


L-ONOR FRANCO DEBONO Jipproponi

L-Ewwel Qari tal-Abbozz ta' Ligi hawn anness imsejjaħ "An Act to regulate the formation, the inner structures, functioning and financing, of political parties and their participation in elections".



Onor Franco Debono MP

A BILL

entitled

An Act to regulate the formation, the inner structures, functioning and financing, of political parties and their participation in elections.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. (1) The short title of this Act is the Financing of Short title.
Political Parties Act, 2012.

(2) This Act shall come into force on such date as the Prime Commencement.
Minister may by notice in the Gazette appoint and different dates may
be so appointed for different purposes or provisions of this Act.

PART I

General

Interpretation. 2. In this Act, unless the context otherwise requires:

Cap.281. "auditor" shall have the same meaning assigned to it in article 2 of the Accountancy Profession Act;

Cap.354. "campaign expenditure", means expenses incurred within the parameters of article 46(1) of the Fourteenth Schedule of the General Elections Act, article 97 of the Third Schedule to the Local Council's Act and regulation 2 of the European Parliament Elections (Maximum Expenses) Regulations;

Cap.363.

S.L. 467.01.

"candidate" means a person nominated for election to the House of Representatives, a local council or to the European Parliament, whether such person is standing as a member of

"Commission" means the Electoral Commission established in accordance with article 60 of the Constitution;

"donation", means any benefit received by or on behalf of a political party, a member of a political party, candidate or any organisation whether corporate or otherwise in which the political party, a member of a political party or candidate exercise effective management and control and shall include, unless otherwise provided:

(a) any gift of money or other property;

(b) any sponsorship;

(c) any money spent by a donor or donors, as the case may be, in paying any expenses incurred directly or indirectly, by or on behalf of a political party, a member of a political party or candidate; and, or

(d) any loan, property or service given otherwise than on commercial terms or below the market value;

"election" means:

(a) a general election for members of the House of Representatives held in accordance with articles 52 and 56 of the Constitution of Malta; or

Cap.363.

(b) an election held in accordance with the Local Councils Act; or

(c) an election in accordance with the European Parliament Elections Act; Cap.487.

"European Parliament election period" means a period of six weeks before the date fixed for the European Parliament elections in accordance with article 5 of the European Parliament Elections Act;

"financial year" means a period of twelve months with fixed dates for their beginning and their completion;

"general election period" means the period:

(a) beginning with the date on which the President of the Republic dissolves Parliament, by Proclamation; and

(b) ending with the date of the result of the poll.

"local council election period" means a period of six weeks before the date fixed in article 8(6) of the Local Councils Act; Cap. 363.

"member of a political party" means a person who is a registered member of a political party in accordance with the requirements and formalities as provided in the statute of the political party;

"Minister" means the Prime Minister or any other Minister to whom the Prime Minister may from time to time assign the administration of this Act;

"nomination paper" means the application by a political party, a member of a political party or candidate, for names to be inserted in the election lists; and

"political party" means a free association of persons, the aims of which include the participation in the formation of the political will of the people by securing the election of one or more of its members to the House of Representatives, the European Parliament or Local Council, and ensuring a continuing active relationship between the people and the state institutions.

3. There shall be formed political parties in order to attain free democratic order in the formation of the people's political will, and the State shall, as a matter of public interest, favour the formation and operation of such political parties; Constitutional status and functions of political parties.

Provided that such formation and operation of political parties shall be within the parameters established by law.

4. Political parties shall have a legitimate aim and shall Legality.

conform to the Constitution and the laws of the State:

Provided that political parties may lawfully have, as their aim, amendments to the Constitution and to the laws of Malta:

Provided further that all amendments are brought about by legal means.

Equal
Treatment.

5. Political parties shall receive equal treatment without prejudice to any law or regulation based on their consistency with regard to representation in the electoral process.

Maltese
citizens' right to
associate.

6. (1) No person shall be forced to join or belong to a political party against his will.

(2) No person shall be debarred from membership of a political party on the basis of gender, race, financial status, sexual orientation or class.

Members'
rights.

7. (1) Political parties shall decide freely on the admission of members in accordance with the relevant provisions of their statutes and the political party, shall not be required to give reasons for any refusal of an application for membership.

(2) Any person who has been disqualified from the right to stand for election or the right to vote shall not be a member of a political party.

(3) A member of a political party shall, at any time, be entitled to withdraw its membership from that political party and such withdrawal shall have an immediate effect.

(4) The exercise of voting rights may be made conditional on members of the political party having paid their membership dues.

(5) No member of a political party may be compelled by any decision of the political party to act against the Constitution or the laws of Malta.

Legal Status.

