

MALAWI GOVERNMENT

(Published 2nd February, 2018)

Act

No. 1 of 2018

I assent

PROF. ARTHUR PETER MUTHARIKA

PRESIDENT

24 January, 2018

ARRANGEMENT OF SECTIONS

SECTION

PART I—PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II—GENERAL PRINCIPLES

3. General principles

PART III—THE OFFICE OF THE REGISTRAR

4. Establishment of the office of the Registrar
5. Appointment of the Registrar
6. Powers, functions and duties of the Registrar
7. Independence of the Registrar
8. Tenure of office of the Registrar
9. Funds for the Office of the Registrar
10. Accounts

PART IV—REGISTRATION AND DEREGISTRATION OF POLITICAL PARTIES

11. Register
12. Application for registration of a political party
13. Certificate of registration and its effect
14. Refusal to register
15. Review of refusal to register
16. Deregistration
17. Review of decision to deregister
18. Notice of change in registered particulars

SECTION

19. Failure to notify changes
20. Refusal to register amendments

PART V—FINANCES OF POLITICAL PARTIES

21. Entitlement to State funding
22. Uses of State funding
23. Banking, accounts and audit in respect of State funding
24. Suspension of State funding
25. Closure of books and records of account upon dissolution of Parliament
26. Power of Minister responsible for finance to give financial instructions
27. Private funding and receipt of donations
28. Separate bank account for private funding
29. Registration and declaration of assets
30. Auditing of private financing
31. Members' access to financial records

PART VI—RIGHTS AND DUTIES OF POLITICAL PARTIES IN ELECTIONS

32. Right to participate in elections
33. Freedom of assembly
34. Freedom of expression

PART VII—MISCELLANEOUS PROVISIONS

35. Inspection by the Registrar
36. Access to information received by the Registrar
37. Onus of proof
38. False information, obstruction, etc., of the Registrar
39. Unauthorized distribution of inexact version of a political party constitution
40. Use of threats and violence against donors
41. Prohibition of handouts
42. Prohibition of multiple membership to political parties
43. General penalty
44. Regulations

PART VIII—REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

45. Repeal and savings
 46. Status of political parties already registered
 47. Saving of existing rights, powers, etc.
 48. Compliance with this Act
- Schedule

An Act to make provision for regulating the registration, financing and functioning of political parties; and to provide for matters incidental thereto and connected therewith

ENACTED by the Parliament of Malawi as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Political Parties Act, 2018, and shall come into force on such date as the Minister shall appoint, by notice published in the *Gazette*. Short title and commencement

2. In this Act, unless the context otherwise requires— Interpretation

“campaign material” means a political party’s or candidate’s manifesto, advertisement, billboard, posters, t/shirts, clothes, and other materials depicting colours regarding symbols and other designs of a political party or pictorial images of a candidate and includes materials that may be published as campaign materials and these include; a manifesto, advertisement, bill board, poster, booklet, pamphlet, leaflet, magazine, newspaper, t-shirt, clothes or other materials depicting a colour, symbol, picture or other design for a political party or a candidate;

“candidate” means a person nominated to contest in a presidential, parliamentary or local government election, and includes an independent candidate as defined under the Parliamentary and Presidential Elections Act; Cap. 2:01

“handouts” means transactions whereby political parties, bodies, candidates or any other person distribute private goods, cash, gifts and other items to a person as an enticement to vote for the political party or the candidate that shall not include matters or transactions specified in the Schedule;

“member” means a person eligible to vote under any written law and whose name, address and signature are entered in a register of members kept and maintained by that political party, but shall not include a mere sympathiser, follower or supporter of a political party whose name is not entered into the party’s register;

“Minister” means the Minister, for the time being, responsible for justice;

“office bearer” includes a leader of a political party;

“political party” means a combination of persons who have constituted themselves for a political purpose and are registered as such under this Act; and

“Registrar” means the Registrar of Political Parties appointed under section 5.

