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Political Parties (Registration and Regulation) Act

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173

In force:

Yes

CHAPTER 173

POLITICAL PARTIES (REGISTRATION AND REGULATION) ACT

Act 19 of 1991

Act 4 of 1995

Act 12 of 1996

ARRANGEMENT OF REGULATIONS

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Short title **1.** This Act may be cited as the Political Parties (Registration and Regulation) Act.

Interpretation **2.** In this Act -

"office bearer" includes the leader of a political party;

"political party" means a combination of persons who have constituted themselves for a political purpose;

"registered" means registered under this Act;

"registered member" or "member" means a member of a political party whose name, address and national identity number are entered in a register of members kept and maintained by that political party;

"Registrar" means the Registrar of Political Parties appointed under section 3.

Registration **3.(1)** There shall be a Registrar of Political Parties who

of political shall be appointed by the Electoral Commissioner appointed

parties under Article 115 of the Constitution.

2/12/1996

(2) The Electoral Commissioner may appoint on such terms and conditions as the Electoral Commissioner determines such officers as may appear to the Electoral Commissioner to be necessary for carrying out the purposes of this Act.

Register **4.(1)** The Registrar shall keep a register in which shall be recorded such particulars relating to a registered political party as may be prescribed.

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

Application for **5.(1)** A political party consisting of not less than 100

Registration registered members may apply in the prescribed form to the Registrar for registration under this Act.

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

(a) two copies of the constitution, rules and political programme or manifesto of the party duly certified by the leader of the party,

(b) the particular of the registered office of the party;

(c) a list giving the name, address and national identity number of not less than 100 registered members of the party;

(d) a list giving the name, address and national identity number of the leader and other office bearers of the party;

(e) such further information or document as the Registrar may require for the purpose of satisfying himself that the application complies with this Act or that the party is entitled to be registered under this Act.

(3) A list referred to in paragraph (c) and paragraph (d) shall be signed by each of the persons named therein.

(4) A person shall not be considered to be a member of a political party for the purposes of this Act unless -

(a) he has attained the age 18 years;

(b) he is a Seychellois; and

(c) he is resident in Seychelles.

Registration **6.(1)** Where the Registrar registers a political party, he shall issue the party with a certificate

of registration and shall register and stamp the copies of the constitution and rules of the party submitted with the application and return a copy thereof to the party.

(2) A registered political party shall display its certificate of registration at its registered office.

(3) The Registrar shall, as soon as practicable, give notice of the registration of a political party in the Gazette.

Refusal to register a political party **7.(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 a registered political party or a political party which has been cancelled under this Act or a political party whose application precedes the present application;

(ii) so nearly resembles the name of a registered political party or a political party which has been cancelled under this Act or a political party whose application precedes the present application as to be likely to deceive the members of the party or the public; or

(iii) is provocative or offends against public decency or contrary to any other written law as to be undesirable;

(c) any purpose or object of the party is unlawful.

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

(a) it seeks, directly or indirectly, to further ethnical, racial or religious discrimination or discrimination on the ground of colour;

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

(c) 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 object the Registrar may consider any document, statement or matter made by or on behalf of the political party or by an office bearer of the party.

(4) Where the Registrar refuses to register a political party, he shall forthwith serve upon the party a notice in writing to this effect and shall specify the ground for his refusal.

Appeal against **8.(1)** Where the Registrar refuses to register a political

refusal to party, an office bearer of the party may, within 21 days

register after receiving the notice of refusal, appeal to the Supreme Court and the Supreme Court may make such order as it thinks fit and, notwithstanding any other written law, no appeal shall lie against the decision of the Supreme Court.

(2) The Registrar shall be entitled to be heard on an appeal.

