

Closure of books and records of account upon dissolution of Parliament

Power of Minister responsible for finance to give financial instructions

Private funding and receipt of donations

Separate bank account for private funding

Registration and declaration of assets

Auditing of private financing

Members' access to financial records

Right to participate in elections

Freedom of assembly

Freedom of expression

25. Where Parliament is dissolved, a political party represented in Parliament shall—
- close the party's books and records of account kept in terms of section 23 not later than twenty-one days before the date set for the general elections and shall within fourteen days thereafter submit an audited statement in respect of those books and records of account to the Registrar; and
 - not later than the day immediately before the date set for the general elections, repay to the Registrar any unspent balances as at the date when the books and records of account were closed, of all funds that had been allocated to the party.

26. Subject to the Public Audit Act and the Public Finance Management Act, the Minister responsible for finance may issue written instructions for the better control and efficient management of funds provided to political parties under this Act.

27. — (1) A registered political party may receive membership fees from its members.
(2) A registered political party may, for the purposes of financing its activities, appeal for, and receive donations from, any individual or organization, within or outside Malawi:

Provided that the source of every donation, whether in cash or in kind—

- with a monetary value of at least K1, 000, 000 from an individual donor and of at least K2, 000, 000 from an organization shall, within thirty days of its receipt, be declared to the Registrar by the political party concerned; and
 - with a total aggregate, in monetary value, of K1,000,000 from an individual, and of at least K2,000,000 from an organization, shall be declared to the Registrar by the political party concerned, if the aggregate has been made with a month.
- (3) A registered political party shall not be eligible to receive donations from a state owned corporations.
- (4) A person or organization that has made a donation under to a registered political party shall declare the donation to the Registrar, where the donation has reached the thresholds referred to in subsection (2).
- (5) A President, Secretary General and the Treasurer General of a registered political party shall be responsible for declaring to the Registrar the source of any donation that requires disclosure under subsection (2).
- (6) Any person who—
(a) fails to comply with subsection(2); or
(b) gives false information in relation to donations received by a registered political party under subsections (2), commits an offence and is liable to a fine equal to the amount of the funds or the value of the assets not declared or in relation to which false information was given, and to imprisonment for two years.
- (7) A registered political party may perform any lawful activities for the purpose of raising funds for the party.
- (8) Any person who uses or threatens to use force or violence, injures, damages or harms any person who donates or intends to donate any funds to a candidate, or a member of his family or any of his undertakings, commits an offence and is liable to a fine of K500, 000 and imprisonment for five years.

28. A registered political party shall ensure that all donations received by the party under section 27 in the form of money are deposited into a separate bank account held in the name of the political party.

29. — (1) A registered political party shall ensure that the ownership of all donations received by the party under section 27 in the form of assets are vested in the name of the party.

(2) A registered political party shall, on the date of its application for registration and thereafter after every five years, declare the assets owned by the political party to the Registrar in the prescribed form.

30. The provisions of section 23 on requirement to audit financial records of a registered political party which receives State funding shall apply *mutatis mutandis* to a political party that receives private financing under this Act.

31. A member of a registered political party shall be entitled to have reasonable access to all financial records of the party of which he is a member.

PART VI — RIGHTS AND DUTIES OF POLITICAL PARTIES IN ELECTIONS

32. — (1) A registered political party shall have the right to nominate candidates to contest in presidential, parliamentary or local government elections and to campaign for any candidate in the elections... and in exercising this right, parties shall endeavour to achieve fair gender representation.

(2) A political party shall not electioneer, or authorize any person to act on its behalf, in connection with an election in which political parties contest unless it is a registered political party.

(3) A person shall not act on behalf of, or represent himself as acting on behalf of, a political party in connection with or for the purpose of a specified election unless—

- the political party is a registered political party; or
 - the person is a member of, and has been authorized in writing to act on behalf of, the registered political party.
- (4) A person who, or political party that, contravenes this section commits an offence and shall be liable to a fine of K500, 000.

33. (1) A registered political party shall have the right to organize and conduct public rallies without undue interference from the State, other political parties, or any person.

(2) A person who, or a political party that, unduly interferes with another political party in exercising the right of a political party under subsection (1) commits an offence and shall, upon conviction, be liable to a fine of K5,000,000.

(3) The imposition of the fine by the Court under subsection (3) shall be without prejudice to penalties which the Registrar or the National Assembly may respectively impose under this Act.

34. —(1) A registered political party shall have the right to freely publish, or import into Malawi, its election campaign materials and to be accorded adequate facilities for access to public information reasonably required for such publication.

(2) A registered political party shall have the right to equitable and balanced coverage during presidential, parliamentary and local government elections by the Malawi Broadcasting Corporation and every media organization funded by the State.

