

**ELECTION CAMPAIGN FINANCING (AMENDMENT) BILL, 2020**

**A Bill for**

AN ACT of Parliament to amend the Elections Campaign Financing Act, 2013 and for connected purposes

**ENACTED** by the Parliament of Kenya, as follows –

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| Short title                                      | 1. This Act may be cited as the Election Campaign Financing (Amendment) Act, 2020.  |
| Amendment of Section 2 of No. 42 of 2013         | 2. The Election Campaign Financing Act, 2013 (hereinafter referred to as "the principal Act") is amended in section 2 by deleting the definition of the following terms—<br>(a) “expenditure account”;<br>(b) “expenditure committee”; and<br>(c) “expenditure report”.   |
| Insertion of section 2A in No. 42 of 2013        | 3. The principal Act is amended by inserting the following section 2A immediately after section 2—<br><br>Objects of the Act <b>2A.</b> The object of this Act is to—<br>(a) give effect to Article 88(4)(i) of the Constitution;<br>(b) make provisions enabling the Commission to regulate the amount of money that may be spent by or on behalf of—<br>(i) a candidate or a political party in respect of an election; or<br>(ii) a referendum committee in respect of a referendum;<br>(c) promote transparency and accountability in election campaign financing; and<br>(d) require political parties and candidates to report campaign financing in a structured manner. |
| Amendment of title to Part III of No. 42 of 2013 | 4. The principal Act is amended by deleting the title to Part III and substituting therefor the following—  |

**PART III—REGULATION OF CAMPAIGN EXPENDITURE  
AND RESTRICTION OF DONATIONS**

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|---------------------------|--|
| Repeal and replacement of | 5. The principal Act is amended by repealing section 5 and replacing it with the following new sections— |
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| section 5 of No. 42 of 2013                           | Restriction on incurring campaign expenditure | <p><b>5</b> (1) No campaign expenditure shall be incurred by or on behalf of a political party unless it is incurred with the authority of—</p> <p>(a) the treasurer of the party,</p> <p>(b) a deputy treasurer of the party; or</p> <p>(c) a person authorised in writing by the treasurer or a deputy treasurer.</p> <p>(2) A person who, without reasonable excuse, incurs any expenses in contravention of subsection (1), commits an offence</p>                 |
| Repeal and replacement of section 6 of No. 42 of 2013 |   | <p><b>6.</b> Section 6 of the principal Act is amended—</p> <p>(a) in subsection (1) by—</p> <p>(i) deleting paragraphs (c) and substituting therefor “ (c) an agent of a political party”;</p> <p>(ii) deleting paragraphs (d) and substituting therefor “ (d) an agent of a referendum committee”;</p> <p>(b) by deleting subsection (2);</p> <p>(c) by deleting subsection (3);</p> <p>(d) by deleting subsection (6); and</p> <p>(e) by deleting subsection 7.</p> |
| Repeal of Section 7 of No. 42 of 2013                 |   | <p><b>7.</b> Section 7 of the principal Act is repealed.</p>   |
| Repeal of Section 8 of No. 42 of 2013                 |   | <p><b>8.</b> Section 8 of the principal Act is repealed.</p>   |
| Repeal of Section 9 of No. 42 of 2013                 |   | <p><b>9.</b> Section 9 of the principal Act is repealed.</p>   |
| Repeal of Section 10 of No. 42 of 2013                |   | <p><b>10.</b> Section 10 of the principal Act is repealed.</p>   |
| Amendment of Part IV                                  |   | <p><b>11.</b> The heading to Part IV of the principal Act is deleted.</p>  |
| Repeal of Section 10 of No. 42 of 2013                |   | <p><b>12.</b> Section 11 of the principal Act is repealed and replaced with the following new section—</p>   |
|   | Restriction to contributions and donations    | <p><b>11.</b> (1) A political party shall not accept a donation if—</p> <p>(a) the donation is not a permissible; or</p> <p>(b) the party is unable to ascertain the identity of the donor.</p> <p>(2) For the purposes of subsection (1), the following are permissible donors—</p>   |

- (a) an individual registered as a voter;
- (b) a registered body corporate carrying on business within Kenya;
- (c) an unincorporated body of two or more persons which does not fall within any of the preceding paragraphs but which carries on business or other activities wholly or mainly in the Kenya and has its main office in Kenya; and
- (d) contributions from a *harambee*.