Cancellation **9.(1)** The Registrar may cancel the registration of a

of registration political party -

(a) at the request of the party made and signed by the office bearers of the party;

(b) on proof to the satisfaction of the Registrar that the registration of the party has been obtained by fraud or mistake;

(c) on proof to the satisfaction of the Registrar that the party has a purpose or object which is unlawful;

(d) on proof to the satisfaction of the Registrar that the number of registered members of the party has fallen below 100;

(e) if the party, after notice of the Registrar, fails to comply with this Act;

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

(2) The Registrar shall, 21 days before proposing to cancel the registration of a political party, give notice in writing to the party of its intention to cancel its registration and of the ground on which he intends to do so but no notice shall be required where subsection 1(a) or (e) applies.

(3) The Registrar shall, as soon as practicable after cancelling a political party, give notice of the cancellation of the political party in the Gazette.

Appeal to **10.(1)** An office bearer of a political party in respect of

Supreme Court which the Registrar has issued a notice under section 9(2) may, upon receipt of the notice and before the 21 days referred to in section 9(2) has elapsed, appeal to the Supreme Court against the finding of the Registrar contained in the notice of intended cancellation and the Supreme Court may make such order as it thinks fit and, notwithstanding any other written law, no appeal shall lie against the decision of the Supreme Court.

(2) Where the registration of a political party has

been cancelled as a result of a request of the party or because the party has ceased to exist, a person who was a member of the party at the time of its cancellation may, within 14 days after the publication of the notice of cancellation in the Gazette, appeal to the Supreme Court against the cancellation and the Supreme Court may make such order as it thinks fit and, notwithstanding any other written law, no appeal shall lie against the decision of the Supreme Court.

(3) The Registrar shall be entitled to be heard on an appeal.

Notice of change **11.** A registered political party shall, within 7 days of

in registered any change -

particulars

(a) occurring in the address of its registered office;

(b) among its office bearers or in the particulars of its office bearers,

notify the Registrar of such change.

Notice of change **12.(1)** A registered political party shall, within 7 days of

in the constitu- making an amendment to its constitution or rules, submit two

tion and rules copies of the amendment to the Registrar and the amendment shall not have effect until it has been registered by the Registrar.

(2) Where the Registrar registers an amendment he shall stamp the two copies of the amendment and return a copy to the political party.

(3) The Registrar may refuse to register an amendment if it appears to the Registrar that by reason of the amendment the purpose or one of the objects of the party would be unlawful or the amendment

contravenes this Act and the Registrar shall give notice in writing of the refusal to the party and shall specify the ground for the refusal.

(4) Where the Registrar refuses to register an amendment an office bearer of the political party may, within 14 days of the date of the notice of refusal, appeal to the Supreme Court and the Supreme Court may make such order as it thinks fit and, notwithstanding any other written law, no appeal shall lie against the decision of the Supreme Court.

(5) The Registrar shall be entitled to be heard on an appeal.

Further information-**13.**(1) The Registrar may, at any time after the registra-

tion and tion of a political party, require the political party to

Inspection submit to him any political programme, manifesto or other document issued or produced by it or in its name for any purpose.

(2) The Registrar or a person authorised in writing by the Registrar may at any reasonable time inspect and take extract from or copies of, or require an office bearer or employee of a registered political party to produce in readable form and provide him with a copy of or extract from, the record of a registered political party.

Confidentiality **14.**(1) The Registrar, a person authorised by the Registrar or an officer appointed under section 3(4) shall not disclose any information, other than -

(i) the name of a registered political party;

(ii) the address of the registered office of a registered political party;

(iii) the particulars of the office bearers of a registered

political party,

obtained in connection with or the course of the exercise of his functions under this Act except for the purposes of, or in connection with an offence under, this Act or where required to do so under any other written law or the Court.

(2) The Registrar, a person authorised by the Registrar or an officer appointed under section 3(4) who fails to comply with subsection (1) commits an offence and is liable to a fine of R10,000 and 2 years imprisonment.

Onus of proof **15.(1)** Where a written law -

(a) prohibits the doing of anything except by; or

(b) restricts the doing of anything to,

a registered political party, the onus of proving -

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

(d) that he is an office bearer or member of or has been authorised by the registered 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 authorised by the party.

Electioneering **16.(1)** A political party or any other combination of persons shall not represent itself as a registered political party unless it is so registered.

