
DRAFT MODEL
LAW ON THE
REGISTRATION
AND
REGULATION
OF POLITICAL
PARTIES



DRAFT MODEL POLITICAL PARTIES (REGULATION) BILL

Arrangement of Sections

PART I PRELIMINARY

1. Short title and commencement.
2. Interpretation and Application.

PART II ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION

3. Establishment of Commission.
4. Functions and powers of Commission.

PART III REGISTRATION OF POLITICAL PARTIES

5. Register of Political Parties.
6. Political Parties to be registered in order to contest elections.
7. Application for registration of political party.
8. Provisional registration
9. Defective application.
10. Objections to application for registration.
11. Inquiries by Commission.
12. Full registration.
13. Political party deemed registered in certain circumstances.
14. Grounds for refusal of registration.
15. Appeal against refusal of registration.
16. Cancellation of Certificate of Registration.
17. Court may order cancellation of Certificate of Registration.
18. Appeal against cancellation of Certificate of Registration.

19. Provision of particulars.
20. Changes or alterations to particulars in Register.
21. Objections to change or alterations.
22. Inquiry by Commission.
23. Appeal against refusal to amend Register.
24. Merger of political parties.

PART IV ACCOUNTING REQUIREMENTS

25. Duty to keep accounting records.
26. Declaration of assets and expenditure by political parties.
27. Annual returns of political parties.
28. Power of Commission to appoint auditor to audit accounts.
29. Public inspection of audited statements.
30. Declaration of assets, liabilities and expenditure in relation to elections.

PART V DONATIONS AND CAMPAIGN FINANCING

31. Interpretation of Part V.
32. Permissible donors.
33. Acceptance of donations from permissible donors only.
34. Acceptance, receipt, etc., of donations: general.
35. Limitation on value of donations.
36. Return of donations: generally.
37. Return of donations whose donors are unidentifiable.
38. Forfeiture of donations not made by permissible donors, etc.
39. Annual donation report by political party.

40. Campaign period report.
41. Donation report by candidate.
42. Offences in connection with donation reports, etc.
43. Evasion of restrictions on donations.
44. Reporting by donor.
45. Limitation on campaign expense.
46. Election advertisement requirements.
47. Authorization of election advertisement.
48. Eligible promoters.
49. Publication without authorization.
50. Offence to fraudulently claim authorization.
51. Defence.
52. No coercion for donations.
53. Providing money for illegal purpose.
54. General penalty.
55. Register of donations.
56. Confidentiality.

PART VI
STATE FINANCING OF POLITICAL PARTIES

57. Political Parties Fund.
58. Deposit and Investment of moneys of Fund.
59. Management and control of Fund.
60. Allocations from Fund.
61. Time of allocations from Fund.
62. Use of moneys allocated.

63. Political parties to account for moneys allocated from Fund.

64. Recovery of moneys irregularly spent.

65. Commission to report to Parliament on Fund.

66. Surplus moneys as at end of financial year.

PART VII MISCELLANEOUS

67. Abuse of governmental office.

68. Restriction on use of government property or staff for political party benefits.

69. Use of State media.

70. Non State media.

71. Supply of false or misleading information to Commission, etc.

72. Corporate offenders and unincorporated associations.

73. Compounding of offences.

74. Sanctions to prosecute.

75. Regulations.

76. Savings.

A
BILL
ENTITLED

An Act to provide for the registration and regulation of Political Parties, the establishment of the Political Parties Commission, and for connected purposes.

ENACTING CLAUSE [*appropriate formulation to be inserted by each enacting State*]

PART I
PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Political Parties (Regulation) Act, 2009.
- (2) This Act shall come into operation on such day as the Minister may by Order appoint, and different days may be appointed for different purposes or provisions of this Act.

Interpretation and application.

2. (1) In this Act –
 - “authorized representative”* in relation to a political party means the person notified to the Commission under section 5(2)(c)(ii);
 - “business”* includes every trade, profession and occupation;
 - “candidate”*, in relation to an election, means a person who is -
 - (a) elected to serve in the [House of Assembly/National Assembly] at the election; or
 - (b) nominated as a candidate at the election or is declared by himself or by others to be a candidate, on or after the day of the publication of the notice of election in accordance with the election rules for the

election, or after the dissolution or vacancy in consequence of which the writ for the election was issued;

"Commission" means the Political Parties Commission established by section 3;

"document" means recorded information regardless of form or medium;

"elections" means an elections in accordance with Article [] of the Constitution of members of the [House of/National Assembly];

"Fund" means the Political Parties Fund established by section 48;

"market value", in relation to any property, means the price which might reasonably be expected to be paid for the property on a sale in the open market;

"Minister" means the Minister [of ...] [with responsibility for]

"political party" means a free association or organization of persons, one of whose objects may be to bring about the election of its candidates to public office or to strive for power by the electoral process and by this means to control or influence the actions of government;

"property" includes any description of property, and references to the provision of property accordingly include the supply of goods;

"record" means a record in whatever form it is kept;

"Register of Political Parties" mean the Register referred to in section 5;

"registered political party" means a party registered under Part III of this Act; and

"symbol" includes motto.

(2) Where the context so admits, this Act applies to –

- (a) a political party whether or not it is a registered political party; and
- (b) a candidate.

PART II

ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION

Establishment
of Commission.

3. (1) There is hereby established a Commission to be known as the Political Parties Commission which shall be a body corporate.

Schedule

(2) The provisions of the Schedule shall have effect as to the constitution of the Commission and otherwise in relation thereto.

(3) The expenses incurred by the Commission, including those for the payment of salaries and emoluments of its officers and employees, shall be paid for out of a fund approved by Parliament.

Functions and
powers of
Commission.

4. (1) The Commission shall –

(a) register political parties in accordance with Part III;

(b) maintain the Register of Political Parties;

(c) monitor the conduct of political parties and candidates, so as to ensure their compliance with the this Act;

(d) investigate –

(i) complaints received in accordance with this Act;

(ii) any other matter which it is mandated to investigate;

(e) on its own initiative, carry out such other investigations in relation to any activity of a political party or a candidate which is regulated by this Act;

(f) receive reports required to be submitted to the Commission;

(g) allocate moneys from the Political Parties Fund;

(h) manage the Political Parties Fund; and

(i) do or cause to be done such other things as the Commission considers

expedient or necessary for the performance of its functions under this Act.

(2) The Commission may by notice require a political party or candidate to –

(a) produce, for inspection by the Commission or a person authorized by the Commission, any such books, documents or other records relating to the income and expenditure of the political party or candidate as the Commission may reasonably require for the purposes of the carrying its functions under this Act; or

(b) furnish the Commission or a person authorized by the Commission with such information or explanation relating to the income and expenditure of the political party or candidate as the Commission may reasonably so require.

(3) In the exercise and discharge of its functions, the Commission shall not be subject to the direction or control of any other person or authority.

(4) The Commission or a person authorised by the Commission may make copies or records of any -

(a) information contained in, any books, documents or other records produced under subsection (2) (a); or

(b) information or explanation furnished under subsection (2) (b).

(5) A person who fails, without reasonable cause, to comply with any requirement imposed under subsection (2) commits an offence and is liable on conviction to a fine of [] dollars.

(6) A person who intentionally obstructs the Commission or a person authorised as mentioned under subsection (2) in the carrying out of his functions under that subsection commits an offence and is liable on conviction to a fine of [] dollars or to imprisonment for a period not

exceeding [].

(7) The powers conferred on the Commission by virtue of this Act may only be exercised by the Commission in relation to a candidate in connection with his political activities for the purpose of monitoring compliance on the part of that candidate with the requirements imposed by or by virtue of this Act.

PART III

REGISTRATION OF POLITICAL PARTIES

Register of
Political
Parties.

5. (1) There shall be a Register to be known as the Register of Political Parties which, subject to subsection (2), shall be maintained in such form and shall contain such particulars regarding registered political parties as the Commission may determine.

(2) Notwithstanding the generality of subsection (1), the following shall be entered into the Register of Political Parties in respect of each registered political party -

(a) the name of the political party;

(b) the date of application for registration under the Act;

(c) particulars regarding -

(i) the Leader of the political party;

(ii) the authorized representative; and

(d) the number and the date appearing on the Certificate of Registration issued under section 12.

(3) The information contained in the Register of Political Parties and every decision of the Commission regarding the registration or application for registration of a political party under this Act is public information.

(4) The Register of Political Parties shall be kept at such place as the Commission may from time to time determine and shall be made available to the public for inspection in accordance with guidelines set by the Commission.

Political Parties to be registered in order to contest elections.

6. (1) Notwithstanding any other law, a nomination made in relation to an election shall be invalid unless the nomination is in respect of—

- (a) a registered political party;
- (b) a person who stands for election in the name of a registered political party; or
- (c) a person who does not stand for election in the name of any political party.

(2) For the purposes of subsection (1) (b) a person stands for election in the name of a registered political party if his nomination paper includes a certificate issued by or on behalf of the authorized representative of the registered political party authorizing him to stand for election in the name of the political party.

(3) For the purposes of subsection (1) (c), a person does not stand for election in the name of any political party if –

- (a) he is described as an independent in his nomination paper for the relevant elections; or
- (b) no description of the candidate is given in his nomination paper.

Application for registration of political party.

7. (1) A political party desirous of being registered under this Act shall make an application to the Commission for the registration of the political party.

