

## CHAPTER 2:11

# POLITICAL PARTIES (FINANCE) ACT

*Acts 4/2001, 22/2001 (s. 4), 14/2002 (s. 2)*

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**AN ACT to provide for the financing of political parties by the State; to prohibit foreign donations to political parties and candidates; to repeal the Political Parties (Finance) Act [*Chapter 2:04*]; and to provide for matters incidental to or connected with the foregoing.**

[Date of commencement: 11th May, 2001.]

### PART I

#### PRELIMINARY

#### **1 Short title**

This Act may be cited as the Political Parties (Finance) Act [*Chapter 2:11*].

#### **2 Interpretation**

In this Act—

“by-election” means an election for the purpose of filling a casual vacancy in the membership of Parliament or a local authority;

[Definition as amended by section 3 of Act 14 of 2002]

“candidate” means a person nominated for the election to the office of President, or to Parliament or a local authority, whether standing as a member of a political party or as an independent;

[Definition as amended by section 3 of Act 14 of 2002]

“donation”, in relation to—

- (a) a political party or candidate, means any gift of money or property, subscription or affiliation fees, and money spent otherwise than by a political party or candidate to meet any expenses incurred by the party or candidate, and includes a loan, property or service provided to a political party or candidate otherwise than on commercial terms or below market valuation;
- (b) a member of a political party, means any donation described in paragraph (a) which is made for the purpose of securing the election of that member to any office in or for any purpose connected with the activities of that political party;

[Definition as amended by section 3 of Act 14 of 2002]

“elected member of Parliament” means a member of Parliament referred to in paragraph (a) of subsection (1) of section 38 of the Constitution;

[Definition as amended by section 3 of Act 14 of 2002]

“foreign donation” means a donation other than a local donation;

“general election” means a general election of members of Parliament held in terms of section 58 of the Constitution;

“local donation” means a donation by—

- (a) a permanent resident or citizen of Zimbabwe domiciled in Zimbabwe; or
- (b) a company incorporated in Zimbabwe which carries on business in Zimbabwe; or
- (c) any association of persons, whether incorporated or unincorporated, consisting exclusively of permanent residents or citizens of Zimbabwe, domiciled in Zimbabwe;

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may from time to time assign the administration of this Act;

“Parliamentary year” means the period beginning on the day after the last polling day of the most recent general election and ending on the anniversary of that polling day; or, in any year in which Parliament is dissolved, ending on the date of such dissolution;

“political party” means an association of persons the primary object of which is to secure the election of one or more of its members to a local authority or Parliament;

## PART II

### STATE FINANCING OF POLITICAL PARTIES

#### 3 Financing of political parties

(1) Subject to this Act, every political party shall be entitled in each Parliamentary year to receive from the State the sums of money that are payable to it in terms of this Act.

(2) The Minister shall, as soon as is practicable, and in any case no later than thirty days after the beginning of the financial year, publish, with the approval of the Minister responsible for finance, a notice in the *Gazette* specifying the total amount of moneys appropriated for all political parties and the amount that shall be paid to each individual political party in terms of this Act.

(3) For the purpose of subsection (2), each political party whose candidates received at least five *per centum* of the total number of votes cast in the most recent general election shall be entitled to the same proportion of the total moneys appropriated as the total number of votes cast for its candidates in the election bears to the aggregate of votes cast for all political parties that qualify to be paid moneys in terms of this subsection:

Provided that, where a candidate is declared elected in terms of section 46 or 49 of the Electoral Act [*Chapter 2:01*] without a poll having taken place, he shall be deemed to have received the votes of all the voters registered in the constituency concerned.

[Subsection as amended by section 3 of Act 14 of 2002]

(4) Whenever a by-election to fill a vacancy in Parliament is held after a general election, the Minister shall adjust the amounts payable to political parties in respect of the Parliamentary year following that in which the by-election was held, having regard to any changes in the total number of votes cast consequent on such by-election

Provided that, where a candidate is declared in terms of section 46 or 49 of the Electoral Act [*Chapter 2:01*] without a poll having taken place, he shall be deemed to have received the votes of all the voters registered in the constituency concerned.

[Subsection as amended by section 3 of Act 14 of 2002]

(5) For the purposes of this section, no account shall be taken of votes cast for any one or more members of Parliament who stood as independent candidates at the general election or by-election concerned but subsequently form or join a political party.

(6) As soon as practicable after the publication of the notice referred to in subsection (2), the Minister shall pay each political party the moneys it is entitled to receive in terms of this Act.

#### 4 Application for payment of moneys to qualifying political parties

(1) Not later than the end of the financial year in which a general election is held, any political party that qualifies to be paid moneys in terms of this Act shall make a written application to the Minister in such form and providing such information as may be prescribed or as the Minister may reasonably require.