PART II—GENERAL PRINCIPLES

General principles

3.—(1) The following principles shall, at all times, be adhered to in the implementation and application of this Act—

(a) respect, by political parties in conducting their affairs, of fundamental principles and rights enshrined in the Constitution;

(b) freedom by all persons to form a political party and to cease to be a member of a political party, and no person shall be compelled to belong to a political party;

(c) non-discrimination, in enjoyment of rights and privileges of membership of a political party to which a person is a member, on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, disability, property, birth or other status or condition; and

(d) gender equality which shall ensure that a political party comprise in so far as it is practicable with the principles of gender equality when appointing membership of party organs and committees.

(2) In implementation and application of the principles stipulated in subsection (1), due regard shall be given to the need to accord a political party the right to regulate its own affairs and procedures, including the rights and duties of its members.

PART III—THE OFFICE OF THE REGISTRAR

Establishment of the office of the Registrar

4.—(1) There shall be a Registrar of Political Parties (in this Act otherwise referred to as the “Registrar”) who shall be appointed by the Minister and confirmed by the Public Appointments Committee through a competitive process and whose office shall be a public office.

(2) In addition to the Registrar, there shall be appointed in the public service such other officers subordinate to the Registrar as are necessary for the proper performance of the functions of the Registrar.

(3) Until appointments under subsections (1) and (2) have been made, the officer for the time being holding the office of Registrar General shall hold, or act in the office of Registrar and the officers subordinate to him shall be the officers for the purposes of subsection (2).

Appointment of the Registrar

5.—(1) Nominations for appointment to the office of Registrar shall be received from the public by way of a public advertisement placed by the Civil Service Commission and the successful candidate shall be appointed in accordance with section 4 (1).

- (2) The person to be appointed to the office of Registrar shall—
- (a) be a holder of a degree in law, social science or political science with at least ten years post-qualification experience;
 - (b) have sufficient knowledge of political systems;
 - (c) within the last seven years, not have been convicted by a competent court of a crime involving dishonesty or moral turpitude;
 - (d) not have been declared bankrupt; and
 - (e) not hold any other public office.

6.—(1) The Registrar shall oversee the overall administration and the implementation of this Act.

Powers,
functions and
duties of the
Registrar

(2) Without prejudice to the generality of subsection (1), the Registrar shall—

- (a) register, regulate, monitor and investigate political parties to ensure compliance with this Act;
- (b) ensure publication of audited annual accounts of political parties;
- (c) verify and make publicly available the list of all office bearers of political parties;
- (d) maintain a register of political parties and the symbols of the political parties;
- (e) ensure and verify that no person is a member of more than one political party;
- (f) receive and investigate complaints received under this Act; and
- (g) perform such other functions as may be conferred by this Act or any other written law.

7. The Registrar shall, in the exercise of his powers, functions and duties, be independent of the interference or direction of any other person or authority.

Independence
of the
Registrar

8.—(1) The Registrar shall serve a term of three years but he may be appointed for such further term or terms not exceeding three years subject to satisfactory performance.

Tenure of
office of the
Registrar

(2) The Registrar shall be removed from office on any of the following grounds—

- (a) incompetence;
- (b) misconduct that brings the Office into disrepute;
- (c) undischarged bankruptcy;

(d) non-disclosure of interest;

(e) if he ceases to hold the qualifications for appointment under section 5;

(f) involvement in active politics; or

(g) incapability to perform his duties as Registrar by reason of mental or physical infirmity.

(3) The Registrar shall only be removed from office by the appointing authority.

(4) The Registrar shall not be removed from office unless he has been given an opportunity to be heard.

Funds for the
Office of the
Registrar

9. The funds of the Office of the Registrar shall consist of—

(a) such sums as shall be appropriated by Parliament for the purpose of the Office;

(b) such sums as may be payable to the Office by way of—

(i) fees;

(ii) fines; and

(iii) donations.

Accounts

10.—(1) The Office of the Registrar shall maintain, with such bank as the Minister may determine, a designated account into which shall be paid the funds payable to the Office.

(2) The Office of the Registrar shall cause to be kept proper books of accounts of the payments made to the Office.

(3) The accounts related to the Office of the Registrar shall be audited annually by the Auditor General.

PART IV—REGISTRATION AND DEREGISTRATION OF POLITICAL PARTIES

Register

11.—(1) The Registrar shall keep a register in which shall be recorded such particulars relating to a political party as are prescribed in this Act.

