

BILL NO. 52 OF 2020

A BILL

FOR AN ACT TO AMEND THE POLITICAL PARTIES (REGISTRATION,
CONDUCT, FUNDING AND DISCLOSURES) ACT 2013

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Political Parties (Registration, Conduct, Funding and Disclosures) (Amendment) Act 2021~~0~~.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended by—

(a) deleting the definition of “election” and substituting the following—

““election” has the meaning given in section 2 of the Electoral Act 2014;”;

and

2 Political Parties (Registration, Conduct, Funding and Disclosures) (Amendment)— of 2021¹⁰

- (b) after the definition of “political party”, inserting the following new definition—

““polling day” has the meaning given in section 2 of the Electoral Act 2014;”.

Section 3 amended

- 3.** Section 3 of the Principal Act is amended by—

- (a) in subsection (4) after “registered under this Act”, inserting “including the names, terms of office and contact details of the office holders and the bank account details of each political party, the names and contact details of the auditor and legal advisor of each political party;”; and
- (b) after subsection (4), inserting the following new subsection—

“(5) The Registrar must update the Register annually.”.

Section 7 amended

- 4.** Section 7 of the Principal Act is amended by deleting “on the day of the issue of the writ for Parliamentary election and ending on the” and substituting “at the time and day on which the writ for a general election is issued and ending at the time and”.

Section 10 amended

- 5.** Section 10 of the Principal Act is amended after subsection (5) by inserting the following new subsections—

“(6) A political party must open a bank account within 90 days of its registration and provide the bank account details to the Registrar.

(7) A political party registered under this Act at the commencement of the Political Parties (Registration, Conduct, Funding and Disclosures) (Amendment) Act 2021¹⁰, must, within 60 days of the commencement, open a bank account and provide the bank account details to the Registrar.

(8) If a political party registered under this Act at the commencement of the Political Parties (Registration, Conduct, Funding and Disclosures) (Amendment) Act 2021¹⁰ has a bank account, the political party is not required to open a new bank account but must, within 60 days of the commencement, provide the bank account details to the Registrar.

(9) If there is a change in the bank account details, the political party must notify the Registrar of the change as soon as practicable.”.

Section 14 amended

- 6.** Section 14 of the Principal Act is amended by—

- (a) in the heading, deleting “in a political party”; and
- (b) in subsection (1)(c) after “office”, inserting “in an election”.

Section 16 amended

7. Section 16(2) of the Principal Act is amended by deleting “expenditure including, all contributions, donations or pledges of contributions or donations, whether in cash or in kind, made or to be made to the initial assets of the political party” and substituting “liabilities incurred and income and expenditure including all contributions, donations or pledges of contributions or donations, whether in cash or in kind, made or to be made to the political party”.

Section 21 amended

8. Section 21 of the Principal Act is amended by—

(a) in subsection (1), deleting paragraph (c) and substituting the following—

“(c) income derived from any building owned by a political party.”;

(b) deleting subsection (2) and substituting the following—

“(2) The sources of funds for an independent candidate must only be from voluntary contributions, donations, bequests and grants from a lawful source, not being from a foreign government, intergovernmental or non-governmental organisation.”; and

(c) in subsection (3)—

(i) after “party”, inserting “, a candidate”; and

(ii) after “source”, inserting “including the name and address of the source”.

Section 23 amended

9. Section 23 of the Principal Act is amended by—

(a) in subsection (1)—

(i) deleting “30 days” and substituting “90 days”;

(ii) in paragraph (a)(ii), deleting “;” and substituting “.”; and

(iii) deleting paragraphs (b) and (c);

(b) deleting subsection (2) and substituting the following—

“(2) ~~A political party must publish the information provided to the Registrar under subsection (1) in any national daily newspaper within 90 days of the end of its financial year~~ Any information provided to the Registrar under subsection (1) must be made available at the office of the Registrar in Suva for inspection by members of the public upon payment of an approved fee.”;

(c) deleting subsection (3); and

(d) deleting subsection (4) and substituting the following—

“(4) A political party that fails to comply with subsection (1) is liable to a penalty of \$100 for each day the non-compliance continues, and if the political party is still non-compliant after 30 days, the Registrar must deregister the political party.”.