(2) An application to register a political party shall be made to the

Commission by the authorized representative of the political party in the prescribed form and shall be accompanied by -

- (a) a petition signed by at least [] eligible voters in support of the application for registration and duly counter-signed by the authorized representative of the political party;
- (b) the names and addresses of the Leader and the authorized representative of the political party;
- (c) a full description of the identifying symbols, slogans, and colours, if any, of the political party;
- (d) the headquarters of the political party;
- (e) the prescribed registration fee; and
- (f) such other particulars as the Commission may reasonably require.

(3) The registration fee paid under subsection (2) is not refundable.

Provisional registration.

8. (1) Subject to subsection (3), the Commission shall, not later than [seven] days after the receipt of an application for registration under section 7 -

- (a) issue to the political party a provisional certificate of registration in the prescribed form; and
- (b) cause a notice of the application to be published in the *Gazette* as well as the print and electronic media, inviting objections from any person, concerning the [registration of the political party] [name, symbols, slogans and colours of the political party].

(2) A notice by the Commission under subsection (1)(b) shall stipulate that objections may be made within a period of [fourteen] days after the

publication of the notice.

(3) Where no notice is issued by the Commission within the [seven] days period stipulated in subsection (1), an objection concerning the [registration of the political party] [name, symbols, slogans and colours of the political party] may be made within a period of [twenty-one] days after the application for registration.

(4) An objection under subsection (1)(b) or (3) may not be considered by the Commission if it is made after the expiration of the period stipulated in the notice under subsection (1) or allowed under subsection (3) as the case may be.

(5) The Commission may, in addition to inviting objections to the application under subsection (1)(b), cause an independent inquiry to be made to ascertain the truth or correctness of the particulars submitted with the application for registration pursuant to section 7.

Defective application.

9. (1) Where an application for the registration of a political party is defective according to the provisions of this Act, the Commission shall, no later than [twenty-one] days after receipt of the application –

- (a) notify the authorized representative in writing of the defect; and
- (b) grant the political party [seven] days to cure the defect.

(2) For the purpose of subsection (1), an application is defective if –

- (a) it is incomplete; or
- (b) particulars submitted pursuant to section 7 are inaccurate.

(3) Where the defect is not cured within the [seven] days granted under subsection (1)(b) –

- (a) the application shall be deemed to have been withdrawn; and
- (b) the Commission shall cancel the provisional certificate of registration issued to the political party under section 8.

Objections to application for registration.

10. (1) Where the Commission receives an objection under section 8, then unless consideration of the objection is not permitted by virtue of section 8(4), the Commission shall –

- (a) notify the authorized representative of the objection; and
- (b) grant the political party [seven] days within which to respond.

(2) Where –

- (a) after considering the response of the political party the Commission upholds the objection; or
- (b) the political party fails to respond to the objection within the time granted under subsection (1)(b),

the Commission shall refuse to register the political party and cancel the provisional certificate of registration issued to that political party under section 8.

Inquiries by Commission.

11. (1) Where pursuant to inquiries under section 8(5) the Commission makes a preliminary finding that particulars submitted with the application for registration are materially false, the Commission shall –

- (a) notify the authorized representative in writing of the preliminary finding; and
- (b) grant the political party [fourteen] days within which to respond.

(2) Where –

- (a) after considering the response of the political party the Commission is satisfied that particulars submitted with the application for registration are materially false; or
- (b) the political party fails to respond to the preliminary finding within the time granted under subsection (1)(b),

the Commission shall refuse to register the political party and cancel the

provisional certificate of registration issued to that political party under section 8.

Full registration. 12. (1) Where the Commission is satisfied that the relevant provisions of this Act on registration have been complied with, it shall no later than [forty-five] days after receipt of the application for the registration of a political party under this Act register the political party in the Register of Political Parties.

(2) Upon registration of a political party the Commission shall –

(a) notify authorized representative of the registration of the political party under the Act; and

(b) issue to the political party, a Certificate of Registration in the prescribed form.

[(3) A Certificate of Registration issued under subsection (2) shall be valid for a period of [] from the date of issue unless it is earlier cancelled in accordance with this Act.]

(4) Where the Commission registers a political party under this Act, it shall publish the fact of the registration of the political party in the *Gazette*, specifying -

(a) the full name of the political party;

(b) any desired abbreviation of the name for use on ballot papers;

(c) the headquarters of the political party;

(d) a full description of the identifying symbol, slogan and colours of the political party; and

(e) the names of the leader, authorized representative and members of the executive committee of the political party.

(5) Upon registration under this Act, a political party shall be a body corporate with perpetual succession [and may sue and be sued in its

corporate name, and shall have the power to acquire, hold, manage or dispose of [movable or immovable property] [real or personal property] and enter into any contract or other transaction as any legal person.]

[(6) A registered political party shall not by reason of subsection (5) be liable to pay taxes as a body corporate.]

Political party deemed registered in certain circumstances.

13. Where after the expiration of [forty-five] days after receipt of the application for registration the Commission, for any reason, fails to notify the authorized representative of the political party of –

(a) the registration of the political party in accordance with section 12(2)(a); or

(b) its decision to refuse registration of the political party pursuant to section 10(2) or 11(2),

the political party shall be deemed to have been registered under this Act.

Grounds for refusal of registration.

14.(1) In addition to any other grounds specifically provided under any other provision of this Act, the Commission shall refuse to register a political party under this Act where any of the following grounds exist–

(a) the application was not made in accordance with the provisions of this Act;

(b) particulars submitted with the application are false in a material particular and there is a failure to carry out the required corrections within the timeframe granted under section 11(1)(b);

(c) particulars submitted with the application are defective and there is a remedy the defect within the timeframe granted under section 9(1)(b);

(d) the political party seeking registration has a name which, in the discretion of the Commission, may incite hatred or violence;

(e) the political party applying for registration has any identifying symbol, slogan, colour or name which –

- (i) is the same as;
- (ii) so closely reassembles; or
- (iii) is so similar to,

the symbol, slogan, colour or name of a registered or an already established political party that it is likely to deceive or confuse members of the public or confusion is otherwise likely to result.

(2) Where two or more applications for registration are received on the same day in respect of different political parties and the identifying symbol, slogan, colour or name of one of the political parties –

- (a) is the same as the identifying symbol, slogan, colour or name of the other political party or parties, as the case may be; or
- (b) so closely reassembles the symbol, slogan, colour or name of the other political party or parties, as the case may be, as to be likely to deceive or confuse members of the public or confusion is otherwise likely to result; and
- (c) the Commission after taking into account the totality of the circumstances, including history and the time at which each political party submitted its application is unable to determine which political party shall have the right to use the symbol, slogan, colour or name,

the Commission shall, in writing, notify the authorized representative of each political party of its inability to register the political party in the circumstances.

Appeal against refusal of registration.

15. (1) A political party whose application for registration is refused by the Commission under this Act, may within [seven] of receipt of notification of

the refusal from the Commission, apply to the Commission for a reconsideration of its decision not to register the political party.

(2) Where, within [seven] days after an application has been made to it under subsection (1), the Commission refuses or fails to issue the political party a Certificate of Registration, the political party may appeal to the [High Court] against the decision of the Commission.

(3) The appeal shall be on notice to the Commission and such other persons as the Court may direct.

Cancellation of
Certificate of
Registration.

16. (1) Subject to subsection (2) the Commission may cancel a Certificate of Registration issued to a political party under this Act –

(a) for non-compliance with any provision or requirement of this Act; or

(b) where the Commission discovers any fact, which had it been known prior to the issuance of the Certificate of Registration, the Commission could have refused to register the political party.

(2) Prior to cancelling a Certificate of Registration, the Commission shall give the political party –

(a) written notice of the grounds for cancellation; and

(b) [fourteen] days within which to respond.

(3) Where the Commission cancels a Certificate of Registration, it shall notify the authorized representative in writing of the cancellation setting out the reasons for the cancellation.

Court may order
cancellation of
Certificate of
Registration.

17. Without prejudice to any penalty specifically provided for contravention of any provision of this Act, where a political party is convicted of an offence under this Act, the Court may order the Commission to cancel the Certificate of Registration of that political party.

Appeal against

18. A political party whose Certificate of Registration is cancelled by the

cancellation of
Certificate of
Registration.

Commission under –

- (a) section 17, may appeal to the Court of Appeal;
- (b) under any other provision, may appeal to the [High Court].

Provision of
particulars.

19. Within [seven] days after the issue to it of a Certificate of Registration, the political party shall submit to the Commission the names, titles and addresses of the members of its executive committee.

(2) Where a political party -

- (a) refuses or fails to comply with subsection (1); or
- (b) submits information to the Commission that is materially false,

the Commission may cancel the Certificate of Registration of that political party.

Changes or
alterations to
particulars in
Register.

20. (1) A registered political party shall not make any changes or alteration to its identifying symbol, slogan, colour or name except in accordance with this section.

(2) Before making any changes or alterations to its identifying symbol, slogan, colour or name, a registered political party shall apply in the prescribed form and manner to the Commission to have the relevant entry in the Register of Political Parties amended.

(3) The Commission shall within [seven] days of the date of receipt of the application cause a notice of the proposed change or alteration to be published in the *Gazette* as well as the print and electronic media, inviting objections from any person, concerning the change or alteration being entered in the Register of Political Parties.