(3) Any person who, or a registered political party that, obstructs another political party from exercising its right under this section commits an offence and shall, upon conviction, be liable to a fine of K5,000,000.

Inspection by the Registrar

Access to information received by the Registrar

Onus of proof

Provision of false information to, obstruction of, etc., the Registrar

Unauthorized distribution of the constitution

Regulations

Repeal and savings

Status of political parties already registered

Saving of existing rights, powers, etc.

Compliance with this Act

PART VII — MISCELLANEOUS PROVISIONS

35. The Registrar may, at any time after the registration of a political party, require the political party to submit to him any document issued or produced by it or in its name for any purpose and may at any reasonable time inspect and take or extract from copies of, or require an office bearer or employee of a registered political party to produce in readable form and provide him with, a copy of or extract from the record of the political party.

36. A person shall have the right of access to information received by the Registrar in the exercise of his functions under this Act.

37. Where a written law prohibits the doing of anything except by, or restricts the doing of anything to, a registered political party, the onus of proving that—

- a political party is registered under this Act shall be on the person who claims that it is so registered; and
- a person is an office bearer or member of or has been authorized by the registered political party in respect of which he claims to be acting shall be on the person who claims to be an office bearer or member of or to be authorized by the party.

38. A person who—

- for the purpose of obtaining the registration of a political party, wilfully—
 - provides any false or misleading information to the Registrar or any person authorized by the Registrar;
 - makes any false declaration to the Registrar or any person authorized by the Registrar; or
 - forges or otherwise submits any document to the Registrar or any person authorized by the Registrar which he knows to be false or misleading, or
- obstructs the Registrar or any person authorized by the Registrar in the performance of his functions under this Act,

commits an offence and is liable to a fine of K500, 000 and imprisonment for twelve months.

39. — (1) An office bearer of a registered political party shall not distribute to any person, other than the Registrar or a person authorized by the Registrar in connection with the performance of his functions under this Act or a police officer in connection with an offence under this Act or any other written law, a document which purports to be a copy of, or part of, or an extract from, the constitution of the political party, unless the document is an exact copy of or an exact copy of the part of or exact extract from the latest registered copy of the constitution of the political party.

(2) An office bearer of a registered political party who contravenes subsection (1) commits an offence and is liable to a fine of K200, 000 and imprisonment for six months.

40. — (1) The Minister may, on the recommendation of the Registrar, make regulations for the better carrying into effect of the provisions of this Act.

(2) Notwithstanding section 21(e) of the General Interpretation Act, the regulations made under this Act may create offences in respect of any contravention to the regulations, and may for any such contravention impose a fine of up to K5, 000, 000 and to imprisonment for up to five years.

41. —(1) The Political Parties (Registration and Regulation) Act is hereby repealed.

(2) Any subsidiary legislation made under the Act repealed by subsection (1), in force immediately before the commencement of this Act—

- shall remain in force, unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; and
- may be replaced, amended or repealed by subsidiary legislation made under this Act.

PART VIII — TRANSITIONAL PROVISIONS

42. Any political party which, immediately prior to the commencement of this Act, was registered under the Political Parties (Registration and Regulation) Act repealed by section 41 shall be deemed to have been registered under this Act.

43. Any act done, and any power exercised or right acquired by any registered political party pursuant to the Political Parties (Registration and Regulation) Act repealed by section 41 shall not be invalid by virtue of that repeal only.

44. — (1) Any registered political party deemed to have been registered under this Act in accordance with section 42 shall, not later than one year, comply with this Act.

(2) The Registrar shall deregister any registered political party that fails to comply with subsection (1).

(3) The Registrar shall, thirty days before deregistering a political party under subsection (2), give notice in writing to the party of his intention to deregister, giving reasons for the intended deregistration.

(4) Where a political party has been deregistered under subsection (2), the political party may, within thirty days of the deregistration, appeal to the High Court against the deregistration, and the High Court may make such order as it thinks fit.

OBJECTS AND REASONS

The object of this Bill is to repeal the Political Parties (Registration and Regulation) Act (Cap. 2:07) and replace it with a new law which will address the challenges being faced when regulating the registration, financing and functioning of political parties.

KALEKENI KAPHALE

Attorney General

Centre for Multiparty Democracy - Malawi



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POLITICAL PARTIES BILL, 2016

Introduction

Political parties are a critical stakeholder in the consolidation of democratic governance. In order for parties to play their role effectively, they require a conducive legal framework to regulate their establishment and operation. In Malawi, such legal framework mainly consists of some provisions of the Constitution of the Republic of Malawi (1994) and the Political Parties (Registration and Regulation) Act (1993).

Among other things, the legal framework guarantees everyone the freedom to form or join political parties, to have them registered by the State and to participate in their campaigns and recruitment activities. It also stipulates the minimum requirements that have to be met by a political party for it to be registered; the grounds on which a party may be refused registration or have its registration cancelled; and the offences and penalties that apply to breaches of the law on political parties.

