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KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES ACT, 2008

Act No. 7, 2008

No. 7

19 December 2008

[English text signed by the Premier]

**KWAZULU-NATAL
FUNDING OF REPRESENTED POLITICAL
PARTIES ACT, 2008
(Act No. 07 of 2008)**

Assented to on 05-12-2008

ACT

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

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KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES ACT, 2008

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

ARRANGEMENT OF SECTIONS

Section

CHAPTER 1 DEFINITIONS AND OBJECT OF ACT

1. Definitions
2. Object of Act

- ### CHAPTER 2 ESTABLISHMENT, OBJECTS AND FUNDING OF POLITICAL PARTIES' FUND
3. Establishment of Political Parties' Fund
 4. Objects of Political Parties' Fund
 5. Funding and deposit of funds into Political Parties' Fund

- ### CHAPTER 3 ALLOCATIONS FROM POLITICAL PARTIES' FUND
6. Allocations from Political Parties' Fund
 7. Publications of allocations from Political Parties' Fund

- ### CHAPTER 4 ACCOUNTABILITY OF POLITICAL PARTIES
8. Political parties to account for money allocated from Political Parties' Fund

- ### CHAPTER 5 MONETARY CONTROLS, MANAGEMENT AND REPORTING IN RELATION TO POLITICAL PARTIES' FUND
9. Recovery of money irregularly spent by Parties
 10. Unspent money at end of financial year
 11. Management and control of Political Parties' Fund
 12. Speaker to report to Provincial Legislature on Political Parties' Fund
 13. Audits and financial statements

- ### CHAPTER 6 GENERAL PROVISIONS
14. Dissolution of Provincial Legislature

15. Regulations
16. Winding up
17. Short title

CHAPTER 1 DEFINITIONS AND OBJECT OF ACT

Definitions

1. In this Act, unless the context otherwise indicates –

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Electoral Commission Act**” means the Electoral Commission Act, 1996 (Act No. 51 of 1996);

“**Executive Council**” means the Executive Council of the Province of KwaZulu-Natal;

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

“**Gazette**” means the official *Provincial Gazette* of KwaZulu-Natal;

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

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

“**Political Parties’ Fund**” means the Political Parties’ Fund established in terms of section 3;

“**Premier**” means the Premier of the Province of KwaZulu-Natal as contemplated in section 125 of the Constitution;

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"**prescribed**" means prescribed by regulation under section 15, and "**prescribe**" has a corresponding meaning;

"**Province**" means the KwaZulu-Natal Province contemplated in section 103(1)(d) of the Constitution;

"**Provincial Legislature**" means the Legislature of the Province of KwaZulu-Natal;

"**Secretary**" means the Secretary to the Provincial Legislature of the Province of KwaZulu-Natal;

"**Speaker**" means the Speaker of the Provincial Legislature of the Province of KwaZulu-Natal; and

"**this Act**" includes the regulations made under section 15.

Object of Act

2. The object of this Act is to make provision for the establishment of the Political Parties' Fund so as to –

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

CHAPTER 2 ESTABLISHMENT, OBJECTS AND FUNDING OF POLITICAL PARTIES' FUND

Establishment of Political Parties' Fund

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

Objects of Political Parties' Fund

4. The objects of the Political Parties' Fund are –

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

Funding and deposit of funds into Political Parties' Fund

5.(1) The Political Parties' Fund is funded from –

- (a) money appropriated to the Political Parties' Fund by the Provincial Legislature;
- (b) contributions and donations to the Political Parties' Fund from sources approved by the Member of the Executive Council responsible for finance, whether from within or outside of the Province;
- (c) interest earned on money deposited in terms of subsections (2) and (3) below; and
- (d) money received or accruing to the Political Parties' Fund from any other source.

(2) All money received by or standing to the credit of the Political Parties' Fund must be deposited into a separate banking account opened by the Secretary with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990).

(3) Money in the Political Parties' Fund that is not required immediately for making allocations to Parties in terms of section 6 may be invested with the Public Investment Corporation contemplated in the Public Investment Corporation Act, 2004 (Act No. 23 of 2004).

(4) The banking and investment accounts which are to be opened in terms of this section and any interest earned on those accounts must be solely for the benefit of the Political Parties' Fund, and must be ring-fenced and accounted for separately from any other funds of the Provincial Legislature.

Allocations from the Political Parties' Fund

6.(1) Every Party is entitled to be allocated money from the Political Parties' Fund for every financial year that it is represented in the Provincial Legislature.

(2) Subject to subsection (7), money allocated to a Party must be used for purposes compatible with its functioning as a political party in a modern democracy.

(3) The functioning of a Party as contemplated by subsection (2) includes, but is not limited to

- (a) the development of the political will of people;
- (b) bringing the influence of a Party to bear on the shaping of public opinion;
- (c) inspiring and furthering political education;
- (d) promoting active participation by individual citizens in political life;
- (e) exercising an influence on political and socio-political trends; and
- (f) ensuring continuous vital links between the people and organs of state and, in particular, between people and the Provincial Legislature.

(4) Allocations from the Political Parties' Fund must be determined and made at prescribed times, in prescribed instalments, and in the prescribed way.

(5) The Secretary must allocate money from the Political Parties' Fund to Parties in accordance with a prescribed formula based –

- (a) in part, on the system of proportionality, taking into account the relation that the number of such a Party's representatives in the Provincial Legislature bears to the total number of the members in the Provincial Legislature; and
- (b) in part, on the principle of equity, which may take into account, among other factors, a fixed threshold for a minimum allocation to each of the Parties represented in the Provincial Legislature or a weighted scale of representation for an allocation to each of the Parties participating in the Provincial Legislature.

(6) The information and particulars necessary to apply the prescribed formula to a Party must be ascertained from the relevant facts and circumstances at the time when the allocation is made.