(2) A copy of an entry in the register certified by the Registrar or a person authorized by the Registrar shall, for the purposes of any written law, be *prima facie* evidence of the facts stated in the certificate.

Application
for registration
of a political
party

12.—(1) A political party, consisting of not less than one hundred persons in each of the districts of Malawi who are eligible to vote, may apply in writing to the Registrar for registration of the party under this Act.

(2) An application for registration shall be signed by the office bearers of the political party and shall—

- (a) specify the name of the party; and
- (b) be accompanied by—
 - (i) two copies of the constitution, rules and manifesto of the party, duly certified by the leader of the party;
 - (ii) the particulars of the registered office of the party;
 - (iii) a list giving the names and postal addresses of the office bearers of the party;
 - (iv) a list giving the names, addresses and signatures of not less than one hundred members of the party and resident in each of the districts of Malawi; and
 - (v) a graphic representation of the symbol of the party in the form prescribed by the Registrar.

(3) The list referred to in paragraph (b) (iv) shall be accompanied by a written confirmation from the District Commissioner of each district that the people mentioned in the list are residents of that district and are eligible to vote.

(4) For the purpose of this Act, "office bearers of a political party" shall comprise, in the minimum, the president, the secretary general and the treasurer general of the party.

13.—(1) Upon registering a political party, the Registrar shall—

- (a) issue the party with a certificate of registration;
- (b) register, and stamp copies of the constitution, rules and manifesto of the party submitted with the application; and
- (c) return to the party one copy of the constitution, rules and manifesto of the party.

Certificate of registration and its effect

(2) Where the Registrar issues a certificate of registration of a political party, the party shall become—

- (a) a body corporate with perpetual succession and a common seal;
- (b) capable of suing and being sued in its corporate name;
- (c) capable of acquiring and disposing of any moveable or immovable property; and
- (d) able, in the exercise of its powers, functions and duties, to do such acts and perform such things as bodies corporate may by law do or perform.

(3) A political party shall display its certificate of registration at a conspicuous place at its registered office.

(4) The Registrar shall, within thirty days of registering a political party, publish a notice of the registration in the *Gazette*.

Refusal to
register

14.—(1) The Registrar may refuse to register a political party if he is satisfied that—

(a) the application is not in conformity with this Act;

(b) the name of the party—

(i) is identical to the name of an existing political party or a political party that has been deregistered under this Act:

Provided that where five years have elapsed since the deregistration is made, the application to register may be granted;

(ii) so nearly resembles the name of an existing political party or a political party which has been deregistered under this Act, such that the name may cause or lead to confusion:

Provided that where five years have elapsed since the deregistration is made, the application to register may be granted;

(iii) denotes a religious faith or a regional or ethnic identity;

or

(iv) is provocative to, or offends against, public decency and morals or is contrary to any other written law;

(c) the symbol of the party so resembles a symbol of another political party registered under this Act or a political party which has been deregistered under this Act, such that the symbol may cause or lead to confusion:

Provided that where five years have elapsed since the deregistration is made, the application to register may be granted;

or

(d) the purpose or object of the party is unlawful.

(2) A political party shall be deemed to have a purpose or object which are unlawful for the purpose of this Act if—

(a) it seeks, directly or indirectly, to further ethnical, racial or religious discrimination or discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, disability, property, birth or other status or condition;

(b) its purpose, object or membership is based on a religious faith;

(c) it advocates or seeks to effect political change in the Republic through violence or unlawful means; or

(d) it seeks to secede any part of the Republic from the Republic.

(3) For the purposes of determining whether a political party has an unlawful purpose or objects, the Registrar may consider any document issued or statement made by, or on behalf of, the party or by an office bearer of the party.

(4) Where the Registrar refuses to register a political party, he shall, within thirty days, serve upon the party a notice in writing to that effect and shall specify the grounds for his refusal.

15. A political party that is aggrieved by the decision of the Registrar made under section 14 may, within thirty days of receiving the notice of refusal, apply to the High Court, through an office bearer, for the review of the decision of the Registrar, and the High court may make such order as it thinks fit.