(4) The Commission may, in addition to inviting objections to the application under subsection (3), cause an independent inquiry to be made to ascertain whether the change or alteration should be entered in the

Register of Political Parties.

(5) A change or alteration shall come into effect [seven] days after publication by the Commission of the notice under subsection (3) if –

- (a) no objection is made to the change or alteration;
- (b) no grounds for the refusal of an application for registration apply in relation to the application under subsection (2); or
- (c) an inquiry by the Commission pursuant to subsection (4) does not disclose any grounds for the refusal of the application.

(6) Where a registered political party purports to make any changes or alterations to its identifying symbol, slogan, colour or name otherwise than in accordance with this section the Commission may cancel the Certificate of Registration of that political party.

Objections to
change or
alterations.

21. (1) Where the Commission receives an objection within [7] days of the publication of a notice under section 20(3) the Commission shall –

- (a) notify the authorized representative of the objection; and
- (b) grant the political party [seven] days within which to respond.

(2) Where –

- (a) after considering the response of the political party the Commission upholds the objection; or
- (b) the political party fails to respond to the objection within the time granted under subsection (1)(b),

the Commission shall refuse to amend the Register of Political Parties.

Inquiry by
Commission.

22. (1) Where, pursuant to inquiries under section 20(4), the Commission makes a preliminary determination that the change or alteration should not be made to the Register of Political Parties, the Commission shall –

- (a) notify the authorized representative in writing of the of the preliminary determination; and

(b) grant the political party [seven] days within which to respond.

(2) Where –

(a) after considering the response of the political party the Commission determines that the Register of Political parties should not be changed or altered; or

(b) the political party fails to respond to the findings within the time granted under subsection (1)(b),

the Commission shall refuse to change or alter the Register of Political Parties.

Appeal against refusal to amend Register.

23. (1) A political party whose application to change or alter the Register of Political Parties is refused by the Commission under section 21 or 22, may within [seven] days of receipt of notification from the Commission of the refusal, apply to the Commission for a reconsideration of its decision.

(2) Where, within [seven] days after an application has been made to it under subsection (1), the Commission refuses or fails to amend the Register of Political Parties, the political party may appeal to the [High Court] against the decision of the Commission.

(3) The appeal shall be on notice to the Commission and such other persons as the Court may direct.

Merger of political parties.

24. Where two or more political parties merge as one party, the Certificate of Registration which any of the political parties had immediately before the effective date of the merger shall lapse.

PART IV

ACCOUNTING REQUIREMENTS

Duty to keep accounting records.

25. (1) A political party shall maintain accounting records with respect to the party which are sufficient to disclose, with reasonable accuracy, at any time the financial position of the political party.

(2) Without prejudice to the generality of subsection (1), the accounting records shall in particular contain –

(a) entries showing from day to day all sums of money received and expended by the political party, and the matters in respect of which the receipt and expenditure take place; and

(b) a record of the assets and liabilities of the political party.

(3) The accounting records made for the purposes of this section shall be kept by the political party for at least [six] years from the end of the financial year in which they are made.

(4) Where a political party ceases to exist within the [six] years period mentioned in subsection (3) as it applies to any accounting records, the political party shall forward to the Commission forthwith all such accounting records unless the Commission, in writing, directs otherwise.

Declaration of assets and expenditure by political parties.

26. (1) A [registered political party] [political party whether or not registered under this Act] shall, within [ninety] days after the [issue to it of a Certificate of Registration under section 12] [commencement of this Act] or such longer period as the Commission may allow, submit to the Commission a written declaration giving details of –

(a) its assets and liabilities; and

(b) contributions or donations in cash or in kind made to the assets of

the political party since the [date of its application for registration]
[commencement of this Act].

- (2) A declaration submitted to the Commission under subsection (1) shall –
- (a) state the sources of the assets of the political party; and
 - (b) contain such other particulars as the Commission may from time to time in writing direct.

[(3) The Commission shall, within [fourteen] days after receipt of the declaration required under subsection (1), cause it to be published in the *Gazette*.]

- (4) Without prejudice to any other penalty prescribed by this Act or any other enactment, where a political party -
- (a) refuses or neglects to comply with this section; or
 - (b) submits a declaration which is false in any material particular,

the Commission may in the case of a registered political party, cancel the Certificate of Registration of that political party and in the case of a any other political party, bar the political party from registering under the Act for a period of [].

Annual returns
of political
parties.

27. (1) A political party shall, on or before the [1st March] in every year, prepare and submit to the Commission for the preceding financial year a statement of the -

- (a) accounts of the political party;
- (b) sources of its funds;
- (c) contributions or donations in cash or kind; and
- (d) real/immovable property of the political party and time of acquisition.

(2) A person who wilfully makes, or causes to be made, any false entry in,

or omission from, any statement by subsection (1) commits an offence and liable on conviction to a fine of [] dollars.

[(3) A copy of the statement made for the purposes of subsection (1) shall be kept by the political party for at least [six] years from the end of the financial year in which they are made.]

(4) The Commission, after inspecting the accounts submitted pursuant to subsection (1) may –

(a) [for the benefit of members of the public, publish any matter in relation to the statement] [A person may, on payment of a fee determined by the Commission, inspect or obtain copies of the returns of a political party filed with the Commission under this section]; or

(b) direct the political party to have its accounts audited within [three] months of the receipt of the statement.

(5) Where a political party fails or refuses to submit the audited accounts in accordance with subsection (4) –

(a) the Commission may, in the case of a registered political party, cancel the Certificate of Registration of that political party and in the case of a any other political party, bar the political party from registering under the Act for a period of []; and

(b) the political party and every member of the executive each commit an offence and liable on conviction to a fine of [] dollars.

(6) Upon conviction of a political party for an offence under subsection (5), the court may order any specified member of the executive committee, whether or not such officer has been convicted, to deliver to the Commission no later than [fourteen] days from the date of the order, such financial records of the political party as the court thinks fit.

(7) The executive member who fails [without just cause] to comply with an order under subsection (6) commits an offence and is liable on conviction to a fine of [] dollars in respect of each day or part of a day during which such failure continues.

Power of
Commission to
appoint auditor
to audit
accounts.

28. (1) Notwithstanding section 27, the Commission may at any time upon reasonable grounds order the accounts of a political party to be audited by an auditor appointed by the Commission.

(2) The fees and expenses of an auditor appointed by the Commission pursuant to subsection

(a) shall be paid by [the Commission][political party].

(b) Where the Commission appoints an auditor under subsection

(c), the political party shall, within such time as the Commission may in writing direct, submit all relevant financial records to the auditor.

(4) Where a political party fails or refuses to submit the financial records to the auditor pursuant to directions from the Commission under subsection

(3) –

(a) the political party and every member of the executive each commit an offence and liable on conviction to a fine of [] dollars; and

(b) in the case of a registered political party, the Commission may cancel the Certificate of Registration of the political party and in the case of a any other political party, bar the political party from registering under the Act for a period of [].

(5) Upon conviction of a political party for an offence under subsection (4), the court may order any specified member of the executive committee,

whether or not such officer has been convicted, to deliver to the Commission no later than [fourteen] days from the date of the order, such financial records of the political party as the court thinks fit.

(6) The executive member who fails [without just cause] to comply with an order under subsection (5) commits an offence and is liable on conviction to a fine of [] dollars in respect of each day or part of a day during which such failure continues.

Public
inspection of
audited
statements.

[29. (1) The Commission [shall] [may], as soon as reasonably practicable after receiving the audited statement under section 28, make a copy of the statement available for public inspection for such time as the Commission may determine.]

Declaration of
assets, liabilities
and expenditure
in relation to
elections.

30. (1) A political party shall, within [*number of days to be determined by enacting State*] days before an election, submit to the Commission an audited statement of its assets and liabilities in such form as the Commission may direct.

(2) A political party shall, within [six months] after the elections in which it has participated, submit to the Commission a detailed statement in such form as the Commission may direct of all expenditure incurred for that election.

(3) Where a political party fails or refuses to submit the statement in accordance with subsection (1) or (2) as the case may be, the Commission may, in the case of a registered political party, cancel the Certificate of Registration of that political party and in the case of a any other political party, bar the political party from registering under the Act for a period of [].

(4) A political party whose Certificate of Registration is cancelled for non-

compliance with –

(a) subsection (1), shall not be eligible to contest the elections in question;

(b) subsection (2) shall be liable to the forfeiture of [[one] seat gained in the election.][the moneys from the Fund to which it is entitled, for [] consecutive parliamentary years after the cancellation of the certificate].

(5) Any seat forfeited pursuant to subsection (4), shall be awarded by the [the Elections Commission or insert the relevant elections body] [to the political party, not being the party from which the seat is forfeited, with the highest number of seats] [on the basis of a formula set out in guidelines for that purpose].

(6) A political party whose Certificate of Registration is cancelled under this section may appeal to the [High Court] against the decision of the Commission.

(7) The appeal shall be on notice to the Commission and such other persons as the Court may direct.

PART V

DONATIONS AND CAMPAIGN FINANCING

Interpretation of Part V.

