

KwaZulu-Natal, South Africa

KwaZulu-Natal Funding of Represented Political Parties Act, 2008

Act 7 of 2008

Legislation as at 19 December 2008

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KwaZulu-Natal Funding of Represented Political Parties Act, 2008

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KwaZulu-Natal South Africa

KwaZulu-Natal Funding of Represented Political Parties Act, 2008 Act 7 of 2008

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Assented to on 5 December 2008

Commenced on 19 December 2008

*[This is the version of this document from 19 December 2008
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*[Repealed by [KwaZulu-Natal Funding of Represented Political
Parties Act Repeal Act, 2021 \(Act 6 of 2021\)](#) on 3 May 2021]*

ACT

To provide for the establishment of the Political Parties' Fund in order to strengthen democracy and to educate and develop the political will of citizens of the Province of KwaZulu-Natal through the supplementary funding of political parties on an equitable and proportional basis; to provide for the objects and roles of the fund; to provide for the funding of the fund; to provide for the allocation to registered political parties from the fund and for the use of those funds; to provide for the publication of allocations made from the fund; to provide for the accountability of political parties for allocations received from the fund; to provide for the recovery of money irregularly spent by political parties; to provide for unspent allocations; to provide for the management and control of the fund; to provide for the Speaker to report to the Provincial Legislature on the affairs of the fund and on its financial reporting; to provide for unspent balances in the event that the Provincial Legislature is dissolved; to provide for the formulation of regulations; and to provide for matters connected therewith.

(English text signed by the Premier)

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

Chapter 1 Definition and objectives of Act

1. Definitions

In this Act, unless the context otherwise indicates-

"**Constitution**" means the [Constitution of the Republic of South Africa, 1996](#);

"**Electoral Commission Act**" means the Electoral Commission Act, 1996 ([Act No. 51 of 1996](#));

"**Executive Council**" means the Executive Council of the Province of KwaZulu-Natal;

"**financial year**" means the period from 1 April in any year to 31 March of the following year;

"**Gazette**" means the official *Provincial Gazette* of KwaZulu-Natal;

"**Member of the Executive Council responsible for finance**" means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

“Party” means any political party registered in terms of section 15 of the Electoral Commission Act, 1996 ([Act No. 51 of 1996](#)), and represented in the Provincial Legislature, and “Parties” has a corresponding meaning;

“Political Parties’ Fund” means the Political Parties’ Fund established in terms of [section 3](#);

“Premier” means the Premier of the Province of KwaZulu-Natal as contemplated in section 125 of the [Constitution](#);

“prescribed” means prescribed by regulation under [section 15](#), and “prescribe” has a corresponding meaning;

“Province” means the KwaZulu-Natal Province contemplated in section 103(1)(d) of the [Constitution](#);

“Provincial Legislature” means the Legislature of the Province of KwaZulu-Natal;

“Secretary” means the Secretary to the Provincial Legislature of the Province of KwaZulu-Natal;

“Speaker” means the Speaker of the Provincial Legislature of the Province of KwaZulu-Natal; and

“this Act” includes the regulations made under [section 15](#).

2. Object of Act

The object of this Act is to make provision for the establishment of the Political Parties’ Fund so as to-

- (a) strengthen multiparty democracy in the Provincial Legislature;
- (b) educate and develop the political will of the public so as to enhance their participation in political life;
- (c) permit Parties to function effectively as political parties in a modern democracy;
- (d) provide financial and administrative assistance to Parties; and
- (e) provide for the management and administration of the Political Parties’ Fund.

Chapter 2 Establishment, objects and funding of Political Parties’ Fund

3. Establishment of Political Parties’ Fund

The Political Parties’ Fund is hereby established for the purpose of funding Parties that participate in the Provincial Legislature.

4. Objects of Political Parties’ Fund

The objects of the Political Parties’ Fund are-

- (a) to receive and invest moneys deposited with it from sources authorised in terms of this Act; and
- (b) to provide for the supplementary funding of political parties on an equitable and proportional basis.