Review of
refusal to
register

16.—(1) The Registrar shall deregister a political party, on his own motion or upon application by a member of the political party—

Deregistration

(a) if he is satisfied that—

(i) the registration of the party was obtained by fraud or mistake;

(ii) the party has not held a convention for a period of at least five consecutive years from the date of its registration or the date the party held its last convention;

(b) where the party has secured none of the following after two general elections—

(i) at least a seat in parliamentary elections; or

(ii) at least five per cent of national votes for parliamentary elections; or

(iii) at least two seats in local government elections or ten per cent of the total national votes in the local government elections; or

(c) where the party has been dissolved in accordance with its constitution.

(d) if the party, after notice of the Registrar requiring the party to comply with this Act, fails to do so within thirty days; or

(e) if the Registrar is satisfied that the party has ceased to exist.

(2) The Registrar shall, not less than twenty one days before deregistering a political party under subsection (1)—

(a) issue a written notice informing the party of his intention to deregister the party and the reasons for the intention; and

(b) request the party to give reasons in writing within a period specified in the notice why the party should not be deregistered.

(3) The Registrar shall, within thirty days of deregistering a political party, publish a notice of the deregistration in the *Gazette*, and shall recommend to the Clerk to the National Assembly for the Minister responsible for finance to suspend the funding of the deregistered political party.

(4) For purposes of this section, "convention" means an assembly of delegates or representatives of a political party for purposes of nominating, appointing or electing candidates for office and adopting party policies or rules, and includes a national conference aimed at achieving the same purpose.

Review of
decision to
deregister

17.—(1) Where a political party has been deregistered, the party may, within fourteen days after the publication of the notice of deregistration in the *Gazette*, apply to the High Court for the review of the decision to deregister the party, and the High Court may make such order as it thinks fit.

Notice of
change in
registered
particulars

18.—(1) A political party shall, within fourteen days of any change in its registered particulars, notify the Registrar in writing of such change.

(2) Where the change under this section involves amendments to a political party's constitution or manifesto, the political party shall submit two copies of the amended constitution or manifesto to the Registrar within fourteen days of making such amendment.

(3) Upon registering an amendment submitted under subsection (2), the Registrar shall stamp the two copies of the amended constitution or manifesto and return a copy of each to the political party.

Failure to notify
changes

19. A political party which fails to comply with section 18 commits an offence and is liable to a fine of K10,000,000, and to a further fine of K500,000 for each day that the offence continues.

Refusal to
register
amendments

20.—(1) The Registrar may refuse to register an amendment submitted under section 18(2) if it appears to the Registrar that, by reason of the amendment—

(a) the purpose or objects of the political party would be unlawful; or

(b) the amendment contravenes this Act.

(2) Where the Registrar refuses to register an amendment under subsection (1), he shall give notice in writing to the political party, informing the party of his refusal to register the amendment, and giving reasons for such refusal.

(3) Where the Registrar refuses to register an amendment under subsection (1), any office bearer of the political party may, within fourteen days of the date of the notice of refusal, seek review of the decision to refuse by the High Court and the High Court may make such order as it thinks fit.

PART V— FINANCES OF POLITICAL PARTIES

21.—(1) A political party which has secured more than one-tenth of the national vote in parliamentary elections shall be entitled to be provided with funds by the State to ensure that, during the life of any Parliament, the party has sufficient funds to continue to represent its constituency.

Entitlement to
State funding

(2) The provision of funds to political parties by the State shall be made quarterly.

22.—(1) A political party shall use funds received from the State for any of the following purposes—

Uses of State
funding

(a) promoting the representation of the party in Parliament;

(b) promoting active participation of individual citizens in political life;

(c) covering of the election expenses of a political party and the broadcasting of the policies of the political party;

(d) the organization by the party of civic education in democracy and other political processes; and

(e) administrative and staff expenses of the party.

(2) The funds received from the State shall not be used for personal gain.

23.—(1) A political party which receives funding from the State shall—

Banking,
accounts and
audit in
respect of
State funding

(a) keep, with a commercial bank in Malawi, a separate bank account into which funds provided to the party by the State shall be deposited;

(b) keep proper books and records of accounts in relation to State funds, and shall balance its accounts for that year and produce statements of final accounts within six months after the end of each financial year; and

(c) submit the final accounts to the Registrar who shall forward a copy of the accounts to the Auditor General and the Clerk to the National Assembly.

