

intituled

To provide for the regulation of public and private funding of political parties, to create offences and set penalties and administrative fines for any contravention, and to provide for related matters.

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ENACTED by the Parliament of Malaysia as follows:

PART I - PRELIMINARY

1. Short Title and commencement

- (1) This Act may be cited as the Political Financing Act 2023.
- (2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different Parts or provisions of this Act.

2. Objects of this Act

(1) The objects of this Act shall be:

- (a) to provide for and regulate the public and private funding of political parties;
- (b) to provide for the establishment and management of a fund to finance the activities of political parties;
- (c) to prohibit certain donations made directly to political parties;
- (d) to require and regulate the full and frank disclosure of all donations received by or accepted on behalf of, political parties;
- (e) to stipulate and specify the duties of political parties in respect of the receipt, utilisation, and reporting of public and private funding; and

- (f) to establish and provide for the powers and duties of a Commission, to be operated independent of government, which shall oversee the fair and equitable distribution and utilisation of the public fund.
- (2) In the implementation of the provisions of this Act, all parties shall prioritise and maximise:
- (a) the fair and equitable distribution of funding, based on acceptable international standards, for the purpose of strengthening representative democracy in Malaysia;
 - (b) openness, transparency, accountability and disclosure to the public; and
 - (c) utmost good faith and truthfulness in any disclosures or declarations that they may be required to make, without purpose of evasion.

3. Interpretation

In this Act, unless the context indicates otherwise –

“anonymous donation” means any donation whose name of the donors are not known to a political party receiving said donation

“Cash donation” means any donation to political party in the form of currency note and currency coin. “Currency note” and “currency coin” are defined by the Currency Act 2020.

“CEO” refers to the Chief Executive Officer of the Political Party Fund, appointed by the Commission under section 24(10)(a) of this Act.

“the Commission” refers to the Political Financing Commission as established by subsection 21(1) of this Act.

“the Committee” refers to the Parliamentary Committee on Political Financing established by subsection 20(1) of this Act.

“Chairman” refers to the Chairman of the Commission.

“day of determination” means the last day of January each year;

“donation” in relation to a political party means any gift of money or property to the political party and is inclusive of **“donation in kind”** which –

- (a) includes –
 - (i) any money lent to the political party other than on commercial terms;
 - (ii) any money paid on behalf of the political party for any expenses incurred directly or indirectly by that political party;
 - (iii) the provision of assets, services or facilities for the use or benefit of a political party other than on commercial terms but including situations where a donor sells an item or service to a political party for less than the market price, whereby in such a case the donation in kind is the amount of discount; or
 - (iv) the provision of any sponsorship in relation to the political party, that is given, spent, lent or provided for the political party; but
- (b) does not include services rendered personally by a volunteer;

“campaign period” the period during which any candidate or his election agent is allowed to hold election campaign in the candidate's constituency, being the period

commencing from the time the returning officer declares that a poll will be taken in the constituency for which he is appointed and ending on the expiration of the day before polling day;

“Election candidate” means a candidate for election that has been registered by the Election Commission

“Minister” means the Minister charged with the responsibility for law;

“national headquarter” is the central headquarter of a political party in Malaysia

“state headquarters” is the state branch of a political party managing its local branches in a state of Malaysia.

“transfer donation” means any donation made through bank transfer:

“local branch” means political party branches in each constituency of a state in Malaysia;

“entity” is inclusive of persons, companies, associations and organisations

“financial year” means an accounting period of a year that ends on 31 December each year;

“foreign government” means the government of a foreign country

“the Fund” means the Political Party Fund as established by subsection 10(1) of this Act;

“government-linked entities (GLEs)” refers to any entities in which the Malaysian Government (Federal Government or State Government) have substantial shareholding held by itself or through any statutory bodies (which includes state statutory bodies or state corporations) and its subsidiaries (as defined by the Companies Act 2016) of such entity.

“substantial shareholding” is defined by section 136 of the Companies Act 2016;

“Organized criminal group” means a group of two or more persons, acting in concert with the aim of committing one or more serious offences, in order to obtain, directly or indirectly, a material benefit, power or influence.

“Malaysia-controlled company” is a company that is not a foreign company as defined in s2(1) of the Companies Act 2016 (Act 777).

“Parliamentary election” means an election of members of the House of Representatives where the writs of election are issued in all Parliamentary constituencies;

“political financing” refers to the activity of sourcing funds for expenditure incurred during party activities and to sustain the party machinery. These activities include fundraising, costs of maintaining permanent offices, carrying out policy research, conducting polls and political education, running advertising campaigns for policies, and mobilizing voters;

“political party” refers to a political party as defined in section 2 of the Societies Act 1966 (Act 335)

“Regions” are divided into the following –

- (a) Peninsular Malaysia;
- (b) Sarawak; and
- (c) Sabah and the Federal Territory of Labuan

“State election” means an election of members of the Legislative Assembly of any States where the writs of election are issued in all State constituencies;

“total valid votes” mean the total number of votes counted other than rejected votes; and

“woman elected representative” means a woman who is elected as a member of either the House of Representatives or the Legislative Assembly of any State.