Section 24 amended

10. Section 24 of the Principal Act is amended by—

(a) in subsection (2)—

- (i) after “children”, inserting “as at the date of nomination of the candidate”;
- (ii) in paragraph (i) after “;”, inserting “and”;
- (iii) in paragraph (ii), deleting “;” and substituting “.”; and
- (iv) deleting paragraphs (iii) to (viii);

(b) after subsection (2), inserting the following new subsections—

“(2A) Any person who is nominated—

- (a) by a political party as a candidate for election to Parliament; or
- (b) as an independent candidate for election to Parliament,

must, ~~within 30 days of~~ **no later than the sixtieth day after** polling day, provide to the Registrar a statement containing the following information in respect of that person and his or her spouse and any children—

- (i) the total assets whether in Fiji or abroad as at **the thirtieth day after** polling day (including money and other property in the possession or under the control of each of them);
- (ii) the total income whether in Fiji or abroad as at the date of nomination of the candidate until **the thirtieth day after** polling day and the source of such income received by each of them during the period to which the statement relates;
- (iii) any directorships or other office in a corporation or other organisation whether in Fiji or abroad as at the date of nomination of the candidate until **the thirtieth day after** polling day held by each of them; and
- (iv) any assets acquired by each of them whether in Fiji or abroad as at the date of nomination of the candidate until **the thirtieth day after** polling day.

(2B) Any candidate (whether elected to Parliament or not) must, ~~within 30 days of the return of the writ~~ no later than the sixtieth day after polling day, provide to the Registrar the following information in writing—

- (a) the amount of any money received by him or her ~~as at the thirtieth day after polling day~~;
 - (b) the amount and source of any donation received by him or her ~~as at the thirtieth day after polling day~~; and
 - (c) the income and expenditure ~~as at the thirtieth day after polling day~~.”;
- (c) in subsections (3) ~~and (4)~~, deleting “and (2)” and substituting “, (2), (2A) and (2B)”;
- ~~and~~
- (d) deleting subsection (4) and substituting the following—
- “(4) The information provided by a person under subsections (1), (1A), (1B), (2), (2A) and (2B) must be made available at the office of the Registrar in Suva for inspection by members of the public upon payment of an approved fee.”; and
- (~~de~~) in subsection (5), deleting “subsections (1), (1A), (1B) or (2)” and substituting “subsection (1), (1A), (1B), (2), (2A) or (2B)”.

Section 25 amended

11. Section 25 of the Principal Act is amended by—

- (a) after subsection (1), inserting the following new subsection—

“(1A) A political party must, ~~within 30 days~~ no later than the sixtieth day after polling day, submit to the Registrar a written declaration giving details of all assets and liabilities as at the thirtieth day after polling day and income and expenditure, including all contributions, donations or pledges of contributions or donations, whether in cash or in kind, made or to be made from the date the writ is issued to the thirtieth day after polling day.”; and
- (b) in subsection (3), deleting “subsection (1)” and substituting “subsections (1) and (1A)”.

Section 26 amended

12. Section 26 of the Principal Act is amended by—

- (a) in subsection (2), deleting “, who shall publish the accounts in the Gazette and in the media, and the costs of any such publication shall be paid by or recovered from the political party”;
- (b) after subsection (2), inserting the following new subsection—

“(2A) A political party must publish its audited accounts in a format provided by the Registrar on the official website of the Fijian Elections Office ~~in any national daily newspaper~~ within 3 months after the end of each financial year.”; and

- (c) in subsection (3), deleting “at any time request the Auditor-General to” and substituting “approve that an auditor”.

Section 30 amended

13. Section 30 of the Principal Act is amended by—

- (a) in subsection (1), deleting “in” and substituting “with”;
- (b) in subsection (3), deleting “High Court Rules 1988” and substituting “rules adopted by the Electoral Commission”; and
- (c) deleting “High Court” wherever it appears and substituting “Electoral Commission”.