8. (1) Political parties shall enjoy a legal personality and the right to sue and be sued. Political parties shall also have all the rights of free expression which are competent to individuals according to the Constitution

(2) Political parties shall have a written statute and the statute shall contain provisions on:

(a) the political party's name and any short form used, its registered seat and its objectives;

- (b) members joining and leaving the political party;
- (c) the rights and duties of its members;
- (d) permissible sanctions against members, and their exclusion from the political party;
- (e) permissible sanctions against local or district sections
- (f) the political party's general structure including the form and substance of a financial regulation complying with relevant provisions of this Act;
- (g) the composition and powers of the Executive Committee and other bodies;
- (h) matters exclusively subject to decision-making by the assemblies of members of delegates as provided in the relevant provisions in this Act;
- (i) the reasons, the form and time limit for convening members' and delegates' assemblies, and official recording of the resolutions passed; and
- (j) other matters relating to officials and members of political parties and requisites for registration in accordance with articles 15 and 16.

(3) The Statute of political parties shall also be so structured as to ensure that:

(a) the leader and officials of political parties, within the political party are elected by the free and equal vote of the members, directly or through democratically elected representatives; and

(b) the political party policies are adopted or revised through the vote of the majority of the members, either directly or through democratically elected organs.

(4) Political parties shall also enter their statute and any amendments thereto in the Acts of a Notary Public.

(5) Political parties shall publish the names of their elected officials in at least two daily papers.

(6) The infringement of democratic provisions in the statute of a political party shall be subject to sanction by the First Hall Civil

Court.

Commitment to
non-violence.

9. Limitations on the activity of political parties shall only be justified by the need of ensuring public order and curbing violence and such limitations shall be proportionate to the declared aim.

Nomination of
candidates.

10. Candidates for elections to the House of Representatives, Local Councils or elections to the European Parliament shall be nominated by secret ballot and the nomination procedure shall be regulated by the relevant electoral laws and the statute of the political party.

Political party
discipline.

11. (1) Political parties shall establish an Internal Disciplinary Board which shall be responsible for the maintenance of political party discipline.

(2) The Board shall be composed of three members and shall be elected for a maximum period of three years.

(3) The members of the Board shall not :

(a) be members of the Executive Committee of the political party or its local branches; and, or

(b) be employed by the political party or any of its branches or companies in which the political party has a controlling interest, receive regular income from the party, its branches or any body in which the political party has a controlling interest.

(3) The members of the Board shall be independent and shall not be subject to the direction and control of any other person or authority.

(4) All decisions made by the Board shall be given in writing and the procedures of the Board shall be governed by the rules of natural justice. and shall allow for the possibility to reject any member of the tribunal on the basis of impartiality

(5) No member can be expelled from a political party without a process of ascertainment of facts and opportunity of defence.

(6) All decisions made by the Board shall be final:

Provided that there shall be a right of appeal, from the Board's decision, to the First Hall Civil Court only on points of law.

(7) No member of a political party may be expelled for disobeying any order of the political party which is not in conformity

with the Constitution and, or the laws of Malta.

12. (1) Political parties may be dissolved by a decision, democratically adopted, carrying a two thirds majority of the members of the political party. Dissolution of political parties.

(2) Political parties may also be dissolved by a decision of the First Hall Civil Court only when it is ascertained that the political party:

(a) is publicly and persistently advocating or using violence as a political tool;

(b) is advocating anti-democratic principles; or

(c) making use of its funds for a criminal activity.

(3) On dissolution, the assets of the political party shall be disposed of:

(a) according to a specific disposition of its statute; or

(b) according to a decision by two-thirds majority of the members of the political party:

Provided that when the dissolution of the political party is decided upon by the Court, the assets of that political party shall be distributed according to the decision of the Court which ordered dissolution:

Provided further that, in the case of dissolution by a decision in accordance with sub-article (1), any member of the political party may contest such disposition, if made to defraud the minority or any member of the political party, by application to the First Hall Civil Court.

Part II

Registration

13. There shall be a register of Political Parties to be maintained by the Commission in such form as the Commission may determine. Political parties' register.

14. (1) A nomination in relation to an election may only be made: Nominations for elections.

(a) in the name of a registered political party; or

(b) an independent person who does not purport to

represent any political party:

Provided that only registered political parties may nominate candidates for election under that political party's name:

Provided further that no independent candidate may make use of the name of a political party.

(2) For the purpose of sub-article (1) a person does not purport to represent any political party if either:

(a) the description of the candidate given in his nomination paper, is "independent"; or

(b) no description of the candidate is given in his nomination paper.

(3) For the purposes of this Act a person stands for election in the name of a registered political party if his nomination paper includes a description authorised by a certificate issued by or on behalf of the registered nominating officer of the political party.

Officials of
political parties.

15. (1) Without prejudice to article 8 a political party shall not be registered in the register for political parties unless it has in its statute, provision for the election of:

(a) a political party's leader;

(b) a political party's official in charge of electoral nominations hereinafter referred to as the "nominating officer"; and

(c) a political party's treasurer:

Provided that the political party may also establish the post of any other political party official or officials to be elected in accordance with the provisions of this Act.

(2) The person registered as the political party's leader shall be the overall leader of the party.

(3) The nominating officer shall be responsible for:

(a) the submission, by representatives of the political party, of the list of candidates for the particular election; and

(b) the approval of descriptions and emblems used on nomination and ballot papers at elections.