(2) On receipt of an application in terms of subsection (1), the Minister shall, if he is satisfied that the political party concerned qualifies to be paid moneys in terms of this Act; notify the political party in writing that it qualifies to be paid moneys in terms of this Act, and if he is not so satisfied, he shall reject the application and forthwith notify the political party giving the reasons for his decision.

(3) A political party which is aggrieved by a decision of the Minister in terms of subsection (2) shall have a right of appeal to the High Court from that decision.

(4) On an appeal in terms of subsection (3), the High Court may confirm, vary or reverse the decision of the Minister.

[Subsection as substituted by section 3 of Act 14 of 2002]

(5) An appeal shall lie to the Supreme Court from any decision of the High Court.

(6) .....

[Subsection repealed by section 3 of Act 14 of 2002]

(7) .....

[Subsection repealed by section 3 of Act 14 of 2002]

## **5 Moneys to be paid from Consolidated Revenue Fund**

All moneys that are to be paid to political parties in terms of this Act shall be paid out of moneys appropriated for the purpose by Parliament in respect of each Parliamentary year.

### **PART III**

#### **DONATIONS TO POLITICAL PARTIES, MEMBERS AND CANDIDATES**

## **6 Prohibition of foreign funding**

(1) No political party, member of a political party or candidate shall accept any foreign donation, whether directly from the donor or indirectly through a third person.

(2) For the purposes of subsection (1), any donation accepted by a member of a political party shall be deemed to have been accepted by the political party, unless the member wilfully fails to disclose such donation to the political party, in which case the candidate shall be liable for any contravention of subsection (1).

(3) Subject to subsection (4), any political party which or member of a political party or candidate who contravenes subsection (1) shall be guilty of an offence and liable to a fine—

(a) equivalent to the market value of the donation; or

(b) level twelve;

whichever is the greater amount.

[Paragraph as amended by section 4 of Act 22 of 2001]

(4) A political party, member of a political party or candidate shall be deemed not to have accepted a donation in contravention of subsection (1) if, within thirty days of receiving the donation, the party, member or candidate returns the donation to the donor.

(5) The value of a monetary donation made in foreign currency shall, for the purposes of this section, be calculated by reference to the rate of exchange of that currency to the Zimbabwe dollar prevailing on the date when the donation is received.

(6) In addition to any punishment it may impose under subsection (3) and without derogation from its powers under any enactment, a court convicting a person of contravening subsection (1) shall declare forfeited to the State any foreign donation, whether consisting of an article or money or both, which forms the subject-matter of the offence.

(7) The proviso to subsection (1) and subsections (3), (4), (5) and (6) of section 62 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply, *mutatis mutandis*, in relation to a declaration in terms of subsection (6).

(8) .....

[Subsection repealed by section 3 of Act 14 of 2002]

(9) .....

[Subsection repealed by section 3 of Act 14 of 2002]

## **7 Solicitation of donations by foreigners prohibited**

(1) No person who is a citizen of a foreign country domiciled in a country other than Zimbabwe shall, within Zimbabwe, solicit donations from the public on behalf of any political party or candidate.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine—

(a) equivalent to the market value of the donations collected by that person; or

(b) level twelve;

whichever is the greater amount or to imprisonment for a period not exceeding five years, or both.

[Paragraph as amended by section 4 of Act 22 of 2001]

(3) Subsections (6), (7), (8) and (9) of section *six* shall apply in relation to an offence in terms of this section.

## PART IV

### GENERAL

#### 8 Regulations

(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.

[Subsection as amended by section 3 of Act 14 of 2002]

(2) Regulations made in terms of subsection (1) may provide for—

- (a) prescribing the form of the application and return referred to in section *four*;
- (b) the form and manner in which records of donations shall be kept by political parties;
- (c) 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.

(3) Regulations made under this section may prescribe penalties for any contravention of them not exceeding a fine of level seven.

[Paragraph as amended by section 4 of Act 22 of 2001]

#### 9 Repeal and savings

(1) The Political Parties (Finance) Act [*Chapter 2:04*] is repealed.

(2) Notwithstanding subsection (1), anything done or commenced under the Political Parties (Finance) Act [*Chapter 2:04*] and which, immediately before the date of commencement of this Act, had or was capable of acquiring legal effect shall be deemed, on or after that date, to have been done or commenced under the appropriate provision of this Act and shall continue to have or to be capable of acquiring, as the case may be, the same legal effect.

(3) Any regulations or notices which, immediately before the date of commencement of this Act were in force under the Political Parties (Finance) Act [*Chapter 2:04*] shall remain in force as if they were made by the appropriate authority under this Act.

#### 10 Transitional provision

The appropriation in terms of section 6 of the Political Parties (Finance) Act [*Chapter 2:04*] of the sum of—

- (a) sixty-five million dollars for the year 2000, shall be deemed to have been an appropriation for the year ending on the 25th June, 2000;
- (b) one hundred million dollars for the year 2001, shall be deemed to have been an appropriation for the year beginning on the 26th June, 2000.