

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

NOTICE 726 OF 2017



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

The ad hoc Committee on the Funding of Political Parties hereby publishes the *Draft Political Party Funding Bill, 2017* and the Memorandum on the Objects of the Bill for public comment.

Members of the public are invited to submit written comment on the Bill by 16h00 on 16 October 2017. Comments received after the closing date will not be considered. Should you require the Memorandum on the Objects of the Bill in any of the official languages, please contact the Committee Secretary (details below).

Kindly direct all enquiries and written submissions to the Committee Secretary, Ms Cindy Balie.

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DRAFT POLITICAL PARTY FUNDING BILL, 2017

BILL

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

Preamble

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

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

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

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

AND WHEREAS section 44 of the Constitution affords the National Assembly plenary legislative authority to pass legislation to regulate private funding of political parties;

AND WHEREAS effect is given to this by—

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

BE IT THEREFORE ENACTED BY PARLIAMENT as follows:—

CHAPTER 1

INTERPRETATION

Definitions

1. In this Act, unless the context indicates otherwise—

'Commission' means the Electoral Commission established by section 3(1) of the *Electoral Commission Act, 1996*;

'Constitution' means the Constitution of the Republic of South Africa, 1996;

'Electoral Commission Act' means the Electoral Commission Act, 1996 (Act No. 51 of 1996);

'financial year' means an accounting period of a year that ends on 31 March each year;

'Funds' mean the *Represented Political Party Fund* and the *Multi-Party Democracy Fund*;

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

‘prescribe’ means prescribed by regulations made under section 23;

‘represented political party’ means a political party with representation in the national or provincial legislatures;

‘Represented Political Party Fund’ means the Represented Political Party Fund established in terms of section 2(1); and

‘this Act’ includes regulations made under section 23.

CHAPTER 2

FUNDS

Establishment of Represented Political Party Fund

2. (1) A Represented Political Party Fund is hereby established for the purpose of enhancing multi-party democracy by providing for the funding of political parties that participate in national or provincial legislatures.

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

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

- (a) money appropriated by an Act of Parliament;
- (b) any money recovered in terms of section 18; and
- (c) interest earned on money invested in terms of section 4(1).

Establishment of Multi-Party Democracy Fund

3. (1) A Multi-Party Democracy Fund is hereby established for the purpose of providing for private sources of funding for political parties that participate in national or provincial legislatures.

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

(3) Subject to subsection (4), the Commission must credit the account contemplated in subsection (2) with—

- (a) money received from any private source whether from inside or outside the Republic;
- (b) any money recovered in terms of section 18; and
- (c) with interest earned on money deposited or invested in terms of section 4(1).

(4) The Commission may not accept money received in terms of subsection (2) from—

- (a) any organ of state; or
- (b) any foreign government or foreign government agency.

(5) Any contributor contemplated in subsection (3)(a) may request the Commission not to disclose their identity or the amount of the contribution.

Investment of money in Funds

4. (1) Any money in the Funds that is not required immediately for making an allocation to political parties in terms of section 6 may be invested with the Public Investment Corporation in terms of the Public Investment Corporation Act, 2004 (Act No. 23 of 2004).

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

(3) The Commission must carry forward any money standing to the credit of Multi-Party Democracy Fund at the end of the financial year to the next financial year as a credit balance.

Management and control of Funds

5. (1) The chief electoral officer of the Commission is the accounting officer and chief executive officer of the Funds and responsible for their management and administration.

(2) For each financial year, the Commission must keep records in accordance with the standards of generally recognised accounting practice in respect of each of the Funds, setting out —

- (a) all money received or accruing to the Funds;
- (b) all allocations and payments made;
- (c) all expenditure arising from the allocation of money from the Funds; and
- (d) the current record of the capital and liabilities of the Funds during that year.

Allocation and payment of money to represented political party

6. (1) The Commission may only allocate money from the Funds to a represented political party.

(2) Any allocation from the Funds must be made to a represented political party in accordance with the prescribed formula.