(2) The Auditor General or an auditor appointed by the Auditor General shall audit the financial records of a political party in respect of the State funds which a political party receives pursuant to section 21.

(3) The Auditor General or the auditor appointed under subsection (2), shall present a report of the audited accounts to—

- (a) the Registrar;
- (b) the political party concerned; and
- (c) the Secretary to the Treasury.

(4) Upon considering the report presented under subsection (3), the Registrar may recommend to the Secretary to the Treasury to disallow any item of expenditure which is contrary to this Act.

(5) The Secretary to the Treasury shall have power to—

- (a) surcharge the amount of any expenditure disallowed on the party;
- (b) surcharge any sum which has not been duly brought into account on the party;
- (c) surcharge the amount of any loss or deficiency occasioned by the negligence or misconduct of any person on the party; or
- (d) set off the amount irregularly spent against any allocation that may be or may become payable to the party.

(6) Any person aggrieved by a decision of the Secretary to the Treasury under this section may apply to the High Court for a review of the decision.

(7) Any sum surcharged on a political party shall be payable to the Registrar within one month of the written notification of the surcharge to such party, or in the case of an application under subsection (6), within one month of the decision of the High Court if such decision confirms the surcharge and shall be recoverable as a debt to the Government.

Suspension of
State funding

24.—(1) The Secretary to the Treasury may, on the recommendation of the Registrar, suspend the allocation of funds to a political party if the party has failed to comply with any requirement under this Part.

(2) Where the Secretary to the Treasury intends to suspend the provision of funds to a political party pursuant to subsection (1), by the State, he shall—

- (a) by written notice inform the party of the intended suspension and the reasons for the suspension; and

(b) request the party to give reasons in writing within a period specified in the notice why the provision of funds by the State should not be suspended.

25. Where Parliament is dissolved, a political party represented in Parliament shall—

Closure of books and records of account upon dissolution of Parliament

(a) close the party's books and records of account kept in terms of section 23 not later than twenty-one days before the date set for the general elections and shall within fourteen days thereafter submit an audited statement in respect of those books and records of account to the Registrar; and

(b) not later than the day immediately before the date set for the general elections, repay to the Registrar any unspent balances as at the date when the books and records of account were closed, of all funds that had been allocated to the party.

26. Subject to the Public Audit Act and the Public Finance Management Act, the Minister responsible for finance may issue written instructions for the better control and efficient management of funds provided to political parties under this Act.

Power of Minister responsible for finance to give financial instructions
Cap. 37:01
Cap. 37:02

27.—(1) A political party may receive membership fees from its members.

Private funding and receipt of donations

(2) A political party may, for the purposes of financing its activities, appeal for, and receive donations from, any individual or organization, within or outside Malawi:

Provided that the source of every donation, whether in cash or in kind and whether once off or cumulatively, with a monetary value of at least K1,000,000 from an individual donor and of at least K2,000,000 from an organization shall, within ninety days of its receipt, be declared to the Registrar by the political party concerned.

(3) A political party shall not be eligible to receive donations from state owned corporations.

(4) A political party may perform any lawful activities for the purpose of raising funds for the party.

(5) A secretary general of a political party shall be personally responsible for declaring to the Registrar the source of any donation that requires disclosure under subsection (2).

(6) A secretary general of a political party who—

(a) fails to comply with subsection (2); or

(b) gives false information in relation to donations received by a political party under subsections (2), commits an offence and shall, upon conviction, be personally liable to a fine equal to the amount of the funds or the value of the assets not declared or in relation to which false information was given, and to imprisonment for two years.

Separate bank account for private funding

28. A political party shall ensure that all donations received by the party under section 27 in the form of money are deposited into a separate bank account held in the name of the political party.

Registration and declaration of assets

29.—(1) A political party shall ensure that the ownership of all donations received by the party under section 27 in the form of assets are vested in the name of the party.

(2) A political party shall, on the date of its application for registration and thereafter after every five years, declare the assets owned by the political party to the Registrar in the prescribed form.

Auditing of private financing

30.—(1) A political party which receives private funding under this Act shall have the financial records of the party, in respect of the private funding, audited by a certified public accountant.