(2) A political party or any other combination of persons shall not electioneer, or authorise a person to act on its behalf, in connection with, or take part in a specified election unless it is a registered political party.

(3) A person shall not act on behalf of or represent himself as acting on behalf of a political party or any other combination of persons in connection with or for the purpose of a specified election unless -

(a) the political party or combination of persons is a registered political party; and

(b) the person is a member of or has been authorised in writing to act on behalf of the registered political party.

(4) A political party or any other combination of persons or any person who contravenes this section is guilty of an offence and liable to a fine of R30,000.

False informa- **17.(1)** A person who -

mation, obstruc-

tion etc of
the registration

(a) for the purpose of obtaining

Registrar

of a political party, wilfully -

(i) furnishes any false or misleading information;

(ii) makes any false declaration, or

(iii) forges or otherwise submits any document which he knows is false or misleading,

to the Registrar or any person authorised by the Registrar;

(b) fails to furnish the Registrar or any person authorised by the Registrar with any informa- tion, document or extract when required or within the time required;

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

is guilty of an offence and liable to a fine of R10,000 and imprisonment for 2 years.

Copy of **18.(1)** An office bearer of a registered political party

constitution shall not distribute to any person, other than the Registrar or a person authorised by the Registrar in connection with the performance of his functions under this Act or a police officer in connection with an offence under this Act or any other written law, a document which purports to be a copy of or a copy of a part of or an extract from the constitution or rules 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 or rules of the political party.

(2) An office bearer who contravenes subsection (1) is guilty of an offence and is liable to a fine of R5000 and to imprisonment for 6 months.

Failure to **19.** A registered political party which fails to comply

notify changes with section 11 or section 12 is guilty of an offence and liable to a fine of R10,000 and to a further fine of R100 for each day the offence continues after conviction.

Offences by **20.** Where a political party, whether registered or not,

a political or any other combination of person commits an offence under

party this Act every office bearer of the political party or combination of persons shall be deemed to commit the offence unless it is proved -

(a) that the office bearer did not know of the act or omission constituting the offence; or

(b) that the offence is not attributable to the negligence of the office bearer.

Regulations **21.** The President may make regulations for carrying into effect the provisions of this Act and for matters necessary or required to be prescribed or specified under this Act.

Rules **22.** The Chief Justice may make rules of the Supreme Court for the purposes of an appeal under this Act.

Registered **23.**(1) A registered political party shall from the date of its

political registration under this Act be a body corporate.

Party a body

corporate (2) A political party registered under this Act prior to the date of

2/4/1995 commencement of this section shall from that date be a body corporate.

Accounts **24.**(1) A registered political party shall keep proper accounts of

and audit all money received and paid by the political party in each year

2/4/199 in such manner and form as the Registrar may direct.

(2) A registered political party shall, before the 31st March of each year, prepare a statement made up to the 31st December of the immediately preceding year of all receipts and expenditures of the political party in that preceding year and of all assets and liabilities of the political party existing on the 31st December of that preceding year.

(3) A registered political party is not required to disclose in a statement prepared under subsection (2) -

(a) the source of the receipts of the registered political party; or

(b) the identity of the person in respect of whom the expenditure was incurred.

(4) The statement prepared under subsection (2) shall be audited by an auditor appointed by the registered political party.

(5) A registered political party shall, on or before the 30th June in each year, send to the Registrar a copy of the statement prepared under subsection (2), together with a copy of the report made by the auditor on the statement, for the immediately preceding year.

(6) A registered political party which fails to comply with subsection (5) is guilty of an offence and is liable on conviction to a fine of R10,000 and to a further fine of R100 for each day the offence continues after conviction.

Assets of **25.**(1) Upon the cancellation of the registration of a registered

registered political party under section 9, the assets of the political party

political shall vest in a liquidator appointed for the purpose by the Registrar.

Party on

cancellation (2) The Registrar shall, in the notice published under section 9(3)

of registration specify the name and address of the liquidator.