(3) The prescribed formula must be based on—

- (a) in part, an equitable allocation taking into account a weighted scale of representation for an allocation to a political party with representation in the National Assembly or any provincial legislatures; and
- (b) in part, a proportional allocation taking into account the relationship that the number of a political party's representatives in both the National Assembly and the

provincial legislatures bears to the sum of the seats in these legislatures.

(4) The Commission must apply the prescribed formula taking into account the number of representatives of each political party and the number of seats in the respective legislatures based on the results of the election.

(5) The Commission may not take into account any money carried forward in terms of section 14(1) when it determines the allocation of money to a political party.

(6) Any allocation of money from the Funds to a political party ends when the party ceases to be a party with representation as contemplated in subsection (1).

(7) The Commission must pay the allocated amounts to each of the represented political parties at prescribed intervals.

Purposes for which money from these Funds may be used

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

- (a) the development of the political will of the 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;
- (f) ensuring continuous and vital links between the people and organs of state; and
- (g) complying with the provisions of this Act.

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

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

CHAPTER 3

DIRECT FUNDING OF POLITICAL PARTIES

Interpretation for purposes of this Chapter

8. For the purposes of this Chapter—

‘donation’—

- (a) includes a donation in kind and a donation made to a member of a political party; and
- (b) does not include—
 - (i) a membership fee of the political party or any levy imposed by the party on its elected representatives; or
 - (ii) any funds provided to political party by the National Assembly and provincial legislatures respectively in terms of sections 57(2)(c) and 116(2)(c) of the Constitution;

‘donation in kind’—

- (a) includes—
 - (i) any money lent to the political party other than on commercial terms;
 - (ii) any money paid on behalf of the political party for any expenses incurred directly or indirectly;
 - (iii) the provision of assets, services or facilities for the use or benefit of a political party other than on commercial terms; or
 - (iv) a sponsorship provided to the political party; and
- (b) does not include personal services provided on an voluntary basis;

‘foreign person’ means any person or entity other than—

- (a) a citizen or permanent resident of the Republic;
- (b) any company registered in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
- (c) any trust registered in terms of laws of the Republic regulating trusts;

‘political party’ includes any entity that accepts donations to support or oppose any registered party or its candidates in an election;

Prohibited donations

9. (1) Political parties may not accept a donation from any of the following sources:

- (a) Foreign governments or foreign government agencies;
- (b) subject to subsection (3), foreign persons or entities;
- (c) organs of state;
- (d) state-owned enterprises; or
- (e) the National Lottery as defined in section 1 of the Lotteries Act, 1997 (Act No. 57 of 1997).

(2) A political party may not accept a donation that it knows or ought reasonably to have known or suspected originates from the proceeds of crime and must report that knowledge or suspicion to the Commission.

(3) Nothing in subsection (1)(b) prevents a political party or a member of a political party from accepting a donation from a foreign entity for the purpose of—

- (a) training or skills development of a member of a political party; or
- (b) policy development of a political party.

Disclosure of donations to political party

10. (1) A political party must disclose all donations received above the prescribed threshold, to the Commission, in the prescribed form and manner.

(2) The Commission must publish the donations disclosed to it in terms of subsection (1) on an annual basis in the prescribed form and manner.

(3) Despite subsection (2), the Commission must publish the donations disclosed to it during an election year on the following basis:

- (a) one month before an election; and

- (b) twelve months prior to the date contemplated in paragraph (a), on a quarterly basis.

Prohibition on donation to member of political party

11. (1) No person or entity may make a donation to a member of a political party for party political purposes nor may a member receive any donation except on behalf of the party.

(2) No person may circumvent subsection (1) or any of the provisions of this Chapter.

CHAPTER 4

DUTIES OF POLITICAL PARTIES

Political party to furnish information to Commission

12. In order for the Commission to monitor compliance with this Act, a political party must furnish it with any information and documentation that is prescribed, or required in terms of a direction issued under section 16.