(4) It shall be the duty of the political party's treasurer to:

- (a) manage the political party's finances;
- (b) prepare the political party's annual accounts for audit and present them for the political party's approval at the annual general meeting of an appropriate party organ;
- (c) ensure the political party's compliance with the relevant provisions of the accounting requirements and control of donations, and any other relevant financial transactions; and
- (d) perform any other function in relation to the finances and financial reporting of the political party.

(5) The treasurer of the political party may appoint one or more assistant treasurers to perform any duties as provided in this Act:

Provided that the treasurer shall retain full responsibility for the work of his assistants.

16. (1) An application to the Commission for registration of a political party shall include: Requisites for registration.

- (a) a declaration that it intends to present candidates for elections;
- (b) a declaration by the political party indicating the political party's officials required in accordance with article 15;
- (c) an approved structured plan of how the political party intends to comply with the financial and reporting requirements in accordance with the relevant provisions of this Act; and
- (d) the political party's name and registered address:

Provided that where the registered political party changes the location of its head office or changes its postal address, it shall, within fourteen days of such change, send notice thereof to the Commission.

(2) The Plan referred to in sub-article (1)(c) shall in every case include such other information as may be prescribed by regulations made by the Commission.

(3) Where a draft plan is submitted by a political party for the Commission's approval, the Commission may either:

- (a) approve the plan; or

(b) give the political party a notice requesting it to submit a revised plan to it, as the Commission may deem fit.

(4) If under sub-article (3), the Commission requests a political party to submit a revised plan, the Commission may specify:

(a) any matters which it considers should be dealt with in the revised plan; and, or

(b) any modifications which it considers should be incorporated therein.

Descriptions.

17. (1) A political party's application for the purposes of registration may include a request for the registration of descriptions to be used on nomination or ballot paper.

(2) The Commission shall register the description supplied unless in its opinion the description is:

(a) the same as a registered description of another political party, member of a political party or candidate which has been registered before;

(b) likely to be confused by voters with a registered description of a political party, member of a political party or candidate which has been registered before;

(c) obscene or offensive;

(d) of such a character that its publication would be likely to amount to the commission of an offence; and, or

(e) would be likely, were it to appear on a ballot paper issued at an election:

(i) to result in an elector being misled as to the effect of his vote, or

(ii) to contradict, or hinder an elector's understanding of, any directions for his guidance in voting given on the ballot paper or elsewhere.

Emblems.

18. (1) A political party's application for the purposes of registration may also include a request for the registration of the political party's emblem to be used by the political party on ballot papers.

(2) Where a request is made by a political party under this article in relation to an emblem, the Commission shall register the

emblem as an emblem of the political party unless in its opinion the emblem is:

- (a) the same as an already registered emblem of another political party;
- (b) likely to be confused by voters with a registered emblem of a political party which is already registered;
- (c) obscene or offensive;
- (d) of such a character that its publication would be likely to amount to the commission of an offence; and, or
- (e) would be likely, were it to appear on a ballot paper issued at an election:
 - (i) to result in an elector being misled as to the effect of his vote, or
 - (ii) to contradict, or hinder an elector's understanding of, any directions for his guidance in voting given on the ballot paper or elsewhere.

(3) Where the Commission refuses a request made by a political party under this article in relation to an emblem, it shall notify in writing the political party of its reasons for refusing the request.

(4) Political parties who feel aggrieved by the refusal or acceptance of an emblem may by application contest this decision in the First Hall Civil Court.

19. A political party may apply to the Commission to have its entry in the register amended. Such amendments may include: Changes to the register.

- (a) changing its registered name;
- (b) the insertion, alteration, substitution or removal of a description;
- (c) the insertion, substitution or removal of an emblem; and, or
- (d) the insertion of any other information as may be prescribed by regulations made by the Minister, since:
 - (i) the time when the political party applied for registration, or

(ii) if a notification has been previously given for the confirmation of registered particulars in relation to the political party, the time when the last notification was given.

Appeal from refusal

20. Where the Commission refuses an application or part thereof by a political party under any of the preceding articles it shall notify the political party of its reasons for refusing the application or part thereof and if the political party feels aggrieved by such refusal, the political party may appeal against such refusal to the First Hall Civil Court:

Provided that the political party may also apply for a different amendment.

Notification of changes in the political party's entry in the register.

21. (1) If at any time any particulars in a political party's entry in the register which relate to any relevant matter cease to be accurate, the person responsible for registering the political party shall notify in writing the Commission of such inaccuracy and such notification shall also specify the accurate particulars in respect of that matter.

(2) Where the Commission receives a notification under this article, it shall cause any change required as a consequence of the notification to be made in the political party's entry, in the register as soon as is reasonably practicable.

Political party ceasing to be registered.

22. Once a political party is registered, its entry may only be removed from the register if-

(a) the political party applies to have its entry removed from the register;

(b) the application includes a declaration on behalf of the political party that it does not intend to have any candidates at any relevant election; or

(c) the political party shall not have nominated any candidates for two consecutive general elections

and in such case, the Commission shall remove the political party's entry from the register.