5. Funding and deposit of funds into Political Parties’ Fund

- (1) The Political Parties’ Fund is funded from-
 - (a) money appropriated to the Political Parties’ Fund by the Provincial Legislature;
 - (b) contributions and donations to the Political Parties’ Fund from sources approved by the Member of the Executive Council responsible for finance, whether from within or outside of the Province;

- (c) interest earned on money deposited in terms of subsections (2) and (3) below; and
 - (d) money received or accruing to the Political Parties' Fund from any other source.
- (2) All money received by or standing to the credit of the Political Parties' Fund must be deposited into a separate banking account opened by the Secretary with an institution registered as a bank in terms of the Banks Act, 1990 ([Act No. 94 of 1990](#)).
- (3) Money in the Political Parties' Fund that is not required immediately for making allocations to Parties in terms of [section 6](#) may be invested with the Public Investment Corporation contemplated in the Public Investment Corporation Act, 2004 ([Act No. 23 of 2004](#)).
- (4) The banking and investment accounts which are to be opened in terms of this section and any interest earned on those accounts must be solely for the benefit of the Political Parties' Fund, and must be ring-fenced and accounted for separately from any other funds of the Provincial Legislature.

Chapter 3

Allocations from the Political Parties' Fund

6. Allocations from the Political Parties' Fund

- (1) Every Party is entitled to be allocated money from the Political Parties' Fund for every financial year that it is represented in the Provincial Legislature.
- (2) Subject to subsection (7), money allocated to a Party must be used for purposes compatible with its functioning as a political party in a modern democracy.
- (3) The functioning of a Party as contemplated by subsection (2) includes, but is not limited to-
- (a) the development of the political will of people;
 - (b) bringing the influence of a Party to bear on the shaping of public opinion;
 - (c) inspiring and furthering political education;
 - (d) promoting active participation by individual citizens in political life;
 - (e) exercising an influence on political and socio-political trends; and
 - (f) ensuring continuous vital links between the people and organs of state and, in particular, between people and the Provincial Legislature.
- (4) Allocations from the Political Parties' Fund must be determined and made at prescribed times, in prescribed instalments, and in the prescribed way.
- (5) The Secretary must allocate money from the Political Parties' Fund to Parties in accordance with a prescribed formula based-
- (a) in part, on the system of proportionality, taking into account the relation that the number of such a Party's representatives in the Provincial Legislature bears to the total number of the members in the Provincial Legislature; and
 - (b) in part, on the principle of equity, which may take into account, among other factors, a fixed threshold for a minimum allocation to each of the Parties represented in the Provincial Legislature or a weighted scale of representation for an allocation to each of the Parties participating in the Provincial Legislature.
- (6) The information and particulars necessary to apply the prescribed formula to a Party must be ascertained from the relevant facts and circumstances at the time when the allocation is made.

- (7) Money allocated to a Party may not be used-
- (a) for the purpose of directly or indirectly paying any remuneration, fee, reward, prerequisite or other benefit to a person representing that, or any other Party in the Provincial Legislature, or who holds office under the State;
 - (b) with a view to finance or contribute to a matter, cause, event or occasion, whether directly or indirectly, in contravention of any code of ethics binding the members or staff of the Provincial Legislature, as the case may be;
 - (c) directly or indirectly for the purpose of establishing or financing a business or commercial enterprise, or acquiring or maintaining a right or financial interest whatsoever in a business or commercial enterprise;
 - (d) to acquire a right or interest in immovable property, of whatsoever nature, except where that right or interest in the immovable property is used by a Party solely for ordinary party-political purposes; or
 - (e) for any other purpose that is incompatible with the functioning of a political party in a modern democracy, as may be prescribed.
- (8) The allocation of money from the Political Parties' Fund must end when the Party ceases to qualify in terms of subsection (1).

7. Publication of allocations from Political Parties Fund

- (1) As soon as possible after the end of each financial year, the Secretary must publish a notice in the *Gazette* setting out the allocations made from the Political Parties' Fund in that period.
- (2) The notice referred to in subsection (1) must include the following information for the financial year in question-
- (a) the opening balance of moneys held by the Political Parties' Fund at the commencement of the financial year;
 - (b) the amount and source of moneys paid into the Political Parties' Fund;
 - (c) names of the Parties to whom allocations were made, and the amounts of those allocations;
 - (d) the amounts invested by the Political Parties' Fund in terms of [section 5\(3\)](#) above, and the interest earned thereon; and
 - (e) the closing balance of moneys held by the Political Parties' Fund at the end of the financial year.