Represented political party to account for money paid to them by Funds

13. (1) A represented political party must—
- (a) deposit all donations received by that political party, membership fees and levies imposed by the political party on its representatives into an account with a bank registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990) in that party's name;
 - (b) keep a separate account with a bank registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990) into which all money allocated to it from the Funds must be deposited;

- (c) appoint an office-bearer or official of that political party as its accounting officer;
 - (d) appoint an auditor registered and practising as such in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005) to audit its books and financial statements.
- (2) The accounting officer contemplated in subsection (1)(c) must—
 - (a) account for all income received by the represented political party;
 - (b) ensure that—
 - (i) the money allocated from the Funds is not paid out for a purpose not authorised by this Act; and
 - (ii) the represented political party complies with this Act;
 - (c) keep separate books and records of account, in the prescribed manner, in respect of money allocated from the Funds and all transactions involving that money;
 - (d) within the prescribed period—
 - (i) prepare a statement showing all money received by the represented political party from the Funds during the previous financial year and the application of that money and the purposes for which the money has been applied;
 - (ii) prepare a statement showing all donations, all member fees and any levy imposed by the represented political party on its elected representatives during that financial year;

- (iii) submit those statements and the books and records of account to an auditor appointed in terms of subsection (1)(d).

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

- (a) indicating whether the donations received by the represented political party comply with section 9(1);
- (b) listing the donations required to be disclosed in terms of section 10(1);
- (c) listing the donations under the prescribed threshold;
- (d) indicating whether any income was received by the represented political party other than provided for in terms of this Act; and
- (e) indicating whether the transactions in the financial statements related to the money allocated from the Funds are in accordance with this Act.

(4) The accounting officer must submit the auditor's opinion and audited financial statements to the Commission within the prescribed period.

(5) The Auditor-General may at any time audit any political party's books and records of account and financial statements relating to money allocated to the party from the Funds and any donation received.

Unspent money at the end of the financial year

14. (1) Subject to subsection (2), any unspent money at the end of the financial year allocated from the Funds to a political party must be shown as a credit balance carried forward to the next financial year—

- (a) in the account contemplated in section 13(1)(b); and

(b) its books and records of account contemplated in section 13(2)(c).

(2) Any money carried forward is limited to an amount representing a prescribed percentage of the allocations that had been made for that financial year and any balance remaining must be paid by the political party to the Commission within three months after the end of the financial year.

(3) If Parliament or a provincial legislature is dissolved in terms of section 50 or section 109 of the Constitution respectively, or when the terms of these legislatures expire, a political party to whom money has been allocated from the Funds and that fails to obtain representation in any legislature in the next election must—

(a) within 21 days after the election—

(i) close its books and records in respect of those Funds; and

(ii) repay to the Commission the unspent balance of the money allocated to that party; and

(b) within three months after the election submit an audited financial statement of those books and records to the Commission.

CHAPTER 5

ENFORCEMENT

Commission's monitoring and inspection powers

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

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

- (a) to disclose any relevant information;
- (b) to produce, in whatever form, any relevant books, records, reports and other documentation;
- (c) for permission to—
 - (i) enter any premises during ordinary working hours to inspect any relevant book, record, report and other document; or
 - (ii) copy or store in any format, any information, books, records, reports or other documentation produced in terms of paragraph (a)(ii) or discovered in terms of paragraph (b); or
- (d) to answer a question about any relevant information.

(3) If any person refuses or fails to comply with a request contemplated in subsection (2), the Commission may apply to the Electoral Court for an order to compel compliance with that subsection.

(4) If a complaint relating to the income or expenditure of a political party is lodged with the Commission, it must, if the accounting officer of the Funds is of the view that there is *prima facie* substance to the complaint, investigate the complaint.

Commission's power to issue directions

16. (1) The Commission may issue a direction to a political party in the prescribed manner in order to avoid imposing a sanction—

- (a) after affording that party an opportunity to make representations; and

- (b) if it is of the opinion that the party fails to comply with this Act.

(2) The direction must indicate the following sanctions that the Commission may impose if the political party fails to comply with that direction:

- (a) Suspension of payment of allocated money under section 17;
- (b) the recovery of money irregularly accepted or spent under 18;
- (c) the imposition of an administrative fine in terms of section 19; or
- (d) the cancellation of the registration of the political party in terms of the Electoral Commission Act.