Amendment of section 12 of No. 42 of 2013

**13.** Section 12 of the principal Act is amended by repealing it and replacing it with the following new section—

Limits of contributions and donations

12. (1) The Commission shall prepare, and from time to time revise, a code of practice giving guidance on limits on—

- (a) total contributions;
- (b) contributions from a single source;
- (c) paid-up media coverage;
- (d) loan forming part of a contribution, which a candidate, political party or referendum committee may receive during the expenditure period.

(2) Except where contribution is from a candidate to that candidate’s campaign financing account, or from a political party or a referendum committee to that political party’s or referendum committee’s campaign financing account, no contribution from a single source shall exceed twenty percent of the total contributions received by that candidate, political party or referendum committee.

(3) The Commission shall prescribe the limit beyond which contributions received by a candidate, a political party or a referendum committee from a single source must be disclosed.

Amendment of section 14 of No. 42 of 2013

**14.** Section 14 of the principal Act is amended by inserting the following subsections immediately after subsection (4)—

“(4A) A candidate, a political party or a referendum committee shall not receive any donation if it is directly from a foreign government.

Amendment of  
section 15 of No.  
42 of 2013

- 15.** Section 15 of the principal Act is amended—
- (a) in subsection (1) by deleting the subsection; and
  - (b) in subsection (2) by deleting paragraph (c).
  - (c) by inserting the following new subsection immediately after subsection (2)—

“(2A) The request under subsection (2)(a) shall specify the authorised signatories of the campaign financing account opened by the organisation who shall be the authorised persons under this Act.

Amendment of  
section 17 of No.  
42 of 2013

- 16.** Section 17 of the principal Act is amended in subsection (1)—
- (a) by deleting the phrase “held in the expenditure committee” appearing immediately after the word “funds” in paragraph (a);
  - (b) by deleting subparagraph (b) (i) and substituting therefor the following—
- “(i) the political party organ authorised to receive funds on behalf of the political party in accordance the Political Parties Act and the party constitution.”

Amendment of  
section 18 of No.  
42 of 2013

- 17.** Section 18 of the principal Act is amended deleting subsection (1) and replacing substituting therefor the following—

“(1) The Commission shall prepare, and from time to time revise, a code of practice giving guidance on campaign spending limits in relation to candidates, political parties and referendum campaign committees during—

- (a) general elections;
- (b) by-elections; and
- (c) referenda.

Repeal and  
replacement of  
section 19 of No.  
42 of 2013

- 18.** Section 19 of the principal Act is repealed and replaced with the following new section—

Authorised  
expenditures

- 19.** A candidate, political party or referendum committee may incur expenditure on legitimate campaign activities including—
- (a) funding of rallies and public meetings organised to obtain publicity in connection with an election campaign, except annual or other party conferences;
  - (b) transport, by any means, of persons to any place or places with a view to obtaining

- publicity in connection with an election campaign;
- (c) fees and costs incurred on political party broadcasts;
- (d) advertisement expenses including distribution or dissemination of materials;
- (e) costs for preparation of any manifesto or other document setting out the party’s policies;
- (f) market research or canvassing conducted for the purpose of ascertaining polling intentions;
- (g) provision of any services or facilities in connection with press conferences or other dealings with the media; and
- (h) any other justifiable expense.

Repeal of section 25 of No. 42 of 2013  
 Amendment of section 27 of No. 42 of 2013

**19.** Section 25 of the principal Act is repealed

**20.** Section 27 of the principal Act is by deleting the section and replacing therefor the following—

Accounts and audit

**27.** (1) It shall be the responsibility of a candidate, a political party or a referendum committee to—

- (a) keep records of all income and expenditure relating to electoral campaigns;
- (b) audit its accounts and make returns to the Commission.

