

SPECIAL ISSUE

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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2021

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**THE ELECTION CAMPAIGN FINANCING
(AMENDMENT) BILL, 2021**

A Bill for

AN ACT of Parliament to amend the Election Campaign Financing Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Election Campaign Financing (Amendment) Act, 2021. Short title.
2. Section 2 of the Election Campaign Financing Act, (in this Act referred to as “the principal Act”), is amended by deleting the definition of the expression “expenditure committee”. Amendment of section 2 of No. 42 of 2013.
3. The principal Act is amended by repealing section 7. Repeal of section 7 of No. 42 of 2013.
4. The principal Act is amended by repealing section 8. Repeal of section 8 of No. 42 of 2013.
5. The principal Act is amended by repealing section 9. Repeal of section 9 of No. 42 of 2013.
6. The principal Act is amended by repealing Section 10. Repeal of section 10 of No. 42 of 2013.
7. The principal Act is amended by deleting section 16 and substituting therefor the following new section 16— Amendment of section 16 of No. 42 of 2013.

16. (1) A candidate, political party and a referendum committee shall disclose the amount and source of contributions received for campaign for a nomination, an election or a referendum, as the case may be.

(2) A candidate who, or a political party or referendum committee which fails to disclose funds or donations as required under this Act commits an offence
8. The principal Act is amended by repealing section 17. Repeal of section 17 of No. 42 of 2013.

Disclosure of funds.

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| 21. | 9. The principal Act is amended by repealing section | Repeal of section 21 of No. 42 of 2013. |
| 25. | 10. The principal Act is amended by repealing section | Repeal of section 25 of No. 42 of 2013. |
| | 11. Section 26 of the principal Act is amended in subsection (3) by inserting the words “if required by the Commission” immediately after the words “shall.” | Amendment of section 26 of No. 42 of 2013. |
| 27. | 12. The principal Act is amended by repealing section | Repeal of section 27 of No. 42 of 2013 |
| 28. | 13. The principal Act is amended by repealing section | Repeal of section 28 of No. 42 of 2013 |
| | 14. Section 29 of the principal Act is amended in subsection (2) by inserting the following new paragraph immediately after paragraphs (h) — | Amendment of section 29 of No. 42 of 2013. |
| | (i) prescribe the manner of audit of accounts relating to the campaign expenses of a candidate, a political party or a referendum committee; | |
| | (j) prescribe the procedure for claims objecting to any matter related to campaign finance expenditures submitted by a candidate, political party or a referendum committee; and. | |

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Elections Campaign Financing Act, 2013 to align its provisions with the Elections Act, 2011 and further propose amendments that will enable its implementation as the current provisions do not take cognizance of current socio economic and political structures which has hindered the full implementation of the law.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not contain any provisions limiting any fundamental rights or freedom.

Statement on how the Bill concerns county governments

The Bill may affect the functions of County governments as set out in the Fourth Schedule to the Constitution and is therefore a Bill concerning counties.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 10th August, 2021.

JEREMIAH KIONI,
Member of Parliament.

Section 2 of the Elections Campaign Financing Act, 2013 which it is proposed to amend—

Interpretation

2. (1) In this Act, unless the context otherwise requires—

“anonymous donation” means a donation which the recipient is, unable to ascertain the identity of the donor;

“bank” means a bank as defined under the Banking Act (Cap. 488);

“candidate” means a person contesting for an elective post;

“campaign expenses” means expenses incurred by a candidate, a political party, a referendum committee or an organisation registered by the Commission to campaign in support of a candidate, a political party or a referendum committee during an election period;

“campaign financing” means resources spent by a candidate or a political party during an election period for purposes of campaign;

“campaign period” has the meaning assigned to it under the Elections Act (No. 24 of 2011);

“Commission” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“contribution” means monetary and non-monetary contributions including loans, donations, grants, gifts, property, services provided to a candidate or political party, and money spent on behalf of a candidate, political party or referendum committee in paying any expenses incurred directly or indirectly, but does not include volunteer services;

“election” means a presidential, parliamentary or county election, and includes a referendum and a by-election;

“election expenses” means all funds expended or expenses incurred in respect of the conduct and management of a nomination process, election campaign by a political party or a candidate or a referendum campaign and include—

- (a) in relation to a nomination process, all expenses incurred by a political party or a candidate during the nomination process;
- (b) in relation to an election campaign, all expenses incurred by a political party or candidate for the purpose of an election campaign; and