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GENERAL NOTICE 2800 OF 2024

INVITATION TO MAKE REPRESENTATIONS

The President assented to the Electoral Matters Amendment Act 14 of 2024 on 04 May 2024. The Act was published for general information in Government Gazette No: 50624 on 07 May 2024.

The Chief Electoral Officer of the Electoral Commission, hereby publishes a notice inviting representations from the public, to be made in respect of the proposed regulations for the Act.

This Notice is issued for public comment. Stakeholders and interested parties are accordingly hereby invited to submit representations and comments in respect of the regulations.

Representations and comments must be submitted within 14 days from date of publication of this Notice, to the Electoral Commission for the attention of Ms. Percy Jiyane, at the following e-mail address:- JiyaneP@elections.org.za or delivered to Election House, Riverside Office Park, 1303 Heuwel Avenue, Centurion, 0157.

GENERAL NOTICE

ELECTORAL COMMISSION

AMENDMENT TO THE REGULATIONS REGARDING THE FUNDING OF POLITICAL PARTIES ISSUED IN TERMS OF SECTION 24(2) OF THE POLITICAL FUNDING ACT, 2018

The Electoral Commission has, in terms of section 24(2) of the Political Funding Act 2018, made the regulations set out in the Schedule.

GENERAL EXPLANATORY NOTE

[ ] Words or phrases in bold type square brackets indicate omissions or deletions from existing enactments; and

_____ Words or phrases underlined with a solid line indicate insertion in existing enactments.

SCHEDULE

Definitions

1. In these Regulations, unless the context indicates otherwise –

1.1. "the Act" means the Political Funding Act, 2018 (Act No. 6 of 2018);

1.2. "the Regulations" means the Regulations regarding the Funding of Political Parties Issued in terms of Section 24(2) of the Political Funding Act, 2018, published under GN 950 in *GG* 46167 of 1 April 2022; and

1.3. any word or expression to which a meaning has been assigned in the Act and/or the Regulations shall have that meaning.

Amendment of the title of the Regulations

2. The title of the Regulations is amended by substitution for it of the following title –

"Regulations regarding the **[F]**funding of **[P]**political **[P]**parties, independent representatives and independent candidates **[I]**issued in terms of section 24(2) of the Political **[Party]** Funding Act, 2018".

Amendment of the Schedule (Arrangement of Regulations)

3. The Schedule (Arrangement of Regulations) is amended by the substitution therefor of the following Schedule –

"

SCHEDULE

Arrangement of Regulations

1	Definitions
2	Request not to disclose contribution in terms of section 3(5) of the Act
3	Proceeds from Unlawful Activity
4	Determination of a fee to defray the costs of administering and managing the Multi-Party Democracy Fund
5	Payment of money to represented political party and independent representative
6	Funding of **[R]**represented **[P]**political **[P]**parties and independent representatives by **[L]**legislatures
7	Disclosure of donations received by **[P]**political **[P]**parties, independent candidates and independent representatives in terms of section 9 of the Act
8	Disclosure of donations made by juristic persons and entities
9	Publication of donations in terms of section 9(3)
10	Duties of accounting officer of political party
10A	Duties of independent representatives and independent candidates
11	Issuing of direction by the Electoral Commission
12	Commencement date

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3"

Amendment of Regulation 5

4. Regulation 5 is amended by:

4.1. the substitution for the heading of the regulation of the following heading –

"**5. Payment of money to represented political party and independent representative**"; and

4.2. the substitution in sub-regulation (1) for the words preceding paragraph (*a*) of the following words –

"(1) The Commission must make the payment contemplated in section 6(7) of the Act and any additional funds received and allocated to a represented political party or independent representative –"; and

4.3. the substitution in sub-regulation (1) for paragraph *(a)* of the following paragraph –

"*(a)* All allocations to which a represented political party or independent representative is entitled as determined in terms of regulations 3 and 4 of Schedule 2 of the Presidential Regulations, must be paid to the represented political party or independent representative in question in four equal instalments, each within three months of the previous payment. The first installment must be paid within four weeks of the beginning of the financial year under review. Any additional funds received must be allocated and paid in full within one calendar month."; and

4.4. the substitution in sub-regulation (1) for paragraph *(b)* of the following paragraph –

"*(b)* only if the political party or independent representative has provided the Commission with the particulars of its bank account opened in terms of section 12(1)(*b*) or 12A(1)(*b*) of the Act and the additional information required in a form substantially similar to **Form PPR3A**; **[and]**"; and

4.5. the substitution in sub-regulation (1) for paragraph (*c*) of the following paragraph –

"*(c)* if the political party has been allocated money from the Funds in the previous year, only if the political party has submitted to the Commission the

statement contemplated in section 12(2)(*d*)(i) and the auditor's opinion in terms of section 12(3)(*e*); and"; and