(2) The Commission may conduct an independent audit of the accounts of a candidate, a political party or a referendum committee if it deems it necessary.

Donation reports

**27A.** (1) The treasurer of a political party shall prepare and submit to the Commission a report in respect of each of the following periods—

- (a) January to March;
- (b) April to June;
- (c) July to September; and
- (d) October to December.

(2) Despite subsection (1) during a general election period, every political party participating in an election shall prepare a report under this section in respect of every thirty days commencing from the

date of publication of a notice by the Commission for the general election and ending the date of gazettelement of the election results.

(3) A donation report shall contain the following particulars in respect of all reportable donations—

- (a) full value of the donation;
- (b) full name and address of individual donor;
- (c) nature of organizations if it is not an individual;
- (d) registered name of corporate donor
- (e) location and address of head office; and
- (f) any other required particular required by the Commission.

(4) A political party that does not intend to have candidates for a particular general election need not make reports under this section

Declaration by treasurer in donation report

**27B.** Every donation report shall be submitted to the Commission and shall be accompanied by a declaration made by the treasurer stating that, to the best of the treasurer’s knowledge and belief—

- (a) all the donations recorded in the report as having been accepted by the party are from permissible donors, and
- (b) during the reporting period—
  - (i) no other donations required to be recorded in the report have been accepted by the party, and
  - (ii) no donation from any person or body other than a permissible donor has been accepted by the party.

## MEMORANDUM OF OBJECTS AND REASONS

The principle object of this Bill is to amend the Elections Campaign Financing Act, 2013, to remove the bottlenecks that have impeded its implementation since it was enacted in 2013. When the Act was enacted in 2013, the intention was to give full effect to Article 88 (4) (i) which provides that it shall be the responsibility of the Independent Electoral and Boundaries Commission to regulate the amount of money that may be spent by or on behalf of a candidate or party in respect of any election. In 2017 election year, Parliament suspended its operation until immediately after the general election.

### Statement of Objects

The proposed amendments are intended to:

- (a) focus the object of the Act to the constitutional mandate placed on the Commission namely, regulation of the amount of money spent election campaigns;
- (b) remove the requirements by independent candidates, political parties and referendum committees to form campaign expenditure committees to manage campaign funds on their behalf;
- (c) mandate the Commission to set donation and spending limits in respect of election campaigns; and
- (d) remove the requirement for the Auditor-General to audit campaign funds and require candidates, political parties and referendum committees to receive, account for and report to the Commission on compliance with the set limits,

The Structure of the Bill is as follows:

**Clause 1** is the short title of the Bill.

**Clause 2** deletes terms and phrases no longer used in the body of the Act.

**Clause 3** sets out the objects of the Act.

**Clause 4** introduces a new part, namely Part III: Regulation of Campaign Expenditure and Restriction of Donations.

**Clause 5** repeals and replaces section 5 of the Act to restrict campaign expenditures except through the relevant party structures.

**Clause 6** deletes some obsolete provisions under section 6 of the Act.

**Clause 7 to 10** deletes provisions establishing party expenditure committees, independent candidate independent committees and referendum expenditure committees.

**Clause 11** deletes and replaces section 11 of the Act to restrict contributions and donations to election campaigns and clarifies permissible donors.

**Clause 12** repeals and replaces section 11 to restrict donations from impermissible and unknown sources.

**Clause 13** repeals and replaces section 12 to provide for the power of the Commission to set donation limits and to prescribe limits beyond which, certain donations must be disclosed.

**Clause 14** amends section 14 to prohibit donations for election campaigns directly from foreign governments.

**Clause 15** amends section 15 to remove references to obsolete terms.

**Clause 16** amends section 17 to remove references to obsolete terms.

**Clause 17** amends clause 18 allow the Commission set election campaign spending limits.

**Clause 18** amend section 19 and provides for campaign activities upon which expenditure may be incurred.

**Clause 19** repeals section 25 of the Act which is obsolete.

**Clause 20** repeals and replaces section 27 to remove the requirement of the Auditor-General to audit campaign funds and provides for candidates and political parties to account for and report to the Commission on their compliance. It also provides for making quarterly reports by political parties throughout the year and monthly reports during election period. The reports shall be accompanied by a statutory declaration by the treasurer.

