

# INDEPENDENT STATE OF PAPUA NEW GUINEA.



## *Organic Law on the Integrity of Political Parties and Candidates 2003.*

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**INDEPENDENT STATE OF PAPUA NEW GUINEA.**



AN ACT

entitled

***Organic Law on the Integrity of Political Parties and Candidates 2003,***

Being an Organic Law to implement Subdivision VI.2.H (Protection of Elections from Outside or Hidden Influences) of the Constitution and for related purposes,

**Preamble**

We, the representatives of our people in the National Parliament in responding to the nationwide call to strengthen and bring about political stability to the system of government and in order to protect the National Election from Outside or Hidden Influences have decided –

(a) to make changes to the Organic Law on the Integrity of Political Parties and Candidates to bring stability in the system of government and to strengthen our system of voting in Parliament – in particular in relation to a vote of no confidence, an election of Prime Minister, a vote for approval of National Budget and a vote to enact, amend or repeal a Constitutional Law or a provision of a Constitutional law; and

(b) to develop and nurture a political culture in which intrinsic values of constitutional democracy are respected and maintain; and

(c) to ensure participation of people to enhance the principle of government of the people, for the people, but more importantly, by the people.

MADE by the National Parliament to be deemed to have come into operation –

(a) in respect of Parts 1, 2, 3, 4 and 8 – on 22 February 2001; and

(b) in respect of the remainder – on 21 February 2002.

## **PART 1. – PRELIMINARY.**

### **1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Law, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (qualified rights) of the Constitution, namely –

(a) freedom from arbitrary search and entry conferred by Section 44 of the Constitution; and

(b) freedom of conscience, thought and religion conferred by Section 45 of the Constitution; and

(c) freedom of expression conferred by Section 46 of the Constitution; and

(d) freedom of assembly and association and to form or belong to, or not to belong to, a political party conferred by Section 47 of the Constitution; and

(e) the right to privacy conferred by Section 49 of the Constitution; and

(f) the right to vote and stand for public office conferred by Section 50 of the Constitution; and

(g) the right to freedom of movement conferred by Section 52 of the Constitution; and

(h) the right to protection from unjust deprivation of property conferred by Section 53 of the Constitution; and

(i) the right of equality of citizens conferred by Section 55 of the Constitution; and

(j) other rights and privileges of citizens conferred by Section 56 of the Constitution; and

(k) the right to compensation conferred by Section 58 of the Constitution,

is a law that is made for the purposes of complying with Section 38 of the Constitution, taking account of the National Goals and Directive Principles and Basic Social Obligations, in particular to restrict rights and freedom of Members of Parliament in certain circumstances according to Law from exercising their voting rights to vote as members of Parliament in –

(l) a motion of no confidence brought against the Prime Minister, the Ministry or a Minister under Section 145 (motions of no confidence) of the Constitution; and

(m) a vote for the election of a Prime Minister under Section 142 (the Prime Minister) of the Constitution; and

- (n) a vote for the approval of the National Budget; and
- (o) a vote to enact, amend or repeal a Constitutional Law,

for the purpose of giving effect to the public interest in public order and public welfare, to the extent that the law is reasonably justifiable in a democratic society having proper respect or regard for the right and dignity of mankind.

(2) For the avoidance of doubt, it is hereby declared that this Organic Law acknowledges that all citizens in Papua New Guinea are entitled to the fundamental rights and freedoms, irrespective of their race, tribe, places of origin, political opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the legitimate national or public interest, is a law made in accordance with the Constitution designed to place limitations on those rights and freedoms referred to in Subsection (1), being limitations primarily designed to ensure that the enjoyment of the acknowledged rights and freedoms by an individual does not prejudice the rights and freedoms of others or the legitimate national or public interest.

(3) For the avoidance of doubt, it is hereby declared that a freedom of assembly and association, right to form or belong to, or not to belong to, a political party, of a citizen, conferred by Section 47 of the Constitution, and, the right to vote for and to be elected to elective office, of a citizen, conferred by Section 50 of the Constitution, is a restrictive freedom and right, and the provisions of Section 127 of the Constitution shall be given liberal construction in its meaning and intent.

## 2. INTERPRETATION.

In this Law, unless the contrary intention appears –

“Commission” means the Integrity of Political Parties and Candidates Commission established by Section 3;

“candidate” means a person who has nominated or who nominates for election to the Parliament and includes a former candidate;

“Central Fund” means the Central Fund established by Section 76;

“constitution of a political party” means the document (by whatever name known) specifying the aims of the political party and the manner of governance of the political party;

“contribution” means the giving of –

(a) money to the Central Fund or the fund of a political party or to a candidate; or

(b) assistance in kind, goods, services, gifts or other voluntary provisions to a political party; or

(c) assistance in kind, goods, services, gifts or other voluntary provisions to a candidate as assistance towards campaign expenses, exceeding in value a prescribed amount and “contribute” and “contributor” have corresponding meanings;

“Electoral Commission” means the Electoral Commission continued in establishment by Section 5 of the Organic Law on National and Local-level Government Elections;

“Electoral Commissioner” means the Electoral Commissioner appointed under Section 5 of the Organic Law on National and Local-level Government Elections;

“endorsed candidate” means a candidate who –

(a) was publicly supported by a political party as representing its views; and

(b) did not reject or refute such support at the time when it was given,

and “endorse” has a corresponding meaning;

“executive officer”, in relation to a political party, means an executive officer referred to in Section 25;

“expenditure or electoral expenses” includes the value of gifts, goods and services provided without charge as contribution in respect of expenses and living and travelling costs incurred before, during or after and election by –

- (a) a political party or, with its permission, express or implied, on behalf of a political party; or
- (b) a candidate or, with his permission, express or implied, on behalf of a candidate,

but does not include –

(c) the value of hospitality (including meals, accommodation and transport) of a kind and to a degree recognized as hospitality in the country or in that part of the country in which the hospitality was given; or

(d) in the case of a candidate, reasonable costs incurred by him personally for travel and for living away from home for the purposes of the election;

“financial return” means –

(a) in the case of a registered political party – a financial return under Section 88; and

(b) in the case of a candidate – a financial return under Section 89;

“general election” means a general election to the Parliament held in accordance with Section 105 (general elections) of the Constitution;

“highest vote collected” means, in relation to Section 63(2), the total number of votes formally declared in the election by all the winning candidates of that political party invited to form the Government;

“income”, in relation to a political party, means all income and receipts other than contributions;

“life of a Parliament” means the period commencing on the date of the first meeting of the Parliament following the return of the writs in a general election and ending on the day before the first meeting of the new Parliament following the next general election;

“member” means a member of a political party and includes an official of a political party;

“Member” means –

(a) in relation to Section 73 – includes a member elect or declared as a winner by the Electoral Commission; and

(b) in any other case – a Member of Parliament;

“National Budget” means the National Budget required by Section 209 (Parliamentary responsibility) of the Constitution and includes appropriations, other legislation pertaining to the National Budget and supplementary or additional Budgets and appropriations and legislation pertaining thereto;

“non-citizen” means a person other than a Papua New Guinea citizen and includes a non-citizen corporation;

“non-citizen corporation” means a business enterprise or corporation or an organization, corporate or non-corporate, profit-making or non-profit-making:

(a) originally incorporate, registered or formed in a foreign country; or

(b) where it is originally incorporated, registered or formed in Papua New Guinea –

(i) whose membership or controlling body is largely non-citizens; or

(ii) of which more than 25% of its equity or the balance of voting power or the management is in the control of non-citizens;

“political party” means an association, party or organization (by whatever name known) having political aims and includes its branches and affiliates;

“public funding”, in relation to a registered political party, means funds appropriated by the Parliament under Section 77;

“Register” means the Register of Political Parties established by Section 36;

“Registrar” means the Registrar of Political Parties appointed under Section 16;

“registered political party” means a political party registered under Section 34 or deemed to be registered under Section 27(3);

“Registry” means the Registry established by Section 13;

“this Law” includes the Regulations made under this Law.

## **PART 2. – INTEGRITY OF POLITICAL PARTIES AND CANDIDATES COMMISSION.**

### ***Division 1.***

The Commission.

## **3. INTEGRITY OF POLITICAL PARTIES AND CANDIDATES COMMISSION.**

(1) The Integrity of Political Parties and Candidates Commission is hereby established.

(2) The Commission –

(a) is a corporation with perpetual succession; and

(b) shall have a seal; and

(c) may acquire, hold and dispose of property; and

(d) may sue and be sued in its corporate name.

(3) The Commission is hereby declared to be an institution to, and in relation to, which Part IX (constitutional office-holders and constitutional institutions) of the Constitution applies.

(4) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document and presume that it was duly affixed.

## **4. CONSTITUTION OF THE COMMISSION.**

(1) The Commission shall consist of the following members: –

(a) the Clerk of the Parliament, ex officio; and

(b) the Electoral Commissioner, ex officio; and

(c) the Registrar, ex officio; and

(d) the Chairman of the National Fiscal and Economic Commission, ex officio; and

(e) a representative of the National Council of Women, nominated by the National Council of Women; and

(f) a representative of the National Council of Churches, nominated by the National Council of Churches.

(2) The representative under Subsection (1)(e) and (f) shall be citizens and shall be appointed by the Head of State, acting on advice, by notice in the National Gazette.

(3) The members of the Commission are subject to the Leadership Code.

(4) The members of the Commission shall receive such fees and allowances as determined by the Salaries and Remuneration Commission.

## **5. CHAIRMAN .**

(1) The members of the Commission shall elect one of their members to be Chairman of the Commission for a period of two years.

(2) A member appointed as Chairman under Subsection (1) is eligible for re-appointment as Chairman.

(3) The Commission shall determine grounds for the removal from office of a Chairman and procedures relative thereto and a Chairman may be removed from office on such grounds and accordance with such procedures.

## **6. DECLARATION OF OFFICE.**

(1) Before entering on the duties of his office, a member of the Commission shall make the Declaration of Office provided by the Constitution.

(2) The Declaration of Office shall be made by a member of the Commission before the Minister or a person appointed by the Minister for the purpose.

## **7. LEAVE OF ABSENCE OF MEMBER.**

The Chairman may grant leave of absence to a member of the Commission on such terms and conditions as the Chairman determines.

## **8. VACATION OF OFFICE OF MEMBER.**

(1) Where a member of the Commission referred to in Section 4(1)(e) or (f) –  
(a) resigns his office by writing under his hand addressed to the Minister; or  
(b) absents himself from consecutive meetings of the Commission without the written consent of the Chairman; or  
(c) becomes of unsound mind as that expression is used in the Public Health Act 1973,

the Head of State, acting on advice, shall terminate his appointment.