4.6. the insertion in sub-regulation (1) of the following paragraph after the existing paragraph (*c*) –

(d) if the independent representative has been allocated money from the Funds in the previous year, only if the independent representative has submitted to the Commission the statement contemplated in section 12A(1)(*e*) and the auditor's opinion in terms of section 12A(2)(*d*).**"**; and

4.7. the substitution for sub-regulation (2) of the following sub-regulation –

"(2) If the particulars provided in terms of sub-regulation (1)(*b*) change, the represented political party or the independent representative concerned must notify the Commission in a form substantially similar to **Form PPR3B** within two weeks of that change."; and

4.8. the substitution for sub-regulation (3) of the following sub-regulation –

"(3) Subject to regulation 5(3) of the Presidential Regulations, all allocations from the Funds must be paid to the represented political party or independent representative in question in terms of regulations 3 and 4 of Schedule 2 of the Presidential Regulations. The payments must be based on the money accumulated in the Multi-Party Democracy Fund from contributions received in the preceding three months.".

Amendment of Regulation 6

5. Regulation 6 is amended by:

5.1. the substitution for the heading of the regulation of the following heading –

"**6. Funding of represented political parties and independent representatives by legislatures**"; and

5.2. the substitution for sub-regulation (1) of the following sub-regulation –

"(1) The accounting officer of a legislature must annually, within three calendar months of the end of the financial year, disclose any funding of represented political parties and independent representatives under **[s .]**section

57(2) and **[s]**section 116(2) of the Constitution respectively to the Commission using a form substantially similar to **Form PPR7**.".

Amendment of Regulation 7

6. Regulation 7 is amended by:

6.1. the substitution for the heading of the regulation of the following heading –

"**7. Disclosure of donations received by political parties, independent representatives and independent candidates in terms of Section 9 of the Act**"; and

6.2. the substitution for sub-regulation (1) of the following sub-regulation –

"(1) The accounting officer of a political party, an independent representative or an independent candidate that receives donations from a single donor which exceed the disclosure threshold must report to the Commission in a form substantially similar to **Form PPR4** every quarter."; and

6.3. the substitution for sub-regulation (3) of the following sub-regulation –

"(3) Political parties, independent representatives and independent candidates must submit disclosures within one calendar month after the end of each quarter.".

Amendment of Regulation 8

7. Regulation 8 is amended by the substitution for sub-regulation (1) of the following sub-regulation –

"(1) A juristic person or entity that donates to a political party, an independent representative or an independent candidate, or aggregated donations which together exceed the disclosure threshold, must make the disclosure required in terms of section 9(2) in a form substantially similar to **Form PPR5** within one calendar month after the end of the quarter within which the donation that exceeds the disclosure threshold or the aggregate of donations exceeding the threshold was made.".

Amendment of Regulation 10

8. Regulation 10 is amended by:

8.1. the insertion of sub-regulation 1A after the existing sub-regulation (1) –

"(1A) The accounting officer of a represented political party, duly appointed in terms of section 12(1)(*c*) of the Act, must keep separate books and records of account in respect of all donations received by that political party, membership fees and levies imposed by the political party on its representatives, and any other income received by that political party not provided for in the Act."; and

8.2. the substitution in sub-regulation (2) of the words preceding paragraph (*a*) of the following words –

"(2) The accounting officer of a represented political party must –"; and

8.3. the substitution in sub-regulation (2) for sub-paragraph (*c*)(i) of the following sub-paragraph –

"(i) any donations **[not]** accepted by the political party under section 8(1), (2) and (3);"; and

8.4. the insertion of the following sub-regulations after sub-regulation (2) –

"(3) The accounting officer of an unrepresented political party, duly appointed in terms of section 12(1)(*c*) of the Act, must keep separate books and records of account in respect of all donations received by that political party, membership fees and levies imposed by the political party on its representatives, and any other income received by that political party not provided for in the Act; and

(4) The accounting officer of an unrepresented political party must –

(*a*) submit the details of the political party's office bearers and its official addresses in forms substantially similar to **PPR8**, **PPR9**, and **PPR10**. In the event of a change in respect of any details, the onus rests on the accounting officer to inform the Electoral Commission within a period of one calendar month of a change thereof;

(*b*) prepare a statement contemplated in section 12(2)(*d*)(ii);

(*c*) in the preparation of the statements specifically account for the following –

(i) any donations accepted by the political party under section 8(1), (2) and (3);

(ii) any donations received from foreign entities for the purposes permitted in terms of section 8(4) and what those donations were used for;

(iii) all donations received in aggregate or otherwise that exceed the disclosure threshold;

(iv) any income received by the political party other than that provided for in the Act;

(v) any loans made to the political party and the terms on which the money was lent; and

(vi) a list of the bank accounts in which all donations, membership fees, and levies imposed by the political party are deposited into a bank account opened in the name of the political party or that receives donations on behalf of the party or for use by the party in the form substantially similar to **Form PPR3A**;

(*d*) submit the statements contemplated in paragraph (*b*), books and records of account contemplated in sub-regulation (3) together with a confirmation letter from the bank at which the account contemplated in section 12(1)(*a*) is kept in a form substantially similar to Form **PPR3C** and an affidavit confirming the correctness of their contents to the Commission in a form substantially similar to **Form PPR3D** within six months of the end of the financial year.