23. Existing political parties shall have a period of three months from the coming into force of this Act to comply with these requirements.

Part III

Accounting Requirements

24. (1) Political parties shall give account to the Commission in respect of the acquisition and disposal of funds. The Commission may make inquiries, on its own initiative, concerning the acquisition and the disposal of such funds. Principle of transparency.

(2) Political parties which are found by the Commission to have infringed any of the provisions of this Act shall be subject to sanction:

(a) by mere exposure and adverse comment being made public; and, or

(b) by the infliction of fines; and, or

(c) by criminal sanctions as may be imposed by the competent authorities in accordance with the relevant provisions of this Act.

(3) The Minister may make regulations providing for administrative and criminal sanctions in accordance with and in addition to the sanctions provided for in this Act.

(4) Political parties may contest the finding and the infliction of sanctions by the Commission in the First Hall Civil Court.

25. (1) The treasurer of a political party shall ensure that the accounting records are kept, with respect to the political party, in accordance with generally accepted accounting standards and in such manner which is sufficient to show and explain the political party's transactions. Duty to keep accounting records.

(2) The accounting records shall be kept in such manner that they:

(a) disclose, at any time, and with reasonable accuracy, the financial position of the political party at that time; and

(b) enable the treasurer to ensure that any statement of accounts prepared by him for the purposes of the annual statements of accounts comply with generally accepted accounting standards and with the relevant provisions of this Act.

(3) The accounting records must in particular contain:

(a) sufficient details to be able to identify all sources of income received and all disbursements made by the political party, and the matters in respect of which such receipts and expenditure takes place;

(b) a record of the assets and liabilities of the political party; and

(c) the details of entities including commercial enterprises which are related directly or indirectly to a political party or otherwise under its effective management and control.

Annual statements of accounts.

26. (1) The treasurer of a political party shall prepare annual statement of accounts, in respect of each financial year, of that political party which must, include:

(a) a statement of income and expenditure;

(b) the statement of financial position as at the financial year end;

(c) the statement of cash flows; and

(d) all supplementary notes and schedules related to paragraphs (a), (b) and (c).

(2) The statement of accounts under this article shall comply with such requirements as to its form and contents as may be prescribed by regulations made by the Minister, as advised by the Commission.

(3) Any member of a political party, candidate, central or local party official shall provide the relevant information in accordance with the relevant provisions in this Act to the political party's treasurer, within a reasonable time, and in default he shall be guilty of an offence punishable with the punishments imposed for contraventions:

Provided that if any member of a political party, candidate, central or local party official provide any false information he shall be liable, to the punishments provided for false declarations in accordance with article 185(2) of the Criminal Code.

Duty to preserve accounting records.

27. (1) The treasurer of a political party shall ensure that any accounting records and, or statement of accounts prepared for the purposes of this Part in respect of the political party are preserved for at least ten years from the end of the financial year to which the statement relates.

(2) Where a political party is dissolved within the mentioned period of ten years, the obligation to ensure that the accounting records and, or statement of accounts prepared for the purposes of this Part shall continue to be discharged by the last treasurer of the political party unless the Commission gives its authorisation for the records to be destroyed, or for the records to be otherwise disposed of, subject to any conditions that it may deem necessary to impose.

28. (1) The accounts of a political party shall each year be audited by an auditor as defined by article 2 of the Accounting Professions Act. Annual audits.
Cap.281.

(2) Upon failure to submit audited accounts in accordance with the provisions of sub-article (1), the Commission may establish a further period of time for the submission and in default appoint an auditor of its choice to audit the political party's accounts.

(3) The expenses of any audit carried out by an auditor appointed by the Commission, including the auditor's remuneration, shall be recovered by the Commission, as a civil debt, from the funds of the political party concerned.

29. (1) An auditor appointed to carry out an audit for the purposes of annual audits: Supplementary provisions regarding auditors.

(a) shall have a right of access at all reasonable times to the political party's books, documents and other records; and

(b) shall be entitled to require from the treasurer, any former treasurer and from any other political party official as the auditor deems fit, such information and explanations as he thinks necessary for the performance of his duty as auditor.

(2) If any person fails to provide an auditor with any access, information or explanation to which the auditor is entitled by virtue of sub-article (1), the Commission shall give that person such written directions as it considers appropriate for securing that the default is made good.

(3) A person guilty of lack of compliance to any directions of the Commission under sub-article (2) may, on the application by the Commission to the First Hall Civil Court, be dealt with as if he were in contempt of court.

(4) Any person who knowingly or carelessly makes, to an auditor appointed to carry out an audit for the purposes of annual audits, a representation, whether written or oral, which conveys any information or explanation to which the auditor is entitled to by virtue

of sub-article (1) and is misleading, false or deceptive in a material particular, shall be liable to a fine (*multa*) or to imprisonment not exceeding six months.