31. (1) In this Part -

"anonymous donation" means a donation which the recipient is, for whatever reason, unable to ascertain the identity of the person giving the donation;

"campaign expense" means an expense that is incurred in undertaking a political activity in respect of -

(a) the cost of the preparation, design, composition, printing, distribution, postage, and publishing an election advertisement;

(ii) the cost of any material used for or applied towards an election advertisement;

(iii) the cost of displaying an election advertisement on any advertising space on any land or building [that is used solely or principally for commercial or industrial purposes];

"campaign period" means the period in relation to an elections, declared as such by the Political Parties Commission;

"contribution" means any money or the equivalent of money or goods or services or a combination thereof, that makes up a donation, is included in a donation or has been used to wholly or partly fund a donation, which -

(a) was given to the donor or to a person who was required or expected to pass on all or any of its amount or value to the donor, whether directly or indirectly;

(b) under this Part, would have been a donation if it had been given directly to the candidate or political party; and

(c) was given in the knowledge or expectation, whether by agreement, arrangement or understanding, that it would be wholly or partly applied to make up, or to be included in, or to fund, a donation;

"contributor" means a person who makes a contribution and who immediately before making the contribution -

(a) beneficially holds any money, or the equivalent of money, or any goods that make up the contribution or are included in the contribution; or

(b) provides any services that make up the contribution or are included in the contribution or pays for those services out of money that the person beneficially holds;

"donation", means -

(a) a gift of property to a political party;

(b) any sponsorship provided in relation to the political party;

(c) money spent, otherwise than by or on behalf of the political party, in paying any expenses incurred directly or indirectly by a political party;

(d) any money lent, otherwise than on commercial terms, to a political party;

(e) the provision, otherwise than on commercial terms, of any property, services or facilities for the use or benefit of the party;

"election advertisement" means any form of words or graphics, or both, that can reasonably be regarded as encouraging or persuading voters to vote, or not to vote, for a particular political party or candidate or for a type of political party or candidate that is described or indicated by reference to views, positions, or policies that are or are not held, taken, or pursued, whether or not the name of a political party or the name of a candidate is stated;

"permissible donor" means a person who is eligible, within the meaning of section 32, to make a donation under this Act;

"promoter" means a person on whose initiative an election advertisement is published; and includes, without limitation, a person who -

(a) enters into a contract, arrangement, or understanding with another person to the effect that the other person publish an election advertisement; or

(b) who publishes an election advertisement in the absence of such a contract, arrangement, or understanding;

"publish" in relation to an election advertisement, includes to -

(a) print or insert in a periodical published or distributed in [State];

(b) issue, give, or display, to the public;

(c) send to any member of the public by any means;

(d) deliver to any member of the public, or leave at a place owned or occupied by a member of the public;

(e) broadcast whether in the form of a radio or television broadcast;

(f) include in a film or video displayed to the public;

(g) disseminate to the public by means of the Internet or any other electronic medium; or

(h) store electronically in a way that is accessible to the public; and

“report” means a donation report or a campaign period report.

(2) In this Part, the term –

(a) “election advertisement” does not include –

(i) an advertisement relating to electoral matters that is published by the [Electoral Commission/Political Parties Commission] which contains a statement indicating that the advertisement has been authorized by [the Commission] or contains a symbol indicating that the advertisement has been authorized by [the Commission];

(ii) editorial material, other than advertising material, in a periodical that is written or is selected by or with the authority of the editor solely for the purpose of informing, enlightening or entertaining readers;

(iii) any content of a radio or television programme, other than advertising material, published solely for the purpose of informing, enlightening or entertaining readers;

[(iv) the publication by an individual, on a non-commercial basis, on the internet of his personal political views (being the kind of publication commonly known as a blog); and

(b) “donation” -

(i) in relation to a candidate means a donation for his use or benefit in connection with any of his political activities as a candidate;

[(ii) includes campaign expenses.]

(3) Notwithstanding subsection (1) -

(a) anything provided to a political or a candidate pursuant to any written law;

(b) the voluntarily and free of charge provision by an individual of his own services whether or not the services fall within the course of his normal work,
shall not be regarded as a donation.

(4) The following shall not be regarded as a donation to a candidate –
(a) property or any services or facilities provided out of public moneys for the personal security and [] of the candidate; and
(b) where the candidate is the [President, Prime Minister, member of Parliament, any remuneration or allowance paid to the candidate in his capacity as such.

(5) Where—
(a) property is transferred to a political party or a candidate pursuant to any transaction or arrangement involving the provision by or on behalf of the political party or candidate, of any property, services or facilities or other consideration of monetary value; and
(b) the monetary value of the consideration provided by or on behalf of the political party or candidate is less than the market value of the property transferred,
the transfer of the money or property shall constitute a donation to the political party or candidate , as the case may be, for the purposes of this Act.

(6) In determining for the purposes of this Part whether -
(a) money lent to a political party or candidate is lent otherwise than on commercial terms;
(b) property, services or facilities provided for the use or benefit of a political party or candidate are so provided otherwise than on such terms,
regard shall be had to the monetary value of the consideration provided by

or on behalf of the political party or candidate in respect of the loan or the provision of the property, services or facilities as the case may be.

(7) Sponsorship is provided in relation to a political party or candidate if -

(a) property is transferred to the political party or to the candidate or to any person for the benefit of the political party or candidate; and

(b) a purpose of the transfer, having regard to all the circumstances, may reasonably be construed as being to help the political party or candidate with meeting expenses for political activities.

(8) In this Part any reference to anything being given or transferred to a political party or candidate includes a reference to its being given or transferred either directly or indirectly through a third person.

Permissible donors.

32. (1) Donations to a political party or a candidate may only be made by a citizen of [] and shall not include any contribution from a person who is not a permissible donor;

(2) A firm, partnership, or enterprise owned by a citizen or a company registered under the laws of [] where at least [seventy-five] percent of its capital is owned by [a citizen].

(3) Donations, in cash or kind and whether made directly or indirectly, to or for the benefit of a political party or a candidate are prohibited from -

(a) a foreigner;

(b) a foreign government;

(c) a foreign organization;

(d) a foreign agency or foreign political party;

(e) an international organization;

(f) an association of employers and employees;

(f) subject to section 33(2) an anonymous donor; and

(g) a governmental entity, State body, public company or legal person

vested with public powers.

(4) A person who makes a donation to a political party or a candidate which includes a contribution from a non-permissible donor commits an offence and on conviction is liable to a fine of [] dollars or to imprisonment for [];

(5) A person who contravenes subsection (3) commits an offence and on conviction –

(a) is liable to a fine of [] dollars or to imprisonment for []; and

(b) may be deemed [by the competent authority] to be a prohibited immigrant and liable to deportation under the [] Act.

(6) Nothing in this section precludes a government of any country or a non-governmental organization from providing assistance in cash or in kind to the Commission for use by the Commission for the collective benefit of registered political parties.

Acceptance of donations from permissible donors only.

33. (1) A political party or a candidate shall not accept any donation -

(a) which is not made by a permissible donor; or

(b) subject to subsection (2), if the donation is offered anonymously or for any reason the political party or candidate is unable to ascertain the identity of the donor.

(2) Nothing in subsection (1)(b) prohibits a political party or a candidate from accepting in any one financial year, anonymous donations not exceeding a total sum of [TO BE DEFINED] dollars or such other sum as may be prescribed, provided that no more than [TO BE DEFINED] dollars may be accepted during a campaign period.

Acceptance, receipt, etc., of donations: general.

34.(1) For the purposes of this Part, a donation is accepted -

(a) by a candidate if it is received and retained by the candidate [for

the purposes of his political activities]; or

(b) by a political party if it is received and retained by the political party for its use and benefit.

(2) Where a donation is made to a political party or a candidate by paying an amount into any account held by the political party or the candidate, it shall be taken to have been received by the political party or the candidate at the time when the political party or candidate, as the case may be, is notified in the usual way or is made aware of the payment into the account.

(3) Where a donation other than an anonymous donation is accepted, the political party or the candidate shall issue a receipt of the donation to the donor in the form prescribed by the Commission.

Limitation on
value of
donations.

35. (1) A person shall not, in any one calendar year, make donations exceeding in the aggregate the value of [TO BE DEFINED] or such other value as may be prescribed, to one particular political party or candidate, provided that no more than [TO BE DEFINED] dollars may be donated during a campaign period.

(2) A political party or a candidate shall not in any one calendar year accept from one person, donations exceeding in the aggregate the value of [TO BE DEFINED] or such other value as may be prescribed , provided that no more than [TO BE DEFINED] dollars may be accepted during a campaign period.

(3) The value of any donation shall be the market value of the property in question.

(4) Where property is transferred to a political party or a candidate for a consideration which is less than the market value of the property, the value of the donation shall be taken to be the difference between -

- (a) the market value of the property in question; and
- (b) the consideration provided by or on behalf of the political party or candidate, as the case may be.

(5) Where in relation to a political party or a candidate -

(a) money is lent to otherwise than on commercial terms; or

(b) any property, services or facilities are provided otherwise than on commercial terms,

the value of the donation shall be taken to be the amount representing the difference between the actual cost and the cost that would have been incurred by the political party or the candidate, as the case may be, had the loan been made, or the property, services or facilities been provided, on commercial terms.

(6) The value of any donation, being the provision of any sponsorship in relation to a candidate or political association, shall be taken to be the value in monetary terms of the benefit conferred by the sponsorship in question on the political party or candidate; and any such value conferred on the sponsor shall be disregarded.