(2) The Head of State, acting on advice, may at any time terminate the appointment of a member under Section 4(1)(e) or (f) on the grounds of inability, inefficiency, incapacity or misbehaviour.

## **9. VACANCY NOT TO AFFECT POWERS OR FUNCTION.**

The exercise or performance of a power or function of the Commission is not invalidated by reason only of a vacancy in the membership of the Commission.

#### **10. MEETING OF THE COMMISSION.**

(1) The Commission shall meet at least once in every period of three months and otherwise as often as the business of the Commission requires or as the Chairman directs.

(2) The Chairman shall, where requested to do so by not less than three members of the Commission, call a meeting of the Commission as soon as practicable after receiving the request.

(3) At a meeting of the Commission –

(a) the Chairman and two other members of the Commission constitute a quorum; and

(b) the Chairman shall preside; and

(c) matters arising shall be decided by a majority of the votes of the members of the Commission present and voting; and

(d) the Chairman has a deliberative vote, and in the event of an equality of votes on a matter, also a casting vote.

(4) The Commission shall cause minutes of its meetings to be recorded and kept.

(5) Subject of this Law, the procedures of the Commission are as determined by it.

#### **11. INDEMNITY OF MEMBERS OF THE COMMISSION.**

A member of the Commission is not personally liable for any act of the Commission or of a member of the Commission acting as such, done in good faith.

#### **12. FUNCTIONS AND POWERS OF THE COMMISSION.**

(1) The Commission shall –

(a) be responsible for the consideration of applications for registration of political parties; and

(b) be responsible for the policy concerning, and for the control and management of, the Central Fund; and

(c) be responsible for the administration of terms and conditions – such as salaries and allowances, etc., of the executive members of the registered political parties; and

(d) have such other functions as are given to it by this Law.

(2) The Commission has full powers to do all things necessary and incidental to its functions including, without prejudice to the foregoing generality, the power to –

(a) raise monies, from within or outside Papua New Guinea; and

(b) invest funds in bonds and securities within the country,

for the purposes of the Commission.

(3) In carrying out its functions and exercising its powers under this Law the Commission is not subject to any control or direction by any person or authority.

(4) In exercising its powers or carrying its duties and functions under this Organic Law, the Commission may, refer any question relating to the interpretation or application of any provision of a Constitutional Law, including (but without limiting the generality of that expression) any question as to the validity of a law or proposed law.

### **13. REGISTRY OF POLITICAL PARTIES.**

(1) There is established an administrative unit to be known as the Registry of Political Parties which shall –

- (a) consist of such members of staff as the Commission decides; and
- (b) assist the Commission in carrying out of its functions under this Law.

(2) The Commission shall –

- (a) after consultation with the Registrar, appoint the members of the staff of the Registry; and
- (b) subject to the Salaries and Conditions Monitoring Committee Act 1988, fix the terms and conditions of members of the staff of the Registry.

(3) The Registry shall be responsible for the day-to-day operations of the Registry.

(4) Funds shall be provided in each years from the Consolidated Revenue Fund for the maintenance and expenses of the Registry.

(5) An Act of the Parliament may make provision for and in respect of qualifications and appointment of staff of the Registry and such other matters in relation to the Registry as are necessary to give effect to the operation of this Law.

### **14. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.**

Part VIII of the Public Finances (Management) Act 1995 applies to and in relation to the Commission.

### **15. REPORTS BY THE COMMISSION.**

(1) The Commission shall, by 31 March in each year, give to the Head of State, for presentation to the Parliament, a report on the functions and workings of the Commission and of this Law for the year ending 31 January preceding, with such recommendations as to improvement as the Commission thinks proper.

(2) Nothing in Subsection (1) prevents the Commission from making, on its own initiative or at the request of the Parliament or the National Executive Council, other reports on any aspect of the functions and workings of the Commission and of this Law.

#### ***Division 2.***

Registrar.

### **16. REGISTRAR.**

(1) There shall be a Registrar of Political Parties who shall be a suitably qualified person appointed by the Commission.

(2) The Office of Registrar of Political Parties is hereby declared to be an office to and in relation to which Division III.2 (Leadership Code) of the Constitution applies.

(3) The Registrar shall –

- (a) to appointment for a term of six years; and
- (b) hold office in accordance with the determination of the Parliament under Section 216A(4) (the Salaries and Remuneration Commission) of the Constitution; and
- (c) be eligible for re-appointment

(4) The Office of Registrar of Political Parties is hereby declared to be an Office to and in relation to which Part IX (constitutional office-holders and constitutional institutions) of the Constitution applies.

#### **17. DISQUALIFICATION FROM OFFICE.**

A person is not qualified to be, or to remain, the Registrar if he is –

- (a) a member of the Parliament; or
- (b) a member of a Provincial Government; or
- (c) a member of a Local-level Government; or
- (d) a member of a political party; or
- (e) an undischarged bankrupt or insolvent; or
- (f) of unsound mind within the meaning of any law relating to the protection of the person and property of persons of unsound mind; or
- (g) under sentence of death or imprisonment.

#### **18. SPECIAL CONDITIONS OF EMPLOYMENT.**

(1) The Registrar shall not –

- (a) actively engage in politics; or
- (b) except on leave of absence granted by the Commission, or because of illness, absent himself from duty for more than 14 consecutive days or more than 22 days in any period of 12 months; or
- (c) subject to Subsection (3), acquire by way of gift or otherwise or use or hold in any other manner any interest in any property in Papua New Guinea or solicit, accept or receive any other benefit in addition to his terms and conditions of employment.

(2) Nothing in Subsection (1) prevents the Registrar from holding office in a professional body in relation to which his qualifications are relevant.

(3) Subject to an Organic Law made for the purposes of Division III.2 (Leadership Code) of the Constitution, the Registrar may purchase, lease or otherwise acquire land in the same manner as any other citizen.

#### **19. RESIGNATION.**

The Registrar may resign by giving to the Commission three month's notice, in writing, of his intention to do so.

## **20. RETIREMENT.**

(1) Subject to this section, a person who has attained the age of 55 years shall not be appointed or re-appointed as the Registrar for a period that extends beyond the date on which he will attain the age of 55 years.

(2) The Head of State, acting with and in accordance with the advice of the commission, may, for special reasons in a particular case, appoint or re-appoint a person who is over 55 years of age to be a Registrar, but in no case shall a person continue to hold office beyond the compulsory retirement age of 60 years.

## **21. VACATION OF OFFICE.**

(1) Where the Registrar –

- (a) becomes disqualified from holding office under Section 17; or
- (b) breaches the special conditions of employment specified in Section 18; or
- (c) resigns his office under Section 19,

the Commission shall terminate his appointment.

(2) The Commission may, at any time, by written notice under the hand of the Chairman, advise the Registrar that it intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(3) Within 14 days of a notice under Subsection (2), the Registrar may reply in writing to the Commission who shall consider the reply and, where appropriate, may terminate the appointment.

(4) Where the Registrar does not reply in accordance with Subsection (3) his appointment is terminated.

## **22. SEAL .**

(1) The Registrar shall have and use as his seal of office a seal in such form as the Minister approves.

(2) In pursuance of his duties and functions under this Law, the Registrar may fix, or cause to be affixed, a facsimile of his signature which shall be deemed to be the signature of the Registrar.

(3) All courts, Judges and persons acting judicially shall take judicial notice of –

- (a) a signature of any person who holds or has held the Office of Registrar and of the fact that the person holds or has held that office; and
- (b) the seal of the Registrar.

## **23. FUNCTIONS AND DUTIES OF THE REGISTRAR.**

The Registrar is the Head of the Registry and shall be responsible to the Commission for –

- (a) the administration of the Registry; and
- (b) the administration of the terms and conditions of employment of executives of Registered Political Parties; and
- (c) the performance of such functions and duties as are required by this Law or an Act of the Parliament.

**PART 3. – POLITICAL PARTIES GENERALLY.**

**24. MEMBERSHIP OF POLITICAL PARTIES.**

(1) Subject to Subsection (2), a political party shall not restrict membership of the party on the basis of sex, race, religion or place of origin.

(2) A non-citizen shall not be a member of a political party.

(3) A person shall not be a member of more than one political party at the same time.

(4) Subject to Subsection (7), a person is not a member of a political party unless all fees, dues or other payments due by him to the political party in accordance with the constitution of that political party have been paid within the time and in the manner required by that constitution.

(5) Subject to Subsection (6), membership of a political party shall be ordinary membership and a political party shall not grant dual membership, associate membership or any other form of membership of the political party.

(6) A political party may, in accordance with the constitution of that political party, accord special privileges, such as life membership of the party, to certain members of the party.

(7) A member of a registered political party who is a Member of the Parliament and who has not paid, within the time and in the manner required by the constitution of that political party, all fees, dues or other payments due by him to the political party may be expelled from the political party if the constitution so provides, but if not so expelled remains as a member of that political party until –

- (a) the end of the life of the Parliament during which the non-payment occurs; or
- (b) his resignation from that political party; or
- (c) his ceasing to be a Member of the Parliament according to law,

whichever first happens.

**25. EXECUTIVE OFFICERS OF POLITICAL PARTIES.**

(1) A political party shall have the following executive officers: –

- (a) a president; and
- (b) a secretary; and

(c) a treasurer; and

(d) where a registered political party has two or more members who are Members of the Parliament, a Parliamentary Leader.

(2) An official of a political party, other than a Member of the Parliament, shall not hold any other public office or be an employee or member of the governing body of a public body including a superannuation fund or corporation in which the State or a public body has equity interest.

(3) The executive officers referred to in Subsection (1)(a), (b) and (c) shall be elected in a democratic manner in accordance with provisions specified in the constitution of the political party and conforming to the following principles: –

(a) each member of the political party has an equal voting right that is exercisable freely; and

(b) subject to reasonable qualifications applying to all members of the political party, all members are eligible to contest the election of executive officers; and

(c) reasonable opportunity is given to –

(i) all members qualified under Paragraph (b) to contest; and

(ii) all members to vote in,

an election of executive officers; and

(d) the executive officers are appointed and removable by the majority vote of the members of the political party at elections held at fixed periodic intervals.