Chapter 4

Accountability of political parties

8. Political parties to account for money allocated from Political Parties' Fund

- (1) A Party to which money is allocated from the Political Parties' Fund must-
- (a) open and operate a separate bank account in the name of the Party with an institution registered as a bank in terms of the Banks Act, 1990 ([Act No. 94 of 1990](#));
 - (b) deposit therein all money received from the Political Parties' Fund; and

- (c) appoint-
 - (i) the Leader of the Party in the Provincial Legislature or a Representative of that Party in the Provincial Legislature if the Leader is not a Member of the Provincial Legislature; or
 - (iii) the Chief Whip or the most senior Whip of that Party in the Provincial Legislature, as its accounting officer with regard to the money allocated to that Party from the Political Parties' Fund.
- (2) The responsibility of the accounting officer is to account for the money allocated to that Party, and includes-
 - (a) in addition to other duties imposed by this Act, the duty to ensure that the Party complies with the requirements of this Act; and
 - (b) in particular, the duty to ensure that the allocated money is not paid out for a purpose not authorised by this Act.
- (3) The accounting officer must keep separate books and records of account, in the prescribed manner, in respect of money allocated from the Political Parties' Fund, and all the transactions involving such money.
- (4) Subject to [section 14](#), within 2 months after the end of the financial year the accounting officer must prepare a statement-
 - (a) showing all amounts received by the Party from the Political Parties' Fund during that financial year and the use of allocated money; and
 - (b) describing the purposes for which the various amounts have been used.
- (5) The books and records of account contemplated in subsection (3) and the statement contemplated in subsection (4) must be audited by a public accountant and auditor registered and practising as such in terms of the Auditing Professions Act, 2005 ([Act No. 26 of 2005](#)).
- (6) An auditor who performs an audit contemplated in subsection (5) must, in the auditor's report, express an opinion as to whether the allocated money was spent for purposes not authorised by the Act.
- (7) Subject to [section 14](#), within 3 months after the end of the financial year, the accounting officer must submit the audited accounts, statements and report of the auditor, to the Secretary.
- (8) Despite subsection (4) the Auditor-General may, at any time, audit the books and records of account and financial statements relating to money allocated to a Party from the Political Parties' Fund.
- (9) Subject to subsection (10), the Secretary-
 - (a) may order that the allocation of money to a Party from the Political Parties' Fund be suspended, if satisfied on reasonable grounds that the Party failed to comply with a requirement of the Act; and
 - (b) must terminate the suspension if satisfied, in the light of the Party's subsequent conduct, that the suspension is no longer justified.
- (10) The suspension of a Party's allocations may be ordered in terms of subsection (9) only if the Secretary-
 - (a) has by written notice informed the Party of the proposed suspension and the reasons therefore; and
 - (b) has called upon the Party to furnish reasons, within the period specified in the notice, why its allocations from the Political Parties' Fund should not be suspended.

- (11) The period referred to in subsection (10)(b) may not be less than 30 days from the date of the notice.

Chapter 5

Monetary controls, management and reporting in relation to Political Parties' Fund

9. Recovery of money irregularly spent by parties

- (1) Where money allocated to a Party in terms of [section 6](#) has not been spent in accordance with the requirements of this Act, the Party and the accounting officer of that Party are liable, jointly and severally the one paying the other to be absolved, to repay the money irregularly spent to the Political Parties' Fund.
- (2) The Secretary, in his or her capacity as chief executive officer of the Political Parties' Fund, must recover the money spent irregularly, and may do so by-
- (a) instituting a civil claim in respect of the amount irregularly spent against the Party and the accounting officer of the Party concerned jointly and severally, the one paying the other to be absolved; or
 - (b) setting off the amount irregularly spent against an allocation that may become payable to that Party.