(7) Where a donation referred to in subsection (5) or (6) confers an enduring benefit on any political party or candidate during the whole or part of the relevant reporting period, the amount to be recorded in any donation report required to be prepared under this Part shall be so much of the total value of the donation as accrues during the whole or part of that relevant reporting period to which the donation report relates.

(8) In subsection (7), "relevant reporting period" means any period for which a donation report is required to be prepared under this Part.

Return of
donations:
generally

36. (1) Where a donation is received by a political party or a candidate and it is not immediately clear that the political party should refuse the

donation, all reasonable steps shall be taken without delay by or on behalf of the political party or the candidate to verify or ascertain -

- (a) the identity of the donor;
- (b) whether the donor is a permissible donor; and
- (c) if the donor is a permissible donor, all such details in respect of the donor as are required by the Commission to be given in respect of a donor in a donation report.

(2) Where a political party or a candidate receives a donation which it is prohibited from accepting by virtue of section 33 or 35(2)-

- (a) in the case of an anonymous donation, the requirements of section 37 (1) must be complied with in respect of the whole donation; and

- (b) in any other case, the donation must be returned, or a payment of an equivalent amount sent, to the person who made the donation or any other person appearing to be acting on his behalf,

within a period of [30] days beginning with the date when the donation is received by the political party or the candidate, as the case may be.

Return of donations whose donors are unidentifiable.

37.(1) Where an anonymous donation is offered to any political party or candidate, and section 33 (2) prohibits the acceptance of the donation, whether in whole or in part, the political party or candidate as the case may be, shall -

- (a) if the donation was transmitted by a person, other than the donor, and the identity of that person is apparent, return the donation to that person;
- (b) if paragraph (a) does not apply but the donor has used a facility provided by an identifiable financial institution, return the donation to that financial institution; or

(c) where neither paragraph (a) nor (b) applies, send the donation to the Commission.

(2) Any amount sent to the Commission pursuant to subsection (1) (c) shall be paid into the [Political Parties Fund].

Forfeiture of donations not made by permissible donors, etc.

38. 1) Where a donation which is prohibited by virtue of section 33 or 35(2) has been accepted, by a political party or candidate, the Court may, on the application of the [Commission/Director of Public Prosecution] order the forfeiture of the donation or of an amount equal to the value of the donation and any donation or amount forfeited shall be recovered from the political party or candidate as a debt owed to the State.

(2) Where, on an application by the [Commission/Director of Public Prosecution] under subsection (1), the Court –

(a) makes a forfeiture order, the political party or candidate; or

(b) refuses the application, the [Commission/Director of Public Prosecution],

may, within [30] days of the forfeiture order or refusal of the application as the case may be, appeal to the Court of Appeal.

[(3) An appeal under subsection (2) shall be by way of a rehearing; and the Court hearing such appeal may make such order as it considers appropriate.

(4) The standard of proof in proceedings under this section shall be that applicable to civil proceedings.

(5) An order may be made under this section whether or not proceedings are brought against any person for an offence connected with the donation.]

(6) Subject to subsection (7), any amount forfeited by an order under this

section shall be paid into the [Political Parties Fund].

(7) Where an appeal is made under subsection (2), subsection (6) shall not apply before the appeal is determined or otherwise disposed of.

(8) Where any amount forfeited by an order of the Court under subsection (1) or an order of the Court of Appeal under subsection (3), is not paid in compliance with the terms of the order, the Court or Court of Appeal, as the case may be, may, on the application of the [Commission/Director of Public Prosecution], issue a warrant for the levy of the amount forfeited against any property belonging to the political party or candidate.

(9) Where any amount recovered pursuant to subsection (8) is in excess of the amount forfeited under this section, the balance shall be returned to the political party or candidate as the case may be.

Annual donation
report by
political party.

39. (1) A political party shall, within [TO BE DEFINED] after the close of each financial year of the political party, submit to the Commission in the prescribed form a donation report in respect of every recordable donation referred to in subsection (2), giving all such details in respect of each donor as are required by the Commission.

(2) Where, during a financial year, a political party accepts –

(a) a single donation of not less than [TO BE DEFINED] dollars,
or such other sum

as may be prescribed from a permissible donor; or

(b) a donation which, when it is added to any other donation from the same permissible donor, the aggregate amount of the donations is not less than [TO BE DEFINED] dollars, or such other sum as may be prescribed,

the political party shall record the donation in the donation report for that

financial year.

(3) Where during any financial year no donations are received by the political party which, by virtue of this section, the political party is required to record in the donation report for that financial year, the donation report shall contain a statement to that effect.

(4) Subject to subsection (1), the donation report shall contain following with respect to each donation -

- (a) the donor's name, address, amount of money, property or any other benefit of financial value donated;
- (b) the date of donation; and
- (c) a copy of the donation receipt.

**Campaign
period report**

40. (1) A political party shall, at such times as may be prescribed by the Commission, submit to the Commission in the prescribed form a campaign period report in respect of every recordable donation referred to in subsections (2) and (3), giving all such details in respect of each donor as are required by the Commission.

(2) Where, during a campaign period, a political party accepts –

(a) a single donation of not less than [TO BE DEFINED] dollars, or such other

sum as may be prescribed from a permissible donor; or

(b) a donation which, when it is added to any other donation from the same permissible donor, the aggregate amount of the donations is not less than [TO BE DEFINED] dollars, or such other sum as

may be prescribed,

the political party shall record the donation in the campaign period report for that campaign period.

(3) Where, during a campaign period, a political party authorises the publication of an election advertisement, the election expense incurred in respect thereof shall be included in the donation report for that campaign period.

(4) Where during any campaign period no donations are received by the political party which, by virtue of this section, the political party is required to record in the campaign period report for that campaign period, the report shall contain a statement to that effect.

(5) Subject to subsection (1), the campaign period report shall contain following with respect to -

(a) each donation -

(i) the donor's name, address, amount of money, property or any other benefit of financial value donated;

(ii) the date of donation; and

(ii) a copy of the donation receipt; and

(b) the name and address of the promoter of each election advertisement authorized by it.

Donation report
by candidate.

41. (1) A candidate desirous of contesting an election shall, at least [] before nomination day, submit to the Commission -

(a) a donation report in the prescribed form in respect of every donation referred to in subsections (2) and (3), giving all such details in respect of each donor as are required by Commission; and

(b) a declaration subscribed by the candidate in the prescribed form stating that, to the best of his knowledge and belief -

(i) no other donation required by this section to be recorded in the donation report has been accepted by the person during the relevant period;

- (ii) no donation from a person who is not a permissible donor has been accepted by him person during the relevant period; and
- (iii) no anonymous donations in excess of the sum permitted under section 33 (2), has been accepted by the him during the relevant period.

(2) A person who is or who desires to be a candidate at an election who accepts during the relevant period—

(a) a single donation of not less than [] dollars, or such other sum as may be prescribed from a permissible donor; or

(b) a donation which, when it is added to any other donation from the same permissible donor, the aggregate amount of the donations is not less than [] dollars, or such other sum as may be prescribed, shall record the donation in a donation report for the period.

(3) Where during the relevant period no donations are received by the candidate which, by virtue of this section, the candidate is required to record in the donation report for that financial year, the donation report shall contain a statement to that effect.

(4) Upon receipt of a donation report and declaration pursuant to this section, the Commission shall, not later than the eve of the nomination day, issue the candidate concerned, a political donation certificate stating that the person has complied with subsection (1).

(5) A certificate issued under subsection (4) shall, for the purposes of any written law, be conclusive as to the facts it certifies.

(6) Subject to subsection (1), the donation report shall contain following with respect to each donation -

(a) the donor's name, address, amount of money, property or any other benefit of financial value donated;

- (b) the date of donation; and
- (c) a copy of the donation receipt.

(7) A similar report shall be submitted by the candidate within [] of the elections in respect of donations received between the period of his report under subsection (1) and the date of the elections.

Offences in connection with donation reports, etc.

42. (1) Where a report is not submitted to the Commission within the time limited by this Part, the political party and the members of the executive or the candidate, as the case may be, each commit an offence and is each be liable on conviction to a fine not exceeding [] dollars and, in the case of a continuing offence, to a further fine not exceeding [] dollars for every day or part thereof during which the offence continues after conviction.

(2) Where a report which does not comply with the requirements of this Part, the political party and the members of the executive or the candidate as the case may be each commit an offence and is liable on conviction to a fine not exceeding [] dollars and, in the case of a continuing offence, to a further fine not exceeding [] dollars for every day or part thereof during which the offence continues after conviction.

(3) It is a defence for a person charged with an offence under subsection (1) or (2), to prove that he took all reasonable steps, and exercised all due diligence to ensure that any requirements as regards the -

- (a) preparation or submission of a donation report; or
 - (b) the information to be recorded in any donation report,
- have been complied with.

(4) Where the Court is satisfied that any failure to comply with any such requirements in relation to any donation received by a political party or candidate was attributable to an intention on the part of any person to conceal the existence or true amount of the donation, the Court may order

the forfeiture of an amount equal to the value of the donation.

(5) A person who makes a false declaration commits an offence and shall be liable on conviction to a fine of [] dollars or to imprisonment for a term of [] not exceeding [] months and, in the case of a second or subsequent conviction, to a fine of [] dollars or to imprisonment for a term of [] not exceeding [] months.

(6) Where a person is charged with an offence under subsection (5), it shall be a defence to prove that he did not know and could not reasonably have known that the declaration was false.