Section 30A inserted

14. The Principal Act is amended after section 30 by inserting the following new section—

“Dispute resolution

30A.—(1) A political party may write to the Electoral Commission requesting the Electoral Commission to mediate, and if necessary arbitrate, on a dispute between a political party and another political party on any campaign issue.

(2) The Electoral Commission must make a decision within 3 days upon receipt of an application to mediate or arbitrate any dispute.

(3) The decision of the Electoral Commission on whether to mediate or arbitrate is final and is not subject to any further appeal to, or review by any court, tribunal or any other adjudicating body.”.

December 2020

**POLITICAL PARTIES (REGISTRATION, CONDUCT, FUNDING AND
DISCLOSURES) (AMENDMENT) BILL 2020**

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013 (**‘Act’**) provides *inter alia* for the registration of political parties for the General Elections and the rules governing the conduct and funding of, as well as the disclosures and reporting to be made by, political parties.
- 1.2 After having received and reviewed the Multinational Observer Group’s report on the 2018 General Elections, the Electoral Commission and the Fijian Elections Office have made recommendations for a few changes to the Act.
- 1.3 The Political Parties (Registration, Conduct, Funding and Disclosures) (Amendment) Bill 2020 (**‘Bill’**) seeks to amend the Act to reflect the recommended changes.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 2 of the Act to insert the definitions of “election” and “polling day”. For consistency in our electoral laws, the definitions of “election” and “polling day” in the Bill are aligned to the definitions in section 2 of the Electoral Act 2014.
- 2.3 Clause 3 of the Bill amends section 3(4) of the Act to enhance the administrative records of political parties in the Register of Political Parties (**‘Register’**) to ensure easy accessibility to, and transparency of, the records. Clause 3 of the Bill also amends section 3 of the Act by inserting a new subsection (5) to ensure that the Registrar updates the Register on an annual basis.

- 2.4 Clause 4 of the Bill amends section 7 of the Act to clarify that no political party will be registered from the time the writ for a general election (**‘writ’**) is issued to the time when the writ is returned. This also aligns to the amendment made by the Electoral (Amendment) Bill 2020 to section 21 of the Electoral Act 2014.
- 2.5 Clause 5 of the Bill amends section 10 of the Act to ensure that political parties open bank accounts and provide the bank account details to the Registrar within 90 days of their registration. Clause 5 of the Bill also amends section 10 of the Act to provide that if a political party has an existing bank account, the political party must within 60 days of the commencement of the amending legislation provide the bank account details to the Registrar. A political party must also notify the Registrar as soon as practicable if there is a change in the bank account details.
- 2.6 Clause 6 of the Bill amends section 14 of the Act by amending the heading and subsection (1)(c) to include “in an election”.
- 2.7 Clause 7 of the Bill amends section 16 of the Act to allow the Registrar to assess a political party’s election spending and compliance with other laws.
- 2.8 Clause 8 of the Bill amends section 21 of the Act so that the proceeds of any investment, project or undertaking in which a political party or independent candidate has an interest, no longer forms part of the sources of funds for the political party and independent candidate.
- 2.9 Clause 9 of the Bill amends section 23 of the Act to allow a political party to provide information on its sources of funds to the Registrar within 90 days, instead of the current 30 days, after the end of its financial year.
- 2.10 Clause 10 of the Bill amends section 24 of the Act to allow the Electoral Commission to assess the election spending as well as compliance with other laws. Clause 10 of the Bill also monitors donations and income and expenditure for nominated candidates.
- 2.11 Clause 11 of the Bill amends section 25 of the Act to allow the Registrar to assess a political party’s election spending and compliance with other laws.
- 2.12 Clause 12 of the Bill amends section 26 of the Act to ensure that political parties publish their audited accounts in any national daily newspaper within 90 days after the end of each financial year.
- 2.13 Clause 13 of the Bill amends section 30 of the Act so that appeals are made to the Electoral Commission instead of the High Court.
- 2.14 Clause 14 of the Bill inserts a new section 30A in the Act to allow political parties to request that the Electoral Commission mediate or arbitrate where there are disputes on any campaign issue between political parties.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister responsible for elections.

A. SAYED-KHAIYUM
Attorney-General