10. Unspent money at end of financial year

- (1) Money not spent by a Party at the end of a financial year must be shown in the books and records of account of the Party as a credit balance carried forward to the next financial year: Provided that-
- (a) the money that may be carried forward may be limited to an amount representing a prescribed percentage of the allocations made for that financial year; and
 - (b) the money carried forward to the next financial year may not be taken into account in determining an allocation to the Party concerned during that financial year.
- (2) If a Party ceases to be represented in the Provincial Legislature, the Party and the accounting officer of the Party concerned must, jointly and severally, the one paying the other to be absolved, repay any unspent balance to the Political Parties' Fund within 21 days of the Party ceasing to be so represented.
- (3) The Secretary, in his or her capacity as chief executive officer of the Political Parties' Fund, must recover the unspent balance referred to in subsection (2), and may do so by instituting a civil claim against the Party and the accounting officer of the Party concerned, jointly and severally the one paying the other to be absolved.
- (4) Money standing to the credit of the Political Parties' Fund at the end of the financial year must be carried forward to the next financial year as a credit balance.

11. Management and control of Political Parties' Fund

- (1) The Secretary is responsible for the management and administration of the Political Parties' Fund, and is the accounting officer and chief executive officer of the Fund.
- (2) For each financial year, the Secretary must keep records in accordance with generally accepted accounting practice and procedures of-
- (a) money received by or accruing to the Political Parties' Fund;
 - (b) allocations and payments made from the Political Parties' Fund; and
 - (c) expenditure arising from the allocation of moneys from the Political Parties' Fund.

- (3) The first financial year of the Political Parties' Fund must run from the day on which this Act comes into operation until 31 March, first following.

12. Speaker to report to Provincial Legislature on Political Parties' Fund

- (1) As soon as possible after the end of each financial year the Speaker must-
- (a) prepare an annual report regarding the management and administration of the Political Parties' Fund for that financial year; and
 - (b) table the annual report in the Provincial Legislature not later than 31 August of each year.
- (2) The annual report must-
- (a) fairly present the state of affairs of the Political Parties' Fund, its allocations, its performance against predetermined objectives and its financial position as at the end of the financial year concerned; and
 - (b) include-
 - (i) the annual financial statements contemplated in [section 13](#);
 - (ii) the report of the auditors on those statements; and
 - (iii) such other information as the Member of the Executive Council responsible for finance may in writing require or prescribe.

13. Audits and annual financial statements

- (1) The books of account and other financial records of the Political Parties' Fund must be audited annually by the Auditor-General or by a firm of auditors approved of by the Auditor-General.
- (2) The annual financial statements must set out-
- (a) the amounts received by and accruing to the Political Parties' Fund during that financial year;
 - (b) the allocations made from the Political Parties' Fund to the respective Parties during that year;
 - (c) the amounts spent during that financial year by each Party in connection with purposes classifiable under the generally descriptive categories as prescribed from time to time; and
 - (d) the balance of the Political Parties' Fund and amounts owing to it or by it as at the end of that financial year.
- (3) The annual financial statements must comply with any applicable national and provincial legislative requirements for financial reporting and accounting practices, including the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)).

Chapter 6 General provisions

14. Dissolution of Provincial Legislature

If the Provincial Legislature is dissolved a Party must-

- (a) close its books and records of account not later than 21 days before the date set for an election or within 21 days of the dissolution of the Provincial Legislature if no date has been set for an election;

- (b) within 14 days of closing its books and records of account as contemplated in paragraph (a) above, submit an audited statement in respect of those books and records to the Secretary; and
- (c) not later than the day immediately before the date set for an election, repay to the Secretary the unspent balances as at the date when its books and records of account were closed.

15. Regulations

The Speaker may, after consultation with the Member of the Executive Council responsible for finance, and by notice in the *Gazette*, make regulations consistent with this Act-

- (a) to prescribe the procedure according to which, and the manner or instalments in which payments from the Political Parties' Fund are to be determined and made;
- (b) to prescribe the formula in accordance with which allocations are to be calculated;
- (c) to determine a purpose which in the application of [section 6\(2\)](#) is not compatible with the functioning of a political party in a modern democracy;
- (d) to prescribe the information and particulars a Party must furnish to the Secretary with a view to ensure proper and effective application and administration of, and compliance with, this Act; and
- (e) on any other matter which may or must be prescribed in terms of this Act, or which is necessary to implement the provisions of this Act.

16. Winding up

The Political Parties' Fund may not be wound up except in terms of an Act of the Provincial Legislature.

17. Short title

This Act is called the KwaZulu-Natal Funding of Represented Political Parties Act, 2008.