Delivery of statements of accounts and other relevant documents to the Commission.

30. (1) The treasurer of a political party shall, within four months of the end of that financial year deliver to the Commission the audited accounts prepared for that financial year for the purposes of annual statements of accounts.

(2) When a political party's accounts for a financial year are required to be audited for annual audit purposes by directive of the Commission, the treasurer of the political party shall, by not later than seven days after the end of the period allowed by the prescribed period for the audit of the accounts, deliver to the Commission:

- (a) the documents mentioned in sub-article (1); and
- (b) a copy of the auditor's report.

(3) When the Commission considers that there exist special reasons for doing so, which reasons shall be listed in the notice hereunder referred to, it may, on an application made to it before the end of the period otherwise allowed under this article for delivering a political party's documents according to sub-articles (1) or (2) for any financial year, by notice, extend that period for a further period specified in the notice.

(4) Any documents delivered to the Commission under this article shall be kept by the Commission for such further period as it may deem fit.

Public inspection of political parties' statements of accounts.

31. Where the Commission receives any audited accounts, as a result of the obligation of delivery of statements of accounts to it, it shall within one month after receiving the statement, make a copy of the statement available for public inspection and keep it available for public inspection for the period for which the statement is kept by it.

Penalty for failure to submit proper statement of accounts.

32. (1) If in the case of a political party -

(a) any requirements of regulations as to the form and contents of a statement of accounts are, without reasonable cause, not complied with in relation to any statement of accounts delivered to the Commission by way of a legal obligation; or

(b) any statement of accounts, notification or auditor's report required to be delivered to the Commission under this Part is, without reasonable cause, not delivered to it before the

end of the relevant period;

the political party shall be liable to an administrative penalty of not more than ten thousand euro (€10,000).

(2) For the purposes of sub-article (1) "relevant period" means the period allowed by law for delivering the statement, notification or report to the Commission or, if that period has been extended, or further extended, according to law, that period as so extended.

33. Any person who knowingly or recklessly makes a statement to the Commission which is false in any material particular which statement is made, or purports to be made, on behalf of a political party, member of a political party or candidate for any purpose of this Act, shall be guilty of an offence which shall be liable to a fine (*multa*) not exceeding ten thousand euro (€10,000) or imprisonment not exceeding six months.

False statements.

34. (1) If it appears to the treasurer of a political party that any statement of accounts for any financial year of the political party has not complied with any requirements of regulations relating to the delivery of prescribed documents, he may prepare a revised statement of accounts.

Revision of defective statements of accounts.

(2) Where the audited accounts have already been delivered to the Commission, the revisions shall be confined to:

(a) the correction of those parts in which the accounts do not comply with the prescribed requirements; and

(b) the making of any necessary consequential alterations.

(3) If it appears to the Commission that there is, or may be, a question whether any audited accounts delivered to it according to law complies with the prescribed requirements, it may give notice to the treasurer of the political party in question indicating where it appears to it that such a question arises or may arise.

(4) The notice shall specify a period of not less than one month for the treasurer to give the Commission an explanation of the statement of accounts or prepare a revised statement.

(5) If at the end of the specified period, or such longer period as the Commission may allow, it appears to the Commission -

(a) that no satisfactory explanation of the statement of

accounts has been given; and

(b) that the statement has not been revised so as to comply with the prescribed requirements

it may, make an application to the First Hall Civil Court in accordance with sub-article (6).

(6) The Commission may make an application to the First Hall Civil Court:

(a) for a declaration that the statement of accounts does not comply with the prescribed requirements; and

(b) for an order requiring the treasurer of the political party to prepare a revised statement of accounts.

(7) If the First Hall Civil Court orders for the preparation of revised accounts, it may:

(a) give such directions as it thinks fit; and, or

(b) order that all or part of the costs of and incidental to the application are to be borne by the treasurer of the political party or by his assistants.

(8) When the court makes an order under sub-article (7)(b) it shall have regard to whether the officer or officers mentioned in that sub-article knew or ought to have known that the statement did not comply with the prescribed requirements, and it may:

(a) order the payment of different amounts by different officers;

(b) exclude one of the officers from the order; or

(c) exclude all officers from the order and instead order the payment of all of the costs, or expenses, mentioned in that sub-article out of the funds of the political party.

(9) The Minister may by regulations make provision with respect to the application of the provisions of this Act in relation to the preparation and auditing of revised statements of accounts, and their delivery to the Commission, and may in particular make provision for any matter for which provision may be made by regulations with respect to:

(a) the appointment of auditors to carry out audits under

this article;

(b) the duties of auditors so appointed;

(c) the removal or resignation of such auditors and matters connected with their removal or resignation; and

(d) for not applying, to such extent or in such circumstances, or both, as regulations under this sub-article may specify, any of the provisions with regard to the criminal penalty for failure to submit proper statement of accounts.

(10) The provisions of public inspection of political parties' statements of accounts shall apply in relation to any revised statement of accounts received by the Commission in accordance with regulations made under sub-article (9) as applied in relation to any statement of accounts received by it according to law.