Members' access to financial records

31. A political party shall, at least once every year, make available to its members all financial records of the party.

PART VI—RIGHTS AND DUTIES OF POLITICAL PARTIES IN ELECTIONS

Right to participate in elections

32.—(1) A political party shall have the right to nominate candidates to contest in presidential, parliamentary or local government elections and to campaign for any candidate in the elections, and in exercising this right, parties shall endeavour to achieve fair gender representation.

(2) Any person or organization, other than a political party or an independent candidate registered for participating in an election, shall not electioneer or authorize any person to act on its behalf, in connection with an election.

(3) A person shall not act on behalf of, or represent himself as acting on behalf of, a political party in connection with or for the purpose of a specified election unless the person is a member of, and has been authorized in writing to act on behalf of, the political party.

(4) A person who contravenes this section commits an offence and shall be liable to a fine of K5,000,000, and in the case of a political party, a fine of K10,000,000.

Freedom of Assembly

33.—(1) A political party shall have the right to organize and conduct public rallies without unlawful interference from the State, other political parties, or any person.

(2) A person who unduly interferes with another political party in exercising the right of a political party under subsection (1) commits an offence and shall, upon conviction, be liable to a fine of K5,000,000, and in the case of a political party, a fine of K10,000,000.

(3) The imposition of the fine by the Court under subsection (2) shall be without prejudice to penalties which the Registrar may impose under this Act.

34.—(1) A political party shall have the right to freely publish, or import into Malawi, its election campaign materials and to be accorded adequate facilities for access to public information reasonably required for such publication.

Freedom of expression

(2) A political party shall have the right to equitable and balanced coverage during presidential, parliamentary and local government elections by the Malawi Broadcasting Corporation established under the Communications Act and every media organization funded by the State.

Cap. 68:01

(3) Any person who obstructs a political party from exercising its right under this section commits an offence and shall, upon conviction, be liable to a fine of K5,000,000, and in the case of a political party, a fine of K10,000,000.

PART VII—MISCELLANEOUS PROVISIONS

35. The Registrar may, at any time after the registration of a political party, require the political party to submit to him any document issued or produced by it or in its name for any purpose and may at any reasonable time inspect and take or extract from copies of, or require an office bearer or employee of a political party to produce in readable form and provide him with, a copy of or extract from the record of the political party.

Inspection by the Registrar

36. Any person shall have the right of access to information received by the Registrar in the exercise of his functions under this Act.

Access to information received by the Registrar

37. Where a written law prohibits the doing of anything except by, or restricts the doing of anything to, a political party, the onus of proving that—

Onus of proof

(a) a political party is registered under this Act shall be on the person who claims that it is so registered; and

(b) a person is an office bearer or member of, or has been authorized by, the political party in respect of which he claims to

be acting shall be on the person who claims to be an office bearer or member of or to be authorized by, the party.

False information, obstruction, etc., of the Registrar

38. A person who—

(a) for the purpose of obtaining the registration of a political party, wilfully—

(i) provides any false or misleading information;

(ii) makes any false declaration; or

(iii) forges or otherwise submits any document which he knows to be false or misleading, to the Registrar or any person authorized by the Registrar;

(b) fails to furnish the Registrar or any person authorized by the Registrar with any information, document or extract when required or within the time required;

(c) obstructs the Registrar or any person authorized by the Registrar in the performance of his functions under this Act,

commits an offence and shall, upon conviction, be liable to a fine of K5,000,000, and imprisonment for two years.

Unauthorized distribution of inexact version of a political party constitution

39.—(1) Save as provided in subsection (2), a person shall not distribute to another person a document which purports to be a copy of, or part of, or an extract from, the constitution of the political party, unless the document is an exact copy of or an exact copy of the part of or exact extract from the latest registered copy of the constitution of the political party.

(2) Notwithstanding subsection (1), a person may distribute to—

(a) the Registrar or a person authorized by the Registrar in connection with the performance of his functions under this Act; or

(b) a police officer in connection with an offence under this Act or any other written law,

a copy of any document referred to in subsection (1).

(3) A person who contravenes subsection (1) commits an offence and shall, upon conviction, be liable to a fine of K2,000,000 and imprisonment for twelve months.