**Statement on the limitation of fundamental rights and freedoms**

The Bill does not limit fundamental rights and freedoms.

**Statement on how the bill concerns county governments**

This Bill concerns county governments in terms of Article 110(1) (a) of the Constitution.

**Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution**

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the ....., 2020.

**Hon.....**  
**Chairperson**  
**Judicial and Legal Affairs Committee**  
**National Assembly**



*Sections of the Elections Campaign Financing Act which are proposed  
for amendment*

**2. Interpretation**

(1) In this Act, unless the context otherwise requires—

“**anonymous donation**” means a donation which the recipient is, unable to ascertain the identity of the donor; “**bank**” means a bank as defined under the Banking Act (Cap. 488);

“**candidate**” means a person contesting for an elective post;

“**campaign expenses**” means expenses incurred by a candidate, a political party, a referendum committee or an organisation registered by the Commission to campaign in support of a candidate, a political party or a referendum committee during an election period;

“**campaign financing**” means resources spent by a candidate or a political party during an election period for purposes of campaign;

“**campaign period**” has the meaning assigned to it under the Elections Act (No. 24 of 2011);

“**Commission**” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“**contribution**” means monetary and non-monetary contributions including loans, donations, grants, gifts, property, services provided to a candidate or political party, and money spent on behalf of a candidate, political party or referendum committee in paying any expenses incurred directly or indirectly, but does not include volunteer services;

“**election**” means a presidential, parliamentary or county election, and includes a referendum and a by-election;

“**election expenses**” means all funds expended or expenses incurred in respect of the conduct and management of a nomination process, election campaign by a political party or a candidate or a referendum campaign and include—

(a) in relation to a nomination process, all expenses incurred by a political party or a candidate during the nomination process;

(b) in relation to an election campaign, all expenses incurred by a political party or candidate for the purpose of an election campaign; and

(c) in relation to a referendum, all expenses incurred by referendum committees for the purpose of a referendum campaign;

“**election period**” has the meaning assigned to it under the Elections Act;

“**expenditure account**” means a bank account opened by a candidate, a political party or a referendum committee for purposes of depositing contributions received by that candidate, political party or referendum committee during an election period or a referendum campaign period as the case may be;

“**expenditure committee**” means a committee established by a candidate, a political party or a referendum committee to regulate spending by a candidate, a political party or a referendum committee during an election or a referendum campaign period as the case may be;

“**expenditure period**” means the prescribed period for regulating election campaign financing;

“**expenditure report**” means a report of expenses incurred by a candidate, a political party, or a referendum committee during a nomination or election period or a referendum campaign period;

“**harambee**” means the public collection of monies or other property in aid support of an election or referendum campaign;

“illegal source” means a contribution from an unlawful source; “monetary contribution” means a non-repayable amount of money contributed to a campaign financing account;

“**nomination day**”, in respect of an election, means the day gazetted by the Commission as the day for the nomination of candidates for that election;

“**non-monetary contribution**” means the market value of a service, other than volunteer labour, or of property or of the use of property or money to the extent that they are provided without charge or at less than their market value;

“**organisation**” includes a club, group, foundation, business or a registered society;

“**party campaign expenditure rules**” means rules of a political party intended to guide the political party in matters related to campaign expenses during an election period;

“**party candidate**” means a candidate who is sponsored by a political party to contest in an election;

“**political party**” means a political party registered under the Political Parties Act (No. 11 of 2011);

“**party nomination**” means the process where a political party nominates candidates to be sponsored by that political party to contest in an election;

“public resource” includes—

- (a) monies intended for public use;
- (b) a vehicle or equipment owned by or in the possession of the State, a state organ, statutory corporation or a company in which the State owns a controlling interest; or
- (c) premises owned or occupied by the State, a state organ, statutory corporation or a company in which the State owns a controlling interest;