(5) Where a political party that was not previously represented in National Assembly or a provincial legislature, becomes represented after an election of the legislature concerned, its accounting officer must –

(*a*) submit the details of the political party's auditors appointed in terms of section 12(1)(*d*) in a form substantially similar to **PPR11**. In the event of a change in respect of any details, the onus rests on the accounting officer to inform the Electoral Commission within one calendar month of a change thereof;

(*b*) submit the statements contemplated in sub-regulation (4)(*b*), books and records of account contemplated in sub-regulation (3) to the appointed auditor within three months of end of the financial year;

(*c*) submit the auditor's opinion and audited financial statements to the Commission within six months of the end of the financial year in a form substantially similar to **Form PPR12**.".

Insertion of Regulation 10A in the Regulations

9. The following regulation is inserted after regulation 10 of the Regulations:

"**10A. Duties of independent representative and independent candidate**

(1) An independent representative must –

(*a*) keep separate books and records of account, in accordance with generally recognised accounting practice (GRAP), in respect of money allocated from the Funds and all transactions involving that money;

(*b*) keep separate books and records of account in respect of all donations received by him or her, all donations received on his or her behalf by any other person for use by him or her, and any other income received by him or her not provided for in the Act;

(c) submit the details of the independent representative's official address and auditors appointed in section 12A(1)(*c*) in forms substantially similar to **PPR9 and PPR11**. In the event of a change in respect of any details, the onus rests on the independent representative to inform the Electoral Commission within a period of one calendar month of a change thereof;

(*d*) prepare the statements contemplated in section 12A(1)(*e*)(i) and (ii) and submit them to the appointed auditor within three months of end of the financial year;

(*e*) in the preparation of the statements specifically account for the following –

(i) any donations accepted by the independent representative under section 8(1), (2) and (3);

(ii) any donations received from foreign entities for the purposes permitted in terms of section 8(4) and what those donations were used for;

(iii) all donations received in aggregate or otherwise that exceed the disclosure threshold;

(iv) any income received by them other than that provided for in the Act;

(v) any loans made to them and the terms on which the money was lent; and

(vi) a list of the bank accounts in which all donations are deposited, opened in the name of the independent representative, or that receive donations on behalf of the independent representative for use by the independent representative in the form substantially similar to **Form PPR3A**;

(*f*) submit the auditor's opinion and audited financial statements to the Commission within six months of the end of the financial year in a form substantially similar to **Form PPR12**;

(2) An independent candidate must –

(*a*) keep separate books and records of account in respect of all donations received by him or her, all donations received on his or her behalf by any other person for use by him or her, and any other income received by him or her not provided for in the Act;

(*b*) submit the details of the independent candidate's official address in a form substantially similar to **PPR9**;

(*c*) prepare a statement contemplated in section 12A(4)(*b*) a in a form substantially similar to **Form PPR14C**

(*d*) in the preparation of the statement specifically account for the following –

(i) any donations accepted by the independent candidate under section 8(1), (2) and (3);

(ii) any donations received from foreign entities for the purposes permitted in terms of section 8(4) and what those donations were used for;

(iii) all donations received in aggregate or otherwise that exceed the disclosure threshold;

(iv) any income received by the independent candidate other than that provided for in the Act;

(v) any loans made to the independent candidate and the terms on which the money was lent; and

(vi) a list of the bank accounts in which all donations are deposited, opened in the name of the independent candidate, or that receive donations on behalf of the independent candidate for use by the independent candidate in the form substantially similar to **Form PPR3A**;

(*e*) submit the statement, books and records of account contemplated in terms of paragraphs (*a*) and (*c*) together with a confirmation letter from the bank at which the account contemplated in section 12A(4)(*a*) is kept in a form substantially similar to Form **PPR3C** and an affidavit confirming the correctness of their contents to the Commission in a form substantially similar to **Form PPR3E** within six months of the end of the financial year.