Use of threats and violence against donors

40. Any person who—

(a) uses or threatens to use physical force or violence, injures, damages or harms;

(b) issues economic threats to harm; or

(c) threatens to impose economic sanctions on,

another person, who donates or intends to donate any funds to a political party, a candidate, or a member of his family or any of his undertakings on account of the donation, commits an offence and is liable to a fine of K10,000,000 and imprisonment for five years.

41.—(1) A candidate or political party or body or any person contesting or intending to contest in an election under this Act, shall not at any time issue a handout. Prohibition of handouts

(2) A person shall not solicit or procure another person to issue handouts.

(3) A person who contravenes this section commits an offence, and shall, upon conviction, be liable to a fine of K10,000,000 and to imprisonment for five years.

(4) Notwithstanding any fine or imprisonment annexed to contravention of this section, the court may, upon convicting a person guilty of an offence under this section, make any other order which the court considers just and appropriate for the purpose of remedying the effect of the offence.

(5) The Minister shall, in consultation with the Electoral Commission, political parties represented in the National Assembly and other relevant stakeholders in election matters, make regulations to govern the prohibition of handouts under this Act in addition to exemptions specified in the Schedule.

42.—(1) A person shall not be member of more than one political party at a given time. Prohibition of multiple membership to political parties

(2) A person who contravenes this section commits an offence and shall, upon conviction, be liable to a fine of K2,000,000 and imprisonment for twelve months.

43.—(1) A person who commits an offence under this Act for which no punishment has been provided for in this Act shall, upon conviction, be liable to a fine of K10,000,000 and imprisonment for five years. General penalty

(2) Where the offender under subsection (1) is a political party—

(a) the party shall be liable to a fine of K15,000,000; and

(b) any person who is an accessory to the commission of the offence shall be severally or jointly liable with the political party.

44.—(1) Save as otherwise provided for in section 41, the Minister may, on the recommendation of the Registrar, make regulations for the better carrying into effect of the provisions of this Act. Regulations

Cap. 1:01

(2) Notwithstanding section 21(e) of the General Interpretation Act, the regulations made under this Act may create offences in respect of any contravention to the regulations, and may for any such contravention impose a fine of up to K10,000,000 and to imprisonment for up to five years.

PART VIII—REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

Repeal and
savings
Cap. 2:07

45.—(1) The Political Parties (Registration and Regulation) Act is hereby repealed.

(2) Any subsidiary legislation made under the Act repealed by subsection (1), in force immediately before the commencement of this Act—

(a) shall remain in force, unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; and

(b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

Status of
political
parties already
registered
Cap 2:07

46. Subject to section 48, any political party which, immediately prior to the commencement of this Act, was registered under the Political Parties (Registration and Regulation) Act repealed by section 45 shall be deemed to have been registered under this Act.

Saving of
existing rights,
powers, etc.
Cap. 2:07

47. Any act done, and any power exercised or right acquired by any political party pursuant to the Political Parties (Registration and Regulation) Act repealed by section 45 shall not be invalid by virtue of that repeal only.

Compliance
with this Act

48.—(1) Any political party deemed to have been registered under this Act in accordance with section 46 shall, not later than one year, comply with this Act.

(2) The Registrar shall deregister any political party that fails to comply with subsection (1).

(3) The Registrar shall, thirty days before deregistering a political party under subsection (2), give notice in writing to the political party of his intention to deregister, giving reasons for the intended deregistration.

(4) Where a political party has been deregistered under subsection (2), the political party may, within thirty days of the deregistration, apply to the High Court for a review of the decision to deregister the political party, and the High Court may make such order as it thinks fit.

SCHEDULE

s. 41(5)

THE FOLLOWING MATTERS AND TRANSACTIONS SHALL NOT
CONSTITUTE HANDOUTS

1. Campaign materials
2. Facilitation of Political Party meetings or activities such as transport refunds for candidates entourage, transport refunds for entourage, meals for entourage or entertainment
3. Unpublicised religious obligations and offerings

Passed in Parliament this thirtieth day of November, two thousand and seventeen.

FIONA KALEMBA
Clerk of Parliament