“**referendum committee**” has the meaning assigned to it under the Elections Act;

“**Registrar**” means the Registrar of Political Parties appointed under the Political Parties Act (No. 11 of 2011);

“**spending limit**” means the maximum threshold of money a candidate, political party or referendum committee may expend during a nomination, election or referendum campaign and includes the expenditure incurred by any person or organization on behalf of a candidate, political party or referendum committee;

“**technical assistance**” means support in knowledge, skills and ideas provided to a candidate, political party or referendum committee in connection with an election or referendum campaign;

“**volunteer services**” means the rendering of personal services related to the campaign activities of a candidate, political party or a referendum committee during an election or referendum period, without compensation.

**PART III – REGULATION OF EXPENDITURE**

**5. Election campaign financing rules**

The Commission shall make rules to regulate election campaign financing—

- (a) in the case of a general election, at least twelve months before the election; and
- (b) in the case of a by-election or referendum, at such time as the Commission may determine.

**6. Authorised persons**

(1) For purposes of regulating election campaign financing during the expenditure period, the authorised persons shall be—

- (a) a candidate;
- (b) an agent of the candidate;
- (c) political party campaign financing committee; and
- (d) referendum campaign financing committee.

(2) The political party campaign financing committee referred to in subsection (1)(c) shall consist of persons nominated by the governing body of that political party, three of whom shall be signatories to the party campaign financing account.

(3) The referendum campaign financing committee referred to in subsection(1) (d) shall consist of persons nominated by the referendum committee established under section 51(1) of the Elections Act, three of whom shall be signatories to the referendum campaign financing account.

(4) A candidate, a political party or a referendum campaign financing committee shall, as soon as reasonable, notify the Commission of any changes in the authorised persons, the membership of the committee or in the details of such persons or such members.

(5) The authorised persons referred to in subsection (1) shall be registered by the Commission—

- (a) for a general election, at least two months before the general election; or
- (b) for a by-election, within seven days after the notice of a vacancy issued by the relevant Speaker.
- (c) for a referendum, within fourteen days after the publication of the referendum question by the Commission.

(6) Each of the authorised persons referred to in subsection (1) shall open a campaign financing account and shall submit details of that account to the Commission at the time of registration under subsection (2).

(7) There shall be deposited into the campaign financing account referred to in subsection (3)—

- (a) contributions by a candidate;
- (b) contributions by a political party;
- (c) contributions received from any other lawful source. [

#### **7. Party expenditure committee**

(1) A political party intending to contest in an election shall, in accordance with the constitution and rules of the political party, constitute a party expenditure committee which shall consist of nine members—

- (a) three of whom shall be persons nominated by the governing body of that political party, of whom one shall be the secretary-general of the party;
- (b) not more than one of whom shall be from one region; and
- (c) not more than two-thirds of whom shall be of one gender.

(2) The appointment of members of the referendum expenditure committee referred to in subsection (1) shall take into account regional and other diversity of the people of Kenya.

(3) The members of a party expenditure committee shall not include members of a party candidate expenditure committee.

(4) The party expenditure committee referred to in subsection (1) shall—

- (a) open a party expenditure committee account into which all the money in respect of the election campaign of that party shall be deposited;
- (b) be signatories to the party expenditure committee account;
- (c) advise the political party on all financial matters related to the party nomination or to the party campaign expenditure;
- (d) manage the party expenditure committee account of the political party and keep the books of account updated and available for inspection; and
- (e) receive party nomination and campaign expenditure reports from each party candidate;
- (f) monitor the campaign expenditure of the party candidate and ensure that the party candidate complies with party nomination and campaign expenditure rules;
- (g) compile the expenditure reports received from the party candidates and submit to the Commission the preliminary nomination expenditure report and the final campaign expenditure report; and
- (h) submit to the Commission the final campaign expenditure report of the political party.

(5) A political party shall, as soon as reasonable, notify the Commission of any changes in the membership of the party expenditure committee.