(7) Money allocated to a Party may not be used –

- (a) for the purpose of directly or indirectly paying any remuneration, fee, reward, prerequisite or other benefit to a person representing that, or any other Party in the Provincial Legislature, or who holds office under the State;
- (b) with a view to finance or contribute to a matter, cause, event or occasion, whether directly or indirectly, in contravention of any code of ethics binding the members or staff of the Provincial Legislature, as the case may be;
- (c) directly or indirectly for the purpose of establishing or financing a business or commercial enterprise, or acquiring or maintaining a right or financial interest whatsoever in a business or commercial enterprise;
- (d) to acquire a right or interest in immovable property, of whatsoever nature, except where that right or interest in the immovable property is used by a Party solely for ordinary party-political purposes; or
- (e) for any other purpose that is incompatible with the functioning of a political party in a modern democracy, as may be prescribed.

(8) The allocation of money from the Political Parties' Fund must end when the Party ceases to qualify in terms of subsection (1).

Publication of allocations from Political Parties Fund

7.(1) As soon as possible after the end of each financial year, the Secretary must publish a notice in the Gazette setting out the allocations made from the Political Parties' Fund in that period.

(2) The notice referred to in subsection (1) must include the following information for the financial year in question –

- (a) the opening balance of moneys held by the Political Parties' Fund at the commencement of the financial year;
- (b) the amount and source of moneys paid into the Political Parties' Fund;
- (c) names of the Parties to whom allocations were made, and the amounts of those allocations;
- (d) the amounts invested by the Political Parties' Fund in terms of section 5(3) above, and the interest earned thereon; and

(e) the closing balance of moneys held by the Political Parties' Fund at the end of the financial year.

CHAPTER 4 ACCOUNTABILITY OF POLITICAL PARTIES

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

8.(1) A Party to which money is allocated from the Political Parties' Fund must –

- (a) open and operate a separate bank account in the name of the Party with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990);
- (b) deposit therein all money received from the Political Parties' Fund; and
- (c) appoint –
 - (i) the Leader of the Party in the Provincial Legislature or a Representative of that Party in the Provincial Legislature if the Leader is not a Member of the Provincial Legislature; or
 - (iii) the Chief Whip or the most senior Whip of that Party in the Provincial Legislature,

as its accounting officer with regard to the money allocated to that Party from the Political Parties' Fund.

(2) The responsibility of the accounting officer is to account for the money allocated to that Party, and includes –

- (a) in addition to other duties imposed by this Act, the duty to ensure that the Party complies with the requirements of this Act; and
- (b) in particular, the duty to ensure that the allocated money is not paid out for a purpose not authorised by this Act.

(3) The accounting officer must keep separate books and records of account, in the prescribed manner, in respect of money allocated from the Political Parties' Fund, and all the transactions involving such money.

(4) Subject to section 14, within 2 months after the end of the financial year the accounting officer must prepare a statement -

- (a) showing all amounts received by the Party from the Political Parties' Fund during that financial year and the use of allocated money; and
- (b) describing the purposes for which the various amounts have been used.

(5) The books and records of account contemplated in subsection (3) and the statement contemplated in subsection (4) must be audited by a public accountant and auditor registered and practising as such in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005).

(6) An auditor who performs an audit contemplated in subsection (5) must, in the auditor's report, express an opinion as to whether the allocated money was spent for purposes not authorised by the Act.

(7) Subject to section 14, within 3 months after the end of the financial year, the accounting officer must submit the audited accounts, statements and report of the auditor, to the Secretary.

(8) Despite subsection (4) the Auditor-General may, at any time, audit the books and records of account and financial statements relating to money allocated to a Party from the Political Parties' Fund.

(9) Subject to subsection (10), the Secretary—

- (a) may order that the allocation of money to a Party from the Political Parties' Fund be suspended, if satisfied on reasonable grounds that the Party failed to comply with a requirement of the Act; and
- (b) must terminate the suspension if satisfied, in the light of the Party's subsequent conduct, that the suspension is no longer justified.

(10) The suspension of a Party's allocations may be ordered in terms of subsection (9) only if the Secretary —

- (a) has by written notice informed the Party of the proposed suspension and the reasons therefore; and
- (b) has called upon the Party to furnish reasons, within the period specified in the notice, why its allocations from the Political Parties' Fund should not be suspended.

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KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES ACT, 2008

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

CHAPTER 5
MONETARY CONTROLS, MANAGEMENT AND REPORTING IN RELATION TO POLITICAL PARTIES' FUND

Recovery of money irregularly spent by Parties

9.(1) Where money allocated to a Party in terms of section 6 has not been spent in accordance with the requirements of this Act, the Party and the accounting officer of that Party are liable, jointly and severally the one paying the other to be absolved, to repay the money irregularly spent to the Political Parties' Fund.

(2) The Secretary, in his or her capacity as chief executive officer of the Political Parties' Fund, must recover the money spent irregularly, and may do so by –

- (a) instituting a civil claim in respect of the amount irregularly spent against the Party and the accounting officer of the Party concerned jointly and severally, the one paying the other to be absolved; or
- (b) setting off the amount irregularly spent against an allocation that may become payable to that Party.

Unspent money at end of financial year

10. (1) Money not spent by a Party at the end of a financial year must be shown in the books and records of account of the Party as a credit balance carried forward to the next financial year: Provided that –

- (a) the money that may be carried forward may be limited to an amount representing a prescribed percentage of the allocations made for that financial year; and
- (b) the money carried forward to the next financial year may not be taken into account in determining an allocation to the Party concerned during that financial year .

(2) If a Party ceases to be represented in the Provincial Legislature, the Party and the accounting officer of the Party concerned must, jointly and severally, the one paying the other to be absolved, repay any unspent balance to the Political Parties' Fund within 21 days of the Party ceasing to be so represented.