PART II – REGULATING PRIVATE DONATIONS

4. Permissible Donors and Recipients

- (1) A donation can only be received by a political party or an election candidate.
- (2) A donation received by a political party or an election candidate may be accepted if–
 - (a) the person by whom the donation would be made is, at the time of its receipt, a permissible donor; and
 - (b) the political party or election candidate is able to ascertain the identity of the donor, with the exception of s8.
- (3) For the purposes of subsection (2), permissible donors are–
 - (a) an individual who is a citizen of Malaysia and is not below 18 years of age;
 - (b) entities registered under the Societies Act 1966; or
 - (c) a Malaysia-controlled company.

5. Prohibited donations

- (1) Political party and election candidate shall not accept a donation from any of the following sources:
 - (a) Foreign governments or foreign government agencies;
 - (b) subject to subsection (5), foreign persons or foreign entities;
 - (c) Government-linked entities;
 - (d) Organised criminal group;
 - (e) Entities established for the purposes of charity;
 - (f) Religious associations;
 - (g) Entities that have signed government procurement contract of an amount to be prescribed by the Commission or an investment contract of public construction prescribed by the Commission and are performing the contract;
 - (h) Businesses or foundations operated or invested by political parties.
- (2) For the purposes of this Act, an individual shall not donate for or on behalf of any other person.
- (3) A political party or an election candidate shall not accept a donation that it knows or ought reasonably to have known, or suspected, originates from the proceeds of crime

and must report that knowledge or suspicion to the Commission and the Commission shall take appropriate measures to refer the matter to the relevant law enforcement authorities.

- (4) Subject to this Act, nothing in paragraph (1)(b) prevents a political party or an election candidate from accepting donations from foreign entities for the purpose of—
- (a) training or skills development of a member of a political party; or
 - (b) policy development by a political party.

6. In-kind donation

- (1) For the purposes of in-kind donation, a political party and an election candidate shall only accept donation in a value not exceeding what is prescribed by the Commission.
- (2) The value of donation that is a gift to a political party or an election candidate is the market value of the property in question.
- (3) Where any donation, being money, shares or property, is transferred to a political party or an election candidate, for a consideration that is less than the value of the money or market value of the property, the value of the donation is taken to be the difference between—
- (a) the value of the money, or the market value of the property, in question; and
 - (b) the consideration provided by or on behalf of a political party or an election candidate, as the case may be.
- (4) A political party or an election candidate shall be required to prove the value of any donation which is not a cash donation to the Commission by providing supporting documentation as specified by the Commission under section 24 of this Act.
- (5) In receiving in-kind donation, a political party or an election candidate shall-
- (a) keep a record of any transfer donations received; and
 - (b) disclose to the Commission the record of transfer donations received by the a political party or an election candidate in the manner as prescribed by the Commission.

7. Transfer donation

- (1) For the purposes of transfer donation, a political party or an election candidate shall not receive;
- (a) from a person in excess of Fifty Thousand Ringgit (RM 50,000.00);

- (b) from a company in excess of One Hundred Thousand Ringgit (RM 100,000.00);
 - (c) from a group of companies in excess of Five Hundred Thousand Ringgit (RM500,000); or
 - (d) any amount that is to be prescribed by the Commission.
- (2) A political party shall not receive anonymous donations exceeding 30% of the total amount of donation that the political party receives in that respective year, any excess of which shall be transferred to the Commission, in accordance with s 22(4) of this Act.
 - (3) All donations made by a person or a company, as the case may be, to a political party or an election candidate in the year to which the report or return relates shall be aggregated and treated as a single donation.
 - (4) In receiving transfer donation, a political party or an election candidate shall-
 - (a) keep a record of any transfer donations received; and
 - (b) disclose to the Commission the record of transfer donations received by a political party or an election candidate in the manner as prescribed by the Commission.

8. Cash donation

- (1) Subject to subsections (2), (3), and (4), a political party or an election candidate shall not accept cash donation.
- (2) Notwithstanding subsection (1), a political party or an election candidate may only accept cash donation during political talks (*'ceramah'*) or events of a similar nature.
- (3) In receiving donations during political talks (*'ceramah'*) or events of a similar nature, a political party or an election candidate shall:
 - (a) keep a record of any donation received and the record shall be made available to the Commission; and
 - (b) disclose to the Commission all cash donations within 3 working days after the conclusion of the political talks (*'ceramah'*) or other events of a similar nature.
- (4) Donations received during political talks (*'ceramah'*), fundraising events or events of a similar nature shall not be accepted by a political party or an election candidate if the said donation is in excess of One Thousand Ringgit (RM 1,000.00).
- (5) The details of the record of donation in subsection (3) shall be prescribed by the Commission in a regulation.

9. Donation to an election candidate

- (1) No person shall make a donation to an election candidate other than during the election campaign period.

- (2) An election candidate shall be required to open a designated account to receive donations and no donation received shall be paid to the personal savings account of an election candidate.
- (3) Subject to the provisions of this Act, the election candidate shall, within 31 days after the end of the election campaign period, prepare and send to the Commission a donation report under this section in respect of every recordable donation, giving all the details in respect of each donor thereof that are required by this Act.
- (4) The provisions of this Act are applicable to all donations made to election candidate and must not circumvent this Act.

10. Penalty for Contravention of Part II

Any person or political party that contravenes this Part or provides false information to the Commission, commits an offence punishable by a fine not exceeding 10 times the amount of the prohibited donation and the prohibited donation shall be forfeited.