#### **8. Independent candidate expenditure committee**

- (1) An independent candidate intending to contest in an election, shall, constitute an independent candidate expenditure committee.
- (2) The independent candidate expenditure committee referred to in subsection (1) shall consist of three members nominated by the candidate.
- (3) The independent candidate expenditure committee shall—
  - (a) open an independent candidate expenditure committee account into which all the money in respect of the election campaign of that candidate shall be deposited;
  - (b) be signatories to the independent candidate expenditure committee account;
  - (c) advise the independent candidate on all financial matters related to the campaign expenditure; and
  - (d) manage the candidate expenditure committee account of the independent candidate and keep the books of account updated and available for inspection;
  - (e) receive expenditure reports from the independent candidate; and
  - (f) compile and submit to the Commission the final campaign expenditure report of the independent candidate with respect to the election period.

**9. Referendum expenditure committee**

- (1) A national referendum committee intending to campaign in a referendum shall constitute a referendum expenditure committee which shall consist of nine members—
  - (a) three of whom shall be persons nominated by the national committee established under section 51 of the Elections Act;
  - (b) not more than one of whom shall be from one region; and
  - (c) not more than two-thirds of whom shall be of one gender.
- (2) The appointment of members of the referendum expenditure committee referred to in subsection (1) shall take into account regional and other diversity of the people of Kenya.
- (3) The referendum expenditure committee referred to in subsection (1) shall—
  - (a) open a referendum expenditure committee account into which all the money in respect of the referendum campaign shall be deposited;
  - (b) be signatories to the referendum expenditure committee account;
  - (c) advise the national committee on all financial matters related to referendum campaign expenditure;
  - (d) manage the referendum expenditure committee account of the relevant national committee and keep the books of account updated and available for inspection; and
  - (e) receive campaign expenditure reports from each constituency committee;

(f) monitor the campaign expenditure of the national committee and the constituency committees and ensure that the committees comply with campaign expenditure rules; and

(g) compile and submit to the Commission the preliminary nomination expenditure report and the final campaign expenditure report.

(5) A national committee shall, as soon as reasonable, notify the Commission of any changes in the membership of the referendum expenditure committee.

#### **10. Submission of expenditure reports**

(1) A party candidate shall submit to the political party of that candidate and to the Commission—

(a) a preliminary nomination expenditure report, within twenty-one days of the political party nomination; and

(b) the final expenditure report within, three months after elections.

(2) A political party shall within three months after the elections submit a final expenditure report to the Commission.

(3) An independent candidate shall within three months after the election, submit the final expenditure report to the Commission.

(4) A referendum committee shall, within three months after the referendum submit the final expenditure report to the Commission.

(5) The expenditure reports submitted under subsections (1)(b), (2), (3), and (4) shall include records showing all transactions and income and expenditure statement.

### **PART IV – CONTRIBUTIONS AND DONATIONS**

#### **11. Sources of campaign finances**

The sources of funds for purposes of financing party nomination, election or referendum campaign are—

(a) contributions received from any person, political party or any other lawful source;

(b) contributions from a lawful source, not being directly from a foreign government; and

(c) contributions from a harambee.

#### **12. Limits to contributions**

(1) The Commission shall, at least twelve months before a general election, by notice in the Gazette, prescribing limits on—

(a) total contributions;

(b) contributions from a single source;

(c) paid-up media coverage;

(d) loan forming part of a contribution, which a candidate, political party or referendum committee may receive during the expenditure period.

(2) Except where contribution is from a candidate to that candidate's campaign financing account, or from a political party or a referendum committee to that political party's or referendum committee's campaign financing account, no contribution from a single source shall exceed twenty percent of the total contributions received by that candidate, political party or referendum committee.

(3) The Commission shall prescribe the limit beyond which contributions received by a candidate, a political party or a referendum committee from a single source may be disclosed.

#### **14. Prohibition on contributions**

(1) A candidate, a political party or a referendum committee shall not receive any contribution or donation, in cash or in kind from the State, a State institution or agency or any other public resource.