(3) The Secretary, in his or her capacity as chief executive officer of the Political Parties' Fund, must recover the unspent balance referred to in subsection (2), and may do so by instituting a civil claim against the Party and the accounting officer of the Party concerned, jointly and severally the one paying the other to be absolved.

(4) Money standing to the credit of the Political Parties' Fund at the end of the financial year must be carried forward to the next financial year as a credit balance.

Management and control of Political Parties' Fund

11.(1) The Secretary is responsible for the management and administration of the Political Parties' Fund, and is the accounting officer and chief executive officer of the Fund.

(2) For each financial year, the Secretary must keep records in accordance with generally accepted accounting practice and procedures of –

- (a) money received by or accruing to the Political Parties' Fund;
- (b) allocations and payments made from the Political Parties' Fund; and
- (c) expenditure arising from the allocation of moneys from the Political Parties' Fund.

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

Speaker to report to Provincial Legislature on Political Parties' Fund

12.(1) As soon as possible after the end of each financial year the Speaker must -

- (a) prepare an annual report regarding the management and administration of the Political Parties' Fund for that financial year; and
- (b) table the annual report in the Provincial Legislature not later than 31 August of each year.

(2) The annual report must –

(a) fairly present the state of affairs of the Political Parties' Fund, its allocations, its performance against predetermined objectives and its financial position as at the end of the financial year concerned; and

(b) include –

(i) the annual financial statements contemplated in section 13;

(ii) the report of the auditors on those statements; and

(iii) such other information as the Member of the Executive Council responsible for finance may in writing require or prescribe.

Audits and annual financial statements

13.(1) The books of account and other financial records of the Political Parties' Fund must be audited annually by the Auditor-General or by a firm of auditors approved of by the Auditor-General.

(2) The annual financial statements must set out –

(a) the amounts received by and accruing to the Political Parties' Fund during that financial year;

(b) the allocations made from the Political Parties' Fund to the respective Parties during that year;

(c) the amounts spent during that financial year by each Party in connection with purposes classifiable under the generally descriptive categories as prescribed from time to time; and

(d) the balance of the Political Parties' Fund and amounts owing to it or by it as at the end of that financial year.

(3) The annual financial statements must comply with any applicable national and provincial legislative requirements for financial reporting and accounting practices, including the Public Finance Management Act, 1999 (Act No. 1 of 1999).

CHAPTER 6 GENERAL PROVISIONS

Dissolution of Provincial Legislature

14. If the Provincial Legislature is dissolved a Party must –

- (a) close its books and records of account not later than 21 days before the date set for an election or within 21 days of the dissolution of the Provincial Legislature if no date has been set for an election;
- (b) within 14 days of closing its books and records of account as contemplated in paragraph (a) above, submit an audited statement in respect of those books and records to the Secretary; and
- (c) not later than the day immediately before the date set for an election, repay to the Secretary the unspent balances as at the date when its books and records of account were closed.

Regulations

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

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

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KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES ACT, 2008

Winding up

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

Short title

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

**REGULATIONS IN TERMS OF THE KWAZULU-NATAL FUNDING OF
REPRESENTED POLITICAL PARTIES ACT
NO. 07 OF 2008**

KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES
REGULATIONS, 2008

Acting in terms of section 15 of the KwaZulu-Natal Funding of Represented Political Parties Act, 2008, the Speaker of the KwaZulu-Natal Provincial Legislature makes these regulations.

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context otherwise indicates:-

"the Act" means the KwaZulu-Natal Funding of Represented Political Parties Act, 2008;

"accounting officer" means the accounting officer of a Party appointed in terms of section 8(1)(c) of the Act.

2. Times and instalments (Section 6 of the Act)

(1) Allocations to which a Party is entitled must, subject to sub-regulation (2), (3) and (4) below, be paid to the Party in four (4) equal instalments commencing at the beginning of each financial year, with further instalments being made quarterly thereafter.

(2) Once a Party has expended its quarterly allocation it must submit to the Secretary an expenditure report with supporting documents reflecting how it has utilized its quarterly allocation.

(3) If a Party has utilized its entire quarterly allocation and has complied with the provisions of the Act and sub-regulation (2), it will be entitled to receive its next quarterly allocation: Provided that –

(a) if a Party has utilized more than its quarterly allocation at any given time it will be entitled to receive such further quarterly allocations as it has expended.

(4) A Party is not entitled to receive any payment in respect of its allocation in a new financial year unless it has fully utilized the last payment received in the prior financial year in accordance with the Act and has submitted the documents referred to in sub-regulation (2).

3. Information and particulars to be submitted by Parties (Section 8 of the Act)

(1) A Party must provide the Secretary with particulars of the bank account contemplated in section 8(1)(a) of the Act within 14 days of such bank account being opened, or within 14 days of any changes of such particulars.

(2) The statement contemplated in section 8(4) of the Act must, without limiting the generality thereof, at least contain the following descriptive categories:

- (a) personnel expenditure, other than that prohibited under section 6(7) of the Act;
- (b) accommodation;
- (c) travel expenditures;
- (d) arrangements of meetings and rallies;
- (e) administration; and,
- (f) promotions and publications.

4. Money carried forward at the end of a financial year (Section 10 of the Act)

(1) Money not spent by a Party at the end of a financial year, and which may be carried forward to the next financial year as contemplated in section 10(1)(a) of the Act is limited to no more than 25% of the allocation made to that Party for the financial year.

(2) Monies allocated to a Party in a financial year but not paid to that Party as a result of the Party not having spent its allocation in accordance with the Act will be forfeited by that Party three (3) months after the end of that financial year.

5. Separate books of account (Section 8 of the Act)

The separate books of account required by section 8(3) of the Act must be kept according to generally accepted accounting practice.