(11) The provisions of this article apply equally to statements of accounts that have already been revised, in which case the references to revised statements of accounts shall be read as references to further revised statements.

PART IV

Control of donations to registered parties and their members

35. Political parties shall be entitled to accept donations, and shall be funded principally by the contributions made by the members themselves. Funding of political parties.

36. Political parties shall not receive donations: Non-permissible donations.

(a) which are evidently made in the expectation of, or in return for, some specific financial or political advantage; and, or

(b) from any public corporation or any para-statal body, company, or entity in which the State has a controlling interest:

Provided that political parties shall be permitted to receive services from State sources only under a special law which shall regulate:

(i) assistance in kind (air-time, access to means of communication and related matters);

(ii) the proportions between the different political parties; and

(iii) the timing of the assistance given before elections, after elections, during the European Parliament election period, the Local Council election period, the general election period and during referendum campaigns;

(c) from foreign sources, unless:

(i) the foreign donation does not exceed one thousand euro (€1,000); or

(ii) these donations accrue directly to a political party from the assets of a Maltese national;

(iii) these donations accrue from a business enterprise, of whose shares more than 50% are owned by a Maltese national;

(iv) these donations accrue from a business enterprise incorporated within another state but which carries on a business in Malta;

(v) these donations accrue from foreign political parties, associations, foundations or organisations which have similar ideas to the political party, member of a political party and candidate receiving them in Malta; or

(vi) accrue from a citizen of the European Union.

(d) given anonymously when the amount of the donation exceeds the amount of three hundred euro (€300) by the same source or by reason of any deception or concealment or otherwise, unable to ascertain the identity of that person; and, or

(e) in excess of fifty thousand euro (€50,000) during one calendar year from the same source.

Value of
donations

37. (1) The value of any donation in the form of a gift to the political party, an official or member of a political party or candidate or other property, other than money, shall be taken to be the market value of the gift or property in question.

(2) Where however any gift to the political party, an official or member of a political party or candidate of money or other property is such that:

(a) any money or other property is transferred to the political party, an official or member of a political party or

candidate pursuant to any transaction or arrangement involving the provision by or on behalf of the political party, an official or member of a political party or candidate of any property, services or facilities or other consideration of monetary value; and

(b) the total value in monetary terms of the consideration so provided by or behalf the political party, an official or member of a political party or candidate is less than the value of the money or, as the case may be, the market value of the property transfer, the value of the donation shall be taken to be the difference between:

(i) the value of the money or the market value of the property in question; and

(ii) the total value in monetary terms of the consideration provided by or behalf of the political party, an official or member of a political party or candidate.

(3) the value of any donation falling within any sponsorship provided in relation to the political party, an official or member of a political party or candidate shall be taken to be the value of the money, or as the case may be, the market value of the property transferred as a donation; and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question shall be disregarded.

(4) the value of any donation consisting of the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the political party, an official or member of a political party or candidate, including the services of any person, shall be taken to be the amount representing the difference between:

(a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the political party, an official or member of a political party or candidate in respect of the provision of the property, services or facilities if the property, services or facilities has been provided on commercial terms; and

(b) the total value in monetary terms of the consideration, if any, actually so provided by or on behalf of the political party, an official or member of a political party or candidate.

38. (1) For the purposes of this Act sponsorship shall be deemed to be, in relation to a political party, a member of a political

Sponsorship.

party or candidate where:

(a) any money or property is transferred to the political party, a member of a political party or candidate or to any person for the benefit of the political party, a member of a political party or candidate; and

(b) the purpose or one of the purposes of the transfer is or must, having regard to all the circumstances, reasonably be assumed to be:

(i) to help the political party, a member of a political party or candidate with meeting, or to meet, to any extent any expenses incurred or to be incurred by or on behalf of the political party, a member of a political party or candidate; or

(ii) to secure that to any extent any such expense is not so incurred.

(2) For the purposes of sub-article (1) expenses may include, among others, expenses incurred or to be incurred in connection with:

(a) any conference, meeting or other event organised by or on behalf of the political party, a member of a political party or candidate;

(b) the preparation, production or dissemination of any publication by or on behalf of the political party, a member of a political party or candidate; or

(c) any study or research organised by or on behalf of the political party, a member of a political party or candidate.

(3) The following do not, however, constitute sponsorship by virtue of sub-article (1):

(a) the making of any payment in respect of:

(i) any charge for admission to any conference, meeting or other event; or

(ii) the purchase price of, or any other charge for access to, any publication.

(b) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the

inclusion of such an advertisement in any such publication;and,
or

(c) the provision, on commercial terms, of any property, services or facilities for the use or benefit of the political party, a member of a political party or candidate including the services of any person.

39. (1) Any donation exceeding the amount of three hundred euro (€300) from the same source, whether such donation has been accepted or not, in accordance with article 44, shall be recorded together with the amount of the donation, the donor's name and address, or registration details in the case when the donor is a registered company, the date on which the donation was received and the date on which the donation was accepted and any other relevant details.

