

REPUBLIC OF SOUTH AFRICA

PORTFOLIO COMMITTEE AMENDMENTS

TO

**ELECTORAL MATTERS
AMENDMENT BILL**

[B 42—2023]

(As agreed to by the Portfolio Committee on Home Affairs)

[B 42A—2023]

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AMENDMENTS AGREED TO

ELECTORAL MATTERS AMENDMENT BILL
[B 42—2023]

CLAUSE 3

1. On page 3, after line 26, to insert the following paragraph:

“(b) by the substitution for the definitions of “donation” and “donation in kind” of the following definitions:
 “**‘donation’**—
 (a) includes a donation in kind; but
 (b) does not include—
 (i) a membership fee of **[the]** a political party or any levy imposed by the party on its elected representatives; or
 (ii) any funds provided to **[the]** a political party, or an independent representative 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]** a political party, independent representative or independent candidate other than on commercial terms;
 (ii) any money paid on behalf of **[the]** a political party, independent representative or independent candidate for any expenses incurred directly or indirectly by that political party, independent representative or independent candidate;
 (iii) the provision of assets, services or facilities for the use or benefit of a political party, independent representative or independent candidate other than on commercial terms; or
 (iv) a sponsorship provided to **[the]** a political party, independent representative or independent candidate; but
 (b) does not include services rendered personally by a volunteer;”.
2. On page 3, in line 27, to omit “(b)” and to substitute “(c)”.
3. On page 3, in line 28, to omit “and Independents”.
4. On page 3, in line 30, to omit “(c)” and to substitute with “(d)”.
5. On page 3, from line 31 to 37, to omit the definitions of “independent candidate” and “independent representative”, and to substitute the following definitions:

“**‘independent candidate’** means a South African citizen contesting an election and who is not nominated on a list of a party;”
 “**‘independent representative’** means an independent candidate with representation in the national or a provincial legislature; and”.

6. On page 3, from line 38 to 42, to omit paragraph (d).

CLAUSE 4

1. On page 3, from line 51, to omit “Representatives Fund” and to substitute with “**Representatives Fund**”.

CLAUSE 5

1. On page 4, from line 3 to 5, to omit paragraph (a).
2. On page 4, in line 6, to omit “(b)” and to substitute “(a)”.
3. On page 4, in line 7, to omit “and Independents”.
4. On page 4, in line 10, to omit “(c)” and to substitute “(b)”.

CLAUSE 6

1. On page 4, in line 33, to omit “and Independents”.

CLAUSE 7

1. On page 4, in line 39, to omit “parties and independent representatives” and to substitute “**parties and independent representatives**”.

CLAUSE 9

1. On page 6, from line 5, after “property” to insert “, except where the right or interest in the immovable property is to be used in the performance of the duties as an independent representative”.
2. On page 6, from line 7 to line 9, to omit “or to cover any costs related to any litigation against the political party or independent representatives”.

CLAUSE 12

1. On page 6, in line 40, to omit “and Independent”.

CLAUSE 14

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Amendment of section 10 of Act 6 of 2018

14. Section 10 of the Political Party Funding Act, 2018, is hereby amended—

(a) by the substitution for the heading of the section of the following heading:

“Prohibition on donation to member of political party, independent representative and independent candidate”; and

- (b) by the substitution for subsection (1) of the following subsection:

“(1) No person or entity may deliver a donation to a member of a political party, an independent representative or independent candidate other than for **[party]** political purposes.”.

CLAUSE 18

1. On page 8, in line 49, before “keep” to insert “separate from his or her personal account”.
2. On page 8, in line 49, to omit “a separate” and to substitute “an”.
3. On page 9, in line 24, to omit “a seperate” and to substitute “an”.
4. On page 9, in line 24, after “account” to insert “, seperate from his or her personal”.
5. On page 9, in line 26, to omit “and”.
6. On page 9, in line 33, to omit the full stop and substitute with “; and”.
7. On page 9, after line 33 insert the following paragraph:

“(c) submit those statements and the books and records of account together with a prescribed confirmation letter from its bank and an affidavit confirming the correctness of their contents to the Commission in the prescribed form and within the prescribed period.”.