6. Formula for allocation from the Political Parties' Fund (Section 6 of the Act)

(1) The allocations from the Political Parties Fund as contemplated in section 6(5) of the Act are calculated by:

(a) allocating 80% of the total amount of funding available for allocation in a particular financial year proportionally between Parties as contemplated in section 6(5)(a) of the Act; and

(b) allocating 20% of the total amount of funding available for allocation in a particular financial year equally between Parties as contemplated in section 6(5)(b) of the Act.

(2) The total amount of funding available for allocation from the Political Parties' Fund and the amounts of the allocations to be made to each Party during a particular financial year must be announced in the House by the Speaker of the Legislature within 14 days of the appropriation of funds as contemplated by section 5(1)(a) of the Act.

7. Appointment of accounting officer (Section 8 of the Act)

Before any allocation is made to a Party, the Party concerned must notify the Secretary of the appointment and acceptance of appointment of an accounting officer as contemplated in section 8(1)(c) of the Act, by submitting to the Secretary Form 1 and Form 2 contained in the annexure to these regulations.

8. Short title

These regulations are called the KwaZulu-Natal Funding of Represented Political Parties Regulations, 2008.

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KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES ACT, 2008

ANNEXURE**FORM 1****THE SECRETARY****KWAZULU-NATAL PROVINCIAL LEGISLATURE**

**APPOINTMENT OF ACCOUNTING OFFICER IN TERMS OF SECTION 8(1)(c)
OF THE KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL
PARTIES ACT, 2008****Name of Party**

Name of Party leader/whip

I, the undersigned,

hereby appoint

as Accounting Officer of the abovementioned Party in terms of section 8(1)(c) of the KwaZulu-Natal Funding of Represented Political Parties Act, 2008 and declare that I am duly authorized to make the appointment, and that he/she is duly qualified to accept this appointment and has duly accepted the appointment.

PARTY LEADER / WHIP

DATE

KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES ACT, 2008

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FORM 2**THE SECRETARY****KWAZULU-NATAL PROVINCIAL LEGISLATURE**

**ACCEPTANCE AS ACCOUNTING OFFICER IN TERMS OF SECTION 8(1)(c)
OF THE KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL
PARTIES ACT, 2008****Name of Party**

Name of Accounting Officer

I, the undersigned,

hereby accept my appointment as Accounting Officer of the abovementioned Party in terms of section 8(1)(c) of the KwaZulu-Natal Funding of Represented Political Parties Act, 2008, and fully understand and subscribe to the provisions thereof and the obligations set out in the Act and the regulations.

I further declare that I am duly authorized to accept this appointment, and do so.

ACCOUNTING OFFICER

DATE

Act No. 7, 2008

KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES ACT, 2008

No. 7

19 Desember 2008

[Engelse teks deur die Premier geteken]

**KWAZULU-NATAL
WET OP BEFONDSING VAN
VERTEENWOORDIGDE POLITIEKE PARTYE, 2008
(No. 07 van 2008)**

Goedgekeur op 05-12-2008

WET

Om voorsiening te maak vir die instelling van die Fonds vir Politieke Partye ten einde demokrasie te versterk en om die politieke wil van burgers van die provinsie KwaZulu-Natal op te voed en ontwikkel deur die aanvullende befondsing van politieke partye op 'n billike en eweredige grondslag; om voorsiening te maak vir die oogmerke en rolle van die fonds; om voorsiening te maak vir die befondsing van die fonds; om voorsiening te maak vir die toewysing aan geregistreerde politieke partye uit die fonds en vir die gebruik van daardie fondse; om voorsiening te maak vir die publikasie van toewysings gemaak uit die fonds; om voorsiening te maak vir die aanspreeklikheid van politieke partye vir toewysings ontvang uit die fonds; om voorsiening te maak vir die verhaling van geld wat onreëlmatig deur politieke partye bestee word; om voorsiening te maak vir onbestede toewysings; om voorsiening te maak vir die bestuur en beheer van die fonds; om voorsiening te maak vir die Speaker om aan die Provinsiale Wetgewer verslag te doen aangaande die fonds se sake en finansiële verslagdoening

daarvan; om voorsiening te maak vir onbestede saldo's indien die Provinsiale Wetgewer ontbind word; om voorsiening te maak vir die formulering van regulasies; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD deur die Wetgewer van die provinsie KwaZulu-Natal soos volg bepaal:–

RANGSKIKKING VAN ARTIKELS

Artikel

HOOFSTUK 1 OMSKRYWINGS EN OOGMERK VAN WET

1. Omskrywings
2. Oogmerk van Wet

- ### HOOFSTUK 2 INSTELLING, OOGMERKE EN BEFONDSING VAN FONDS VIR POLITIEKE PARTYE
3. Instelling van Fonds vir Politieke Partye
 4. Oogmerke van Fonds vir Politieke Partye
 5. Befondsing en deponering van fondse in Fonds vir Politieke Partye

- ### HOOFSTUK 3 TOEWYSINGS UIT FONDS VIR POLITIEKE PARTYE
6. Toewysings uit Fonds vir Politieke Partye
 7. Publikasie van toewysings uit Fonds vir Politieke Partye

- ### HOOFSTUK 4 AANSPREEKLIKHEID VAN POLITIEKE PARTYE
8. Rekenskap deur politieke partye vir geld toegewys uit Fonds vir Politieke Partye

- ### HOOFSTUK 5 MONETÊRE BEHEERMAATREËLS, BESTUUR EN VERSLAGDOENING MET BETREKKING TOT FONDS VIR POLITIEKE PARTYE
9. Verhaling van geld onreëlmatig deur partye bestee
 10. Onbestede geld aan einde van finansiële jaar
 11. Bestuur en beheer van Fonds vir Politieke Partye
 12. Verslagdoening van Speaker aan Provinsiale Wetgewer aangaande Fonds vir Politieke Partye
 13. Oudits en finansiële state