(4) A Parliamentary Leader referred to in Subsection (1)(d) shall be elected in a democratic manner in accordance with provisions specified in the constitution of the political party and conforming to the following principles: –

(a) each member of the political party who is a Member of the Parliament has an equal voting right that is exercisable freely; and

(b) subject to reasonable qualifications applying to all such members, all such members are eligible to contest the election of the office of Parliamentary Leader; and

(c) reasonable opportunity is given to –

(i) all such members qualified under Paragraph (b) to contest;

(ii) all such members to vote in,

an election of a Parliamentary Leader; and

(d) the Parliamentary Leader is appointed and is removable by the majority of such members at elections held at fixed periodic intervals and at least once during the life of each Parliament; and

(5) The salaries, allowances and other terms and conditions of the executive officers of the registered political parties referred to in Subsection (1)(a), (b) and (c) shall be determined by the Salaries and Remuneration Commission and to be administered by the Registrar.

## 26. PUBLIC OFFICER.

(1) Each political party shall appoint a member of the party to be the public officer of the party for the purposes of this Law.

(2) An executive officer of a political party is eligible to be appointed the public officer of that political party.

(3) The public officer (other than a Parliamentary Leader) of a political party is responsible, on behalf of the political party, for –

- (a) lodging an application to register it or to amend its registration; and
- (b) lodging financial returns; and
- (c) receiving notifications from the Registrar and the Commission; and
- (d) performing such other functions as are specified in this Law.

## **27. REQUIREMENT OF POLITICAL PARTY TO REGISTER.**

(1) A political party is required to register under Part 4 where –

- (a) it intends to nominate a candidate for election to the Parliament; or
- (b) it intends to endorse a candidate; or
- (c) it intends to nominate a candidate for election to a Local-level Government; or
- (d) a member of the political party is a Member of the Parliament.

(2) Subject to Subsection (3), a political party which is not registered under Part 4 is not eligible –

- (a) to nominate a candidate for election to the Parliament; or
- (b) to endorse a candidate for election to the Parliament; or
- (c) to receive any funding from the Central Fund under this Law.

(3) A political party –

- (a) in existence on the date of coming into operation of this Law; and
- (b) required by Subsection (1) to register; and
- (c) which lodges an application for registration under Section 29(1) within six months of the date of coming into operation of this Law,

is deemed to be a registered political party for the period from the date of coming into operation of this Law until –

- (d) the date of registration of that political party under Section 34; or
- (e) the date of notification of refusal to register that political party under Section 35.

## **28. QUALIFICATIONS FOR REGISTRATION.**

A political party is eligible for registration where –

- (a) its objectives, policies or platforms encourage the development of the country as one nation and do not encourage secession; and
- (b) subject to Section 24(2), it does not discriminate on the basis of sex, race or religion except to the extent permitted by Section 55(2) (equality of citizens) of the Constitution; and

- (c) it is incorporated under the Associations Incorporation Act 1966; and
- (d) its membership is not confined by its constitution to persons from a particular province, region or group; and
- (e) its constitution provides for a president, a secretary and a treasurer and such executive officers have been appointed or elected in accordance with its constitution; and
- (f) a public officer of the party has been appointed in accordance with Section 26; and
- (g) the policies of the party do not encourage any illegal or unlawful purposes; and
- (h) it has at least 500 financial members –
- (i) who are eligible for enrolment on the National Electoral Roll; and
- (ii) who are registered as financial members according to the party register; and
- (i) the name of the political party does not contain the word “independent”.

**PART 4. – REGISTRATION OF POLITICAL PARTIES.**

***Division 1.***

Registration Procedure.

**29. APPLICATION FOR REGISTRATION OF A POLITICAL PARTY.**

(1) An application for registration of a political party shall be made to the Registrar by the public officer of that political party.

(2) An application under Subsection (1) –

- (a) by a political party, required by this Law to be registered, in existence on the date of coming into operation of this Law – shall be made within six months of that date; and
- (b) in any other case may be made as and when required.

(3) An application under Subsection (1) shall –

- (a) be on the prescribed form; and
- (b) be accompanied by the prescribed fee; and
- (c) contain the following information relating to the political party: –
  - (i) the name of the political party; and
  - (ii) any abbreviation of the name or initials of acronym which the political party intends to use; and
  - (iii) the name of the public officer; and
  - (iv) the postal address and physical location of the main office and any branch offices and affiliates; and
  - (v) the names, addresses and occupations of the members of its executive officers and of its executive or controlling body and of the officers accountable for or otherwise handling or managing its money or property; and
  - (vi) the names and addresses of persons authorized to receive contributions and commit expenditures on its behalf; and
  - (vii) the names and addresses of persons authorized to commit the party and its branches to endorse and publicly support candidates at elections; and

- (viii) the names of Members of the Parliament who are members; and
- (ix) the date of its incorporation; and
- (x) such other related matters and particulars as the Board may require; and

(d) be accompanied by the following in relation to the political party: –

- (i) a copy of the constitution of the political party; and
- (ii) the certificate of incorporation issued under the Associations Incorporation Act 1966; and
- (iii) statutory declaration by Members of the Parliament who are members of the political party (if any) to the effect that they are members and are not members of any other political party; and
- (iv) a statutory declaration by the public officer to the effect that no-non citizens are members of and are employees of the political party; and
- (v) a copy of the balance sheet and financial statements detailing assets and liabilities and income sources of income; and
- (vi) a copy of the annual income tax return for the preceding year (if any) certified by the Internal Revenue Commission to be true and accurate.

(4) A registered political party under the Organic Law shall have a common seal of office and may sue and be sued in its registered name.

(5) The service of any legal process on the registered political party may be effected by serving it on the public officer of the party, or on any other person authorized by the party to accept service of it.

### **30. APPLICATION TO BE ADVERTISED.**

(1) As soon as practicable after an application is made to him under Section 29(1), the Registrar shall cause notice of the application to be published in –

- (a) the National Gazette; and
- (b) a newspaper published in and circulating generally in the country not less than once in each week.

(2) A notice under Subsection (1) shall –

- (a) include the information referred to in Section 29(3)(c); and
- (b) invite any person wishing to object to the application in accordance with this Division to lodge a written objection with the Registrar within one month of the date of publication of the notice under Subsection (1)(a) or (b), whichever is the earlier date; and
- (c) specify the date for the consideration of the application by the Commission, being a date not less than one month after the date of publication of a notice under Subsection (1)(a) or (b), whichever is the earlier date.

### **31. GROUNDS OF OBJECTION.**

(1) Objection to the grant of an application made under Section 29(1) may be taken on one or more of the following grounds: –

- (a) that the application is not in accordance with this Law; or
- (b) that the information set out in the application, or that any document required to accompany

the application, is incorrect; or

(c) that the name of the political party is obscene or offensive; or

(d) that the name of the political party so closely resembles the name of a registered political party or public body so as likely to be confused with or mistaken for that registered political party or public body.

(2) A statement of objection under Subsection (1) shall –

(a) contain the name and address of the person making the objection; and

(b) be signed by that person; and

(c) specify in detail the grounds of objection.

(3) The Registrar shall –

(a) send to the person making the application under Section 29(1) a copy of any objection lodged; and

(b) invite him to give a reply within such reasonable time as the Registrar allows.

### **32. REFERRAL OF APPLICATION TO THE COMMISSION.**

Where an application has been lodged under Section 29, the Registrar shall –

(a) where all the requirements of Section 29 have been met, submit to the Commission –

(i) the application; and

(ii) any objections under Section 31(1); and

(iii) any reply to objections under Section 31(3); and

(b) where the requirements of Section 29 have not all been met –

(i) require the applicant to finish the missing requirements; and

(ii) where that has been done, proceed as in Paragraph (a).

### **33. CONSIDERATION OF APPLICATION.**

(1) Subject to Subsection (4), as soon as practicable after the expiry of the time for lodging objections under Section 31 to an application, the Commission shall consider the application together with any objections to it and any replies by the applicant to the objections.

(2) Where the Commission is of the opinion that –

(a) the application is complete; and

(b) the political party has the qualifications for registration specified in Section 28; and

(c) any objection to the application does not justify a refusal to register the political party,

the Commission shall approve the application and shall direct the Registrar to register the political party.

(3) Where the Commission is of the opinion that –

(a) the application is not complete; or

(b) any of the matters, listed in Section 31(1) as grounds of objection to an application, exists in

relation to the application; or

(c) the political party does not have the qualifications for registration specified in Section 28; or  
(d) any objection to the application justifies a refusal to register the political party,

the Commission shall refuse the application giving its reasons for the refusal in writing and shall notify the Registrar accordingly.

(4) The Commission shall not consider any application under Section 29(1) during the period commencing on the date fixed, in accordance with a Constitutional law, for the issuing of writs for a general election and ending on the date fixed, in accordance with a Constitutional law, for the return of the writs for that general election.

#### **34. REGISTRATION.**

The Registrar shall effect registration of a political party on the direction of the Commission under Section 33(2) by entering in the Register the prescribed particulars of the political party.

#### **35. NOTIFICATION OF DECISION OF COMMISSION.**

(1) The Registrar shall, as soon as practicable after receiving from the Commission a direction under Section 33(2) or a notification under Section 33(3), give written notification of the decision of the Commission to the public officer of the political party and to any person who filed a notice of objection to the application.

(2) Where the Commission has refused an application, the notification to the public officer under Subsection (1) shall include the reasons given in writing by the Commission for its refusal.

##### ***Division 2.***

The Register.

#### **36. REGISTER.**

(1) The Registrar shall establish and maintain in the office of the Registry a Register of Political Parties.

(2) The Register shall be in such form and shall be kept in such manner as the Registrar determines

(3) All matters required by this Law to be registered shall be effected by the Registrar.

#### **37. INSPECTION.**

The Register shall be available for inspection by any person, on payment of the prescribed fee, during such hours as the Office of the Registrar is open for business.

#### **38. CERTIFICATES, ETC.**

Subject to this Law, the Registrar may –

- (a) issue copies of or extracts from entries in the Register certified under this hand and seal; and
- (b) certify under his hand and seal that an entry, act, matter or thing required or authorized under this Law to be made or done, has or has not been made or done, as the case may be.

**39. REGISTER, ETC., TO BE EVIDENCE.**

(1) The Register is evidence of all matters required or authorized by this Law to be entered in it.

(2) A certified copy or extract issued by the Registrar under Section 38 is evidence in all courts and proceedings without further proof or production of the original.

(3) A certificate of the Registrar under Section 38 is evidence of the statements contained in the certificate.