Evasion of
restrictions on
donations.

43. (1) A person who enters into or knowingly does any act in furtherance of any agreement, arrangement or understanding which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of donations to a political party or candidate by any person or body other than a permissible donor, commits an offence and is liable on conviction to a fine of [] dollars or to imprisonment for a term of [] not exceeding [] months and, in the case of a second or subsequent conviction, to a fine of [] dollars or to imprisonment for a term of [] not exceeding [] months.

(2) A person who enters into an agreement, arrangement or understanding with any other person for the purpose of circumventing either of the maximum amounts stipulated in section 35 commits an offence and is liable on conviction to a fine of [] dollars or to imprisonment for a term of [] not exceeding [] months and, in the case of a second or subsequent conviction, to a fine of [] dollars or to imprisonment for a term of [] not exceeding [] months.

(3) A person who -

(a) knowingly gives a political party or a candidate any information

relating to the identity of the donor or the amount of any donation made which is false in a material particular; or

- (b) with intent to deceive, withholds from a political party or a candidate any material information relating to the identity of the donor or the amount of any donation made,

commits an offence and is liable on conviction to a fine of [] dollars or to imprisonment for a term of [].

Reporting by donor.

44. (1) A person who, in the course of a calendar year, makes a total donation of [] or more to a political party or candidate, shall no later than [January 31] the following year, submit a report for the preceding year to the Commission detailing –

- (a) the aggregate value of the donations made;
- (b) the name of the political party or candidate to whom the donations were made; and
- (c) the full name and address of the donor.

(2) A person who, in a campaign period, makes a total donation of [] or more to a political party or candidate, shall no later than [such date as may be prescribed by the Commission], submit a report for the period to the Commission detailing –

- (a) the aggregate value of the donations made;
- (b) the name of the political party or candidate to whom the donations were made; and
- (c) the full name and address of the donor.

(3) A person who –

- (a) submits a report which does not comply with the requirements of, as applicable, subsection (1) or (2) ; or
- (b) knowingly or recklessly makes a false report under subsection (1) or (2),

commits an offence and is liable on conviction to a fine of [] or to imprisonment for a period of [].

**Limitation on
campaign
expense**

45. (1) A promoter shall not, in a campaign period, incur campaign expenses exceeding in the aggregate the value of [] or such other value as may be prescribed, for the benefit of one particular political party or candidate.

OR

(1) A promoter who, in a campaign period, incurs campaign expenses which exceed in the aggregate the value of [] or such other value as may be prescribed, for the benefit of one particular political party or candidate shall no later than [such date as may be prescribed by the Commission], submit a report for the period to the Commission detailing –

- (a) the aggregate value of the campaign expense incurred;
- (b) the name of the political party or candidate in respect of whom the campaign expense was incurred; and
- (c) the full name and address of the promoter.

(2) A political party or a candidate shall not in a campaign period authorise the publication of elections advertisements by a promoter which exceed in the aggregate the value of [] or such other value as may be prescribed.

OR

(2) Where a political party or candidate authorizes the publication of election advertisements by a promoter, the political party or candidate, as the case may be, shall no later than [such date as may be prescribed by the Commission], submit a report for the period to the Commission detailing each authorized election advertisement and the name and address of the promoter.

(3) For the purposes of this section, 'campaign expense' does not include the cost of -

- (a) travel;
- (b) the conduct of any survey or public opinion poll;
- (c) the labour of any person that is provided free of charge;
- (d) the replacement of any material used in respect of an election advertisement that has been destroyed or rendered unusable by –
 - (i) a person other than the candidate or any person acting on behalf of the candidate or the political party; or
 - (ii) the occurrence of an event beyond the control of the candidate or the political party.

(4) Where any material used for or applied towards an election advertisement or any advertising space is provided free of charge, the commercial value of that material or advertising space shall be included as an election expense.

(5) Where any material used for or applied towards an election advertisement or any advertising space is provided at less than its commercial value, the amount of the difference between the contract price of the material or advertising space and the commercial value of that material or advertising space shall be included as an election expense.

(6) Subsections (4) and (5) do not apply where the aggregate commercial value of the material or advertising space provided to the candidate or political party is less than [] dollars.

(7) For the purposes of this section, commercial value, in relation to any material used for or applied towards an election advertisement or any advertising space, means the lowest amount charged at the time the material or advertising space was provided, for the same kind and quantity, by—

- (a) the person who provided it, if that person is in the business of providing that material or advertising space; or

(b) another person who provides that material or advertising space on a commercial basis in the area where it was provided, if the person who provided the material or advertising space is not in that business.

**Election
advertisement
requirements**

46. (1) A promoter shall not, during a campaign period, publish or cause or permit to be published, any election advertisement unless the advertisement contains a statement setting out the name and address of the promoter.

(2) A promoter shall not, during a campaign period, publish or cause or permit to be published, any election advertisement that encourages or persuades, or appears to encourage or persuade, voters to vote for a political party unless the publication of the advertisement –

(a) is authorized in writing by the authorized representative of the political party; and

(b) contains a statement setting out the name and address of the promoter.

(3) A promoter shall not publish, or cause or permit to be published, an election advertisement that encourages or persuades, or appears to encourage or persuade, voters to vote for a candidate unless the publication of the advertisement—

(a) is authorised in writing by or on behalf of the candidate;
and

(b) contains a statement that sets out the name and address of the promoter of the advertisement.

(4) A promoter who publishes an elections advertisement in contravention of this section commits an offence and is liable on conviction to a fine of [] or to imprisonment for a period of [].

**Authorization
of election
advertisement**

47. (1) A political party or a candidate shall not authorize the publication of an election advertisement unless the promoter of the advertisement is an eligible promoter within the meaning of this Part.

(2) Where a political party or a candidate authorizes the publication of an election advertisement and the promoter of the advertisement is not an eligible promoter within the meaning of this Part the political party and the members of the executive or the candidate, as the case may be, each commit an offence and is each be liable on conviction to a fine not exceeding [] dollars and, in the case of a continuing offence, to a further fine not exceeding [] dollars for every day or part thereof during which the offence continues after conviction.

**Eligible
promoters**

48. Election advertisements shall not be published by any person who is not a permissible donor.

**Publication
without
authorization**

49. (1) Where an election advertisement that that encourages or persuades, or appears to encourage or persuade, voters to vote for a political party is published without the authorization of the political party as required by section 46 (2), the political party shall –

- (a) in writing, notify the Commission of that fact; and
- (b) jointly with the Commission issue a statement in the print and electronic media, stating that the advertisement was not authorized by the political party.

(2) Where an election advertisement that that encourages or persuades, or appears to encourage or persuade, voters to vote for a candidate is published without the authorization of the candidate as required by section 46 (3), the candidate shall –

- (a) in writing, notify the Commission of that fact; and
- (b) jointly with the Commission issue a statement in the print and

electronic media, stating that the advertisement was not authorized by him.

(3) Where the Commission issues a statement pursuant to subsection (1) or (2), then notwithstanding any penalty to which the promoter of the unauthorized advertisement may be liable, the Commission shall be entitled to recover [] times the cost of the unauthorized advertisement and [] time the cost of publishing the statement under subsection (1) or (2), as the case may be, from the promoter of the unauthorized advertisement.

Offence to fraudulently claim authorization.

50. A promoter who publishes an elections advertisement which fraudulently states that it has been authorized by a political party or candidate commits an offence and is liable on conviction to a fine of [] or to imprisonment for a period of [].

Defence

51. [In proceedings under this Part in relation to a contravention of a provision of this Part committed by the publication of an election advertisement, it is a defence if the defendant proves that he –

- (a) is a person whose business it is to publish or arrange for the publication of advertisements;
- (b) received the advertisement for publication in the ordinary course of business; and
- (c) did not know and had no reason to suspect that its publication would amount to a contravention of a provision of this Part.]

No coercion for donations, etc.

52. (1) A political party or a candidate shall not apply political or any other pressure on a person in order to –

- (a) receive donations;
- (b) benefit from contributions; or
- (c) have the person incur any campaign expense.

(2) A political party or a candidate shall not promise political or any other counter-favours, privileges or personal benefits of any kind to a person in return for –

- (a) any donation or contribution;
- (b) the person incurring any campaign expense .

Providing money for illegal purposes.

53. A person who knowingly provides money for –

- (a) any purpose that is contrary to any provision of this Part;
- (b) [any campaign expenses incurred in excess of the respective amounts allowed by this Part; or
- (c) repaying any money expended in any such campaign expenses,]

commits an offence and is liable on conviction to a fine of [] or to imprisonment for a period of [].

General penalty

54. (1) In addition to any penalty that the court may impose for an offence under this Part, the court may order a person who–

- (a) was convicted of an offence under this Part; and
- (b) has, directly or indirectly received a benefit as a result of the commission of the offence,

to pay [to the State/into the Fund] an amount of money equal to the value of the benefit that the person received.

(2) For the purpose of subsection (1), the value of any benefit shall be assessed by the court and is recoverable in the same manner as a fine.

Register of donations.

55. The Commission shall establish and maintain, a register of all donations sent to and reported to it under this Act.

Confidentiality.

56. (1) Every person having an official duty under or pursuant to this Part shall regard and deal with as secret and confidential all documents and information relating to any donation or contribution.

(2) A person exercising powers under this Part shall not communicate to any unauthorized person, whether directly or indirectly, any information or document obtained in the exercise of any power under this Part.