CLAUSE 19

1. On page 10, in line 22, to omit “candidate” and substitute “representative”.

CLAUSE 20

1. On page 10, in line 36, after “parties”, to insert “, independent representatives”.
2. On page 10, in line 42, after “party”, to insert “, independent representative”.

CLAUSE 24

1. On page 11, from line 46, to omit “not exceeding R200 000.00” and substitute “as prescribed”.
2. On page 11, from line 49, to omit subsection (4) and to substitute with the following subsection:

“(4) Any person who makes a donation—
 (a) to a member of a political party, instead of the political party concerned; or

(b) to an independent representative or independent candidate, to circumvent the provisions of Chapter 3, commits an offence and may be sentenced to a prescribed fine or to imprisonment for a period not exceeding five years or both.”.

3. On page 11, in line 55, to omit “(i)” and to substitute “(a)”.
4. On page 11, in line 57, to omit “(ii)” and to substitute “(b)”.

NEW CLAUSE

1. That the following be a new clause:

“On page 12, after line 15, to insert the following new clause:

Substitution of section 23 of Act 6 of 2018

26. The following section is hereby substituted for section 23 of the Political Party Funding Act, 2018:

“Funding of represented political parties and independent representatives by legislatures”

(1) Parliament or a provincial legislature may not fund represented political parties or independent representatives 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 No. 10 of 2009**)], must annually in the prescribed form and manner disclose any funding of represented political parties or independent representatives other under section 57(2) and 116(2) of the Constitution respectively, to the Commission.”.

CLAUSE 26

1. On page 12, from line 19, to omit subsection (1)(a) and to substitute with the following:

“(1) (a) 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(3)(d), 8(2), 8(5) and 9(1)(a).”.

CLAUSE 27

1. Clause rejected.

CLAUSE 28

1. On page 12, from line 50 to 51, to omit “and Independents”.

CLAUSE 29

1. On page 13, in line 31, to omit “candidate” and to substitute “representative”.
2. On page 13, in line 35, to omit “candidate” and to substitute “representative”.
3. On page 13, in line 37, to omit “candidate” and to substitute “representative”.
4. On page 13, in line 43, to omit “candidate” and to substitute “representative”.
5. On page 13, in line 47, to omit “candidate” and to substitute “representative”.
6. On page 14, in line 3 to omit “Parliamentary” and to substitute “National Assembly”.
7. On page 14, in line 8, to omit “party”.
8. On page 14, in line 8, after “funding” to insert “for political purposes”.
9. On page 14, in line 14, to omit “Parliamentary” and to substitute “National Assembly”.

CLAUSE 31

1. On page 14, from line 47 to 55, to omit section 24A and to substitute with the following section:

“Voting in voting district where voter not registered

24A. A voter who is unable, on voting day, to cast his or her vote at the voting station in the voting district where he or she is registered may, in the prescribed manner, notify the chief electoral officer by no later than the relevant date stated in the election timetable of his or her intention to cast a vote in another specified voting district within the Republic on voting day: Provided that such voter may only vote in the election for the regional seats in the National Assembly in terms of Schedule 1A and for the provincial legislature if [his or her name appears on a segment of the voters’ roll for the province in which] that specified voting district is situated in a province within which the voter is registered.”.

CLAUSE 33

1. On page 15, from line 15, to omit the definition of “independent candidate” and to substitute with the following definition:

“‘independent candidate’ means a South African citizen contesting an election and who is not nominated on a list of a party;”.
2. On page 15, from line 21, to omit the definition of “independent representative” and to substitute with the following definition:

“‘independent representative’ means an independent candidate with representation in the national or a provincial legislature;”.

NEW CLAUSE

1. On page 15, after line 28, to insert the following new clauses after clause 34 and to renumber the existing clause 35 and subsequent clauses accordingly:

“Amendment of section 6 of Act 51 of 1996, as amended by section 1 of Act 1 of 2019

35. Section 6 of the Electoral Commission Act, 1996, is hereby amended by the substitution in subsection (2) for paragraphs (b) and (d) of the following paragraphs, respectively:

- (b) does not at that stage have a high **[partypolitical]** political profile; and
- (d) has been nominated by a committee of the National Assembly, proportionally composed of members of all parties and independent representatives represented in that Assembly, from a list of recommended candidates submitted to the committee by the panel referred to in subsection (3).”.