**40. PUBLICATION OF LIST OF POLITICAL PARTIES BEFORE NATIONAL ELECTION.**

(1) The Registrar shall, as soon as practicable after the date of issue of a writ for an election to the Parliament, publish in the National Gazette a list of all registered political parties.

(2) A list under Subsection (1) shall include the names of –

- (a) the president; and
- (b) the secretary; and
- (c) the treasurer; and
- (d) the Parliamentary Leader (if any); and
- (e) the public officer,

of each registered political party.

***Division 3.***

Amendment of Register.

**41. AMENDMENT OF REGISTER.**

(1) A public officer of a registered political party shall, within 30 days of any change in –

- (a) the constitution of the political party; or
- (b) the information supplied to the Registrar under Section 29(3),

inform the Registrar of the change.

(2) Where any change referred to in Subsection (1) relates to a matter recorded in the Register, the Registrar shall amend the Register accordingly.

(3) The public officer of a registered political party may apply to be Commission for –

- (a) the amendment of any information recorded in the Register; or
- (b) the replacement of any documents lodged with the Registrar,

relating to that political party.

(4) An application under Subsection (3) shall be made in such manner and form as is approved by the Commission.

(5) The Commission shall consider an application under Subsection (3) and shall –

- (a) where the application complies with this Law, agree to it; and
- (b) where the application does not comply with this Law, refuse it,

and advise the Registrar accordingly.

(6) The Registrar shall –

- (a) notify the applicant of the decision of the Commission under Subsection (5); and
- (b) in the case of a decision under Subsection (5)(a), amend the Register accordingly.

#### ***Division 4.***

Cancellation of Registration.

### **42. GROUNDS FOR CANCELLATION OF REGISTRATION.**

The Commission may cancel the registration of a registered political party where –

- (a) the party is convicted of an offence under this Law or any other law that carries a penalty of a fine of K1, 000. 00 or more and the party fails to pay the fine imposed on it within the time fixed by the court imposing the fine for payment of the fine; or
- (b) the party or a member of the party is convicted of an offence under Section 87; or
- (c) the party no longer meets the qualifications for registration referred to in Section 28; or
- (d) the party without reasonable justification, fails to file financial returns, as required by this Law, for two consecutive years.

### **43. NOTIFICATION OF INTENTION OF CANCEL REGISTRATION.**

(1) Where the Commission is of the opinion that grounds for cancellation of registration exist in relation to a registered political party, it shall so advise the Registrar who shall give written notification to the public officer of that registered political party of the intention of the Commission to cancel its registration.

(2) Notification under Subsection (1) shall –

- (a) state the grounds for the proposed cancellation; and
- (b) fix a period of not less than 21 days within which the political party may –

- (i) make representations to the Commission as to why the registration should not be cancelled; or
- (ii) where the grounds are those specified in Section 42(c); or
- (iii) takes steps to ensure compliance with this Law.

#### **44. COMMISSION TO CONSIDER CANCELLATION, ETC.**

- (1) On the expiry of the period fixed under Section 43(2)(b), the Commission shall –
  - (a) consider any representations made under Section 43(2)(b)(i) and any steps taken under Section 43(2)(b)(ii); and
  - (b) decide whether the registration of the political party is or is not to be cancelled; and
  - (c) advise the Registrar of its decision under Paragraph (b).
- (2) On receipt of the advice under Subsection (1)(c), the Registrar shall –
  - (a) where the decision of the Commission is that the registration of the political party is to be cancelled, cancel the registration; and
  - (b) notify the public officer of the political party of the decision of the Commission under Subsection (1)(b) and, where the registration has been cancelled, of the cancellation; and
  - (c) where the registration has been cancelled –
    - (i) give notification of the cancellation in the National Gazette and in a newspaper published in and circulating generally throughout the country not less frequently than once a week; and
    - (ii) give to the Ombudsman Commission the names of the executive officers of the political party at the date of cancellation of its registration; and
    - (iii) give to the Speaker and the Ombudsman Commission, the names of each member of the political party who was a Member of the Parliament at the date of cancellation of the registration of the political party.

#### **45. EFFECT OF CANCELLATION OF REGISTRATION.**

- Where the registration of a political party is cancelled in accordance with this Division –
- (a) an executive officer of that political party; or
  - (b) a member of that political party who is a Member of the Parliament,
- at the date of the cancellation shall not, for a period of four years commencing on that date –
- (c) form a new political party; or
  - (d) join a political party formed after that date of cancellation.

#### **46. ASSET AND LIABILITIES, ETC., OF POLITICAL PARTY WHOSE REGISTRATION IS CANCELLED.**

- (1) Where the registration of a political party is cancelled under this Division the Commission may –
  - (a) withhold any funding due to the party as at the date of cancellation; and
  - (b) appoint a receiver to take charge of the property of the party and, for that purpose, obtain all books of account, documents, title deeds and other papers and documents (in hard copy or electronic format) relating to the assets and liabilities of the party.

(2) Any property or assets of the political party remaining after discharge of all liabilities shall be paid into the Central Fund.

***Division 5.***

Procedures relating to an Executive Officer of, or a Member of the Parliament who is a member of, a Political Party whose registration is cancelled.

**47. PROCEDURES RELATING TO AN EXECUTIVE OFFICER OF, OR A MEMBER OF THE PARLIAMENT WHO IS A MEMBER OF, A POLITICAL PARTY WHOSE REGISTRATION IS CANCELLED.**

(1) An executive officer of a political party at the date of the cancellation of its registration under Section 44(2)(a) who –

(a) was responsible, in full or in part, for the circumstances giving rise to the cancellation of its registration; or

(b) was privy to the circumstances giving rise to the cancellation of its registration, and took no steps or insufficient steps to remedy the situation,

is guilty of misconduct in office.

(2) A member of the Parliament who –

(a) was a member of a political party at the date of the cancellation of its registration under Section 44(2)(a); and

(b) was –

(i) responsible, in full or in part, for the circumstances giving rise to the cancellation of its registration; or

(ii) was privy to the circumstances giving rise to the cancellation of its registration and took no steps or insufficient steps to remedy the situation,

is guilty of misconduct in office.

(3) The Ombudsman Commission shall, on receipt of a notification –

(a) under Section 44(2)(c)(ii), investigate whether it is satisfied that any executive officer is guilty of misconduct in office under Subsection (1); and

(b) under Section 44(2)(c)(iii), investigate whether it is satisfied that any Member of the Parliament is guilty of misconduct in office under Subsection (2),

in relation to the cancellation of the registration of the political party.

(4) Notwithstanding the provisions of Subsections (1), (2) and (3), this section does not apply if there are special circumstances or grounds made out by the President of a registered political party or where a registered political party has ceased to exist.

**48. FURTHER PROCEDURES.**

(1) Where, following investigation under Section 47(3), the Ombudsman Commission is satisfied that –

- (a) an executive officer is guilty of misconduct in office under Section 47(1); or
- (b) a Member of the Parliament is guilty of misconduct in office under Section 47(2),

the matter shall proceed in accordance with Part V of the Organic Law on the Duties and Responsibilities of Leadership.

(2) Where, following investigation under Section 47(3), the Ombudsman Commission is satisfied that an executive officer is not guilty of misconduct in office under Section 47(1), it shall so advise –

- (a) the person concerned; and
- (b) the Registrar.

(3) Where, following investigation under Section 47(3), the Ombudsman Commission is satisfied that a Member of the Parliament is not guilty of misconduct in office under Section 47(2), it shall so advise –

- (a) the Member; and
- (b) the Speaker; and
- (c) the Registrar,

and the Member shall retain his office as a Member of the Parliament and may –

- (d) join another registered political party; or
- (e) remain independent from any political party.

(4) Where, as a result of the procedure under Part V of the Organic Law on the Duties and Responsibilities of Leadership no recommendation is made for the dismissal from office of a Member of the Parliament, the Member shall retain his office as a Member of the Parliament.

#### **49. STATUS OF MEMBER AFTER NOTIFICATION TO OMBUDSMAN COMMISSION.**

For the period commencing on the date on which the Registrar gives notification to the Ombudsman Commission under Section 44(2)(c)(iii) of the name of a Member of the Parliament who was a member of a political party at the time of the cancellation of the registration of that political party and ending on –

- (a) notification by the Ombudsman Commission to the Speaker under Section 48(3)(b); or
- (b) the decision of a tribunal in accordance with Part V of the Organic Law on the Duties and Responsibilities of Leadership,

the Member shall not become a member of another registered political party.

#### ***Division 6.***

Dissolution of Registered Political Party.

## **50. DISSOLUTION OF REGISTERED POLITICAL PARTY.**

(1) A registered political party may be dissolved where –

(a) a resolution for the dissolution of the party has been agreed to by –

(i) an absolute majority of the members of the party; and

(ii) at least 75% of the members of the party who are Members of the Parliament; and

(b) all liabilities of the party have been discharged.

(2) The public officer of a political party dissolved under Subsection (1) shall immediately –

(a) notify the Registrar of the dissolution; and

(b) supply the Registrar with –

(i) particulars of the resolution under Subsection (1)(a); and

(ii) evidence of the discharge of the liabilities of the party.

(3) Where the Registrar is satisfied that the provisions of Subsection (1) have been complied with he shall –

(a) cancel the registration of the political party; and

(b) give notification in the National Gazette that the registration of the political party has been dissolved following its dissolution; and

(c) where any member of the political party is a Member of the Parliament, notify the Speaker.

(4) Any property or assets of the political party remaining after discharge of all liabilities shall be paid into the Central Fund.

## **51. EFFECT OF DISSOLUTION OF REGISTERED POLITICAL PARTY.**

Where the registration of a political party is cancelled following dissolution of the party in accordance with this Division –

(a) an executive officer of that political party; or

(b) a member of that political party who is a Member of the Parliament,

at the date of dissolution, may –

(c) remain independent from any political party; or

(d) join a political party in existence immediately prior to the date of dissolution,

but shall not, for a period of four years commencing on that date –

(e) form a new political party; or

(f) join a political party formed after that date of dissolution.

### ***Division 7.***

Amalgamation of Registered Political Parties.

## **52. AMALGAMATION OF REGISTERED POLITICAL PARTIES.**

(1) Two or more registered political parties may amalgamate where –

(a) in the case of each party, a resolution for the amalgamation of the party with the other party or parties has been agreed to by –

(i) an absolute majority of the members of the party; and

(ii) at least 75% of the members of the party who are Members of the Parliament; and

(b) all liabilities of each party have been –

(i) discharged; or

(ii) with the consent of the other party or parties to the amalgamation, transferred to become liabilities of the amalgamated party.