Act No. 7, 2008

KWAZULU-NATAL FUNDING OF REPRESENTED POLITICAL PARTIES ACT, 2008

HOOFSTUK 6
ALGEMENE BEPALINGS

14. Ontbinding van Provinsiale Wetgewer
15. Regulasies
16. Likwidasie
17. Kort titel en inwerkingtreding

HOOFSTUK 1
OMSKRYWINGS EN OOGMERK VAN WET

Omskrywings

1. In hierdie Wet, tensy uit die konteks anders blyk, beteken –

“**finansiële jaar**” die tydperk vanaf 1 April in enige jaar tot 31 Maart van die volgende jaar;

“**Fonds vir Politieke Partye**” die Fonds vir Politieke Partye ingestel ingevolge artikel 3;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996;

“**hierdie Wet**” insluitend die regulasies uitgevaardig kragtens artikel 15;

“**Koerant**” die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

“**Lid van die Uitvoerende Raad verantwoordelik vir finansies**” die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir finansies;

“**Party**” enige politieke party geregistreer ingevolge artikel 15 van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), en verteenwoordig in die Provinsiale Wetgewer, en “**Partye**” het ‘n ooreenstemmende betekenis;

“**Premier**” die Premier van die provinsie KwaZulu-Natal soos bedoel in artikel 125 van die Grondwet;

"**Provinsiale Wetgewer**" die Wetgewer van die provinsie KwaZulu-Natal;

"**Provinsie**" die KwaZulu-Natal provinsie bedoel in artikel 103(1)(d) van die Grondwet;

"**Sekretaris**" die Sekretaris tot die Provinsiale Wetgewer van die provinsie KwaZulu-Natal;

"**Speaker**" die Speaker van die Provinsiale Wetgewer van die provinsie KwaZulu-Natal;

"**Uitvoerende Raad**" die Uitvoerende Raad van die provinsie KwaZulu-Natal;

"**voorgeskryf**" voorgeskryf deur regulasie kragtens artikel 15, en "**voorskryf**" het 'n ooreenstemmende betekenis; en

"**Wet op die Verkiessingskommissie**" die Wet op die Verkiessingskommissie (Wet No. 51 van 1996).

Oogmerk van Wet

2. Die oogmerk van hierdie Wet is om voorsiening te maak vir die instelling van die Fonds vir Politieke Partye om sodoende –

- (a) veelparty-demokrasie in die Provinsiale Wetgewer te versterk;
- (b) die politieke wil van die publiek op te voed en te ontwikkel om sodoende hul deelname aan politieke lewe te verhoog;
- (c) partye toe te laat om effektief as politieke partye in 'n moderne demokrasie te funksioneer;
- (d) finansiële en administratiewe bystand aan partye te voorsien; en
- (e) voorsiening te maak vir die bestuur en administrasie van die Fonds vir Politieke Partye.

HOOFSUK 2 INSTELLING, OOGMERKE EN BEFONDSING VAN FONDS VIR POLITIEKE PARTYE

Instelling van Fonds vir Politieke Partye

3. Die Fonds vir Politieke Partye word hierby ingestel vir die doel van befondsing van partye wat aan die Provinsiale Wetgewer deelneem.

Oogmerke van Fonds vir Politieke Partye

4. Die oogmerke van die Fonds vir Politieke Partye is –

- (a) om gelde wat in die Fonds gedeponeer is uit bronne gemagtig ingevolge hierdie Wet, te ontvang en te belê; en
- (b) om voorsiening te maak vir die aanvullende befondsing van politieke partye op 'n billike en eweredige grondslag.

Befondsing en deponering van fondse in Fonds vir Politieke Partye

5.(1) Die Fonds vir Politieke Partye word befonds uit –

- (a) geld deur die Provinsiale Wetgewer aan die Fonds vir Politieke Partye bewillig;
- (b) bydraes en donasies aan die Fonds vir Politieke Partye uit bronne goedgekeur deur die Lid van die Uitvoerende Raad verantwoordelik vir finansies, hetsy van binne of buite die provinsie;
- (c) rente verdien op geld gedeponeer ingevolge subartikels (2) en (3) hieronder; en
- (d) geld wat ontvang is of die Fonds vir Politieke Partye toegeval het uit enige ander bron.

(2) Alle geld ontvang deur of tot krediet van die Fonds vir Politieke Partye moet gedeponeer word in 'n aparte bankrekening wat oopgemaak is deur die Sekretaris by 'n instelling geregistreer as 'n bank ingevolge die Bankwet, 1990 (Wet No. 94 van 1990).

(3) Geld in die Fonds vir Politieke Partye wat nie onmiddellik vereis word vir die maak van toewysings aan partye ingevolge artikel 6 nie, kan by die Openbare Beleggingskorporasie bedoel in die Wet op Openbare Beleggingskorporasie, 2004 (Wet No23 van 2004) belê word.

(4) Die bank- en beleggingsrekeninge wat oopgemaak moet word ingevolge hierdie artikel en enige rente verdien op daardie rekeninge moet eksklusief vir die Fonds vir Politieke Partye se voordeel wees, en moet belastingbeskerming geniet en ook apart van enige ander fondse van die Provinsiale Wetgewer verantwoord word.

HOOFSTUK 3 TOEWYSINGS UIT FONDS VIR POLITIEKE PARTYE

Toewysings uit Fonds vir Politieke Partye

6.(1) Elke party is geregtig op toewysing van geld uit die fonds vir Politieke Partye vir elke finansiële jaar dat dit in die Provinsiale Wetgewer verteenwoordig word.

