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## THE PRESIDENCY

No. 20

9 January 2009

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 55 of 2008: General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Act, 2008.**



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Act No. 55, 2008 GENERAL LAWS (LOSS OF MEMBERSHIP OF NATIONAL  
ASSEMBLY, PROVINCIAL LEGISLATURE OR MUNICIPAL  
COUNCIL) AMENDMENT ACT, 2008

**GENERAL EXPLANATORY NOTE:**

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)  
(Assented to 6 January 2009.)*

# ACT

To amend the—

- **Public Funding of Represented Political Parties Act, 1997, so as to—**
    - make further provision for the accountability of political parties in respect of moneys allocated from the Represented Political Parties' Fund;
    - substitute a reference to an obsolete law; and
    - empower the Electoral Commission to appoint an auditor in certain circumstances; and
  - **Public Funding of Represented Political Parties Act, 1997, the Determination of Delegates (National Council of Provinces) Act, 1998, the Electoral Act, 1998, the Local Government: Municipal Structures Act, 1998, and the Local Government: Municipal Structures Amendment Act, 2002, so as to provide for matters consequential to the abolition of the right—**
    - of a member of the National Assembly, a provincial legislature or a Municipal Council to become a member of another political party whilst retaining membership of the National Assembly, that provincial legislature or that Council; and
    - of an existing political party to merge with another political party, or to subdivide into more than one political party, or to subdivide and to permit any of the subdivisions to merge with another political party, whilst allowing a member of the National Assembly, a provincial legislature or a Council affected by such changes to retain membership of the National Assembly, that provincial legislature or that Council;
- and to provide for matters connected therewith.

Act No. 55, 2008 GENERAL LAWS (LOSS OF MEMBERSHIP OF NATIONAL ASSEMBLY, PROVINCIAL LEGISLATURE OR MUNICIPAL COUNCIL) AMENDMENT ACT, 2008

**P**arliament of the Republic of South Africa enacts as follows:—

**Amendment of section 5 of Act 103 of 1997, as amended by section 2 of Act 15 of 2005**

1. Section 5 of the Public Funding of Represented Political Parties Act, 1997 (hereinafter referred to as the Funding Act), is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The allocation of moneys from the Fund to a political party will end when the party ceases **[qualifying therefor]** to qualify for it in terms of subsection (1)(a). **[Subject to section 6A, a]** A political party must within 21 days after the date on which it has so ceased to qualify, repay to the Commission the unspent balances, as at that date, of all moneys that had been allocated to it in terms of this section.”.

**Amendment of section 6 of Act 103 of 1997, as amended by section 3 of Act 15 of 2005**

2. Section 6 of the Funding Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Every political party to which moneys are allocated from the Fund**[, must]**—

(a) **must** keep, with a bank registered in the Republic, a separate banking account into which all moneys so allocated to the party must be deposited; **[and]**

(b) **must** appoint an office-bearer or official of that party as its accounting officer with regard to all moneys from time to time allocated to that party from the Fund. The accounting officer’s responsibility is to account for the moneys so allocated to that party, and includes, in addition to any other duties imposed by this Act, the duty to ensure the party’s compliance with the requirements of this Act, and, in particular, to ensure that those moneys are not paid out for a purpose not authorised by this Act; and

(c) is accountable to the Commission in respect of all moneys so allocated to that party.”;

(b) by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) submit that statement and those books and records of account to **[a public accountant and]** an auditor registered and practising as such in terms of the **[Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991)] Auditing Profession Act, 2005 (Act No. 26 of 2005)**, to be audited.”; and

(c) by the insertion of the following subsection after subsection (5):

“(5A) (a) The Commission may appoint an auditor registered and practising as such in terms of the Auditing Profession Act, 2005, to—

(i) verify the auditor’s report and audited statement submitted to it in terms of subsection (5); or

(ii) audit the statement referred to in subsection (3) and the books and records of account kept in terms of this section if the accounting officer of a political party fails to have that statement and those books and records of account audited as contemplated in subsection (3).

(b) Subsection (4) applies, with the necessary changes, to an auditor who has performed an audit contemplated in paragraph (a)(ii).

**Act No. 55, 2008** GENERAL LAWS (LOSS OF MEMBERSHIP OF NATIONAL ASSEMBLY, PROVINCIAL LEGISLATURE OR MUNICIPAL COUNCIL) AMENDMENT ACT, 2008

(c) The verification of the auditor's report and audited statement contemplated in paragraph (a)(i) or the auditor's report and audited statement contemplated in paragraph (a)(ii), as the case may be, must be submitted to the Commission by the auditor concerned within one month after the date of his or her appointment by the Commission."

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**Repeal of section 6A of Act 103 of 1997, as inserted by section 4 of Act 15 of 2005**

3. Section 6A of the Funding Act is hereby repealed.

**Repeal of section 9A of Act 103 of 1997, as inserted by section 7 of Act 15 of 2005**

4. Section 9A of the Funding Act is hereby repealed.

**Amendment of section 10 of Act 103 of 1997, as amended by section 8 of Act 15 of 2005**

5. Section 10 of the Funding Act is hereby amended by the substitution in subsection (1) for paragraph (d) of the following paragraph:

"(d) prescribing the procedure according to which and manner in which payments from, and to, the Fund are to be made after any election of Parliament or a provincial legislature [or the expiry of the period referred to in item 4(1)(a) or (b) of Schedule 6A to the Constitution]; and"

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**Amendment of Preamble of Act 103 of 1997, as amended by section 9 of Act 15 of 2005**

6. The Preamble of the Funding Act is hereby amended by the deletion of the fifth paragraph.

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**Amendment of section 2 of Act 69 of 1998, as amended by section 11 of Act 15 of 2005**

7. Section 2 of the Determination of Delegates (National Council of Provinces) Act, 1998, is hereby amended by the substitution for subsection (4) of the following subsection:

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"(4) (a) If the total number of special delegates determined in terms of subsection (3) in respect of a particular provincial legislature is less than four, the delegates of the parties that are entitled to only one delegate in the delegation of that province must, despite subsection (1), become special delegates in the sequence from the lowest to the highest number of votes[, **including combined votes in the case of a merged party contemplated in section 61(2)(b) of the Constitution,**] that have been recorded for those parties during the last election of that provincial legislature, until four special delegates have been allocated to parties in the provincial delegation.

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(b) If the total number of special delegates determined in terms of subsection (3) in respect of a particular provincial legislature is more than four, those special delegates must, despite subsections (2) and (3), become permanent delegates in the sequence from the highest to the lowest number of votes[, **including combined votes in the case of a merged party contemplated in section 61(2)(b) of the Constitution,**] that have been recorded for the parties concerned during the last election of that provincial legislature, until six permanent delegates have been allocated to parties in the provincial delegation.

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[(c) For the purposes of paragraphs (a) and (b), any party that is entitled to a delegate in the delegation of the province concerned and that—

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(i) came into existence on account of a change of party membership or subdivision of parties contemplated in section 61(2)(b) of the Constitution; and