(2) The public officer of each registered political party proposing to amalgamate under Subsection (1) shall immediately –

(a) notify the Registrar of the proposed amalgamation; and

(b) supply the Registrar with –

(i) particulars of the resolution under Subsection (1)(a); and

(ii) evidence of the discharge or transfer of the liabilities of the party under Subsection (1)(b).

(3) The public officer of the amalgamated party shall –

(a) apply to the Registrar for registration of the amalgamated party; and

(b) supply to the Registrar such of the information relative to the amalgamated party as is required to be supplied under Section 29(3)(c) and (d) in respect of an application for registration of a political party.

(4) Where the Registrar is satisfied –

(a) that the provisions of Subsections (1), (2) and (3) have been complied with; and

(b) that the information supplied in acceptance,

he shall proceed to deal with the application for registration of the amalgamated party in the manner required by Sections 30 to 35 inclusive in respect of an application for registration of a political party.

(5) For the purposes of this section, “amalgamated party” means the party formed as a result of the amalgamation.

## **PART 5. – STRENGTHENING OF POLITICAL PARTIES.**

### ***Division 1.***

Endorsement of Candidates.

## **53. GENERAL PROVISION.**

A candidate may contest elections to the National Parliament either as political party endorsed or as an independent.

#### **54. DOUBLE ENDORSEMENT .**

(1) No person shall contest election in an electorate both as an independent and as a political party endorsed candidate.

(2) Where a political party has endorsed a candidate to contest an election in an electorate, it is prohibited from providing any form of support to any other candidate in that election.

(3) Any person or political party who breaches Subsection (1) or (2) or both of these subsections is guilty of an offence.

Penalty: A fine not exceeding K5, 000.00 or imprisonment for six months.

(4) Where a candidate has contested and won an election in an electorate in accordance with this section and is subsequently found guilty under Subsection (3), his election is null and void.

#### **55. MISREPRESENTATION BY CANDIDATE.**

A candidate who –

(a) announces or publishes; or

(b) knowingly causes another person to announce or publish on his behalf,

without the authority of a political party (proof of which lies on the candidate) stating or suggesting that the candidate –

(c) is a candidate of; or

(d) has been endorsed or adopted for candidate by,

that political party for an election, is guilty of an offence.

Penalty: A fine not exceeding K1, 000.00 or imprisonment for a term not exceeding six months, or both.

#### **56. POLITICAL PARTY ENDORSED CANDIDATES.**

(1) The following provisions apply to the endorsement of candidates at elections to the Parliament: –

(a) a registered political party shall not endorse more than one candidate (whether male or female) in each electorate;

(b) a political party which is not registered shall not endorse a candidate;

(c) a candidate shall not accept endorsement from more than one registered political party at the same time.

(2) A registered political party which endorsed more than one candidate in an electorate is guilty of an offence.

Penalty: A fine not exceeding K5, 000.00

(3) Where –

- (a) a registered political party is convicted of an offence under Subsection (2); and
- (b) one of the candidates endorsed by that registered party in the electorate in respect of which the offence was committed, wins the election,

that candidate shall be treated as an independent for the purposes of this Law.

(4) A candidate who accepts endorsement in an election from more than one registered political party is guilty of an offence.

(5) Where a candidate –

- (a) is convicted of an offence under Subsection (4); and
- (b) wins the election in respect of which the offence was committed,

his election shall be declared void.

### ***Division 2.***

Resignation from a Registered Political Party.

## **57. GROUNDS FOR AND EFFECT OF RESIGNATION FROM A REGISTERED POLITICAL PARTY.**

(1) A Member who is a member of a registered political party may resign from that registered political party –

- (a) where, in accordance with Section 105(1)(a) (general elections) of the Constitution, a general election falls to be held within the period of three months before the fifth anniversary of the day fixed for the return of the writs for the previous general election – within a period of 30 days before the commencement of the three month period; and
- (b) where a general election falls to be held in any circumstances other than those referred to in Paragraph (a) – within 14 days following the date of issue of the writs for the general election,

and the provisions of this Part relating to a Member who resigns from a registered political party shall not apply in respect of a Member who resigns under this subsection.

(2) The following are permissible grounds for resignation by a Member from a registered political party of which he is a member: –

(a) that –

- (i) the party; or
- (ii) an executive officer of the party,

has committed a serious breach of the constitution of the political party; or

(b) that the political party has been adjudged insolvent under any applicable law.

(3) A Member who resigns from a registered political party other than under Subsection (1), but is unable to establish that the grounds specified under Subsection (2) existed in relation to his resignation, is guilty of misconduct in office.

(4) A Member who resigns from a registered political party other than under Subsection (1) or on grounds other than those specified under Subsection (2) is guilty of misconduct in office.

(5) For the purposes of Subsection (2), “a serious breach of the constitution” means a breach of the constitution of the registered political party that would be likely to bring the integrity and reputation of the Member into disrepute.

#### **58. MEMBER MAY RESIGN FROM REGISTERED POLITICAL PARTY.**

(1) A Member who is member of a registered political party may resign from the party by submitting his resignation in writing to the president of the party.

(2) A resignation under Subsection (1) shall specify the grounds for the resignation.

(3) In any investigation under this Division into the resignation of a Member or in any subsequent inquiry under Part V of the Organic Law on the Duties and Responsibilities of Leadership into the resignation, the burden of proof that the grounds for resignation were permissible grounds under Section 57(2) rests with the Member.

#### **59. PROCEDURES FOLLOWING RESIGNATION OF A MEMBER FROM A REGISTERED POLITICAL PARTY.**

(1) On receipt of a resignation under Section 58, the president of the registered political party shall, within 30 days of the date of receipt by him of the resignation, give notification and a copy of the resignation to –

- (a) the Speaker; and
- (b) the Registrar.

(2) On receipt of a notification under Subsection (1)(b), the Registrar shall refer the resignation to the Ombudsman Commission.

(3) A Member shall not withdraw his resignation after it has been referred to the Ombudsman Commission under Subsection (2).

(4) On receipt of a referral under Subsection (2), the Ombudsman Commission shall investigate whether the resignation was made on grounds specified under Section 57(2) or whether it is satisfied that the Member is guilty of misconduct in office under Section 57(3).

#### **60. FURTHER PROVISION.**

(1) Where, following investigation under Section 59(4), the Ombudsman Commission is satisfied that a Member is guilty of misconduct in office under Section 59(3), the matter shall

proceed in accordance with Part V of the Organic Law on the Duties and Responsibilities of Leadership.

(2) Where, following investigation under Section 59(4), the Ombudsman Commission is satisfied that a Member is not guilty of misconduct in office under Section 59(3), it shall so advise –

- (a) the Member; and
- (b) the Speaker; and
- (c) the Registrar,

and the Minister shall retain his office as a Member of the Parliament and may –

- (d) join another registered political party; or
- (e) remain independent from any political party.

(3) Where, as a result of the procedure under Part V of the Organic Law on the Duties and Responsibilities of Leadership no recommendation is made for the dismissal from office of a Member the Member shall retain his office as a Member of the Parliament and may –

- (a) join another registered political party; or
- (b) remain independent from any political party.

#### **61. STATUS OF MEMBER DURING INVESTIGATION, ETC.**

For the period commencing on the date on which the Registrar refers the resignation of a Member to the Ombudsman Commission under Section 59(2) and ending on –

- (a) the date of any advice given by the Ombudsman under Section 60(2); or
- (b) where the matter proceeds in accordance with Section 59(1), the date of final resolution of the matter in accordance with Part V of the Organic Law on the Duties and Responsibilities of Leadership,

the Member remains a member of the registered political party from which he seeks to resign and the provisions of Section 65 apply to him as a member of that party.

#### ***Division 3.***

Expulsion from a Registered Political Party.

#### **62. EXPULSION FROM REGISTERED POLITICAL PARTY.**

(1) A registered political party may, in accordance with its constitution, expel from the party a member of the party (including a member who is a Member of the Parliament) on grounds specified in the constitution of the party.

(2) A Member expelled from a party under Subsection (1) may –

- (a) join another registered political party; or
- (b) remain independent from any political party.

#### ***Division 4.***

Invitation to form Government.

### 63. INVITATION TO FORM GOVERNMENT.

(1) Subject to Subsection (2), on the date of the return of the writs in a general election, the Electoral Commission shall advise the Head of State of the registered political party which has endorsed the greatest number of candidates declared elected in the election, and the Head of State, acting with, and in accordance with, the advice of the Electoral Commission, shall invite that registered political party to form the Government in accordance with this section.

(2) Where two or more registered political parties have endorsed an equal number (being the greatest number) of candidates declared elected in the election, the Electoral Commission shall so advise the Head of State, and the Head of State, acting with, and in accordance with, the advice of Electoral Commission, shall invite the registered political party with the highest votes declared in the election to form the Government.

(3) An invitation under Subsection (1) or invitations under Subsection (2) shall be –

- (a) conveyed to the public office of the registered political party or registered political parties, as the case may be; and
- (b) notified to the Clerk of Parliament; and
- (c) published in the National Gazette.

(4) At the first meeting of the Parliament following a general election, being a meeting at which the Prime Minister is to be elected, the registered political party to whom the invitation has been made may nominate a candidate for election of the Prime Minister.

(5) Where –

- (a) a candidate is nominated under Subsection 4(a) – the Parliament shall vote as to whether that candidate is to be elected Prime Minister; or
- (b) a candidate is or candidates are nominated under Subsection (4)(b),

the Parliament shall vote as to whether that candidate, or any of those candidates, is to be elected Prime Minister.

(6) Where –

- (a) the candidate nominated under Subsection (4)(a); or
- (b) a candidate nominated under Subsection (4)(b),

receives a simple majority of the votes in the election of Prime Minister, the Speaker shall advise the Head of State that the candidate has been elected Prime Minister by the Parliament.

(7) Where –

- (a) a registered political party to whom an invitation has been made under Subsection (1) or (2) declines or fails to nominate a candidate under Subsection (4); or

(b) a nominated candidate under Subsection (4) fails to receive a simple majority of the votes in the election under Subsection (5),

the Parliament shall otherwise elect a Prime Minister in accordance with Standing Orders of the Parliament.

(8) In an election of a Prime Minister under Subsection (7) –

(a) a registered political party, who declined to nominate a candidate under Subsection (4), may nominate a candidate; and

(b) a nominated candidate, who failed to receive a simple majority of votes in an election under Subsection (5), may be nominated.

