commission's power to issue directions**

- (1) The Commission may issue a direction to a political party, independent representative or independent candidate in the prescribed manner in order to avoid imposing a sanction—
  - (a) after affording that party, independent representative or independent candidate an opportunity to make representations; and
  - (b) if it is of the opinion that the party, independent representative or independent candidate fails to comply with this Act.

*(Section 15(1) substituted by section 21(a) of Act 14 of 2024)*

- (2) The direction contemplated in subsection (1) must indicate which of the following sanctions that the Commission may impose if the political party, independent representative or independent candidate fails to comply with that direction:

*(Words preceding section 15(2)(a) substituted by section 21(b) of Act 14 of 2024)*

- (a) Suspension of payment of allocated money under section 16;
- (b) the recovery of money irregularly accepted or spent under 17; or
- (c) the imposition of an administrative fine in terms of section 18.

## **16. Power to suspend payment of money**

- (1) Subject to subsection (2), the Commission –

- (a) may suspend the payment of money to a represented political party or independent representative envisaged in section 6(7) if it is satisfied on reasonable grounds that the represented political party or independent representative has failed to comply with this Act; and

*(Section 16(1)(a) substituted by section 22 of Act 14 of 2024)*

- (b) must terminate the suspension contemplated in paragraph (a) if the Commission is satisfied that the suspension is no longer justified in the light of the represented political party's or independent representative's subsequent conduct.

*(Section 16(1)(b) substituted by section 22 of Act 14 of 2024)*

- (2) The Commission may only suspend payment in terms of subsection (1)(a) if it has issued a direction under section 15.

## **17. Power to recover money irregularly accepted or spent**

- (1) A political party, independent representative or independent candidate is liable to pay to the Commission any money that is–

*(Words preceding section 17(1)(a) substituted by section 23(a) of Act 14 of 2024)*

- (a) accepted in contravention of sections 8, 9(1), 10 or 10A; or

*(Section 17(1)(a) substituted by section 23(b) of Act 14 of 2024)*

- (b) spent in contravention of section 7.

- (2) The Commission must recover any money contemplated in subsection (1) by –

- (a) instituting a civil claim; or

- (b) setting off the liability against any amount to be allocated to a represented political party or independent representative from the Funds.

*(Section 17(2)(b) substituted by section 23(c) of Act 14 of 2024)*

- (3) Any money paid in terms of subsection (1) or recovered in terms of subsection (2)(a) must be credited to the Funds.

- (4) A represented political party or independent representative contemplated in subsection (1) may not share in any allocation of the paid back or recovered money.

*(Section 17(4) substituted by section 23(d) of Act 14 of 2024)*

## **18. Administrative fines**

- (1) The Commission may institute proceedings to request the imposition of an administrative fine in respect of any contravention of this Act.
- (2) The Electoral Court may impose an administrative fine in accordance with Schedule 1 in respect of a contravention or a repeated contravention of this Act.

## **19. Offences and penalties**

- (1) Any person commits an offence who contravenes –
  - (a) sections 8, 9(1) or 9(2); or  
*(Section 19(1)(a) substituted by section 24(a) of Act 14 of 2024)*
  - (b) sections 12(1), 12(2), 12(4), 12(5), 12A(1), 12A(3), 12A(4), 12A(5)(a), 12A(5)(c) or 13(2).  
*(Section 19(1)(b) substituted by section 24(a) of Act 14 of 2024)*
- (2) Any person convicted of any offence referred to in –
  - (a) subsection (1)(a), may be sentenced to a fine or to imprisonment for a period not exceeding 5 years or both; or
  - (b) subsection (1)(b), may be sentenced to a fine or to imprisonment for a period not exceeding two years or both.
- (3) Any person who makes a donation to a political party, a member of a political party, an independent candidate or an independent representative in the expectation that the party, member, independent representative or candidate concerned will influence the awarding of a tender, licence, approval, consent or permission, or the relaxation of a condition or restriction in relation thereto, in the said person's favour, commits an offence and may be sentenced to a fine as prescribed or to imprisonment for a period not exceeding five years or both.  
*(Section 19(3) added by section 24(b) of Act 14 of 2024)*
- (4) Any person who makes a donation—
  - (a) to a member of a political party, instead of the political party concerned; or
  - (b) to an independent representative or independent candidate,to circumvent the provisions of Chapter 3, commits an offence and may be sentenced to a prescribed fine or to imprisonment for a period not exceeding five years or both.  
*(Section 19(4) added by section 24(b) of Act 14 of 2024)*

(5) Any member of a political party who—

(a) accepts a donation instead of his or her political party to circumvent the provisions of Chapter 3;  
or

(b) appropriates for himself or herself a donation intended to be made to his or her political party,

commits an offence and may be sentenced to a fine as prescribed or to imprisonment for a period not exceeding five years or both.