PART III –ESTABLISHMENT AND MANAGEMENT OF POLITICAL PARTY FUND

11. Establishment of Political Party Fund

- (1) A Political Party Fund is hereby established for the purpose of enhancing Parliamentary democracy by providing for the funding of political parties.
- (2) The Commission must open an account for the Fund with any licensed bank under the Financial Services Act 2013 (Act 758) or any licensed Islamic bank under the Islamic Financial Services Act 2013 (Act 759).
- (3) The Commission must credit the account provided in subsection (2) with—
 - (a) monies appropriated by Parliament;
 - (b) funds provided by private sources who qualify as permissible donors; and
 - (c) interest earned on the money.

12. Management and administration of Fund

- (1) The CEO as appointed under paragraph 24(10)(a) by the Commission, is responsible for the management and administration of the Fund and shall prepare an annual report that is to be submitted to the Commission.
- (2) For each financial year, the CEO must keep records in accordance with the standards of generally recognised accounting practice in respect of each of the Fund, setting out—
 - (a) all money received or accruing to the Fund;

- (b) all allocations and payments made;
 - (c) all expenditure arising from the allocation of money from the Fund; and
 - (d) the current record of the capital and liabilities of the Fund during that year.
- (3) The CEO shall, carry forward any money standing to the credit of the Fund at the end of the financial year to the next financial year as a credit balance.

13. Allocation of Fund

- (1) The sum of the allocation payable to the eligible political parties shall be One Hundred and Thirty Million Ringgit (RM 130,000,000.00) per year.
- (2) The sum of the allocation under subsection (1) of this Act shall be divided into the following: —
 - (a) One Hundred and Twenty Million Ringgit (RM120,000,000.00) shall be distributed based on the votes gained by the eligible political parties in the Parliamentary election and State elections at which such elections were last so held; and
 - (b) Ten Million Ringgit (RM10,000,000.00) shall be distributed proportionally based on the number of women elected representatives of the eligible political parties.
- (3) The sum of the allocation under paragraph (2)(a) of this Act shall be further divided based on Regions, where —
 - (a) a sum of Ninety Million Ringgit (RM 90,000,000.00) for the eligible political parties in Peninsular Malaysia;
 - (b) a sum of Fifteen Million Ringgit (RM15,000,000.00) for the eligible political parties in Sabah and the Federal Territory of Labuan; and
 - (c) a sum of Fifteen Million Ringgit (RM15,000,000.00) for the eligible political parties in Sarawak.
- (4) The amount specified in paragraphs (3)(a), (b) and (c) shall be reviewed by the Commission and the review reported to the Committee once every five years and may, on the recommendation of the Committee, be amended by a Bill passed by Parliament.

14. Allocation based on vote shares

- (1) A political party is eligible to receive money distributed under the allocation specified in paragraph 13(2)(a) if, on the day of determination, the party –

- (a) gained at least two per cent (2%) of the total valid votes cast in the Parliamentary election last so held in any Region, or in the State election last so held in any States, as the case may be;
 - (b) has at least one State Legislative Assembly seat; or
 - (c) has at least one Parliament seat.
- (2) The Commission shall first ascertain —
 - (a) the number of votes gained by each political party in the Parliamentary election and State elections last so held on the day of determination; and
 - (b) the number of total valid votes of the Parliamentary election and the State elections last so held on the day of determination, according to Regions and States,

and then, identify political parties that are eligible to receive money distributed in accordance with the threshold set under subsection (1).
- (3) The sum of the allocation under subsection 12(3) of this Act for each Region respectively shall be further divided into —
 - (a) one-half of the sum shall be distributed based on a political party's votes gained in the Parliamentary election and credited to the eligible party's national headquarters official account; and
 - (b) one-half of the sum shall be distributed based on a political party's votes gained in the State elections and credited to the eligible party's state headquarters official account.
- (4) The national headquarters political parties shall receive an annual amount based on the formula as stipulated in Schedule 1.
- (5) The state headquarters of political parties shall receive an annual amount based on the method as provided in Schedule 2.

15. Allocation to encourage women representation

- (1) A political party is eligible to receive money distributed under the allocation specified in paragraph 13(2)(b) if there is at least one woman elected representative affiliated to that party on the determination day.
- (2) For the purpose of determining a political party affiliation of a woman elected representative under subsection (1), it shall be her party affiliation at the polling day for the election at which she was last so elected as a woman elected representative.
- (3) The Commission shall first ascertain the number of women elected representatives of each eligible political party on the determination day.

- (4) For the purpose of subsection (1) of this Act, it should be counted as one even though a person is a member of the House of Representatives and a member of the Legislative Assembly of any State on the determination day.
- (5) Eligible political parties shall receive an annual amount based on the formula as provided in Schedule 3.

16. Spending on policy development research

- (1) A political party shall spend an amount of at least one-quarter of the monies received under this Part on policy development research annually.
- (2) The Commission may make regulation to define the expenses that shall be regarded as spending on policy development research, and to provide requirements and procedures of reporting on its spending on policy development research.
- (3) If a political party fails to show to the Commission that it has spent an amount as required under subsection (1) within the previous calendar year, the Commission shall deduct from the monies that are payable to the party on the current calendar year such amount that is the differential between the amount required under subsection (1) and the amount spent and shown to the Commission for policy development research. If the party is not entitled to receive monies payable under subsection (1) on the current calendar year, the Commission shall require the party to repay such amount to the Fund.