(2) Behoudens subartikel (7) moet geld wat aan 'n party toegewys word, gebruik word vir doeleindes wat verenigbaar is met sy funksionering as 'n politieke party in 'n moderne demokrasie.

(3) Die funksionering van 'n party soos bedoel in subartikel (2) sluit in, maar is nie beperk nie, tot –

- (a) die ontwikkeling van die politieke wil van mense;
- (b) die geld van 'n party se invloed op die vorming van openbare mening;
- (c) inspirasie en bevordering van politieke opvoeding;
- (d) bevordering van aktiewe deelname deur individuele burgers aan politieke lewe;
- (e) uitoefen van 'n invloed op politieke en sosio-politieke neigings; en
- (f) versekering van deurlopende kardinale skakels tussen die mense en staatsorgane en, in besonder, tussen mense en die Provinsiale Wetgewer.

(4) Toewysings uit die fonds vir Politieke Partye moet op voorgeskrewe tye en met tussenposes bepaal en gemaak word, in voorgeskrewe paaielemente, en op die voorgeskrewe wyse.

(5) Die Sekretaris moet geld uit die Fonds vir Politieke Partye toewys aan partye ooreenkomstig 'n voorgeskrewe formule deels gegrond op die –

- (a) eweredigheidstelsel, met inagneming van die betrekking wat die aantal verteenwoordigers van sodanige party in die Provinsiale Wetgewer het op die totale aantal lede in die Provinsiale Wetgewer; en
- (b) billikheidsbeginsel, wat, benewens ander faktore, 'n vasgestelde drumpel in ag neem vir 'n minimum toewysing aan elk van die partye wat in die Provinsiale Wetgewer verteenwoordig word, of 'n gewoë skaal of voorstelling vir 'n toewysing aan elk van die partye wat aan die Provinsiale Wetgewer deelneem.

(6) Die inligting en besonderhede wat nodig is om die voorgeskrewe formule op 'n party toe te pas, moet vasgestel word uit die tersaaklike feite en omstandighede op die tydstip wanneer die toewysing gemaak word.

(7) Geld wat aan 'n party toegewys word, mag nie gebruik word nie vir –

- (a) die doel om enige besoldiging, fooi, beloning, voorvereiste of ander voordeel direk of indirek aan 'n persoon te betaal wat daardie, of enige ander party, in die Provinsiale Wetgewer verteenwoordig, of wat 'n amp onder die staat beklee;
- (b) finansiering of 'n bydrae tot 'n aangeleentheid, saak, gebeurtenis of geleentheid, hetsy direk of indirek, in stryd met enige etiese kode wat die lede of personeel van die Provinsiale Wetgewer bind, na gelang van die geval;
- (c) die doel om direk of indirek 'n besigheid of kommersiële onderneming te stig of te finansier, of 'n reg of finansiële belang in 'n besigheid of kommersiële onderneming te verkry of te handhaaf;
- (d) verkryging van 'n reg of belang in vaste eiendom, van welke aard ookal, buiten waar daardie reg of belang in die vaste eiendom eksklusief deur 'n party gebruik word vir gewone party-politieke doeleindes; of
- (e) enige ander doel wat nie verenigbaar is met die funksionering van 'n politieke party in 'n modern demokrasie, soos bepaal, nie.

(8) Die toewysing van geld uit die Fonds vir Politieke Partye moet beëindig word wanneer die party ingevolge subartikel (1) nie langer kwalifiseer nie.

Publikasie van toewysings uit Fonds vir Politieke Partye

7.(1) Sou gou as moontlik na die einde van elke finansiële jaar, moet die Sekretaris 'n kennisgewing in die Koerant publiseer wat die toewysings wat gemaak is uit die fonds vir Politieke Partye in daardie tydperk uiteensit.

(2) Die kennisgewing vermeld in subartikel (1) moet die volgende inligting vir die betrokke finansiële jaar insluit –

- (a) die openingsaldo van gelde wat deur die Fonds vir Politieke Partye teen die inwerkingtreding van die finansiële jaar gehou word;
- (b) die bedrag en bron van gelde wat in die Fonds vir Politieke Partye betaal is;
- (c) name van die partye aan wie toewysings gemaak is, en die bedrae van daardie toewysings;
- (d) die bedrae wat deur die Fonds vir Politieke Partye ingevolge artikel 5(3) hierbo belê is, en die rente wat daarop verdien is; en
- (e) die eindsaldo van gelde wat deur die Fonds vir Politieke Partye aan die einde van die finansiële jaar gehou word.

HOOFSTUK 4 AANSPREEKLIKHEID VAN POLITIEKE PARTYE

Rekenskap deur politieke partye vir geld toegewys uit Fonds vir Politieke Partye

8.(1) 'n Party waaraan geld toegewys is uit die Fonds vir Politieke Partye moet –

- (a) 'n aparte bankrekening in die naam van die party oopmaak en bedryf by 'n instelling geregistreer as 'n bank ingevolge die Bankwet, 1990 (Wet No. 94 van 1990);
- (b) alle geld ontvang ingevolge paragraaf (a) daarin deponeer; en
- (c) die volgende aanstel –
 - (i) die provinsiale partyleier of partyverteenwoordiger in die Huis indien die partyverteenwoordiger nie die provinsiale leier is nie; of
 - (ii) die hoofswep of die mees senior swep van daardie party in die provinsiale wetgewer,as sy rekenpligtige beampte met betrekking tot die geld wat aan daardie party toegewys word uit die Fonds vir Politieke Partye.

