# Amendment of the title, long title and preamble of Act 6 of 2018

1. The title of the Political Party Funding Act 6 of 2018 (hereinafter referred to as the “Funding Act”) is amended by the substitution of the following title:

“Political **[Party]** Funding Act”

1. The long title of the Funding Act is amended as follows:

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

1. The preamble of the Funding Act is amended as follows:

“…

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

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 independent candidates and independent representatives; and

• providing for the disclosure of donations,”

# Amendment of section 1 of Act 6 of 2018

1. Section 1 of the Funding Act is amended by—
	1. the substitution for the definition of “funds” of the following definition:

“**‘Funds’** mean the *Multi-Party and Independents Democracy Fund* and the **[*Represented]*** *Political Representatives* ***[Party]*** *Fund*;”

* 1. the insertion after the definition of “funds” of the following definitions:

“**‘independent candidate’** means any person contesting an election for the National Assembly or provincial legislatures or municipal councils as an independent candidate in terms of the Electoral Act 73 of 1998; and

“**‘independent representative’** means any person who is a member of the National Assembly and a provincial legislature and who was elected as an independent candidate;

* 1. the substitution for the definition of “Multi-Party Democracy Fund” of the following definition:

“**‘Multi-Party and Independents Democracy Fund’** means the Multi-Party and Independents Democracy Fund established in terms of section 3(1);

* 1. the substitution for the definition of “Represented Political Party Fund” of the following definition:

“**‘[Represented] Political Representatives [Party] Fund’** means the **[Represented]** Political Representatives **[Party]** Fund established in terms of section 2(1);”

# Amendment of section 2(1) of Act 6 of 2018

1. Section 2 of the Funding Act is amended by the substitution for subsection (1) of the following subsection:

“(1) A **[Represented]** Political Representatives **[Party]** Fund is hereby established for the purpose of enhancing multiparty democracy by providing for the funding of represented political parties and independent representatives.”

# Amendment of section 3(1) of Act 6 of 2018

1. Section 3 of the Funding Act is amended by the substitution for subsection (1) of the following subsection:

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

# Amendment of section 4 of Act 6 of 2018

1. Section 4 of the Funding Act amended by substituting it with the following section:

“(1) Any money in the Funds that is not required immediately for making an allocation to represented political parties or independent representatives in terms of section 6 may be invested with 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 and Independents Fund at the end of the financial year to the next financial year as a credit balance.

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

# Amendment of section 6 of Act 6 of 2018

1. Section 6 of the Funding Act is amended by—
	1. the substitution for the heading of the following heading:

“Allocation and payment of money to represented political **[party]** parties and independent representatives”

* 1. the substitution for subsection of section 6 with the following:

“(1) The Commission may allocate money from the Funds to **[a]** represented political **[party]** parties and independent representatives only.

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

(3) The formula prescribed in subsection (2) must be based on

(a) in the case of a political party, the relationship that the number of a represented political party’s representatives in **[both]** the National Assembly and the provincial legislatures bears to the sum of the seats in **[these]** the legislature**[s]** concerned**[.]**; and

(b) in the case of an independent representative, the relationship that the independent representative’s seat bears to the sum of the seats in the National Assembly or provincial legislature concerned.

(4) The Commission must apply the formula prescribed in subsection (2) taking into account the number of representatives of each represented political party and each independent representative and the number of seats in the respective legislatures based on the results of the election.

(5) The Commission may not take into account any money carried forward in terms of section 13 (1) when it determines the allocation of money to a represented political party or an independent representative.

(6) Any allocation of money from the Funds:

(a) to a represented political party ends when the party ceases to be a party with representation as contemplated in subsection (1)**[.]**; and

(b) to an independent representative ends when the representative vacates his or her seat in the National Assembly or provincial legislature concerned.

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

# Amendment of section 7 of Act 6 of 2018

1. Section 7 of the Funding Act is amended by—
	1. the substitution for subsection (1) of the following subsection:

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

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

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

(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.

(b) insertion of the following subsection (3) after subsection (2):

“(3) The provisions of sections 7(2)(a), (b), (c) and (e) shall apply, with the necessary changes, to independent representatives.

# Amendment of the heading of Chapter 3 to Act 6 of 2018

1. The heading of Chapter 3 of the Funding Act is substituted for the following heading:

“Direct Funding of Political Parties, Independent Candidates and Independent Representatives”:

# Amendment of section 8 of Act 6 of 2018

1. Section 8 of the Funding Act is amended by substituting it with the following:

“(1) Political parties, independent representatives and independent candidates may not accept a donation from any of the following sources:

(a) foreign governments or foreign government agencies;

(b) subject to subsection (4), foreign persons or entities;

(c) organs of state; or

(d) state-owned enterprises.