17. Political Party

- (1) For the purpose of conducting the determination of monies payable and paying such monies to political parties under this Part, unless the Commission is otherwise informed, the identification of political parties shall be based on the party symbol used in the elections.
- (2) Political parties that have contested the elections as a coalition by using the same party symbol shall inform the Commission in accordance with the form and manner as the Commission may by regulation prescribe that the parties should be identified separately based on individual component parties if all the parties in the coalition intend and agree to do so.
- (3) If a political party is dissolved, deregistered or for whatever reason ceases to exist, it shall, from the date of its dissolution, deregistration or cessation, no longer be eligible to receive money under this Part.
- (4) Notwithstanding subsection (1) —
 - (a) in a case of dissolution, deregistration or cessation of a political party which is a registered coalition consisting of two or more component parties, such dissolution, deregistration or cessation shall not affect the eligibility of the individual

component parties to receive money under this Part if it has informed the Commission in accordance with subsection (2); and

- (b) if an eligible political party ceases to exist due to merging with another political party, the monies payable to the eligible party shall be paid to, and its eligibility to receive monies under this Part shall be transferred to, the new party formed by such merger.

18. Purposes for which money from Fund may be used

- (1) Subject to this Act, the money paid in terms of this Act shall be used by a political party for any purpose compatible with its functioning as a political party in a parliamentary democracy.
- (2) The money paid in terms of this Act may not be used by a political party—
 - (a) directly or indirectly for the purpose of establishing any business, or acquiring or maintaining any right of financial interest whatsoever in any business, or in any immovable property, except where the right or interest in the immovable property is to be used by the party solely for party political purposes;
 - (b) to defray legal costs relating to internal political party disputes; or
 - (c) for a purpose as may be prescribed by the Commission.

19. Payment of money to political party

- (1) Monies payable to political parties from the Fund shall be paid by the Commission on or before the first day of April each year.
- (2) For the calendar year on which this Act comes into force, monies payable to political parties for that calendar year shall be paid within three months from the date this Act comes into force.

Part IV- RECORD KEEPING AND REPORTING REQUIREMENTS

20. Reporting requirements for parties that receive funding from Political Party Fund

Political parties which have received money from the Fund are required to provide the Commission with audited detailed records on the spending and purpose of spending of the money by the end of each financial year.

21. Reporting requirements for state headquarters of political parties

- (1) Each state headquarters shall keep a record of all donations received by the state headquarters in a particular state and shall provide a report of these donations to the national headquarters political party at the end of each financial year.
- (2) All donations shall be paid to the financial account of the state headquarters of a political party and shall be distributed to each local branch according to the donors' intention.
- (3) Each state headquarters of a political party shall establish transparent mechanisms to facilitate the transfer of donations from state headquarters to local branches.
- (4) At the end of each financial year, each state headquarters of a political party shall submit financial statements and audited financial accounts to the political parties' national headquarters.
- (5) The national headquarters shall collate the reports of all the state headquarters and submit the financial statements and audited financial account to the Commission.

22. Reporting requirements for national political parties receiving donations

- (1) Subject to the provisions of this Act, the Treasurer of a political party, within 31 days after the close of each financial year of a political party, prepare and send to the Commission a donation report under this section in respect of every recordable donation, giving all the details in respect of each donor thereof that are specified in Schedule 4.
- (2) Every donation from a permissible donor to a political party that is received during its financial year and accepted by the political party must be recorded in a donation report under this section for that financial year—
 - (a) if it is a single donation more than One Thousand Ringgit (RM 1,000.00) or any other prescribed sum; or
 - (b) if, when it is added to any other donation from the same permissible donor, the aggregate amount of the donations is more than One Thousand Ringgit (RM 1,000.00), or any other prescribed sum.
- (3) If during any financial year, no donations have been received by a political party that, by virtue of the provisions of this section, are required to be recorded in a donation report for that financial year, the donation report must contain a statement to that effect.
- (4) Subject to the provisions of this Act, where donation is received by a political party or an election candidate in contravention of the provisions of this Act, the following are to be complied with at once or no later than the time of the submission of the statement of accounts for the respective year:

- (a) if the donation was transmitted by a person and that person's identity is apparent, the whole donation must be returned to that person;
- (b) if paragraph (a) does not apply but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, the whole donation must be returned to that financial institution;
- (c) if paragraph (a) and (b) does not apply, the whole donation must be sent to the Commission.

PART V – ESTABLISHMENT OF PARLIAMENTARY COMMITTEE ON POLITICAL FINANCING AND POLITICAL FINANCING COMMISSION

23. Parliamentary Committee on Political Financing

- (1) There shall be a permanent committee in the House of Representatives known as the Parliamentary Committee on Political Financing to carry out the functions as follows:
 - (a) to nominate the members of the Commission as set out in s24(2);
 - (b) recommend to the Yang di-Pertuan Agong to remove members of the Commission if they fulfil the criteria set out in s24(5); and
 - (c) to consider the report issued by the Commission under section 29.
- (2) The Committee shall be appointed at the beginning of every Parliament and no later than 60 days after the commencement of the first session of each Parliament.
- (3) The Committee shall consist of not less than 6 and not more than 12 members of the House of Representatives appointed by a resolution of the House, and the composition of the Committee shall reflect the balance between the parties in the House, none of whom shall be a member of the administration.
- (4) In carrying out its functions under subsection (1), the Committee may determine its own procedure, subject to the provisions of the Standing Orders of the House of Representatives and the Houses of Parliament (Privileges and Powers) Act 1952.
- (5) The Committee shall make an annual report on the discharge of their functions under this Act and present it to the House of Representatives as soon as possible.