(3) A person referred to in sub-section (2) who -

(a) communicates such information or anything contained in such document to an unauthorized person; or

(b) permits an unauthorized person to have access to the documents or information,

commits an offence and is liable to a fine of [] dollars or to imprisonment for a term not exceeding [] or to both such fine and imprisonment.

(4) Nothing in this section prevents the disclosure of any document or information where that disclosure is authorized by law.

PART VI STATE FINANCING OF POLITICAL PARTIES

Political Parties
Fund.

57. (1) There is hereby established in the Commission, a fund to be known as the Political Parties Fund operating as a fund for subsidizing qualifying political parties.

(2) The Fund shall consist of -

(a) money received from budgetary appropriations;

(b) donations sent to the Commission pursuant to section 37;

(c) fines received from administrative or criminal penalties under this Act;

(d) any property forfeited to the Commission under this Act;

(e) fruits of the Fund; and

(f) other revenues.

(3) The remittance of fines under subsection (2)(c) or property under (d) to the Fund shall be in accordance with such rules and procedures as may be prescribed by the Commission.

Deposit and investment of moneys of Fund.

58.(1) Except as provided in subsection (2), the moneys standing to the credit of the Fund shall be deposited in a separate banking account to be opened by the Commission with a bank registered in [].

[(2) The moneys of the Fund that is not required immediately for making allocations to political parties under section 60, may be invested by the Commission.]

(3) All moneys standing to the credit of the Fund at the end of any financial year will be carried forward to the next financial year as a credit balance.

Management and control of Fund.

59. (1) The Commission shall be responsible for the management and administration of the Fund.

(2) For each financial year the Commission shall keep records of account, in accordance with generally accepted accounting practice and procedures, of –

- (a) all moneys received by or accruing to the Fund;
- (b) all allocations and payments made from the Fund;
- (c) all expenditure arising from the allocation of moneys from the Fund;
- (d) a current record of the capital and liabilities of the Fund.

Allocations from Fund.

60. (1) Subject to this Part, a political party is entitled in each Parliamentary year to receive from the Fund the sums of money that are payable to it in accordance with this Part.

(2) Subject to subsection (6), a political party is entitled to be allocated moneys from the Fund for any financial year that it is represented in the [House of Assembly/National Assembly/House of Representatives]

(3) Allocations from the Fund shall be made to each of the political parties concerned in accordance with a prescribed formula based in part on the –

(a) principle of proportionality, taking into account, *inter alia*, the relation that the number of such a political party's representatives in the [National Assembly] bears to the total membership of the [National Assembly]; and

(b) principle of equity, taking into account, *inter alia*, a fixed threshold for a minimum allocation to each of the political parties represented in the [National Assembly].

OR

(3) Allocations from the Fund shall be made in such a manner that an equal amount of moneys is determined for each representative in the [National Assembly], such that each political party shall receive funds proportionally to the number of its representatives at the moment of constituting the National Assembly.

(4) For the purposes of subsection (3), no account shall be taken of votes cast for any one or more members of Parliament who stood in the name of another political party or as an independent candidate at the election concerned but subsequently join a political party.

(5) Where a representative leaves or changes membership in a political party after the constitution of the [National Assembly], funds allocated in compliance with subsection (3) shall remain with the political party to which the representative belonged at the moment of constituting the [National Assembly].

(6) The allocation of moneys from the Fund to a political party will end when the party ceases qualifying therefor in terms of subsection (2).

(7) A political party shall within 21 days after the date on which it ceases to qualify for allocation of moneys from the Fund, repay to the Commission the unspent balances, as at that date, of all moneys that had been

allocated to it in terms of this section.

[(8) A party shall not qualify for the grant to it of a subvention in accordance with this Act unless it is a party which is fully registered under this Act.]

Time for
allocation from
Fund.

61. (1) The Commission shall, as soon as is practicable, and in any case no later than [thirty] days after the beginning of the financial year, publish a notice in the *Gazette* specifying the total amount of moneys appropriated for all qualifying political parties and the amount that shall be paid to each qualifying political party pursuant to this Act.

(2) As soon as practicable after the publication of the notice referred to in subsection (1), the Commission shall pay each qualifying political party the moneys it is entitled to receive pursuant to this Part.

OR

(2) Moneys from the Fund shall be allocated to qualifying political parties once in every financial year and in such installments as the Commission may determine.

OR

(2) Moneys from the Fund shall be allocated to qualifying political parties at the times or intervals and in the installments as may be prescribed.

Use of moneys
allocated.

62. (1) Subject to subsection (3), the moneys allocated to a political party may be used for any purposes compatible with its functioning as a political party in a modern democracy.

(2) Without limiting the scope of subsection (1), the purposes include -

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

(b) bringing the political party's influence to bear on the shaping of

- public opinion;
- (c) inspiring and furthering political education;
- (d) promoting active participation by individual citizens in political life;
- (e) exercising an influence on political trends.

- (3) Moneys allocated to a political party from the Fund may not be used -
 - (a) for the purpose of directly or indirectly paying any remuneration, fee, reward, perquisite or other benefit to any person representing the political party in the [National Assembly];
 - (b) with a view to financing or contributing to any matter, cause, event or occasion, whether directly or indirectly, in contravention of any code of ethics binding on the members of [the National Assembly];
 - (c) directly or indirectly for the purpose of establishing any business or acquiring or maintaining any right or financial interest whatsoever in any business, or in any immovable/real property, except where the right or interest in the immovable/real property is to be used by the political party solely for ordinary party-political purposes; and
 - (d) for any other purpose that is incompatible with a political party's functioning in a modern democracy, as may be prescribed.

Political parties to account for moneys allocated to them from Fund.

63. (1) Moneys allocated to a political party from the Fund shall be accounted for to the Commission, separately from the accounting for other funds of the political party.

(2) Every political party to which moneys are allocated from the Fund, shall keep, with a bank registered in [], a separate banking account into which all moneys so allocated to the political party must be deposited.

(3) The political party shall, for each financial year for which moneys have

been allocated to it from the Fund, keep separate books and records of account, in the prescribed manner, in respect of those moneys and all transactions involving those moneys.

(4) Within two months after the end of a financial year for which moneys have been allocated to it from the Fund, the political party shall –

(a) prepare a statement showing all amounts received by the political party from the Fund during that financial year and its application of those moneys, as well as the purposes for which the various amounts have been applied; and

(b) submit that statement and the books and records of account to an auditor to be audited.

(5) The auditor's report and audited statement must be submitted to the Commission by the political party within three months after the end of that financial year.

(6) Notwithstanding subsection (4), the Commission may at any time audit a political party's books and records of account and financial statements relating to moneys allocated to it from the Fund.

(7) Subject to subsection (8), the Commission-

(a) may suspend the allocation of moneys to a political party from the Fund if satisfied on reasonable grounds that the political party has failed to comply with any requirement of this Act; and

(b) shall terminate the suspension if satisfied, in the light of the political party's subsequent conduct, that the suspension is no longer justified.

(8) Allocations to a political party may be suspended under subsection (7) only if the Commission has -

(a) notified the authorized representative of the political party of the proposed suspension and of the reasons thereof; and

(b) has given the political party [30] days from the date of the notice, to show cause why its allocations from the Fund should not be suspended.

(9) A political party which fails or neglects to account for moneys allocated in accordance with this Part, shall forfeit the right to any subsequent allocation due to the political party in accordance with this Act for the remainder of the electoral term.

(10) Where the Commission is for any reasonable cause, dissatisfied with any account submitted by a political party under this Part, so much of the moneys which has not been accounted for or has not been accounted for satisfactorily, shall be deducted from any subsequent allocation due to the political party.

Recovery of
moneys
irregularly
spent.

64. (1) Where any moneys allocated to a political party pursuant to this Part have not been utilized in accordance with the requirements of this Part, the political party shall be liable to repay to the Commission the moneys that were irregularly spent.

(2) Moneys repaid to the Commission under subsection (1) shall be credited to the Fund.

(2) The Commission may recover the moneys irregularly spent by-

(a) instituting a civil claim in respect of the amount irregularly spent, against the political party concerned; or

(b) setting off the amount irregularly spent against any allocation that may be or may become payable to the political party.

Commission to 65. (1) As soon as possible after the end of each financial year, the

report to
Parliament on
Fund

Commission shall cause to be prepared -

- (a) a report regarding its management and administration of the Fund during that financial year;
- (b) financial statements in relation to the Fund, showing -
 - (i) the amounts received by and accrued to the Fund, including the amounts of the unspent balances of moneys repaid to the Commission, if applicable, during that financial year;
 - (ii) the allocations made from the Fund to the respective political parties during that year;
 - (iii) the amounts spent during that year by each political party; and
 - (iv) the balance of the Fund and any amounts owing to or by the Fund as at the end of that year.

(2) The Commission shall submit the report, statements and the Commission's books and records of account relating to the Fund to the [Auditor-General] for auditing.

(3) Within 30 days after receipt of the Auditor-General's report, the Commission shall submit the report to [Parliament] together with the audited financial statements of the Fund and the audited Commission's report.

Surplus
moneys as at
end of financial
year.

66. (1) Any unspent moneys, as at the end of the financial year, in the account kept by the political party for the purposes of section 54(2), shall be shown in that political party's relevant books and records of account as a credit balance carried forward to the next financial year.