2/4/1995

2/15/1996 (3) The fees of the liquidator shall be paid out of the assets of the political party in priority to any other payment or claim.

(4) A liquidator appointed under subsection (1) shall

have power -

(a) to realise all assets of the registered political party and to execute all documents in this connection;

(b) to bring and defend any action or legal proceedings in the name of the registered political party for the purpose of recovering any debts or assets of the political party or to make any compromise with regard to any debt or assets of the political party or to make any compromise with regard to any debt or obligation owed to the political party and to give a valid discharge in connection with any of the debts or assets;

(c) to pay the creditors and meet all the liabilities of the registered political party or make any compromise or arrangement with creditors or in relation to claims against the political party and for those purposes dispose with the sanction of the Registrar any property of the political party;

(d) where there are any assets of the registered political party remaining after meeting all claims and liabilities of the political party, to distribute the assets -

(i) where the cancellation is made under section 9(1) (a), in accordance with any instructions contained in the request made under that section or, in the absence of any such instructions, in accordance with subparagraph (ii);

(ii) in any other case -

(A) where the assets consist of money, pay the money into the Consolidated Fund;

(B) where the assets consist of other property, transfer the property to the Republic.

(5) The liquidator in whom the assets of a registered political party had vested under subsection (1) may require the leader of that political party who held office as leader immediately before the cancellation of its registration under section 9 to submit to the liquidator all books, records and documents relating to the assets and

liabilities of the political party in the possession of the political party.

(6) Where a leader of a political party fails to submit the books, records and documents required under subsection (5) to the liquidator within 30 days after the request under that subsection, the leader is guilty of an offence and is liable on conviction to a fine of R10,000 and to a further fine of R100 for each day the offence is continued after conviction.

Exemption **26.** A registered political party shall be exempt from tax on its

from tax on income.

income.

2/4/1995

Political **27.**(1) There is hereby established a fund to be called the

Parties Political Parties Financial Support Fund hereinafter referred to

Financial as the "Fund".

Support

Fund. (2) The Fund shall be administered by the Registrar.

2/12/1996

Moneys of **28.**(1) The moneys of the Fund shall consist of monies

the Fund appropriated by an Appropriation Act and paid into the Fund.

2/12/1996

(2) The moneys of the Fund shall be applied by the Registrar for the payment of financial assistance to registered political parties.

Payment to **29.**(1) The Registrar shall on or before 30th January each year

Political Parties determine the total amount of financial assistance to be paid out

Parties of the Fund to the registered political parties which on the 1st

2/12/1996 day of January of that year are registered in the register kept under section 4 and are eligible for payment of financial assistance under subsection (2).

(2) Each registered political party referred to in subsection (1) which had nominated candidates for the immediately preceding general election of the National Assembly shall be entitled to receive out of the amount determined under that subsection such sum as is equal to the proportion which the total number of valid votes cast or deemed to be cast in favour of the candidates nominated by that party for that election bears to the total number of valid votes cast at that election.

(3) Where a registered political party referred to in subsection (1) has not nominated any candidates for the immediately preceding general election of the National Assembly or a political party is registered after the date of that election, such party, if it nominates any candidates for a general election of the National Assembly shall be entitled to receive, out of the lowest sum payable to a political party under subsection (2), such amount as is equal to the proportion which the period commencing on the close of the nominations and ending on the date of the election bears to a whole year.

(4) The sum each political party is entitled to receive under subsection (2) or subsection (3) may be paid in such manner and at such times as the Registrar may, in consultation with the political party, determine.

Accounts **30.**(1) The Registrar shall cause to be kept proper books and

2/12/1996 accounts of the Fund and cause to be prepared for each year a statement of accounts.

(2) The Registrar shall on or before 31st March of each year submit to the National Assembly a copy of the statement of accounts prepared under subsection (1) for the immediately preceding year.

Annual **31.** The Registrar shall on or before
31st March of each year

Report submit to the National Assembly a
report in respect of the

of Registrar functions of the Registrar under this Act
for the immediately

2/12/1996 preceding year.