*(Section 19(5) added by section 24(b) of Act 14 of 2024)*

## **20. Review or appeals**

(1) Any person may review or appeal any decision of the Commission made in terms of this Act.

(2) Subject to subsection (3), the Electoral Court established in terms of section 18 of the Electoral Commission Act has the exclusive jurisdiction to hear and determine any review or appeal against any decision of the Commission under this Act.

(3) Section 20(2) of the Electoral Commission Act does not apply to reviews or appeals under this Act.

## **CHAPTER 6 GENERAL PROVISIONS**

### **21. Administration**

(1) The Commission may establish a separate unit within the Commission to exercise the powers conferred on, perform the functions granted to and the duties imposed on, the Commission in terms of this Act.

(2) The Commission must appoint a suitably qualified and experienced person as the chief executive officer of –

(a) the Funds; and

(b) the unit contemplated under subsection (1), if established under that subsection.

### **22. Report to Parliament**

(1) The Commission must for each financial year –

(a) prepare a report in relation to the Funds, setting out –

- (i) the amounts received by and accrued to the Funds;
- (ii) the allocations made from the Funds to the represented political parties and independent representatives;  
*(Section 22(1)(a)(ii) substituted by section 25(a) of Act 14 of 2024)*
- (iii) the amounts spent by each represented political party and independent representative in connection with the purpose under the prescribed categories and; and  
*(Section 22(1)(a)(iii) substituted by section 25(a) of Act 14 of 2024)*
- (iv) the balance in each of the Funds and any amounts owing to the Fund as at the end of that financial year;

- (b) report on all donations made to political parties, independent representatives and independent candidates in that year; and

*(Section 22(1)(b) substituted by section 25(b) of Act 14 of 2024)*

- (c) submit the report and the Commission's books and records of account relating to the Funds to the Auditor-General for auditing.

- (2) The Auditor-General must audit and submit an audit report on the Commission's books and records in respect of the Funds to the Commission.

- (3) The Commission must submit its report and the Auditor-General's report together with the Commission's annual report in terms of section 14 of the Electoral Commission Act to the National Assembly.

## **23. Funding of represented political parties and independent representatives by legislature**

- (1) Parliament or a provincial legislature may not fund represented political parties or independent representatives other than through sections 57(2) and section 116(2) of the Constitution, section 34 of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009) and this Act.
- (2) The accounting officer of a legislature as defined in section 1 of the Financial Management of Parliament and Provincial Legislatures Act, 2009, must annually in the prescribed form and manner disclose any funding of represented political parties or independent representatives under section 57(2) and 116(2) of the Constitution respectively, to the Commission.

*(Section 23 substituted by section 26 of Act 14 of 2024)*

## **24. Regulations**

- (1)

Prepared by:



- (a) The President, acting on a resolution of the National Assembly, may by proclamation in the *Gazette* make regulations in respect of matters contemplated in sections 6(2), 7(2)(e), 7(3)(d), 8(2), 8(5) and 9(1)(a).
- (b) When making regulations for matters contemplated in section 8(2) and (5), the President must take the following factors into account:
  - (i) The amount of money previously appropriated by Acts of Parliament for the Political Representatives Fund within the previous five financial years;
  - (ii) the effects of inflation on the value of money over time; and
  - (iii) the costs associated with participating as a political party, independent representative or independent candidate in elections and the democratic process in South Africa.

*(Section 24(1) substituted by section 27(a) of Act 14 of 2024)*

- (2) Subject to subsections (1) and (3), the Commission may make regulations on any matter that may or must be prescribed by notice in the *Gazette*.
- (3) Before making any regulations in terms of subsection (2), the Commission must publish the proposed regulations for public comment.
- (4) A regulation in terms of this Act must be made by notice in the *Gazette*.
- (5) Each regulation in Schedule 2 is a transitional regulation and shall become inoperative on the date that a regulation replacing the said regulation made by the President in terms of subsection (1) becomes effective.