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

(4) Subject to subsection (5), nothing in subsection (1) (b) prevents a political party, independent representative or independent candidate from accepting donations from foreign entities for the purpose of—

(a) training or skills development of a member of a political party or of the independent representatives or independent candidate; or

(b) policy development by a political party, independent representative or independent candidate.

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

# Amendment of section 9 of Act 6 of 2018

1. Section 9 of the Funding Act is amended by—
	1. the substitution for subsection (1) of the following subsection:

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

* 1. the substitution for subsection (2) of the following subsection:

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

# Deletion of section 10 of Act 6 of 2018

1. Section 10 of Act 6 of 2018 is deleted.

# Amendment of the heading of Chapter 4 to Act 6 of 2018

1. The heading of Chapter 4 of the Funding Act is substituted for the following heading:

“Duties Of Political Parties, Independent Representatives and Independent Candidates”

# Amendment of section 11 of Act 6 of 2018

1. Section 11 of the Funding Act is substituted for the following section:

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

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

# Amendment of section 12 of Act 6 of 2018

1. The following section is hereby substituted for section 12 of the Funding Act—

“12. Political party to account for income.

(1) A political party must—

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

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

(c) appoint an office-bearer or official of that political party as its accounting officer;

(d) if it is represented in the National Assembly or a provincial legislature, appoint an auditor registered and practising as such in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005), to audit its books and financial statements.

(2) An accounting officer contemplated in subsection (1) (c) must—

(a) account for all income received by the political party;

(b) ensure that—

(i) any money allocated from the Funds is not paid out for a purpose not authorised by this Act; and

(ii) the political party complies with this Act;

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

(d) within the prescribed period—

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

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

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

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

(3) On receipt of the statements, books and records contemplated in subsection (2) (e), the auditor of a political party represented in the National Assembly or a provincial legislature must perform an audit of the financial statements and express an opinion on those statements—

(a) indicating whether the donations received by the political party comply with section 8 (1);

(b) listing the donations required to be disclosed in terms of section 9 (1);

(c) listing the donations under the threshold prescribed in section 9 (1);

(d) indicating whether any income was received by the political party other than provided for in terms of this Act;

(e) indicating whether the transactions in the financial statements related to the money allocated from the Funds are in accordance with this Act; and

(f) indicating whether any money lent to a political party is on commercial terms.

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

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

(a) its accounting officer must submit the statements and the books and records of account contemplated in subsection (2)(c) and (d) for the previous two financial years to an auditor appointed in terms of subsection (1) (d);

(b) the auditor must perform an audit of the financial statements and express an opinion on those statements in compliance with subsection (3); and

(c) its accounting must submit the auditor’s opinion and audited financial statements to the Commission within the prescribed period.

(6) The Auditor-General may at any reasonable time audit any represented political party’s books, records of account and financial statements relating to money allocated to the party from the Represented Political Party and Independents Fund.”

# Insertion of section 12A into Act 6 of 2018

1. The following section is inserted after section 12:

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

(1) An independent representative must—

(a) deposit all donations received into an account with a bank registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), in the candidate’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 auditor registered and practising as such in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005), to audit his or her books and financial statements;

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

(e) within the prescribed period—

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

(ii) prepare a statement showing all donations received during that financial year; and

(iii) submit those statements and the books and records of account to an auditor appointed in terms of paragraph (c).

(2) On receipt of the statements, books and records contemplated in subsection (1)(e)(iii), the auditor must perform an audit of the financial statements and express an opinion on those statements—

(a) indicating whether the donations received by the independent representative comply with section 8(1);

(b) listing the donations required to be disclosed in terms of section 9(1);

(c) listing the donations under the threshold prescribed in section 9(1);

(d) indicating whether the transactions in the financial statements related to the money allocated from the Funds are in accordance with this Act; and

(e) indicating whether any money lent to the independent representative is on commercial terms.

(3) The independent representative must submit the auditor’s opinion and audited financial statements to the Commission within the prescribed period.

(4) An independent candidate must:

(a) deposit all donations received after his or her nomination into a separate account with a bank registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), in the candidate’s name; and

(b) prepare a statement showing:

(i) all donations received by the candidate during the previous two financial years before his or her nomination of whatever form and into whatever account and after his or her nomination; and

(ii) any money lent to the independent candidate as well as the terms and conditions of such loan.