(2) The moneys carried forward to the next financial year may not be taken into account in determining any allocation to be made to the political party concerned during that financial year.

(3) Where [Parliament] is dissolved, every political party represented in therein shall close its books and records of account kept pursuant to this Part not later than [21] days before the date set for the election and within 14 days thereafter submit an statement in respect of those books and records of account to the Commission.

(4) Not later than [the day immediately before the date set for the election], a political party shall repay to the Commission the unspent balances, as at the date when its books and records of account are closed, of all the moneys that had been allocated to it pursuant to this Part.

PART VII

MISCELLANEOUS

Abuse of
governmental
office.

67. (1) A government official shall not use his position to obtain a benefit for any political party or candidate.

(2) A government official who uses his position to obtain a benefit for a political party or candidate commits an offence and is liable on conviction to a fine of [] dollars and to imprisonment for a period of [].

Restriction on
use of
government
property or staff
for political party
benefits.

68. (1) A government official shall not use any government property or staff for the benefit of any political party or candidate.

(2) A government official shall not be required to work for the benefit of any political party or candidate.

(3) Government buildings shall not be used exclusively by one political party to host that political party's functions.

(4) Where a government building is used to host a political function by or on behalf of a political party or candidate, every other registered political party or candidate shall be entitled to the use of that government building,

on terms and conditions no less favourable than those accorded to, as applicable, any other political party or candidate.

- (3) A government official who –
(a) uses government property; or
(b) government staff,

for the benefit of any political party or candidate commits an offence and is liable on conviction to a fine of [] dollars and to imprisonment for a period of [].

Use of State
media

69. (1) A registered political party shall have a right of access to and use of the State media, both print and electronic, on terms and conditions no less favourable than those accorded to any other political party.

(2) Without limiting the scope of subsection (1), direct access programmes should be granted on a fair and non-discriminatory basis and aired at times when the broadcasts are likely to reach the largest audiences.

(3) The State media have a duty to be balanced and impartial in their reporting and not be biased in favour of, or against, any political party or candidate.

(4) The disproportionate use of the State media by one political party or candidate to the disadvantage of other political parties or candidates may, for the purposes of this Act be regarded as –

- (a) a donation from an impermissible donor; or
(b) an election advertisement from an ineligible promoter.

[(5) The Commission may set up guidelines to regulate the amount of time that may be allotted to any one political party or candidate.]

Non state media 70. (1) Non State media operatives shall, in terms of air time accord to a political party, treatment no less favourable than that accorded to any other

political party or candidate.

(2) Without limiting the scope of subsection (1), air time made available to a political party or candidate must be made available on financial terms no less favourable than those granted to any other political party or candidate, as the case may be.

[(3) The Commission may set up guidelines to regulate the amount of time that may be sold to any one person for or on behalf of a political party or candidate.]

Supply of false or misleading information to Commission, etc.

71. (1) A person who knowingly or recklessly provides the Commission with information which is false or misleading in a material particular commits an offence if the information is provided -

(a) in purported compliance with a requirement imposed by or under this Act; or

(b) in circumstances in which the person intends, or could reasonably be expected to know, that it would be used by the Commission for the purpose of discharging any of its functions under this Act.

(2) A person who -

(a) alters, suppresses, conceals or destroys; or

(b) causes or permits the alteration, suppression, concealment or destruction of,

any document or other record relating to the financial affairs or transactions of a political party or candidate with the intention of falsifying the document or record or enabling that political party or candidate to evade any of the provisions of this Act commits an offence.

(3) A person who commits an offence under this section shall be liable on conviction to a fine of [] or to imprisonment for [] or to both.

Corporate
offenders and
unincorporated
associations

[72. (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

(a) any director, manager, secretary or other similar officer of the body;

or

(b) any person who was purporting to act in any such capacity, he, as well as the body corporate, commits that offence and shall be liable to be proceeded against and punished accordingly.

(2) Proceedings for an offence alleged to have been committed under this Act by an unincorporated association shall be brought against the association in its own name and, for the purposes of any such proceedings, any rules of court relating to service of documents shall have effect as if the association were a corporation.

(3) Where a partnership commits an offence under this Act, every partner commits that offence and shall be liable to be proceeded against and punished accordingly.

(4) in proceedings against a person pursuant to subsection (3), it shall be a defence for the person to prove that he was ignorant of, or attempted to prevent the commission of, the offence.]

Compounding
of offences

73. (1) The [Commission/Director of Public Prosecutions] may, in [his/its] discretion, compound any offence under this Act for which the penalty does not involve a period of imprisonment by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding [].

(2) On payment of the sum of money pursuant to subsection (1), no further proceedings shall be taken against such person in respect of the offence.

Sanction to
prosecute

[74. No prosecution for any offence under this Act shall be instituted without the sanction of the Director of Public Prosecutions].

Regulations

75. (1) The Minister may by regulations prescribe all matters which by this Act are required or permitted to be prescribed, or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations —

- (a) prescribing the manner of registration of political parties under this Act;
- (b) regulating or restricting the use or the change of names of political parties;
- (c) prescribing the form of the application for registration;
- (d) prescribing the form of the certificates which may be used for carrying out the provisions of this Act;
- (d) for securing the submission to the Commission of accounts relating to the assets and liabilities, income and expenditure of political parties;
- (e) prescribing the form and manner in which records of donations shall be kept by political parties;
- (f) the keeping by political parties of proper books of accounts, the audit of the accounts of political parties, and the form, content and publication of statements of accounts by political parties;
- (g) prescribing the fees in respect of anything to be done under this Act;
- (h) prescribing the manner in which moneys allocated to a party under this Act may be accounted for; and

(i) penalties, not exceeding [] dollars the contravention of any provision of this act for which no penalty is provided.

Saving

76. This Act shall not apply to any donation which is received before the commencement of this Act.

1. Constitution of the Commission

- (1) The Commission shall consist of not less than [] nor more than [] members appointed by the [President] [Governor-General] [Minister].
- (2) The members of the Commission shall include [individual States to determine]
- (3) The appointment of every member of the Commission shall be made by instrument in writing which shall state the term of office of that member being not more than [three] years.
- (4) Every appointed member of the Commission shall be eligible for re-appointment.
- (5) An alternate for each Director, excepting the Chairperson, shall be appointed in like manner and on the same basis as the appointment of the Director for whom he is the alternate.

2. Chairperson and Deputy Chairperson

- (1) The [President] [Governor-General] [Minister] shall appoint one of the members to be Chairperson.
- (2) The Board shall appoint one of the Directors as Deputy Chairperson.
- (3) In the case of the absence or inability of the Chairperson to act, the Deputy Chairperson shall perform the functions of the Chairperson and, in the case of the absence or inability of both the Chairperson and Deputy Chairperson to act, the [President] [Governor-General] [Minister] may appoint any other member to perform the functions of the Chairperson or Deputy Chairperson.

3. Resignations

- (1) A member of the Commission other than the Chairperson may, at any time, resign his membership of the Commission by instrument in writing addressed to the [President] [Governor-General] [Minister] through the Chairperson which shall take effect from the date specified therein or if no date is specified, the date of receipt by the [President] [Governor-General] [Minister] of the instrument.

(2) The Chairperson may at any time resign his office as Chairperson by instrument in writing addressed to the [President] [Governor-General] [Minister] and such resignation shall take effect from the date specified therein or, if no date is specified, the date of receipt by the [President] [Governor-General] [Minister] of the instrument.

4. Filling of vacancies

Where a vacancy occurs in the membership of the Commission by reason of death, resignation or termination of the appointment by any other cause the [President] [Governor-General] [Minister] shall appoint another person to fill the vacancy for the unexpired portion of office of the member who has vacated office and in the same manner in which the appointments to the Commission are required by this Act to be made.

5. Acts valid despite vacancy

An act or proceeding of the Commission shall not be invalid by reason only of a vacancy in the membership, but if at any time and so long as the number of persons acting as members is less than [], the Commission shall discontinue to exercise its powers.

6. Seal of Commission

The Commission shall have a seal, which shall be officially and judicially noticed and that seal shall be authenticated by the signatures of the Chairperson or the Deputy Chairperson and any other member of the Commission authorised to act in that behalf.

7. Meetings of the Commission

(1) The Chairperson shall preside at meetings of the Commission and, in the absence of the Chairperson, the Deputy Chairperson shall preside; in the absence of both of them from any meeting the other members present shall elect one of their number to preside at the meeting.

(2) The quorum of the Commission shall be [] of the membership thereof, but subject thereto the Commission may act notwithstanding a vacancy in their membership.

(3) Minutes in proper form of each meeting of the Commission shall be kept by the Secretary and shall be confirmed by the person presiding at the next meeting and a copy of the confirmed minutes shall be transmitted to the Minister within seven days of such confirmation.

8. Gazetting of appointments

The names of all members of the Commission as first constituted and every change in the membership thereof shall be published in the *Gazette*.

9. Declaration of Interest

A member of the Commission who is in any manner, whether directly or indirectly, interested in a matter under consideration by the Commission -

(a) shall disclose the nature of his interest to the next meeting of the Commission;
and

(b) shall not participate in the consideration or decision of the Commission with respect to that matter.

10. Remuneration

The members of the Commission shall be paid such remuneration and allowances as the [President] [Governor-General] [Minister] may determine.