#### **64. OFFICE OF OPPOSITION AND ELECTION OF OPPOSITION LEADER.**

(1) There shall be established an Office of the Opposition which is made up of Members of Parliament not in government.

(2) The Members shall elect in a democratic manner one of their numbers to be the Leader of Opposition who shall in turn then appoint one of the Members to be the Deputy Leader.

(3) Funds shall be provided in each year from the Consolidated Revenue Fund for the maintenance and expenses of the Office of the Opposition.

#### ***Division 5.***

Defection from Political Party and Voting Restriction.

#### **65. DEFECTION FROM OR VOTING AGAINST A REGISTERED POLITICAL PARTY.**

(1) A Member of the Parliament, who was an endorsed candidate of a registered political party at the election at which he was elected to the Parliament, shall, during the term of the Parliament for which he was elected –

(a) not withdraw or resign from that registered political party except in accordance with Division 2; and

(b) subject to Section 60(2)(d) or Section 60(3)(a), not join another registered political party; and

(c) subject to Subsection (2), vote only in accordance with a resolution of that registered political party as determined by the member of that registered political party who are Member of the Parliament is the following only: –

(i) a motion of no-confidence brought against the Prime Minister, the Ministry or a Minister under Section 145 (motion of no confidence) of the Constitution; and

(ii) a vote for the election of a Prime Minister under Section 142 (The Prime Minister) of the Constitution; and

(iii) a vote for the approval of the National Budget; and

(iv) a vote to enact, amend or repeal a Constitutional Law.

(2) A member of the Parliament who is a member of a registered political party may abstain from voting in cases referred to in Subsection (1)(c).

**66. VOTE CONTRARY TO PROVISIONS OF SECTION 65(1)(C) NOT TO BE COUNTED.**

The vote of a Member of the Parliament contrary to the provisions of Section 65(1)(c) shall not be counted.

**67. DEEMED RESIGNATION FROM OFFICE.**

Where a member of the Parliament contravenes Section 65(1) –

- (a) he is deemed to have resigned from the registered political party of which he was a member; and
- (b) the Speaker shall give notification of the matter to the Registrar; and
- (c) the Registrar shall refer the matter to the Ombudsman Commission; and
- (d) the matter shall proceed under Section 59(4), Sections 60 and 61 as if the resignation were a resignation under Section 58.

**68. OTHER PENALTIES FOR CONTRAVENTION OF SECTION 65.**

A Member of the Parliament who contravenes Section 65, but to whom Section 60 applies –

- (a) shall refund to the registered political party all campaign and other expenses received from the registered political party in supporting him at the election; and
- (b) shall not be appointed as a Prime Minister, Minister, Vice-Minister or Chairman or Deputy Chairman of a Committee of the Parliament for the remainder of the life of the Parliament.

**69. MEMBER ELECTED WITHOUT ENDORSEMENT.**

(1) Subject to Subsection (2), a Member of the Parliament elected without endorsement by a registered political party shall not join a registered political party during the life of the Parliament to which he was elected without endorsement.

(2) A Member of the Parliament elected at a general election without endorsement by a registered political party may join a registered political party at any time after the return of the writs and before the first election by the Parliament of a Speaker following the date of the return of the writs in that general election provided that that registered political party had endorsed candidates at that general election.

(3) A Member of the Parliament –

- (a) elected without endorsement by a registered political party; or
- (b) whose resignation from a registered political party has been found –
  - (i) by the Ombudsman Commission, following investigation; or
  - (ii) after the procedure in accordance with Part V of the Organic Law on the Duties and Responsibilities of Leadership, not to amount to misconduct in office; or
- (c) who otherwise, in accordance with this Law, becomes an independent Member,

and who does not subsequently join a registered political party shall remain as an independent Member for the rest of the term of the Parliament, but in the case of –

(d) a motion of no-confidence in the Prime Minister, the Ministry or a Minister – the provisions of Section 70 shall apply; and

(e) the election of a Prime Minister (other than the election of the Prime Minister immediately following a general election) – the provisions of Section 71 shall apply; and

(f) a vote on the approval of the National Budget – the provisions of Section 72 shall apply; and

(g) a vote on the enactment, amendment or repeal of a Constitutional Law – the provisions of Section 73 shall apply.

**70. VOTING IN THE CASE OF A MOTION OF NO CONFIDENCE OR IN THE ELECTION OF A PRIME MINISTER FOLLOWING RESIGNATION WHERE THE MEMBER RESIGNING IS NOMINATED FOR ELECTION.**

(1) A Member of the Parliament –

(a) who was not a member of a registered political party at the time of the election of a Prime Minister; and

(b) who voted for the Member elected Prime Minister in the election; and

(c) to whom Subsection (2) does not apply,

shall not vote –

(d) for a motion of no confidence in –

(i) that Prime Minister; or

(ii) the Ministry headed by that Prime Minister; or

(iii) a Minister appointed on the advice of that Prime Minister; or

(e) against the Member elected Prime Minister referred to in Paragraph (b), in an election of Prime Minister, following the resignation of the Prime Minister referred to in Paragraph (b), where the Prime Minister referred to in Paragraph (b) is nominated.

(2) A Member of the Parliament, who –

(a) was not a member of a registered political party at the time of the election of a Prime Minister; and

(b) voted for the Member elected Prime Minister in that election; and

(c) subsequently, and at least six months before, a motion of no confidence in –

(i) that Prime Minister; or

(ii) the Ministry headed by that Prime Minister; or

(iii) a Minister appointed on the advice of that Prime Minister,

join a registered political party,

shall vote in that motion of no confidence in accordance with requirements of a member of that registered political party under Section 65.

(3) A Member of the Parliament who –

- (a) was not a member of a registered political party at the time of the election of a Prime Minister; and
- (b) did not vote for the Member elected Prime Minister in that election; and
- (c) has not subsequently joined a registered political party at least six months prior to a motion of no confidence in –
  - (i) that Prime Minister; or
  - (ii) the Ministry headed by that Prime Minister; or
  - (iii) a Minister appointed on the advice of that Prime Minister,

shall not vote against the motion of no confidence.

#### **71. VOTING IN THE ELECTION OF A PRIME MINISTER FOLLOWING RESIGNATION OF A PRIME MINISTER AND IN THE EVENT OF OTHER VACANCIES IN THE OFFICE OF PRIME MINISTER.**

Where –

- (a) a Prime Minister has resigned and has not been nominated in the election of the next Prime Minister; or
- (b) there is otherwise a vacancy in the office of Prime Minister,

a Member of the Parliament who is not a member of a registered political party may vote for any nominee in the election of the next Prime Minister.

#### **72. VOTING ON THE NATIONAL BUDGET.**

(1) In any vote taken to approve a National Budget –

- (a) a Member of the Parliament who is a member of a registered political party shall vote in accordance with a resolution as determined by the members of the party who are Members of the Parliament; and
- (b) a Member of the Parliament –
  - (i) who is not a member of a registered political party; and
  - (ii) who voted, in the election for Prime Minister, for the Prime Minister whose Government is proposing the National Budget,

shall vote for the National Budget; and

(c) A member of the Parliament –

- (i) who is not a member of a registered political party; and
- (ii) who did not vote, in the election for Prime Minister, for the Prime Minister whose Government is proposing the National Budget,

may vote for or against the National Budget.

(2) The vote of a Member of the Parliament –

(a) to whom Subsection (1)(a) applies, who does not vote in accordance with Subsection (1)(a);  
and  
(b) to whom Subsection (1)(b) applies, who does not vote in accordance with Subsection (1)(b),  
shall not be counted.

(3) In the event of any question arising as to whether or not a vote taken in the Parliament constitutes a vote to approve a National Budget, the decision of the Speaker on the matter shall be final.

### **73. VOTING ON CONSTITUTIONAL LAW.**

(1) In any vote taken to enact, amend or repeal a Constitutional Law –

(a) a Member of the Parliament who is a member of a registered political party shall vote in accordance with a resolution as determined by the members of the party who are Members of the Parliament; and

(b) a Member of the Parliament –

(i) who is not a member of a registered political party; and

(ii) who voted, in the election for Prime Minister, for the Prime Minister whose Government is proposing the enactment, amendment or repeal, shall vote for the enactment, amendment or repeal; and

(c) a Member of the Parliament –

(i) who is not a member of a registered political party; and

(ii) who did not vote, in the election for Prime Minister, for the Prime Minister whose Government is proposing the enactment, amendment or repeal,

may vote for or against the enactment, amendment or repeal.

(2) The vote of a Member of the Parliament –

(a) to whom Subsection (1)(a) applies, who does not vote in accordance with Subsection (1)(a);  
and

(b) to whom Subsection (1)(b) applies, who does not vote in accordance with Subsection (1)(b),

shall not be counted.

### **74. INTERFERENCE WITH MEMBER OF PARLIAMENT, ETC.**

Where a –

(a) political party; or

(b) member or executive of a political party; or

(c) Member of Parliament; or

(d) person,

forces, threatens, intimidates, detains or otherwise interferes with the free movement of, a Member of the Parliament in relation to the performance by that Member of his Parliamentary

duties (including attendance at Parliament or debating or voting on any issue in Parliament or elsewhere in his capacity as a Member), is guilty of an offence.

Penalty: A fine not exceeding K5, 000.00 or 6 months imprisonment.

## **PART 6. – FUNDING POLITICAL PARTIES.**

### ***Division 1.***

Central Fund and Contribution.

#### **75. FUNDING OF POLITICAL PARTY ONLY IN ACCORDANCE WITH THIS LAW.**

- (1) A political party shall be funded only in accordance with this Law.
- (2) Only a registered political party is eligible to receive funding from the Central Fund.
- (3) The funding of a registered political party shall consist of: –
  - (a) funding from the Central Fund where applicable in accordance with this Law; and
  - (b) any contributions made to the registered political party under Section 79(1)(b) and Section 81(1)(b); and
  - (c) such other income as is not inconsistent with the provisions in this Law.
- (4) The Registrar of Political Parties shall, out of monies appropriated in accordance with Section 78(2)(d), pay for the salaries and allowances of the executives of the Registered Political Parties.

#### **76. ESTABLISHMENT OF CENTRAL FUND.**

- (1) A fund to be called the Central Fund is hereby established.
- (2) All monies –
  - (a) required to be paid to the Central Fund under this Law; and
  - (b) otherwise available for payment to the Central Fund under this Law,shall be paid into the Central Fund and all payments authorized to be made under this Law shall be met by the Central Fund.