(5) Where an independent representative first becomes a member of the National Assembly or a provincial legislature:

(a) the independent representative must submit the statement contemplated in subsection (4)(b) to an auditor appointed in terms of subsection (1) (c);

(b) the auditor must perform an audit of the financial statements and express an opinion on those statements—

(i) indicating whether the donations received by the independent representative after his or her nomination comply with section 8(1);

(ii) listing the donations received after his or her nomination required to be disclosed in terms of section 9(1);

(iii) listing the donations received after his or her nomination under the threshold prescribed in section 9(1); and

(iv) indicating whether any money lent to the independent representative is on commercial terms.

(c) the independent representative must submit the auditor’s opinion and audited financial statements to the Commission within the prescribed period.

(6) The Auditor-General may at any reasonable time audit any independent representative’s books, records of account and financial statements relating to money allocated to the representative from the Represented Political Party and Independents Fund.”

# Amendment of section 13 of Act 6 of 2018

1. Section 13 of the Funding Act is amended by—
	1. the substitution for subsection (1) of the following subsection:

“(1) Any money allocated from the Funds to a represented political party or independent representative that is unspent at the end of the financial year must be shown as a credit balance carried forward to the next financial year in the—

(a) account contemplated in section 12(1)(b) or section 12A(2)(a); and

(b) books and records of account contemplated in section 12(2)(c) or section 12A(2)(c).”

* 1. the substitution for subsection (2) of the following subsection:

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

(a) within 21 days after that election—

(i) close **[its]** the books and records in respect of those Funds; and

(ii) repay to the Commission the unspent balance of the money allocated to that political party or independent representative;”

# Amendment of section 14 of Act 6 of 2018

1. Section 14 of the Funding Act is amended by—
	1. the substitution for subsection (1) of the following subsection:

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

* 1. the substitution for subsection (4) of the following subsection:

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

# Amendment of section 15 of Act 6 of 2018

1. Section 15 of the Funding Act is amended by—
	1. the substitution for subsection (1) of the following subsection:

“(1) The Commission may issue a direction to a political party, independent representative or independent candidate in the prescribed manner in order to avoid imposing a sanction—

(a) after affording that party, independent representative or independent candidate an opportunity to make representations; and

(b) if it is of the opinion that the party, independent representative or independent candidate fails to comply with this Act.

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

# Amendment of section 16(1) of Act 6 of 2018

1. Subsection (1) of section 16 of the Funding Act is substituted for the following subsection:

“(1) Subject to subsection (2), the Commission—

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

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

# Amendment of section 17 of Act 6 of 2018

1. Section 17 of the Funding Act is amended by—
	1. the substitution for subsection (1) of the following subsection:

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

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

(b) spent in contravention of section 7.

* 1. the substitution for paragraph (b) of subsection (2) of the following paragraph:

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

* 1. the substitution for subsection (4) of the following subsection:

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

# Amendment of section 19(1) of Act 6 of 2018

1. Paragraphs (a) and (b) of section 19(1) of the Funding Act is substituted for the following paragraphs:

“(a) sections 8, 9(1) or 9(2) **[or 10]**

(b) sections 12(1), 12(2), 12(4) **[or]**, 12(5), 12A(1), 12A(3), 12A(4), 12A(5)(a), 12A(5)(c) or 13 (2).”

# Amendment of section 22(1)

1. Paragraphs (a) and (b) of section 22(1) of the Funding Act is substituted for the following paragraphs:

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

(i) the amounts received by and accrued to the Funds;

(ii) the allocations made from the Funds to the represented political parties and independent representatives;

(iii) the amounts spent by each represented political party and independent representatives in connection with the 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, independent representatives and independent candidates in that year; and”

# Amendment of section 24(1)

1. Section 24 of the Funding Act is amended by—
	1. the substitution for subsection (1) of the following subsection:

“(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), 7(2A)(d) 8(2)(a), 8(2)(b), 8(5) and 9(1)(a).”

* 1. the insertion of the following subsections (5) and (6) after subsection (4):

“(5) The regulations in Schedule 2 are transitional regulations.

(6) Once the President exercises his powers under sub-section 1 to make regulations, the regulations in Schedule 2 shall become inoperative.”

# Amendment of section 25

1. Section 25 of the Funding Act is amended by the substitution for subsection (4) of the following subsection:

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

# Amendment of section 26 of Act 6 of 2018

1. Section 26 of the Funding Act is amended by—
	1. the substitution for subsection (1) of the following subsection:

“(1) This Act is called the Political **[Party]** Funding Act, 2018, and subject to subsection (2), comes into operation on a date determined by the President by Proclamation in the *Gazette*.

* 1. the substitution for subsection (1) of the following subsection:

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