- (2) Die verantwoordelikheid van die rekenpligtige beampte is om verantwoording te gee van die geld wat aan daardie party toegewys is, en sluit in –
- (a) buiten ander pligte wat deur hierdie Wet opgelê word, die plig om te verseker dat die party die vereistes van hierdie Wet nakom; en
 - (b) in besonder, die plig om te verseker dat die toegewese geld nie uitbetaal word vir 'n doel wat nie deur hierdie Wet gemagtig is nie.
- (3) Die rekenpligtige beampte moet op die voorgeskrewe wyse aparte rekeningboeke en -state hou ten opsigte van geld toegewys uit die Fonds vir Politieke Partye, en al die transaksies wat sodanige geld behels.
- (4) Onderhewig aan artikel 14, binne twee maande na die einde van die finansiële jaar moet die rekenpligtige beampte 'n staat voorberei wat –
- (a) alle bedrae ontvang deur die party uit die Fonds vir Politieke Partye gedurende daardie finansiële jaar en die gebruik van toegewese geld toon; en
 - (b) die doeleindes waarvoor die verskillende bedrae gebruik is, beskryf.
- (5) Die rekeningboeke en -state bedoel in subartikel (3) en die staat bedoel in subartikel (4) moet geaudit word deur 'n openbare rekenmeester en ouditeur wat geregistreer is en as sodanig praktiseer ingevolge die Wet op die Ouditprofessie, 2005 (Wet No. 26 van 2005).
- (6) 'n Ouditeur wat 'n audit uitvoer soos bedoel in subartikel (5) moet, in die ouditeursverslag, 'n oordeel uitspreek oor of die toegewese geld bestee is vir doeleindes wat nie deur die Wet gemagtig is nie.
- (7) Onderhewig aan artikel 14, binne drie maande na die einde van die finansiële jaar, moet die rekenpligtige beampte die geauditeerde rekeninge, state en verslag van die ouditeur aan die Sekretaris voorlê.
- (8) Desnieteenstaande subartikel (4) kan die Ouditeur-generaal, te eniger tyd, die rekeningboeke en -state en finansiële state in verband met geld wat aan 'n party uit die Fonds vir Politieke Partye toegewys is, audit.

(9) Behoudens subartikel (10) kan, –

(a) die Sekretaris gelas dat die toewysing van geld aan 'n party uit die Fonds vir Politieke Partye opgeskort word, indien hy of sy op redelike gronde tevrede is dat die party versuim het om aan 'n vereiste van die Wet te voldoen; en

(b) die Sekretaris die opskorting beëindig indien hy of sy tevrede is, in die lig van die party se gevolglike gedrag, dat die opskorting nie langer geregverdig is nie.

(10) Die opskorting van 'n party se toewysings kan gelas word ingevolge subartikel (9) slegs indien die Sekretaris –

(a) deur middel van skriftelike kennisgewing die party ingelig het oor die voorgename opskorting en die redes daarvoor; en

(b) 'n beroep op die party gedoen het om redes te verstrek, binne die tydperk wat in die kennisgewing gespesifiseer word, waarom sy of haar toewysings uit die Fonds vir Politieke Partye nie opgeskort moet word nie.

(11) Die tydperk vermeld in subartikel 10(b) kan nie minder as 30 dae vanaf die datum van die kennisgewing wees nie.

HOOFSTUK 5 MONETÊRE BEHEERMAATREËLS, BESTUUR EN VERSLAGDOENING MET BETREKKING TOT FONDS VIR POLITIEKE PARTYE

Verhaling van geld onreëlmatig deur partye bestee

9.(1) Wanneer geld wat aan 'n party toegewys is ingevolge artikel 6 nie bestee is ooreenkomstig die vereistes van hierdie Wet nie, is die party en die rekenpligtige beampte van daardie party gesamentlik en afsonderlik, solidêr, aanspreeklik vir terugbetaling van die geld wat onreëlmatig bestee is, aan die Fonds vir Politieke Partye.

(2) Die Sekretaris, in sy of haar hoedanigheid as hoof- uitvoerende beampte van die Fonds vir Politieke Partye, moet die geld wat onreëlmatig bestee is, verhaal, en wel deur

–

(a) 'n siviele eis in te stel ten opsigte van die bedrag wat onreëlmatig bestee is, teen die party en die rekenpligtige beampte van die betrokke party; of

(b) die bedrag wat onreëlmatig bestee is, in rekening bring teen 'n toewysing wat aan daardie party verskuldig mag wees.

Onbestede geld aan einde van finansiële jaar

10. (1) Geld wat aan die einde van 'n finansiële jaar nie deur 'n party bestee is nie, moet in die rekeningboeke en -state van die party getoon word as 'n kredietsaldo wat oorgedra word na die volgende finansiële jaar: Met dien verstande dat –

(a) die geld wat oorgedra word, beperk kan word tot 'n bedrag wat 'n voorgeskrewe persentasie van die toewysings wat vir daardie finansiële jaar gemaak is, verteenwoordig; en

(b) die geld wat oorgedra word na die volgende finansiële jaar mag nie in berekening gebring word wanneer 'n toewysing aan die betrokke party gedurende daardie finansiële jaar bepaal word nie.

(2) Indien 'n party ophou om in die Provinsiale Wetgewer verteenwoordig te word, moet die party en die rekenpligtige beampte van die betrokke party, binne 21 dae van wanneer die party ophou om verteenwoordig te word, gesamentlik en afsonderlik, solidêr, enige onbestede balans, aan die Fonds vir Politieke Partye, betaal.

(3) Die Sekretaris in sy of haar hoedanigheid as hoof-uitvoerende beampte van die Fonds vir Politieke Partye, moet die onbestede balans waarna in subartikel (2) verwys word, verhaal en kan dit doen deur 'n siviele eis teen die party en die rekenpligtige beampte van die betrokke party gesamentlik en afsonderlik, solidêr in te stel.

(4) 'n Kredietbedrag in die Fonds vir Politieke Partye moet aan die einde van die finansiële jaar oorgedra word na die volgende finansiële jaar as 'n kredietsaldo.