(2) A State, a state institution or a public officer shall not use any public resource to—

(a) support or to campaign in support of a candidate, a political party or a referendum committee; or

(b) support any organisation that is supporting or campaigning for a candidate, political party or a referendum committee.

(3) A candidate who or a political party or a referendum committee which receives any campaign support referred to in subsection (1) shall, within forty-eight hours of the receipt, report such receipt and submit the contribution to the Commission.

(4) A candidate who or a political party or a referendum committee which does not report receipt of support in accordance with subsection (2) shall be disqualified from contesting in that election or in the referendum, campaigning as the case may be.

(5) Public resources referred to under subsection (1) shall not include public funding provided for the Political Party Fund established under the Political Parties Act.

(6) A candidate who or a political party or a referendum committee which contravenes subsection (1) commits an offence.

#### **15. Support by an organisation**

(1) Any person who, or an organisation which contributes to a candidate, a political party or a referendum committee shall channel such contributions through the expenditure accounts specified under sections 7, 8, 9 and 10. (2)

An organisation which intends to campaign in support of a candidate, a political party or a referendum committee shall—

- (a) in writing, seek consent to campaign from the candidate, the political party or the referendum committee as the case may be the organisation intends to campaign in support of;
- (b) register with the Commission; and
- (c) open a campaign financing account into which the contributions shall be deposited, in the case of—
  - (i) a candidate or a political party committee, at least eight months before the polling day; or
  - (ii) a referendum committee, at the time of registration of that committee.

(3) The money spent by an organisation to campaign in support of a candidate, a political party or a referendum committee shall be within the spending limits specified under this Act.

(4) An organisation which campaigns in support of a candidate or a political party contesting in an election or a referendum committee shall, within one month after the election, submit its final report to the respective authorised person.

#### 17. Surplus campaign funds

- (1) A candidate, political party or a referendum committee shall—
  - (a) within three months after the date of an election or referendum, notify the Commission of any surplus campaign funds held in the expenditure committee;
  - (b) within three months after the date of an election or referendum, submit the surplus campaign funds to—
    - (i) in the case of a political party campaign finance committee, to the political party;
    - (ii) in the case of a party candidate, to the political party that nominated the candidate for purposes of the activities of the youth, women and persons with disability;
    - (iii) in the case of an independent candidate or a referendum committee, to a charitable organisation preferred by that independent candidate or referendum committee, as the case may be;
  - (c) within three months after the date of an election or referendum, report to the Commission in respect of the action taken under this section.

#### 18. Spending limits

- (1) The Commission shall, at least twelve months before an election, by notice in the Gazette, prescribe the spending limits including the total amount that a candidate, political party or referendum committee may spend during an expenditure period, including the limit for media coverage.
- (2) Except for contribution by a candidate into his or her own campaign



financing account, any contribution from a person, organisation or any other lawful

source contributed to a candidate, a political party or a referendum committee

campaign financing account shall not exceed the limit of the total contribution

prescribed under subsection (1).

(3) The Commission may, by notice in the Gazette, vary the spending limits prescribed under subsection (1).

(4) The Commission shall, in prescribing spending limits under subsection (1),

take into consideration—

(a) geographical features and urban centres;

(b) the type of election;

(c) the population in an electoral area;

(d) the number of party members in an electoral area;

(e) the communication infrastructure in an electoral area.

(5) Subsection (4)(d) shall only apply with respect to party nomination expenditure of a party candidate.

(6) Where a candidate, political party or a referendum committee exceeds the

spending limits prescribed under this section due to unforeseeable and extraneous

circumstances, the candidate, political party or referendum committee shall file a

report with the Commission specifying the reasons for exceeding the limit, with

such time as the Commission may prescribe and the Commission shall determine

if such spending was justifiable.

(7) A candidate who, or a political party or referendum committee which, exceeds the prescribed spending limits and fails to report this fact to the Commission commits an offence.

### **27. Audit of accounts**

The Auditor-General may, on the request of the Commission, audit the accounts relating to the campaign expenses of a candidate, a political party or a referendum committee.