Recording of donations to be made by political parties.

(2) Any donation which by itself does not exceed the amount of three hundred euro (€300) but which when added to any other donations or benefits accruing to the political party from the same source within the same calendar year exceeds the sum of three hundred euro (€300) shall be recorded at that point in which the amount exceeds three hundred euro (€300).

(3) Whosoever maliciously with intent to conceal the origin and amounts of donations divides a donation into smaller amounts, or in order to circumvent the recording and reporting requirements provided in this law shall be liable to a fine (*multa*) not exceeding ten thousand euro (€10,000) and, or to imprisonment not exceeding six months.

(4) The Commission shall have the power to investigate and demand to be provided with all information it may require from any person, body, legal person, financial institution and, or any telecommunication service provider, who may or may not be in possession of such information to determine the source of any donation received by the political party.

40. (1) The treasurer of a the political party, shall in the case of each year, prepare a donation report, in respect of each of the following periods:

Reports to be made by political parties, an official or member of a political party or candidate.

- (a) January to April;
- (b) May to August; and
- (c) September to December.

(2) The donation reports for any year shall, in the case of each donor from whom any donation is accepted by the the political party or anyone on its behalf during that year, comply with the relevant provisions of this Part so far as they require any such donation to be recorded in a donation report.

(3) Donations shall be reported:

(a) if it is a donation of more than seven thousand euro (€7,000); or

(b) if, when it is added to any other benefit or benefits , the aggregate amount exceeds seven thousand euro (€7,000), from the same source, in one calendar year.

(4) A donation to which sub-article (3) applies must:

(a) in the case of paragraph (a), be reported in the donation report for the reporting period in which it is accepted; or

(b) in the case of paragraph (b), be reported in the donation report, together with any other relevant donation or donations included in the aggregate amount of seven thousand (€7,000) from the same source in the donation report for the reporting period in which the benefit which causes that aggregate amount to be more than seven thousand (€7,000) accrues.

(5) A donation report must also include every donation which has been refused in accordance with article 44, during the reporting period, and the report shall contain a statement to that effect, together with the manner in which the donation was made, the date in which the donation was received and the date in which the donation was returned and any relevant details.

Weekly
donation
reports.

41. (1) Without prejudice to article 44 the treasurer of a political party shall, in the case of any election period, prepare a weekly report, in respect of each of the following periods, hereinafter referred to as "reporting periods":

(a) the period of seven days beginning with the first day of the general election period;

(b) each succeeding period of seven days falling within the general election period; and

(c) any final period of less than seven days falling within that period.

(2) The weekly report for any reporting period shall record each donation of more than three hundred euro (€300) received during that reporting period by the treasurer of the political party.

(3) If during any reporting period no donations falling within sub-article (2) have been received, the weekly report for that period shall contain a statement to that effect.

(4) The provisions regarding details to be given in a donation report shall also apply to the information to be given in weekly reports.

42. (1) A donation report made in accordance with article 40 shall be delivered to the Commission by the treasurer of the political party in question within the period of thirty days beginning with the end of the reporting period to which it relates.

Submission of
donation reports
to Commission.

(2) A donation report under article 41 shall be delivered to the Commission by the treasurer of the political party in question within the period of 7 days beginning with the end of the reporting period to which it relates.

(3) The treasurer of a political party commits an offence, if without reasonable excuse, he fails to comply with the requirements of sub article (1) or (2) in relation to a donation report.

(4) The treasurer of a political party also commits an offence if, without reasonable excuse, he delivers a donation report to the Commission which does not comply with any requirements of this Part as regards the recording of donations in such a report.

(5) Where the court is satisfied, on an application made by the Commission, that any failure to comply with any such requirements in relation to any donation to a political party was attributable to an intention on the part of any person to conceal the existence or true amount of the donation, the court may order the forfeiture by the political party of an amount equal to the value of the donation.

43. (1) Each donation report under articles 40 and 41, must, when delivered to the Commission, be accompanied by a declaration made by the treasurer which complies with sub-articles (2), (3) or (4).

Declaration by
treasurer in
donation report.

(2) In the case of any report, made in accordance with the relevant provisions of this Act, other than one making a nil return, the declaration must state that, to the best of the treasurer's knowledge and belief:

(a) all the donations recorded in the donation report as

having been accepted by the political 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 political party; and

(ii) no donation from any person or body other than a permissible donor has been accepted by the political party.

(3) In the case of a nil return, the treasurer shall file a declaration together with the report which shall state that, to the best of the treasurer's knowledge and belief, no donations have been received and accepted by the political party, during the reporting period which is required to be recorded and that such statement is accurate.

(4) Whosoever knowingly or negligently makes any false declaration under this article shall commit an offence punishable with a fine (*multa*) of ten thousand euro (€10,000) and, or , to six months imprisonment if he knowingly or recklessly makes a false declaration under this article.

Acceptance or
return of
donations.