24. Political Financing Commission

- (1) There shall be a Political Financing Commission which shall be an autonomous institution.

- (2) The Commission shall be appointed by the Yang di-Pertuan Agong on the recommendation of the Committee as established in subsection 22(1), and shall consist of a Chairman, a Deputy Chairman and five other members serving a term of 6 years and they shall be eligible for reappointment for a further term of 6 years.
- (3) In appointing members of the Commission, the Yang di-Pertuan Agong shall have regard to the importance of securing a Commission which enjoys public confidence.
- (4) The Chairman, Deputy Chairman and five other members serving the Commission shall cease to hold office on attaining the age of sixty-six years or on becoming disqualified under this Act and may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong, but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.
- (5) Notwithstanding anything in subsection (4), the Yang di-Pertuan Agong on the recommendation of the Committee shall by order remove from office any member of the Commission if such member—
- (a) is an undischarged bankrupt;
 - (b) engages in any paid office or employment outside the duties of this office; or
 - (c) is a member of either House of Parliament or of the Legislative Assembly of a State.
- (6) In addition to any disqualification provided under subsection (5), the Chairman, Deputy Chairman and five other members serving the Commission shall be disqualified from holding such office if after three months upon appointment to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it.
- (7) Subsection (6) shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it.
- (8) Remuneration of members of the Commission shall be charged to the Consolidated Fund and shall not be amended to the disadvantage of a member of the Commission after his appointment.
- (9) Where, during any period, the Chairman of the Commission has been granted leave of absence by the Yang di-Pertuan Agong or is unable, owing to his absence from the Federation, illness or any other cause, to discharge his functions, the Deputy Chairman shall discharge the functions of the Chairman during that period, and if the Deputy Chairman is also absent or unable to discharge such functions, a

member of the Commission may be appointed by the Yang di-Pertuan Agong to discharge the functions of the Chairman during that period.

(10) In exercising its functions pursuant to this Act -

- (a) The Commission shall appoint a suitably qualified and experienced person as the CEO of the Fund;
- (b) The Commission may appoint other officers to aid the members of the Commission; and
- (c) The Commission may establish separate units within the Commission to exercise the powers conferred on, perform the functions granted to and the duties imposed on, the Commission in terms of this Act.

PART VI – POWERS AND DUTIES OF POLITICAL FINANCING COMMISSION

25. Powers of Political Financing Commission

- (1) The Commission may, in the execution of functions and responsibilities under this Act, demand from a political party any information as may be required for the implementation of this Act.
- (2) In order to monitor compliance with this Act or investigate a complaint, the Commission shall have the power to:
 - (a) enter any premises during ordinary working hours to inspect any relevant book, record, report and other document;
 - (b) to initiate investigations into donations on reasonable grounds upon receipt of the report as mentioned in paragraph 7(1)(a);
 - (c) specify attachments and supporting documents required for purposes of subsection 5(3); and
 - (d) copy or store in any format, any information, books, records, reports or other documentation produced or discovered in terms.
- (3) The Commission may, impose any or more of the following punishments on the donor and/or donee for the purposes of this Act:
 - (a) warning;
 - (b) fine or compound pursuant to the provisions of this Act; and
 - (c) forfeiture of any non-permissible donations.

- (4) If a complaint relating to the income or expenditure of a political party is lodged with the Commission, it must, if the Commission is of the view that there is prima facie substance to the complaint, investigate the complaint. Views of the Commission as to the existence of a prima facie substance to a particular complaint must be made in writing and made available to the complainant within a period of time and following procedures prescribed by the Commission.

26. Powers of Investigation

- (1) The Commission shall, for the purposes of an investigation under this Act, have the power—
- (a) to conduct hearings if the Commission considers necessary or desirable to do so;
 - (b) to procure and receive all such evidence, whether written or oral, and to examine all such persons as witnesses as the Commission considers necessary or desirable to procure or examine;
 - (c) to require the evidence, whether written or oral, of any witnesses to be made on oath or affirmation (such oath or affirmation to be that which could be required of the witness if he was giving evidence in a court of law) or by statutory declaration;
 - (d) to summon any person residing in Malaysia to attend any meeting or hearing of the Commission to give evidence or produce any document or other thing in his possession;
 - (e) to issue a warrant of arrest to compel the attendance of any person who, after having been summoned to attend, fails to do so and does not excuse such failure to the satisfaction of the Commission, and to order such person to pay all costs which may have been occasioned in compelling his attendance or by reason of his refusal to obey the summons, and also to fine such person a sum in accordance with this Act;
 - (f) to award any person who has attended any meeting or hearing of the Commission such sums as in the opinion of the Commission may have been reasonably incurred by such person by reason of such attendance; and
 - (g) to admit or exclude the public from such hearing or any part thereof.