*(Section 24(5) added by section 27(b) of Act 14 of 2024)*

## **25. Repeal and transitional provisions**

- (1) Save for as provided in this section, the Public Funding of Represented Political Parties Act, 1997 (Act No. 103 of 1997), is hereby repealed.
- (2) Despite the repeal of the Public Funding of Represented Political Parties Act, 1997 (Act No. 103 of 1997), under subsection (1) –
  - (a) anything done in terms of that Act which may be done under or in terms of this Act continues to be valid and of full force and effect; and
  - (b) the Represented Political Parties Fund established under that Act is deemed to be the fund established in terms of section 2(1).

- (3) The regulations made under the Public Funding of Represented Political Parties Act, 1997 (Act No. 103 of 1997), are amended by the substitution for those regulations of the regulations contained in Schedule 2.
- (4) Despite the definition of financial year in section 1, the first financial year of the Multi-Party Democracy Fund runs from the date on which this Act comes into operation until 31 March of the following year.
- (5) Despite section 9(3), the first disclosure in terms of paragraph (a) of that section must occur within 6 months from the date on which the Act comes into effect.

## 26. Short title and commencement

- (1) This Act is called the Political Funding Act, 2018, and subject to subsection (2), comes into operation on a date determined by the President by proclamation in the *Gazette*.
- (2) Section 6(7) only comes into effect in respect of the Multi-Party Democracy Fund on a prescribed date.  
(Section 26 substituted by section 28 of Act 14 of 2024)

## SCHEDULE 1

### MAXIMUM PERMISSIBLE FINES THAT MAY BE IMPOSED FOR CONTRAVENING THIS ACT

This Schedule sets out the maximum fine that may be imposed in terms of this Act for a contravention of certain provisions of this Act. The income referred to column 3 of this Schedule refers to the political party's income as audited in terms of section 12(3) of this Act

<i>Previous contraventions</i>	<i>Contravention of sections 12(1), 12(2), 12(4) or 13(2)</i>	<i>Contraventions of sections 8, 9(1), 9(2) or 10</i>
No previous contravention	R40 000	R500 000 or 10 percent of the income, whichever is the higher
A previous contravention of the same provision within 2 years	R50 000	R600 000 or 15 percent of the income, whichever is the higher
Two previous contraventions of the same provision within 3 years	R75 000	R700 000 or 20 percent of the income, whichever is the higher
Three previous contraventions of the same provision within 3 years	R100 000	R800 000 or 25 percent of the income, whichever is the higher
Four previous contraventions of the same provision within 3 years	R150 000	R1 000 000 or 30 percent of the income, whichever is higher

## SCHEDULE 2

### REGULATIONS ON POLITICAL PARTY FUNDING, 2017

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12. Short title

#### 1. Definitions

In these regulations a word or phrase to which a meaning has been assigned in the Act has that meaning, and, unless the context otherwise indicates –

**“allocated moneys”** means moneys allocated from the Funds to a represented political party or independent representative during a particular financial year;

*(Definition of “allocated moneys” substituted by section 29(a) of Act 14 of 2024)*

**“disclosure threshold”** means the threshold referred to in section 9(1)(a) of the Act;

**“equitable allocation”** means the allocation referred to in regulation 2(2)(b); and

**“proportional allocation”** means the allocation referred to in regulation 2(2)(a).

#### 2. Allocation of funding

- (1) The total amount of funding available for allocations from each of the Funds during a particular financial year must be announced by the Commission by notice in the Gazette within two weeks of the beginning of that financial year.
- (2) The allocations from the Funds to be made and paid to each of the represented political parties and independent representatives concerned are calculated by—

- (a) allocating 90 per cent of the total amount of funding determined in terms of subregulation (1) in respect of each of the Funds proportionally in accordance with regulation 3; and
- (b) allocating 10 per cent of the total amount of funding determined in terms of subregulation (1) in respect of each of the Funds equitably in accordance with regulation 4.

*(Regulation 2(2) substituted by section 29(b) of Act 14 of 2024)*

### **3. Proportional allocation**

The proportional allocation is determined by dividing each of the amounts contemplated in regulation 2(2)(a) proportionally among the represented political parties and independent representatives in accordance with the number of seats awarded to each party and independent representative in the National Assembly and the provincial legislatures jointly.

*(Regulation 3 substituted by section 29(c) of Act 14 of 2024)*

### **4. Equitable allocation**

The equitable allocation is determined in the following manner:

- (a) The amounts contemplated in regulation 2(2)(b) must be allocated to the national and each of the provincial legislatures in proportion to the number of members of each of those legislatures; and
- (b) the allocation to a particular legislature in terms of paragraph (a) must be divided equally among the represented political parties and independent representative in each of those legislatures.