#### **77. SOURCE OF FUNDS IN CENTRAL FUND.**

- The Central Fund shall hold funds contributed from the following sources: –
- (a) monies appropriated in the National Budget in accordance with Section 78; and
  - (b) contributions made by citizens in accordance with Section 79(1)(a); and
  - (c) contributions made by an international organization in accordance with Section 80; and
  - (d) contributions made by non-citizens in accordance with Section 81(1)(a); and
  - (e) funds raised by the Commission; and
  - (f) proceeds received by the Commission from investments made by it.

## 78. PUBLIC FUNDING.

(1) In the National Budget for each year funds shall be appropriated in accordance with this section for the purposes of the Central Fund.

(2) The amount of funds to be appropriated in each year for the Central Fund shall be calculated as follows: –

- (a) K10, 000.00 in respect of each Member of the Parliament; and
- (b) an amount to cover any increase in the amount referred to in Paragraph (a) as a result of an increase under Section 82(3); and
- (c) an amount to cover the administration of the Central Fund; and
- (d) an amount, as determined by the Commission, to cover the Central Fund's commitments under Section 83; and
- (e) an amount, as determined by the Commission, to cover for salaries and allowances of the executives of the Registered Political Parties under Section 75(4).

## 79. CONTRIBUTIONS FROM CITIZENS.

(1) Subject to this section, a citizen may contribute to –

- (a) the Central Fund, to an unlimited extent; and
- (b) a political party, to an extent provided by Subsection (2)(a); and
- (c) a candidate, to an extent provided by Subsection (2)(b).

(2) Subject to Subsection (4), contributions made by a citizen –

- (a) under Subsection (1)(b) – shall not exceed the sum of K500, 000.00 in total in any calendar year; and
- (b) under Subsection (1)(c) – shall not exceed the sum of K500, 000.00 in respect of any one election.

(3) Subject to Subsection (4), a citizen shall not enter into any scheme to defeat the provisions of Subsection (2).

(4) Subsections (2) and (3) do not apply to a loan made to –

- (a) a political party; or
- (b) a candidate at an election,

by a corporation which is licensed as a bank or financial institution under Banks and Financial Institutions Act 2000, where the loan and the terms of the loan are similar to those available in the normal course of business of the bank or financial institution.

(5) A citizen, who makes a contribution to –

- (a) a political party; or
- (b) a candidate at an election,

shall, within 30 days of making the contribution, inform the Registrar of –

- (c) the amount of the contribution; and
- (d) the name of the political party or candidate, as the case may be, to which or whom the contribution was made; and
- (e) the date on which the contribution was made; and
- (f) such other matters concerning the contribution as may be prescribed.

(6) A person, who fails to comply with Subsection (5), is guilty of an offence.

Penalty: A fine not exceeding the amount of the contribution in relation to which the offence was committed.

(7) A –

- (a) registered political party; or
- (b) candidate at an election,

shall, within 30 days of receiving a contribution from a citizen, inform the Registrar of –

- (c) the amount of the contribution; and
- (d) the name of the citizen from whom the contribution was received; and
- (e) the date on which the contribution was made; and
- (f) such other matters concerning the contribution as may be prescribed.

(8) A –

- (a) registered political party which; or
- (b) candidate,

who fails to comply with Subsection (7), is guilty of an offence.

Penalty: A fine not exceeding the amount of the contribution in relation to which the offence was committed.

## **80. CONTRIBUTIONS FROM INTERNATIONAL ORGANISATIONS.**

(1) An international organisation may contribute to the Central Fund.

(2) An international organisation shall not contribute directly to a registered political party.

## **81. CONTRIBUTIONS FROM NON-CITIZENS.**

(1) Subject to this section, a non-citizen may contribute to –

- (a) the Central Fund, to an unlimited extent; and
- (b) a registered political party, to an extent provided by Subsection (2)(a); and
- (c) a candidate, to an extent provided by Subsection (2)(b).

(2) Subject to Subsection (4), contributions made by a non-citizen –

(a) under Subsection (1)(b) – shall not exceed the sum of K500, 000.00 in total in any calendar year; and

(b) under Subsection (1)(c) – shall not exceed the sum of K500, 000.00 in respect of any one election.

(3) Subject to Subsection (4), a non-citizen shall not –

(a) contribute, directly or indirectly, to a political party which is not a registered political party; or

(b) enter into any scheme to defeat the provisions of Subsection (2) or of Paragraph (a).

(4) Subsections (2) and (3) do not apply to a loan made to –

(a) a political party; or

(b) a candidate at an election,

by a non-citizen corporation which is licensed as a bank or financial institution under the Banks and Financial Institutions Act 2000, where the loan and the terms of the loan are similar to those available in the normal course of business of the bank or financial institution.

(5) A non-citizen, who makes a contribution to –

(a) a registered political party; or

(b) a candidate at an election,

shall, within 30 days of making the contribution, inform the Registrar of –

(c) the amount of the contribution; and

(d) the name of the political party or candidate, as the case may be, to which or whom the contribution was made; and

(e) the date on which the contribution was made; and

(f) such other matters concerning the contribution as may be prescribed.

(6) A person, who fails to comply with Subsection (5), is guilty of an offence.

Penalty: A fine not exceeding the amount of the contribution in relation to which the offence was committed.

(7) A –

(a) registered political party; or

(b) candidate at an election,

shall, within 30 days of receiving a contribution from a non-citizen, inform the Registrar of –

(c) the amount of the contribution; and

(d) the name of the non-citizen from whom the contribution was received; and

(e) the date on which the contribution was made; and

(f) such other matters concerning the contribution as may be prescribed.

(8) A –

- (a) registered political party which; or
- (b) candidate who,

fails to comply with Subsection (7), is guilty of an offence.

Penalty: A fine not exceeding the amount of the contribution in relation to which the offence was committed.

### ***Division 2.***

Distribution of Funds from Central Fund.

## **82. DISTRIBUTION OF MONEYS FROM THE CENTRAL FUND.**

(1) For the purposes of this section, “registered political party represented in the Parliament” means a registered political party, a member of which is a Member of the Parliament who –

- (a) was endorsed by that registered political party at the time of his election to the Parliament; or
- (b) who subsequently joined that registered political party, and who is not a member of another registered political party.

(2) Subject to this section and to any other relevant provision of this Law, the Commission shall pay out of the Central Fund –

- (a) subject to Subsection (3), to each registered political party represented in the Parliament, the sum of K10, 000.00 for each Member of the Parliament who is a member of that registered political party; and
- (b) any sum payable to a registered political party under Section 83.

(3) The Commission may, taking into account national economic factors, increase the amount payable under Subsection (2)(a), but no such increase shall exceed 10% in any one year.

(4) The Commission may, from time to time, out of moneys available in the Central Fund after making the payments under Subsection (2) or (3) make an additional payment to each registered political party.

(5) The amount to be paid to each registered political party under Subsection (4) shall generally be in accordance with the principles of Subsection (2).

## **83. FUNDING OF FEMALE CANDIDATES.**

(1) Where –

- (a) a registered political party endorsed a female candidate in an election and spent an amount as election campaign expenses on her behalf; and
- (b) the female candidate obtained at least 10% of the votes cast in the electorate in that election,

the registered political party shall be entitled to receive from the Central Fund –

- (c) 75% of K10, 000.00 payable to a successful candidate, by the registered political party as election campaign expenses on her behalf; or
- (d) an amount fixed by the Commission,

which is the lesser.

(2) Where a registered political party endorses a female candidate in a election as referred to in Subsection (1), and that female candidate wins the election, the female candidate and the registered political party sponsoring the female candidate are not entitled to any payment from the Central Fund under this section.

#### **84. CLAIMS FOR PAYMENT.**

(1) The Commission shall not make any payments out of the Central Fund under Section 82(2)(a) or (b) except –

- (a) on the making of a claim by a registered political party in accordance with this section; and
- (b) where the Commission is satisfied that the registered political party is entitled to funding under Section 82 or 83.

(2) A registered political party may apply to the Commission for payment under Section 83.

(3) A claim under Subsection (1)(a) or Subsection (2) shall –

- (a) be made in the prescribed form; and
- (b) be signed by the president of the registered political party and by its secretary or treasurer; and
- (c) be made within the prescribed time period.

(4) A political party shall not be entitled for payment in the name or names of its Member or Members who fail to lodge his or their financial returns to the Registrar, within the specified period.

#### **85. MEMBERSHIP OF MEMBER OF THE PARLIAMENT IN A REGISTERED POLITICAL PARTY.**

(1) Subject to Subsection (3), as soon as practicable after 1 March in each year, the Commission shall make a determination as to the membership of registered political parties of Members of the Parliament.

(2) For the purpose of the distribution of funds from the Central Fund to a registered political party, a Member of Parliament is deemed to be a member of that registered political party where he is a member of that registered political party on 1 March of that year.

(3) In making a determination under Subsection (1), the Commission shall determine that a Member of the Parliament is a member of a registered political party where the Commission is satisfied that –

- (a) the Member was endorsed as a candidate of that registered political party in the election of that Member to the Parliament; or
- (b) the Member was in his election to the Parliament not endorsed by a political party, but has since notified the Speaker or the Commission in writing that he has joined that registered political party; or
- (c) the Member has –
  - (i) notified the Speaker or the Commission in writing that he is a member of that registered political party; and
  - (ii) consistently sat and voted with that registered political party for a period of six months or more,

and the Commission is satisfied that that Minister is a member of that registered political party.

#### **86. ENTITLEMENT TO FUNDING FROM THE CENTRAL FUND.**

(1) A –

- (a) a person who is a Member of the Parliament, determined by the Commission under Section 85 not to be a member of a registered political party; and
- (b) Member of Parliament, who is a member of a political party who has failed to file a financial return,

is not entitled to any payment of funds from the Central Fund and shall not be included in any calculation of payment of funds from the Central Fund.

(2) A registered political party which –

- (a) does not have any members who are Members of the Parliament; or
- (b) has failed to file a financial return in accordance with Section 88,

is not entitled to any payment of funds from the Central Fund.

#### ***Division 3.***

Offences relating to Contributions and Funding.

#### **87. CONTRIBUTIONS.**

(1) A –

- (a) citizens, who gives a contribution to a political party or to a candidate in excess of the limits specified in Section 79(2); or
- (b) non-citizen, who gives a contribution to a political party or to a candidate in excess of the limits specified in Section 81(2),

is guilty of an offence.

Penalty: A fine not exceeding K10, 000.00 or imprisonment for a term not exceeding two years, or both.