27. Power to Enact Regulation

- (1) In performing its duties and functions, the Commission may, with the approval of the Minister and subject to subsection (2), , enact any regulations that are deemed reasonable and necessary under this Act.
- (2) Any regulations under this Act may not be made unless a draft of the rules or regulations (as the case may be) has been laid before and approved by a resolution of the House of Representatives.

28. Review or Appeals

- (1) Any person may apply to the Commission for a review or appeal of decision of the Commission made in terms of this Act.
- (2) Subject to the provisions of this Act, any person dissatisfied with any decision of the Commission may apply to a Judge for a review of the decision.

29. Reporting and disclosure

- (1) The Commission must for each financial year prepare and submit to the Committee—
 - (a) a report in relation to the Fund, setting out—
 - (i) the amounts received by and accrued to the Fund;
 - (ii) the allocations made from the Fund to the political parties;
 - (iii) the amounts spent by each political party in connection with the purpose under the prescribed categories; and
 - (iv) the balance in each of the Fund and any amounts owing to the Fund as at the end of that financial year;
 - (b) a report on all donations exceeding RM1,000 made to political parties in that financial year.
- (2) The Commission must for each financial year publish the reports in paragraph (1)(a) and (1) (b) to the public.
- (3) Notwithstanding subsections (1) and (2), only donors whose donations exceed RM10,000 shall be disclosed to the public.
- (4) The Commission shall submit its annual financial statement to the Auditor-General and lay the for auditing and the Auditor-General must publish an audit report on the Commission's books and records in respect of the Fund. The audit report shall be laid to the Parliament.

PART VII – ENFORCEMENT

30. Penalty for Contravention of this Act

- (1) Any person in accordance with this Act who, being required by the Commission to give evidence on affirmation or to produce a document or other thing, refuses to do so and does not excuse such refusal to the satisfaction of the Commission shall be liable to a fine not exceeding Ten Thousand Ringgit (RM 10,000.00) or a term of imprisonment not exceeding 6 months or both.
- (2) Notwithstanding specific provisions of this Act, any person or political parties who contravene this Act shall be liable to a fine not exceeding Ten Thousand Ringgit (RM 10,000.00) or a term of imprisonment not exceeding 6 months or both.

31. Liability for offences outside Malaysia

The provisions of this Act shall, in relation to citizens, permanent residents of Malaysia and Malaysia-controlled companies, have effect outside as well as within Malaysia, and when an offence under this Act is committed in any place outside Malaysia by any citizen or permanent resident or a Malaysia-controlled company, the citizen or permanent resident or a Malaysia-controlled company may be dealt with in respect of such offence as if it was committed at any place within Malaysia.

SCHEDULE 1

(For the purposes of section 13 of this Act)

The national headquarters of a political party shall receive an annual amount based on the following formula:

$$Pv0 = \frac{Vp}{TVVp} \times \frac{1}{2} All$$

Pv0 represents the amount that a political party is entitled to receive under this subsection, which shall be rounded to the nearest two decimal places;

Vp represents the number of votes that the party gained in the Parliamentary election last so held in a Region;

TVVp represents the total number of valid votes that all eligible parties gained in the Parliamentary election last so held in that Region; and

All represents the allocation for that Region specified in subsection 13(3) of this Act.

SCHEDULE 2

(For the purposes of section 14(5) of this Act)

The state headquarters of a political party shall receive an annual amount based on the following method:

- (a) the Commission shall first ascertain the number of electors on the day of determination in each State;
- (b) the Commission shall determine the amount of allocation for each State based on the following formula:

$$Als0 = \frac{Es}{TER} \times \frac{1}{2} All$$

Als0 represents the amount of allocation for state headquarters, which shall be rounded to the nearest thousand;

Es represents the number of electors for that State as ascertained in para (a);

TER represents the total number of electors for the Region which that State is included as ascertained in para (a); and

All represents the allocation for that Region specified in subsection 13(3) of this Act,

and

- (c) the amount that a political party is entitled to receive shall be determined based on the following:

$$Psv0 = \frac{Vs}{TVVs} \times \frac{1}{2} Als0$$

Psv0 represents the amount that a political party is entitled to receive under this subsection, which shall be rounded to the nearest two decimal places;

Vs represents the number of votes that the party gained in the State election last so held in that State; and

TVVs represents the total number of valid votes that all eligible parties gained in the State election last so held in that State.

SCHEDULE 3

(For the purposes of section 15(5) of this Act)

Eligible political parties shall receive an annual amount based on the formula as provided below: -

$$Pw0 = \frac{X}{Y} \times A12$$

Pw0 represents the amount that a political party is entitled to receive, which shall be rounded to the nearest two decimal places;

X represents the number of women elected representatives that affiliated to the political party on the determination day;

Y represents the total number of women elected representatives of all political parties on the determination day; and

A12 represents the allocation specified in paragraph 13(2)(b) of this Act.

SCHEDULE 4

(For the purposes of section 22(1) of this Act)

Details to be provided in Donation Reports

Identity of donors

1. A donation report must state the following information about the donor of each recordable donation pursuant to the Act:
 - a) in the case of an individual, the report shall state his or her full name, identity card number and the address of his or her residence at the date of receipt of the donation;
 - b) in relation to a donation in the form of a bequest, the report shall state the deceased donor's full name and identity card; and
 - c) in the case of a company, the report shall state —
 - i. the company's registered name;
 - ii. the address of its registered office; and
 - iii. the number with which it is registered.