CLAUSE 35

1. On page 15, after line 31, to insert a new paragraph (a) as follows:

“(a) by the substitution for the definition of “election period” of the following definition:
 “**‘election period’** means the period commencing with the date on which the election day is proclaimed and ending on the day immediately following upon the day on which candidates of any of the political parties or independent representatives are declared elected;”.
2. On page 15, in line 32, to omit “(a)” and to substitute “(b)”.
3. On page 15, from line 34, to omit the definitions of “independent candidate” and “independent representative” and to substitute with the following definitions:

“**‘independent candidate’** means a South African citizen contesting an election and who is not nominated on a list of a party;” and
 “**‘independent representative’** means an independent candidate with representation in the national or a provincial legislature;”.
4. On page 15, in line 41, to omit “(b)” and to substitute “(c)”.
5. On page 15, in line 47, to omit “(c)” and to substitute “(d)”.
6. On page 15, in line 49, to omit “(d)” and to substitute “(e)”.

CLAUSE 38

1. On page 16, in line 30, after “party” to insert “, independent representative”.
2. On page 16, in line 33, after “parties” to insert “, independent representatives”.
3. On page 16, in line 38, after “parties” to insert “, independent representatives”.
4. On page 16, in line 44, after “parties” to insert “, independent representatives”.

CLAUSE 39

1. On page 17, in line 13, after “parties” to insert “, independent representatives”.
2. On page 17, in line 17, after “party” to insert “, independent representative”.
3. On page 17, in line 19, after “parties” to insert “, independent representatives”.
4. On page 17, in line 21, after “party” to insert “, independent representative”.
5. On page 17, in line 22, after “party” to insert “independent representative”.
6. On page 17, in line 23, after “party” to insert “, independent representative”.
7. On page 17, in line 26, after “parties” to insert “, independent representatives”.

CLAUSE 40

1. On page 17, in line 34, after “parties” to insert “independent representatives or”.
2. On page 17, in line 37, after “parties” to insert “, independent representatives”.
3. On page 17, in line 39, after “party” to insert “, independent representative”.
4. On page 17, in line 42, after “party” to insert “, independent representative”.
5. On page 17, in line 44, after “party” to insert “, independent representative”.
6. On page 17, in line 46, after “party” to insert “, independent representative”.
7. On page 17, in line 50, after “party” to insert “, independent representative”.
8. On page 17, in line 52, after “party” to insert “, independent representative”.

CLAUSE 41

1. On page 18, in line 12, to omit “and”.
2. On page 18, after line 12 to insert the following paragraph:

“(c)by the substitution for item 57 of the following item:

“**57.** Broadcasting of [party] election broadcasting services”;
and.

3. On page 18, in line 13, to omit “(c)” and to substitute “(d)”.
4. On page 18, in line 14, after “parties” to insert “, independent representatives”.

CLAUSE 42

1. On page 18, from line 20 to 22, to omit the definition of “independent representative” and to substitute with the following definition:

“‘independent representative’ has the meaning ascribed to it in section 1 of the Political Party Funding Act, 2018 (Act No. 6 of 2018);”.

NEW CLAUSE

1. On page 18, after line 48, to insert the following new clause:

“Amendment of section 65 of Act 10 of 2009

45. Section 65 of the Financial Management of Parliament and Provincial Legislatures Act, 2009, is hereby amended by the substitution in subsection (1) for paragraph (f) of the following paragraph:

“(f) the financial management of the provision of support services and constituency funding to political parties and independent representatives represented in Parliament.”.

LONG TITLE

1. On page 2, in the fourth line, to omit “**names**” and to substitute “**name**”.
2. On page 2, in the fourth line, to omit “**Funds**” and to substitute with “**Represented Political Party Fund**”.
3. On page 2, in the sixth line, to omit “**and Independents**”.
4. On page 2, in the eleventh line, after “**party**” to insert “, **independent representative or independent candidate other than for political purposes**”.
5. On page 2, from the fourteenth line, after “**income;**”, to omit “**to provide for the offence of making a donation to a political party, a member of a political party, an independent candidate or an independent representative in the expectation that the party, member, candidate or representative will influence the award of benefits or relaxation of conditions;**”.
6. On page 2, in the twentieth line, after “**party**” to insert “**independent representative or independent candidate**”.

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