Power to suspend payment of money

17. (1) Subject to subsection (2), the Commission—

- (a) may suspend the payment of money to a represented political party envisaged in section 6(7) if it is satisfied on reasonable grounds that the party has failed to comply with this Act; and
- (b) must terminate the suspension if satisfied that the suspension is no longer justified in the light of that party's subsequent conduct.

(2) The Commission may only suspend payment in terms of subsection (1) if it has issued a direction under section 16.

Power to recover money irregularly accepted or spent

18. (1) A political party is liable to pay to the Commission any money that is—

- (a) accepted in contravention of sections 9, 10(1) or 11; or
- (b) spent in contravention of section 7.

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

- (a) instituting a civil claim; or
- (b) setting off the liability against any amount to be allocated to that political party from—
 - (i) the Multi-Party Democracy Fund in respect of a liability contemplated in subsection (1)(a);
 - (ii) the Represented Political Party Fund in respect of a liability contemplated in subsection (1)(b).

(3) Any money recovered in terms of subsection (1) must be credited to—

- (a) the Multi-Party Democracy Fund in respect of a liability contemplated in subsection (1)(a);
- (b) the Represented Political Party Fund in respect of a liability contemplated in subsection (1)(b).

(4) The political parties contemplated in subsection (1) may not share in any allocation of the recovered money.

Administrative fines

19. The Commission may impose an administrative fine in accordance with Schedule 1 in respect of a contravention or a repeated contravention of this Act.

Review or appeals

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

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

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

CHAPTER 6

GENERAL PROVISIONS

Report to Parliament

- 21.** (1) The Commission must for each financial year—
- (a) prepare a report in relation to the Funds, setting out—
 - (i) the amounts received by and accrued to the Funds;
 - (ii) the allocations made from the Funds to the political parties;
 - (iii) the amounts spent by each political party in connection with purpose under the prescribed categories; and
 - (iv) the balance in each of the Funds and any amounts owing to the Fund as at the end of that financial year;
 - (b) report on all donations made to political parties in that year; and
 - (c) submit the report and the Commission's books and records of account relating to the Funds to the Auditor-General for auditing.
- (3) The Auditor-General must audit and submit an audit report on the Commission's books and records in respect of the Funds.

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

Funding of political parties by legislatures and Municipal Councils

22. (1) No national or provincial legislature may fund political parties other than through sections 57(2) and section 116(2) of the Constitution, section 34 of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009) and this Act.

(2) The accounting officer of a legislature as defined in section 1 of the Financial Management of Parliament and Provincial legislatures Act, 2009 (Act 10 of 2009) must annually in the prescribed form and manner disclose any funding of political parties under sections 57(2) and 116(2) of the Constitution respectively, to the Commission.

Regulations

23. (1) The President, acting on a resolution of the National Assembly, may by proclamation in the *Gazette* make regulations in respect of matters contemplated in sections 6(2), 7(2)(e), 10(1) and 14(2).

(2) Subject to subsections (1) and (3), the Commission may make regulations on any matter that may or must be prescribed by notice in the *Gazette*.

(3) Before making any regulations in terms of subsection (1), the Commission must publish the proposed regulations for public comment.

(4) A regulation in terms of this Act must be made by notice in the *Gazette*.

Repeal and transitional provisions

24. (1) Save for as provided in this section, the Public Funding of Represented Political Parties Act, 1997 (Act No. 103 of 1997) is hereby repealed.

(2) Despite the repeal of the Public Funding of Represented Political Parties Act, 1997 under subsection (1)—

- (a) anything done in terms of that Act which may be done under or in terms of this Act continues to be valid and of full force and effect;
- (b) the Represented Political Parties Fund established under that Act is deemed to be the fund established in terms of section 2(1); and
- (c) any regulations made under that Act are deemed to be regulations under this Act.

(3) Despite the definition of financial year in section 1, the first financial year of the Multi-Party Democracy Fund runs from the date on which this Act comes into operation until 31 March of the following year.

(4) Despite section 10(3), the first disclosure in terms of paragraph (b) of that section must occur on 1 July 2018.