Value of donation

2. If the recordable donation was a donation of money (in cash or otherwise), the donation report shall state the amount of the donation, otherwise the donation report shall state the details of the nature of the donation and its value determined in accordance with Section 6.

Circumstances in which donation made

3. In relation to each recordable donation, a donation report shall —
 - a) state whether the donation was made to the political association or any of its branches or, in the case of a donation to an election candidate, the name of the election candidate; and
 - b) state the date when the donation was received.

Aggregate donations

4. In relation to each recordable donation that was made by any person —
 - a) on behalf of the person and one or more other persons; or
 - b) on behalf of one or more other person,

a donation report shall state the aggregate value of the donation as well as the value of each separate donation that, by virtue of the Act, is to be regarded as having been made by each of those persons.

Other details

A donation report shall state any other information as is prescribed by regulations made under Section 27.

EXPLANATORY STATEMENT

The proposed Political Financing Bill 2022 (“the proposed Act”) seeks to provide for the regulation of public and private funding of political parties, to create offences and set penalties and administrative fines for any contravention, and to provide for related matters in Malaysia.

PART I

2. Part I deals with preliminary matters.
3. Clause 1 contains the short title of the proposed Act.
4. Clause 2 contains the objective of the proposed Act and the issues that is intended to be governed by this Act.
5. Clause 3 provides for general considerations to be taken into account in the implementation of the proposed Act.
6. Clause 4 contains the definition of certain words and expressions used in the proposed Act.

PART II

7. Part II deals with the regulations concerning donations.
8. Clause 5 seeks to provide for the matters that would constitute as donations.
9. Clause 6 provides for the manner in which a donation is accepted. Clause 6 provides two ways in which donations is deemed as accepted, the first is when the political party receives and retains the donation and the second is when a donation is made to the account of the political party.
10. Clause 7 and Clause 8 are intended to regulate donations received by a political party during political talks (*‘ceramah’*), fundraising events and events of a similar nature. Clause 7 provides for a duty of the political party to keep a record of donations received during political talks (*‘ceramah’*), fundraising events and events of a similar nature whilst Clause 8 provides for a limit of One Thousand Ringgit (RM 1,000.00) for donations received by a political party during political talks (*‘ceramah’*), fundraising events and events of a similar nature.
11. Clause 9 provides for the prohibition of donations from foreign governments and foreign agencies with the exceptions as provided for in Clause 14.

12. Clause 10 provides for a limit as to the amount of donation that can be made by a person, company and group of companies.
13. Clause 11 provides that manner in which donations made by a company, trade union, society or building society is to be treated.
14. Clause 12 provides for the prohibition of individuals donating on behalf of other persons.
15. Clause 13 prohibits a political party from accepting a donation that the political party knows or suspects to have originated from the proceeds of crime and imposes an obligation on the political party to report the same.
16. Clause 14 provides for an exception to Clause 9 where this Act should not be enforced in such a manner so as to prohibit assistance received by political parties from foreign entities pertaining to training or skills development and for the purposes of policy development.
17. Clause 15 provides that a person can only make a donation to a member of the political party for the political party's purpose whilst Clause 16 provides for the imposes the responsibility on the member of the political party to only receive donations provided in Clause 15.
18. Clause 17 provides that Clauses 15 and 16 cannot be circumvented.
19. Clause 18 provides for the various requirements to be fulfilled in order to qualify as a permissible donor pursuant to this proposed Act.
20. Clause 19 provides for an express list of persons and entities that are recognised as non-permissible donors pursuant to this proposed Act.
21. Clauses 20 and 21 provides for the manner in which the value of a donation may be ascertained for the purposes of enforcing the provisions of the proposed Act.
22. Clause 22 provides for the penalties in the event there is a breach of any of the provisions in Part II.

PART III

23. Part III deals with the establishment of the Political Financing Commission.
24. Clauses 23, 24 and 25 provides for the establishment of a Parliamentary Committee that shall be known as the Committee on Political Financing which shall consist of not less than 6 and not more than 12 members. Clause 25 imposes an obligation on the Committee on Political Financing to make an annual report which will be presented to the House of Representatives.

25. Clause 26 provides for the establishment of an independent Political Financing Commission.
26. Clause 27 provides for the composition of the Political Financing Commission, manner in which they are appointed as well as that the terms of the members constituting the Political Financing Commission will be for a term of 6 years with the eligibility for a reappointment for a further term of 6 years.
27. Clause 28 provides that in appointing the members constituting the Political Financing Commission, due regard is to be given to the importance of securing a Commission which enjoys public confidence.
28. Clauses 29 and 30 provides the circumstances in which the members constituting the Commission may be disqualified and the removal of a member must be made in a manner as that of the removal of a judge of the Federal Court.
29. Clause 31 provides that members constituting the Commission may be disqualified if after three months upon appointment, the said member becomes a member of any boards of directors or board of management, an employee or engages in the affairs of business of any organisation.
30. Clause 32 restricts the application of Clause 31 to exclude bodies that carry out welfare or voluntary work.
31. Clause 33 regulates the remuneration for the members constituting the Commission.
32. Clause 34 provides for the regulation of instances where the Chairman or/and Deputy Chairman of the Commission has been granted leave of absence by the Yang di-Pertuan Agong or is unable, owing to his absence from the Federation, illness or any other cause, to discharge his functions.
33. Clause 35 regulates the appointments and establishments of separate units that can be done by the Commission to carry out their functions as provided in the proposed Act.