44. (1) Where a donation exceeding three hundred euro (€300) is offered to a political party, a member of a political party or candidate, it shall be their duty to take all reasonable steps to verify:

(a) the identity of the donor; and

(b) whether such donor is a permissible donor.

(2) If the donation is offered by a donor who is not a permissible donor or the donor has not been identified, after reasonable steps have been taken in accordance with sub-article (1), the political party, the member of a political party or candidate, shall refuse such donation.

(3) In the case that a donation has been accepted by the political party, the member of a political party or candidate and the donee discovers that, notwithstanding such reasonable steps have been taken in accordance with sub-article (1), the donor was not a permissible donor or that the identity was false, the donee shall within thirty days (30) return the donation to the donor or to the person purporting to be the donor or deposit the amount of the donation in Court.

(4) Upon failure of compliance with sub-articles (1), (2) and (3) the Commission, or any interested party, may lodge a complaint with the police and the political party, member of a political party or candidate, as the case may be, shall, upon conviction by the Court of Magistrates, be liable to the punishments for contraventions and a fine (*multa*) not exceeding five thousand euro (€5,000).

(5) In addition to the punishment imposed in accordance with sub-article (4), when a political party, a member of a political party or candidate receives and accepts a non-permissible donation, the Court of Magistrates, on an application made by the Commission, shall order the forfeiture by the political party, a member of a political party or candidate, as the case may be, of an amount equal to the value of the donation.

45. Whosoever knowingly does any act in furtherance of, any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of donations to a political party, a member of a political party or candidate, by any person or body other than by a permissible donor, shall be guilty of an offence and shall be liable on conviction to the punishments provided for false declarations in accordance with article 185(2) of the Criminal Code.

Evasion of restrictions on donations.

Cap.9.

46. The Commission shall keep record of all donation reports received by the political parties in accordance with this Act and such reports shall be made accessible to the public within such time and in such format as the Minister may establish by regulations from time to time.

Public inspection of donation reports.

47. (1) The Commission after consultation with the Minister may make regulations not inconsistent with or repugnant to, the provisions of this Act, for prescribing any form or procedure for which no express procedure is contained in this Act, for amending the forms contained in this Act and, generally, for carrying the provisions of this Act into effect. The Prime Minister shall upon the publication of such regulations lay the same upon the Table of the House.

Power of the Minister to make regulations.

(2) The Minister responsible for justice may by regulations under this sub-article establish the fees payable in the registries of the Courts of Magistrates (Malta) and the Court of Magistrates (Gozo) in connection with the filing of appeals and applications to Revising Officers under this Act:

Part V

Miscellaneous

Substitution of article 46 of the General Elections Act. Cap.354.

48. Article 46 of the General Elections Act shall be substituted by the following new article:

“46. (1) The maximum sum paid and, or expenses incurred by or on behalf of a candidate at an election of members of the House of Representatives, and, or by his election agent whether before, during, or after an election on account of or in respect of the conduct of such election, shall not exceed the sum of ten thousand euro (€10,000):

Provided that there shall not be included in such amount any expenditure incurred by the candidate for his personal expenses, nor the fee, if any, paid to the election agent not exceeding seven hundred euro (€700).

(2) In the case of candidates standing for election in the same division as members of the same political party, the expenses of such candidates may be added together and there shall not be deemed to have been a contravention of this article unless the aggregate expenses of such candidates, when added together, exceed either sum of ten thousand euro (€10,000) multiplied by the number of such candidates or the sum of forty thousand euro (€40,000), whichever is the smaller: provided that if the aggregate of such expenses exceeds either of the sums aforesaid, the expenses of each such candidate shall be separated from the expenses of the others and the provisions of sub-article (1) shall apply.

(3) Any candidate or election agent who knowingly acts in contravention of this article shall be guilty of an illegal practice.”.

Amendment of regulation 2 of the European Parliament Elections (Maximum Expenses) Regulations. S.L.467.01

49. The words “eight thousand liri” in regulation 2 of the European Parliament Elections (Maximum Expenses) Regulations shall be substituted by the words thirty thousand (€30,000).

Amendment of regulation 97 of the Third Schedule to the Local Council's Act. Cap.363.

50. Regulation 97 (1) of the Third Schedule to the Local Council's Act shall be substituted with the following new regulation:

“97. (1) Subject to such exception as may be allowed in pursuance of these regulations, no sum shall be paid

and no expense shall be incurred by a candidate at an election, whether before, during, or after an election on account of or in respect of the conduct or management of such election, in excess of:

(a) two thousand and five hundred euro (€2,500) in the case of candidates nominated to contest the election of a Local Council where the population of the locality is under 5,000;

(b) three thousand and five hundred euro (€3,500) in the case of candidates nominated to contest the election of a Local Council where the population of the locality is five thousand and over but less than fifteen thousand; and

(c) four thousand and five hundred euro (€4,500) in the case of candidates nominated to contest the election of a Local Council where the population of the locality is fifteen thousand and over.”.

Objects and Reasons

An Act intended to regulate the way that political parties are formed, functioned and financed and the way they participate in elections.