(3) Where the independent representative first becomes a member of the National Assembly or a provincial legislature after an election of the legislature concerned, the independent representative must –

(*a*) submit the details of the auditors appointed in section 12A(1)(*c*) in a form substantially similar to **PPR11**. In the event of a change in respect of any details, the onus rests on the independent representative to inform the Electoral Commission within a period of one (1) calendar month of a change thereof;

(*b*) submit the statement contemplated in sub-regulation (2)(*b*), books and records of account contemplated in sub-regulation (2)(*a*) to the appointed auditor within three months of end of the financial year;

(*c*) submit the auditor's opinion and audited financial statements to the Commission within six months of the end of the financial year in a form substantially similar to **Form PPR12**.".

Amendment of Regulation 12

10. Regulation 12 is amended by –

10.1. the substitution for the heading of the following heading –

"**12 Short title and [C]commencement date**"

10.2. the substitution for the regulation of the following regulation –

"These regulations shall be called the Regulations regarding the **[F]**funding of **[P]**political **[P]**parties, independent representatives and independent candidates **[I]**issued in terms of section 24(2) of the Political Funding Act, 2018, and shall come into operation on 1 April 2022.".

Amendment of Schedules 1, 2 and 3

11. Schedules 1, 2 and 3 are amended by substituting them for the corresponding Schedules annexed hereto.

Short title and Commencement

12. These Regulations are called the Amendment to the Regulations regarding the funding of political parties, independent representatives and independent candidates issued in terms of section 24(2) of the Political Funding Act, 2018, and shall come into operation on the date of publication in the *Gazette*.

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SCHEDULE 1
SCHEDULE OF OFFENCES

MAXIMUM PERMISSIBLE FINES THAT MAY BE IMPOSED FOR GIVING FALSE INFORMATION, DECLARATIONS OR FALSE DECLARATIONS.

Offences under the Regulations issued in terms of the Political Funding Act, 6 of 2018, as contemplated in Section 18(1) of the Act, in terms of which the Commission may institute proceedings to request the imposition of administrative fines in respect of any contravention of the Political Funding Act, 6 of 2018.

Offence Submission of late, inaccurate, incorrect or misleading information in connection with prescribed regulations and forms	Penalty
Section 3(5) as read with Regulation 2(2)	R100 000.00 or two years in prison or both
Regulation 7(1) and 8(1)	R50 000.00 or one year in prison or both
Section 9(1) as read with Regulation 7(1) and 7(2)	R500 000.00 or two years in prison or both
Section 9(2) as read with Regulation 8(1) and 8(2)	R500 000.00 or two years in prison or both
Section 12(2)(*a*) and 12(2)(*f*) as read with Regulation 10(1), 10(2), 10(3), 10(4) and 10(5)	R100 000.00 or two years in prison or both
Section 12A(4)(*c*) as read with Regulation 10A(2) and 10A(3)	R100 000.00 or two years in prison or both
Section 23(2), as read with Regulation 6	R100 000.00 or two years in prison or both

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SCHEDULE 2

LODGEMENT OF A SECTION 14 (4) COMPLAINT RELATING TO THE INCOME OR EXPENDITURE OF A POLITICAL PARTY, INDEPENDENT REPRESENTATIVE OR INDEPENDENT CANDIDATE IN TERMS OF THE ACT

Any interested party may lodge with the Commission a complaint concerning any aspect relating to the income or expenditure of a political party, independent representative or independent candidate in terms of Section 14(4) of the Act.

A complaint must be lodged electronically or in hard copy at the Commission's National Office. The complaint must contain the following information:

(a) Reference to the specific legislative provision transgressed;

(b) Full name and physical address of the complainant;

(c) Email address and telephone number where the complainant can be contacted. These contact details must at all times be in a working condition;

(d) The interest of the complainant in the matter;

(e) Details of the complaint;

(f) Proof supporting the complaint;

(g) Reasons for the complaint and remedy sought; and

(h) Name and contact details of the political party independent representative or independent candidate against whom the complaint is lodged.

In considering and deciding on the complaint received, the Commission may take any one or more of the following actions:

(a) Investigate the factual basis of the complaint or cause it to be investigated based on the information provided by the complainant;

(b) Afford other interested parties an opportunity to make written or oral submissions;

(c) Call for written or oral submissions from other persons or parties;

(d) Call upon the complainant to submit further information or arguments in writing or verbally; or

(e) Conduct a hearing on the objection.

In a case where the complainant wishes to remain anonymous, or in the case of whistle-blowing, the Commission will, at its discretion, decide on the adequacy and reliability of the information provided by the complainant.

All electronic complaints must be submitted to the following email address: ComplaintsPPF@elections.org.za.

All hardcopy complaints must be delivered or couriered to the following physical address, and must bemarked for attention "PPF COMPLAINTS".

Riverside Office Park
Elections House
1303 Heuwel Avenue
Centurion
0157

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