PART IV

34. Part IV deals with the establishment and management of the Political Party Fund.
35. Clause 36 provides that a Political Party Fund is established for the purpose of enhancing Parliamentary democracy by providing for the funding of political parties.
36. Clause 37 provides the method in which the Commission is to set up an account for the purposes of the Political Party Fund.
37. Clause 38 provides the different types of monies and funds that is to be credited in the account provided for in Clause 37.
38. Clauses 39, 40 and 41 regulates the manner in which any money in the Political Party Fund may be invested.

39. Clause 42 provides for the responsibilities of the Chief Executive Officer as appointed pursuant to the provisions of the proposed Act.
40. Clause 43 imposes an obligation on the Commission to keep records for each financial year. The contents of the records kept is also provided for in Clause 43.
41. Clause 44 provides that sum of the allocation payable to the eligible political parties from the Political Party Fund.
42. Clause 45 regulates the manner in which the sum of the allocation provided in Clause 44 is to be divided and Clause 46 regulates the sum of the allocation that has been distributed based on the votes gained by the eligible political parties.
43. Clause 47 provides the manner in which the amounts stipulated in Clauses 44, 45 and 46 is to be reviewed by the Commission.
44. Clause 48 regulates the eligibility of political parties to receive money distributed under the allocation specified in Clause 45 of the proposed Act and Clause 49 provides the manner in which the Commission is to ascertain the said eligibility of political parties.
45. Clause 50 provides for the division of the sum of the allocation under Clause 46 into one half of the sum for the distribution based on the political party's vote gained in the Parliamentary election and the other half of the sum distributed based on the political party's vote gained in the State elections.
46. Clause 51 regulates the manner in which the national-level committee or governing body of the eligible political parties shall receive an annual amount as provided in Schedule 1 to the proposed Act.
47. Clause 52 regulates the manner in which the state-level committee or governing body of the eligible political parties shall receive an annual amount as provided in Schedule 2 to the proposed Act.
48. Clause 53 regulates the allocation of funds to encourage women representation and Clause 54 stipulates the manner in which the political party affiliation of a women elected representative pursuant to Clause 53 is to be determined.
49. Clause 55 and Clause 56 provides for the method of ascertaining the number of women elected representatives of each eligible political party.
50. Clause 57 provides the formula to be applied to determine the allocation of the annual amount to the eligible political parties. The said formula is provided in Schedule 3 to the proposed Act.
51. Clause 58, Clause 59 and Clause 60 provides for the spending of an amount of the monies received under Part IV of the proposed Act for policy development research. Clause 60 imposes an obligation on the political party to show the Commission that it

has spent an amount as required under Clause 58 and the repercussions in the event if there is a failure to do so.

52. Clause 61 provides that unless the Commission is otherwise informed, the identification of political parties shall be based on the party symbol used in the elections.
53. Clause 62 provides that political parties that have contested the elections as a coalition by using the same party symbol shall inform the Commission.
54. Clause 63 regulates the eligibility status of a political party that is dissolved, deregistered or ceases to exist whilst Clause 64 regulates the situations in which the dissolution, deregistration or cessation of a political party shall not affect the eligibility status.
55. Clause 65 and Clause 66 provides the purposes for which the money from the Political Party Fund may be used. Clause 66 provides express prohibited purposes for which the money from the Political Party Fund should not be used for.
56. Clause 67 and Clause 68 regulates the time in which monies payable to political parties from the Political Party Fund shall be paid by the Commission.

PART V

57. Part V deals with the powers and duties of the Political Financing Commission for the purposes of ensuring that that the provisions of the proposed Act are to be complied with.
58. Clause 69 provides that the Commission may demand from a political party any information as may be required for the implementation of the proposed Act.
59. Clause 70 provides for the Commission to possess the power to enter any premises as well as copy or store any documents or information for the purposes of monitoring compliance with the proposed Act.
60. Clause 71 provides for the different types of punishments that may be imposed by the Commission.
61. Clause 72 regulates the manner in which the Commission is to deal with complaints.
62. Clause 73 imposes liability on the Treasurer of every political party to prepare and send to the Commission a donation report.
63. Clause 74 regulates the recording of donations for the purposes of the donation report and Clause 75 regulates situations where there have been no donations received by a political party during the financial year.
64. Clause 76 regulates instances where donation is received by a political party in contravention of the provisions of the proposed Act.

- 65. Clause 77 provides for the powers of investigation of the Commission.
- 66. Clause 78 provides for the Commission the power to enact rules and regulations.
- 67. Clause 79 and Clause 80 regulate the manner in which a review or appeal may be brought against the decision of the Commission.
- 68. Clause 81 and Clause 82 provides for the reporting mechanism for the Commission.

PART VI

- 69. Part VI deals with the penalties for the Contravention of provisions of the proposed Act.
- 70. Clause 83 provides the penalty for any person in accordance with the provisions of the proposed Act fails to provide the Commission any evidence or document.
- 71. Clause 84 provides for a general penalty for the person or political parties who contravene the provisions of the proposed Act.
- 72. Clause 85 regulates the manner in which offences committed outside of Malaysia by any citizen or permanent resident of Malaysia or a Malaysia-controlled company, are to be dealt with.