Short title and commencement

25. (1) This Act is called the Political Party Funding Act, 2017 and subject to subsection (2), comes into operation on a date determined by the President by Proclamation in the *Gazette*.

(2) Section 6(7) only comes into effect in respect of the Multi-Party Democracy Fund on a prescribed date.

SCHEDULE 1**MAXIMUM PERMISSIBLE FINES THAT MAY BE IMPOSED FOR
CONTRAVENING THIS ACT**

This Schedule sets out the maximum fine that may be imposed in terms of this Act for a contravention of certain provisions of this Act.

<i>Previous contraventions</i>	<i>Contravention of sections 12, 13(1) to (4) or 14(2) or (3)</i>	<i>Contraventions of sections 9(1),10(1) or 11</i>
No previous contravention	R40 000	R500 000
A previous contravention of the same provision within 2 years	R50 000	R600 000
Two previous contraventions of the same provision within 3 years	R75 000	R700 000
Three previous contraventions of the same provision within 3 years	R100 000	R800 000
Four previous contraventions of the same provision within 3 years	R150 000	R1 000 000

MEMORANDUM ON THE OBJECTS OF THE FUNDING OF POLITICAL PARTY BILL, 2017

1. OBJECTS OF THE BILL

Public funding for political parties represented in national and provincial legislatures is provided through the Public Funding of Represented Political Parties Act, No.103 of 1997 (“the Funding Act”).

On 6 May 2017 the National Assembly resolved to establish an ad hoc committee, in terms of National Assembly Rule 253 (1)(a), to—

“enquire into and make recommendations on funding of political parties represented in national and provincial legislatures in South Africa with a view to introducing amending legislation if necessary and, in so doing, consider –

- the model of public and private funding for political parties; and
- the need for, and possible means of, regulating private funding in all its forms as well as investment entities owned by political parties[;]”.

The *Ad Hoc* Committee called for public comment on how the Public Funding of Represented Political Parties Act, No 103 of 1997 may be strengthened to allow for greater transparency in the manner in which political parties are funded so as to ensure their effective functioning. The Committee received seventeen sets of written comments and proceeded to invited all those who commented to make oral submissions during public hearings held from 15 to 17 August 2017.

2. DISCUSSION OF THE BILL

- 2.1. The Preamble of the Funding of Political Party Bill, 2017 (“the Bill”) seeks to reflect the need to give effect to the constitutional obligation imposed in terms of section 236 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”). It further seeks to reflect Parliament’s plenary legislative authority in terms of section 44 to pass legislation concerning matters such as the regulation of private funding of political parties.

- 2.2. Clause 1 of the Bill contains the definitions.
- 2.3. Clause 2 of the Bill seeks to establish the Represented Political Party Fund for the purpose of enhancing multi-party democracy. This fund provides funding for political parties that participate in Parliament and provincial legislatures. It is credited with money appropriated by Parliament, money recovered in terms of clause 18 and interest earned on money invested in terms of clause 4(3).

This fund is deemed the existing fund established under Public Funding of Represented Political Parties Act, No 103 of 1997. See clause 24 in this regard.

- 2.4. In clause 3 of the Bill it is proposed that a Multi-Party Democracy Fund be established to provide for private sources of funding for political parties that participate in Parliament and provincial legislatures. This clause further prohibits funding from organs of state and foreign governments or agencies.
- 2.5. Clause 4 of the Bill proposes amongst other things that the Commission must deposit all money standing to the credit of each fund in a separate bank account and may invest the money that is not immediately required for making an allocation to political parties with the Public Investment Corporation.
- 2.6. Clause 5 of the Bill deals with the management of the two funds. It proposes that the chief electoral officer of the Independent Electoral Commission (“the Commission”) be the accounting officer and chief executive officer of both funds.
- 2.7. Clause 6 of the Bill amongst other things proposes to regulate the allocation and payment of money to political parties. This clause further provides that the allocation must be done in terms of a prescribed formula that is based:
- (a) on an equitable allocation taking in account:
 - (i) a fixed threshold for a minimum allocation to all political parties with representation in the National Assembly or the provincial legislatures; or
 - (ii) a weighted scale of representation for an allocation to political parties with representatives in the National Assembly or the provincial legislatures; and

- (b) a proportional allocation taking into account the relationship that the number of a political party's representatives in both the National Assembly and the provincial legislatures bears to the sum of the seats in these legislatures.