*(Regulation 4(b) substituted by section 29(d) of Act 14 of 2024)*

### **5. Times, Intervals and instalments of payments**

- (1) All allocations to which a represented political party or independent representative is entitled as determined in terms of regulations 3 and 4, must be paid to the represented political party or independent representative in question in four equal instalments, each within three months of the previous payment. The first instalment must be paid within four weeks of the beginning of the financial year in question.

*(Regulation 5(1) substituted by section 29(e) of Act 14 of 2024)*

- (2) In the event of an election being called in terms of section 49(2) or 108(2) of the Constitution in respect of a particular legislature, any outstanding instalments still to be paid in terms of subregulation (1) to the represented political parties and independent representative in that legislature during the period of 21 days referred to in section 13(2)(a) of the Act, must be suspended. The instalments so suspended must be distributed within two weeks after the date of election to the political parties and independent representative that gain representation in the legislature concerned as a result of the election in accordance with the provisions of regulations 3 and 4, as the case may be.

*(Regulation 5(2) substituted by section 29(e) of Act 14 of 2024)*

- (3) The date contemplated in section 26(2) will be the day when the money in the Multi-Party Democracy Fund reaches a total of one million rand.

## **6. Manner of payments**

- (1) A represented political party must provide the Commission with particulars of the represented political party's banking account contemplated in section 12(1)(b) of the Act, within two weeks of such a banking account being opened.
- (2) Any payments to be made to a represented political party in terms of these regulations must be paid into the represented political party's banking account contemplated to in section 12(1)(b) of the Act.
- (3) An independent representative must provide the Commission with particulars of the independent representative's banking account contemplated in section 12A(1)(b) of the Act, within two weeks of such a banking account being opened.

*(Regulation 6(3) added by section 29(f) of Act 14 of 2024)*

- (4) Any payments to be made to an independent representative in terms of these regulations must be paid into the independent representative's banking account contemplated in section 12A(1)(b) of the Act.

*(Regulation 6(4) added by section 29(f) of Act 14 of 2024)*

## **7. Upper limit of donations**

- (1) The President may, from time to time after a National Assembly resolution and by notice in the *Gazette*, determine the amount contemplated in section 8(2) of the Act.
- (2) In determining the amount referred to in subregulation (1), the President may consider the following:
  - (a) The actual fiscal contribution to public funding for political purposes;
  - (b) inflation; and
  - (c) the actual costs of running a party and running elections, as submitted by parties.

*(Regulation 7 substituted by section 29(g) of Act 14 of 2024)*

## **8. Limit on donations from foreign entity**

The amount contemplated in section 8(5) of the Act is five million rand within a financial year.

## **9. Disclosure limit**

Prepared by:

The President must, from time to time after a National Assembly resolution and by notice in the *Gazette*, determine the threshold referred to in section 9(1)(a) of the Act.

*(Regulation 9 substituted by section 29(h) of Act 14 of 2024)*

#### **10. Separate books and records of account**

The separate books and records of account required by sections 12(2)(c) and 12A(1)(d) of the Act must be kept according to generally recognised accepted accounting practices, and must include the following:

*(Words preceding regulation 10(a) substituted by section 29(i) of Act 14 of 2024)*

- (a) Records showing all transactions involving allocated moneys;
- (b) records showing all assets acquired with allocated moneys;
- (c) records showing commitments entered into in respect of allocated moneys;
- (d) a balance sheet;
- (e) an income and expenditure statement; and
- (f) a cash flow statement.

#### **11. Generally descriptive categories of purposes in connection with which amounts are spent**

- (1) Financial statements prepared in relation to the Funds must show the amounts spent during a financial year in question by each represented political party and independent representative that received allocations in accordance with these regulations in connection with purposes classifiable under the following descriptive categories:

*(Words preceding regulation 11(1)(a) substituted by section 29(j) of Act 14 of 2024)*

- (a) Personnel expenditure;
- (b) accommodation;
- (c) travel expenses;
- (d) arrangement of meetings and rallies;
- (e) administration;

- (f) promotions and publications; and
- (g) legal expenses incurred in the public interest.

- (2) The information required for the purposes of subregulation (1) must be furnished to the Commission by the accounting officer of a political party referred to in section 12(1)(c) of the Act and by an independent representative within three months after the end of the financial year in question.

*(Regulation 11(2) substituted by section 29(k) of Act 14 of 2024)*

## **12. Short title**

These regulations are called the Regulations on Political Party Funding, 2018.