(2) A –

- (a) political party, which; or
- (b) member of political party, who,

seeks or accepts a contribution to that political party from –

- (c) a citizen, in excess of the limits specified in Section 79(2); or
- (d) a non-citizen, in excess of the limits specified in Section 81(2),

is guilty of an offence.

Penalty: In the case of a political party, a fine not exceeding K10, 000.00.

In the case of a member of a political party, a fine not exceeding K2, 000.00 or imprisonment for a term not exceeding six months, or both.

(3) A –

- (a) citizen, who fails to comply with Section 79(3); or
- (b) non-citizen, who fails to comply with Section 81(3),

is guilty of an offence.

Penalty: A fine not exceeding K10, 000.00 or imprisonment for a term not exceeding two years, or both.

(4) Where a political party or member of a political party is convicted of an offence under Subsection (2) which relates to the acceptance of a contribution, it or he shall, in addition to any penalty imposed under Subsection (2), pay to the Central Fund –

- (a) where the contribution was money – the amount received; and
- (b) where the contribution was other than money – an amount equal to the value of the contribution as determined by the Commission,

And the political party is not entitled to any distribution of moneys from the Central Fund under Section 82 until such payment is made.

(5) A candidate, who seeks or accepts, for the purposes of his election –

- (a) a contribution from a citizen in excess of the limits specified in Section 79(2); or
- (b) a contribution from a non-citizen in excess of the limits specified in Section 81(2),

is guilty of an offence.

Penalty: A fine not exceeding K5,000. 00 or imprisonment for a term not exceeding one year, or both.

(6) Where a person convicted of an offence under this section is a person to whom the Leadership Code applies, the offence amounts to misconduct in office for the purposes of the Leadership Code.

**PART 7. – FINANCIAL RETURNS.**

**88. FINANCIAL RETURNS BY POLITICAL PARTIES.**

(1) Within three months after the date fixed for the return of writs following a general election and every twelve months thereafter, the public officer of a political party shall lodge with the Registrar a financial return specifying –

- (a) details of all contributions which that political party has received; and
- (b) details of all other receipts and income of that political party; and
- (c) details of all expenditure which that political party has incurred,

during the period –

- (d) in the case of a financial return lodged following the return of writs in a general election – of 12 months preceding the date of return of the writs; and
- (e) in the case of any other financial return – since the date of the end of the period covered by the previous financial return.

(2) A financial return under Subsection (1) shall contain –

- (a) in respect of each contribution –
  - (i) the full name and address of each contributor; and
  - (ii) the date of receipt of the contribution; and
  - (iii) where the contribution was made in cash – the amount;
  - (iv) where the contribution was not made in cash – and nature and value of the contribution; and
- (b) in respect of receipts and income –
  - (i) full details of the source and nature of the income or of the sum received; and
  - (ii) the date of receipt of the income or sum received; and
- (c) in respect of each item of expenditure –
  - (i) the full name and address of each recipient of expenditure; and
  - (ii) the date on which the expenditure was made; and
  - (iii) the nature and value of the expenditure; and
- (d) in respect of each item of expenditure on a candidate –
  - (i) the full name and address of the candidate; and
  - (ii) the name of the electorate for which he was a candidate; and
  - (iii) the date on which the expenditure was made; and
  - (iv) the nature and value of the expenditure.

(3) Where a financial return lodged with Registrar under Subsection (1) –

- (a) is not complete; or
- (b) lacks detail or substance in any respect,

the Commission may require the political party or the candidate to furnish such further information as the Commission may direct.

(4) A political party, which fails to file a financial return as required by this section, is guilty of an offence.

Penalty: A fine not exceeding K5, 000.00

Default penalty: A fine not exceeding K50.00

(5) Where a political party has not filed a financial return as required by this section, each executive officer of that political party is guilty of misconduct in office under the Leadership Code.

## **89. FINANCIAL RETURNS BY CANDIDATES.**

(1) Within three months after –

- (a) in the case of a candidate declared to be a successful candidate at return of the writs for an election – the date of the return of the writs; and
- (b) in the case of a candidate declared to be a successful candidate by a Court of Disputed Returns – the date of the declaration by the Court,

a successful candidate shall lodge with the Registrar a financial return specifying –

- (c) details of the contributions received by him; and
- (d) details of the expenditure incurred by him,

for or in connection with his candidature at the election.

(2) A financial return under Subsection (1) shall contain –

- (a) in respect of each contributor –
  - (i) the full name and address of each contributor; and
  - (ii) the date of receipt of the contribution; and
  - (iii) where the contribution was made in cash – the amount; and
  - (iv) where the contribution was not made in cash – the nature and value of the contribution; and
- (b) in respect of each item of expenditure –
  - (i) the full name and address of each recipient of expenditure; and
  - (ii) the date on which the expenditure was made; and
  - (iii) the nature and value of the expenditure.

(3) Where a financial return lodged with the Registrar under Subsection (1) –

- (a) is not complete; and
- (b) lacks detail or substance in any respect,

the Commission may require the registered political party or the candidate to furnish such further information as the Commission may direct.

(4) A successful candidate, who fails to file a financial return as required by this section, is guilty of an offence.

Penalty: A fine not exceeding K2, 000.00.

Default penalty: A fine not exceeding K20.00.

(5) A successful candidate, who has not filed a financial return as required by this section, is guilty of misconduct in office under the Leadership Code.

## **90. FALSE AND DEFECTIVE RETURNS.**

(1) The Registrar shall refer to the Commission a financial return lodged with him under Section 88 or 89 which he believes –

- (a) is defective; or
- (b) contains information which is false.

(2) Where the Commission considers that a financial return referred to it under Subsection (1) –

- (a) is defective; or
- (b) contains information which is false,

the Commission shall reject the financial return and the financial return is deemed not to have been lodged.

(3) A –

- (a) registered political party which; or
- (b) successful candidate, who,

knowingly or carelessly files a financial return which –

- (c) is defective; or
- (d) contains information which is false,

is guilty of an offence.

Penalty: A fine not exceeding K2, 000.00.

## **PART 8. – MISCELLANEOUS.**

### ***Division 1.***

Inspection.

## **91. INSPECTION.**

(1) Where –

- (a) the Registrar; or
- (b) the Commission; or
- (c) a person authorized by the Registrar or Commission in writing,

is of the opinion that a person or a political party may have contravened the provisions of this Law or is of the opinion that it is necessary to do so for the purposes of the performances of a function of the Registrar, the Registrar or Commission or the authorized person, under this Law, as the case may be, may –

- (d) require that the person or political party to produce any receipts, papers, bank statements, documents or other records relating to matters covered by this Law; and
- (e) where any information relating to matters covered by this Law are contained in an electronic storage medium, require that person or political party to give him full and free access to the electronic medium and to the information contained therein; and
- (f) inspect any such receipt, paper, bank statement, documents or other record or electronic medium and information contained therein; and
- (g) take copies of any such receipt, paper, bank statement, document or other record or of information contained in an electronic medium.

(2) A person or political party, who or which –

- (a) hinders or obstructs the Registrar, or a member of the Commission authorized by the Commission, or a person authorized by the Registrar or the Commission in the exercise or performance of his powers and functions under Subsection (1); or
- (b) without lawful excuse (proof of which is on him) –
  - (i) refuses or wilfully neglects to produce; or
  - (ii) refuses to allow the Registrar, or a member of the Commission authorized by the Commission, or a person authorized by the Registrar or by the Commission to make copies of,

any receipt, paper, bank statement, document or other record, or of information contained in any electronic medium, is guilty of an offence.

Penalty: A fine not exceeding K10, 000.00.

## **92. CONFIDENTIALITY.**

(1) Subject to Subsection (2), information disclosed under this Law to the Registrar, to an officer or employee of the Registry, or to a member of the Commission shall not be disclosed to any person who is not the Registrar or an officer or employee of the Secretariat or a member of the Commission without the prior written approval of the person who provided that information, except –

(a) to the extent that disclosure is authorized or required under this Law or any other law; or  
(b) to the extent the person providing the information authorized its disclosure at the time of providing the information; or  
(c) as authorized by the Commission.

(2) Subsection (1) does not apply to information referred to Division IV.1, Section 29 to 35 inclusive and Sections 15, 88 and 89.

(3) The Registrar or an officer or employee of the Registry or a member of the Commission who uses any information disclosed under this Law that comes to his knowledge in the course of, or by reason of his employment as Registrar or an officer or employee of the Registry or his membership of the Commission –

(a) for the purpose of his personal gain; or  
(b) except as authorized under Subsection (1),

is guilty of an offence.

Penalty: A fine not exceeding K10, 000.00 or imprisonment for a term not exceeding four years, or both.

### **93. CONSTITUTIONAL REGULATIONS.**

The Head of State, acting with, and in accordance with, the advice of the National Executive Council may make Constitutional Regulations, not inconsistent with this Law, prescribing all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed by this Law.

#### ***Division 2.***

Repeal, Savings, Transitional, etc.

### **94. REPEAL.**

The Organic Law on the Integrity of the Political Parties and Candidates 2000 is hereby repealed.

### **95. COMMENCEMENT DATE.**

(1) Notwithstanding the repeal of the principal Organic Law, it is hereby declared that the provisions of the Organic Law have retrospective effect and are deemed to have commenced in accordance with the commencement provisions.

(2) For the avoidance of doubt it is hereby declared that this Organic Law has retrospective effect.

### **96. VALIDITY OF CERTAIN ACTS, MATTERS, ETC.**

(1) All decisions made, or acts, matters or things done or suffered, prior to this Organic Law which purport to have been made, done or suffered under the authority of or for the purpose of the principal Organic Law (repealed), notwithstanding the repeal or any defect in the doing thereof or in the manner which those decisions were made or those acts, matters or things were done or suffered are deemed to have been authorized by the principal Organic Law.

(2) All decisions made, or acts, matters and things done or suffered under or for the purpose of the repealed Organic Law shall be deemed to have been made, done or suffered under the equivalent provisions of this Organic Law.

**97. TRANSITIONAL PROVISIONS.**

(1) A person holding office as Chairman, or as Members, or as Registrar of the Commission under the repealed Organic Law, immediately before the coming into operation of this Organic Law, shall be deemed to have been appointed as Chairman or as Members, or as Registrar of the Commission shall continue in office under this Organic Law.

(2) All Constitutional Regulations enacted under the repealed Organic Law and are in force prior to the commencement of this Organic Law shall have the same effect under this Organic Law.

Office of Legislative Counsel, PNG