Bestuur en beheer van Fonds vir Politieke Partye

11.(1) Die Sekretaris is verantwoordelik vir die bestuur en administrasie van die Fonds vir Politieke Partye, en is die rekenpligtige beampte en hoof- uitvoerende beampte van die fonds.

(2) Die Sekretaris moet vir elke finansiële jaar rekords hou ooreenkomstig algemeen aanvaarde rekeningkundige praktyk en prosedures van –

- (a) geld ontvang deur of die Fonds vir Politieke Partye toegeval het;
- (b) toewysings en betalings gemaak uit die Fonds vir Politieke Partye;
- (c) uitgawe wat voortspruit uit die toewysing van gelde uit die Fonds vir Politieke Partye.

(3) Die eerste finansiële jaar van die Fonds vir Politieke Partye moet geldig wees vanaf die dag waarop hierdie Wet in werking tree tot 31 Maart, eerste volgende, beide dae ingesluit.

Verslagdoening van Speaker aan Provinsiale Wetgewer aangaande Fonds vir Politieke Partye

12.(1) So gou as moontlik na die einde van elke finansiële jaar moet die Speaker –

- (a) 'n verslag voorberei aangaande die bestuur en administrasie van die Fonds vir Politieke Partye vir die 12-maande tydperk van daardie finansiële jaar; en
- (b) die jaarlikse verslag in die Provinsiale Wetgewer, nie later nie as 31 Augustus van elke jaar, ter tafel lê.

(2) Die jaarverslag moet –

- (a) die stand van sake van die Fonds vir Politieke Partye regverdig aanbied, sy toewysings, sy prestasie teen voorafbepaalde doelwitte en sy finansiële posisie soos aan die einde van die betrokke finansiële jaar; en
- (b) en die volgende insluit –
 - (i) die jaarlikse finansiële staat bedoel in artikel 13 insluit;
 - (ii) die ouditeursverslag rakende daardie state; en
 - (iii) sodanige ander inligting insluit as wat skriftelik deur die lid van die Uitvoerende Raad verantwoordelik vir finansies vereis of voorgeskryf mag word.

Oudits en finansiële state

13.(1) Die rekeningboeke en ander finansiële rekords van die Fonds vir Politieke Partye moet jaarliks deur die Ouditeur-generaal of deur 'n ouditeursfirma wat deur die Ouditeur-generaal goedgekeur is, geoudit word.

(2) Die jaarlikse finansiële state moet –

- (a) die bedrae ontvang deur en die Fonds vir Politieke Partye toegeval gedurende daardie finansiële jaar;
- (b) die toewysings gemaak uit die fonds vir Politieke Partye aan die onderskeie partye gedurende daardie jaar;
- (c) die bedrae bestee gedurende daardie finansiële jaar deur elke party in verband met doeleindes klassifiseerbaar onder die algemeen beskrywende kategorieë soos van tyd tot tyd voorgeskryf; en
- (d) die balans van die Fonds vir Politieke Partye en bedrae aan hom of deur hom verskuldig soos aan die einde van daardie finansiële jaar,

uiteensit.

(3) Die jaarlikse finansiële staat moet voldoen aan enige toepaslike nasionale en provinsiale wetgewende vereistes vir finansiële verslagdoening en rekeningkundige praktyke, met inbegrip van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

HOOFSTUK 6 ALGEMENE BEPALINGS

Ontbinding of verstryking van termyn van Provinsiale Wetgewer

14. Indien die Provinsiale Wetgewer ontbind of wanneer sy termyn verstryk, moet 'n party –

- (a) sy rekeningboeke en -state sluit, nie later nie as 21 dae voor die datum bepaal vir 'n verkiesing of binne 21 dae na die ontbinding of nadat die termyn verstryk van die Provinsiale Wetgewer verstryk het indien geen datum vir 'n verkiesing bepaal is nie;
- (b) binne 14 dae nadat sy rekeningboeke en -state gesluit is soos bedoel in paragraaf (a) hierbo, 'n geouditeerde verslag ten opsigte van daardie boeke en rekords aan die Sekretaris voorlê; en

(c) nie later nie as die dag onmiddellik voor die datum bepaal vir 'n verkiesing, die onbestede saldo's soos op die datum wanneer sy rekeningboeke en -state gesluit is, aan die Sekretaris terugbetaal.

Regulasies

15. Die Speaker kan, na oorlegpleging met die lid van die Uitvoerende Raad verantwoordelik vir finansies, en deur kennisgewing in die *Koerant*, regulasies uitvaardig wat in ooreenstemming is met hierdie Wet –

- (a) om die prosedure waarvolgens, die wyses in, die tussenposes of paaiemente waarin betalings uit die Fonds vir Politieke Partye bepaal en gemaak moet word, voor te skryf;
- (b) om die formule waarvolgens toewysings bereken moet word, voor te skryf;
- (c) om 'n doel te bepaal waarin die toepassing van artikel 6(2) nie verenigbaar is met die funksionering van 'n politieke party in 'n modern demokrasie nie;
- (d) om die inligting en besonderhede wat 'n party aan die Sekretaris moet voorsien ten einde behoorlike en doeltreffende toepassing en administrasie en nakoming van hierdie Wet te verseker, voor te skryf; en
- (e) aangaande enige ander aangeleentheid wat ingevolge hierdie Wet voorgeskryf kan of moet word, of wat nodig is om die bepalings van hierdie Wet te implementeer.

Likwidasie

16. Die Fonds vir Politieke Partye mag nie gelikwedeer word nie buiten ingevolge 'n Wet van die Provinsiale Wetgewer.

Kort titel en inwerkingtreding

17. Hierdie Wet heet die KwaZulu-Natal Wet op Befondsing van Verteenwoordigde Politieke Partye, 2008.