The clause further proposes that the Commission must pay allocated money at prescribed intervals.

- 2.8. Clause 7 of the Bill sets out the purposes for which money from the funds may be used. The clause also sets out what the money may not be used for.
- 2.9. Clause 8 of the Bill seeks to regulate the direct funding of political parties and contains definitions that are only applicable to the proposed Chapter 3.
- 2.10. Clause 9 of the Bill seeks to prohibit donations made directly to political parties from certain sources.
- 2.11. Clause 10 of the Bill seeks to regulate the disclosure of donations made directly to a political party. It provides for the disclosure of all donations above a prescribed threshold in a prescribed form and manner. It further provides for when the Commission must disclose that information.
- 2.12. Clause 11 of the Bill prohibits the direct funding of members of any political party.
- 2.13. Clause 12 of the Bill deals with the requirement on political parties to furnish the Commission with certain prescribed information and documentation.
- 2.14. Clause 13 of the Bill seeks to regulate how represented political parties must account for the money paid to them from the funds.
- 2.15. Clause 14 of the Bill provides for how the Commission must deal with unspent money at the end of the financial year. The clause also provides for how unspent funds must be dealt with in the event that Parliament or a provincial legislature is dissolved.
- 2.16. Clause 15 of the Bill deals with the Commission's monitoring and inspection powers.

- 2.17. Clause 16 of the Bill grants the Commission the power to issue a direction to a political party in order to avoid imposing a sanction.
- 2.18. Clause 17 of the Bill grants the Commission the power to suspend the payment of money under certain circumstances.
- 2.19. Clause 18 of the Bill grants the Commission the power to recover money irregularly accepted or spent by political parties.
- 2.20. Clause 19 of the Bill seeks to grant the Commission the power to impose administrative fines in respect of a contravention or repeated contravention.
- 2.21. Clause 20 deals with the rights of any person to review or appeal any decision of the Commission made in terms of the Bill. It further seeks to establish the Electoral Court as the court having exclusive jurisdiction to hear and determine any review or appeal against any decision of the Commission.
- 2.22. Clause 21 of the Bill provides for the reporting of the Commission to the Parliament.
- 2.23. Clause 22 of the Bill seeks to propose that legislatures may only fund political parties in terms of sections 57(2) and 116(2) of the Constitution, respectively. It further prohibits municipal councils from funding political parties and independent candidates.
- 2.24. Clause 23 of the Bill provides for the matters that the Commission to make regulations on, subject to the permission of the National Assembly in respect of certain matters.
- 2.25. Clause 24 of the Bill provides for the repeal of Act 103 of 1997, save as provided in the transitional provisions in this clause, which includes deeming the regulations under the Act 103 of 1997 to be regulations to be made under this Bill.
- 2.26. Clause 25 of the Bill contains the short title and commencement.

3. DEPARTMENTS/BODIES/PERSONS CONSULTED

The following departments/bodies or persons made oral submissions to the *Ad Hoc* Committee:

- National Treasury
- Independent Election Commission
- Southern African Catholics Bishops Conference
- African National Congress
- My Vote Counts
- COOL Youth Church
- Council for the Advancement of the South African Constitution
- Human Sciences Research Council
- South African History Archive
- Right2Know
- Corruption Watch
- Democracy Development Programme
- Public Affairs Research Institute
- Congress of South African Trade Unions

4. FINANCIAL IMPLICATIONS FOR THE STATE

The financial implications are limited to the resources the Commission would require to manage the additional fund.

5. PARLIAMENTARY PROCEDURE

- 5.1. The Committee is of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, 1996 since it contains no provisions to which the procedures set out in section 74 or 76 of the Constitution apply.
- 5.2. The Committee is of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.