This legal framework has been operational for almost twenty years, and has facilitated the establishment and operation of a multiparty democracy in Malawi during that period. However, in certain respects the current laws have failed to regulate political parties in a manner that facilitates their contribution to

democratic governance. Various stakeholders have recognised this shortcoming and undertaken various initiatives to lobby for the review of the law. One such stakeholder is the Centre for Multiparty Democracy (CMD).

For the past few years, the CMD has been conducting consultations among its members and with other stakeholders over possible reforms of the legal framework with the aim of improving its capacity to facilitate the attainment of the objectives of the legislation, and the broader goal of facilitating the establishment and consolidation of multiparty democracy. Among the stakeholders that CMD has consulted are political parties; the Legal Affairs Committee of Parliament; the Minister of Justice and Constitutional Affairs; and non-governmental organisations, including faith-based associations.

Broadly, the consultations have identified the following issues as requiring review of the legal framework:

- the institutional and operational independence of the authority which registers political parties;
- the minimum conditions that a party must meet in order for it to be registered;
- the grounds on which registration of a political party may be refused or cancelled;
- the conditions for qualification of political parties for State funding;
- the obligation of political parties to declare their finances and assets.

- the obligation of political parties to declare their finances and assets.

Through stakeholder consultations that it has undertaken, the CMD has developed a list of specific proposals for the amendment of the Constitution and the amendment of the Political Parties (Registration and Regulation) Act or its replacement by a new Act.

CMD seeks to consolidate and further validate the proposals for review of the law on political parties by undertaking further consultations with different stakeholders and the general public, hence this newspaper insert that presents the proposed political parties bill. CMD would like to ask all interested parties and the general public to go through the proposed bill and provide feedback and submissions to:

The Executive Director
Centre for Multiparty Democracy
P. Bag A216,
Lilongwe
Email: kizito@sdpn.org.mw

CMD will foster the formation of a working group that will include, among others, the Law Commission with an aim of harmonizing and rationalizing other reform initiatives that might be taking place.

MEMORANDUM

This Bill seeks to repeal the Political Parties (Registration and Regulation) Act (Cap. 2:07) and replace it with a new law which will address the challenges being faced when regulating the registration, financing and functioning of political parties.

The Bill is divided into eight parts.

Part I makes provision for preliminary matters, namely; short title, commencement, and interpretation of certain words and terms used in the Bill.

Part II contains general principles upon which the establishment and operation of political parties in Malawi shall be founded.

Part III establishes the office of the Registrar of Political Parties (the "Registrar"), which shall be a public office. The Part also makes provision for the appointment of the Registrar and other officers in the Office of the Registrar, and for the independence of the Registrar when exercising his powers, functions and duties under the law, as well as the tenure of office of the Registrar.

Part IV deals with registration of political parties, and contains provisions relating to, among others, grounds for which the Registrar may refuse to register a political party, which include the following grounds-

(a) that the name of the party—

(i) is identical to the name of a registered political party or a political party which has been deregistered under the law;

(ii) confusingly resembles the name of a registered political party or a political party that has been deregistered under the law;

(iii) denotes a religious faith or a regional or ethnic identity; or (iv) is provocative or offends against public decency and morals or is contrary to any other written law; and

(b) that the symbol of the party confusingly resembles the symbol of a political party registered under the law or a political party that has been deregistered under the law.

The Part also contains provisions for deregistration of a political party, as well as appeal against deregistration or intended deregistration of a political party.

Part V makes provision for financing of political parties. The Part contains provisions relating to entitlement to State funding by political parties, uses of State funding, suspension of State funding, rrefunds by political parties which cease to qualify for State funding, closure of books and records of account upon dissolution of Parliament. The Part also provides for, among others, private funding and receipt of donations by political parties, the requirement to open a separate bank account for private funding, registration and declaration of assets, and members' access to financial records of their political party.

Part VI deals with rights and duties of political parties in elections, which include the right to participate in elections, and freedom of assembly and offences related to interference of such rights.

Part VII contains miscellaneous provisions. These provisions deal with, among others, matters relating to inspection by the Registrar, access by members of the public to information received by the Registrar, the power of the Minister to make regulations, and repeal and savings.

Part VIII contains transitional provisions, which include provisions relating to the status of political parties registered under the Political Parties (Registration and Regulation) Act (Cap. 2:07), and saving of existing rights and powers of political parties registered under the Political Parties (Registration and Regulation) Act (Cap. 2:07).

POLITICAL PARTIES BILL, 2016

ARRANGEMENT OF SECTIONS

SECTION

PART I: PRELIMINARY

- Short title and commencement
- Interpretation

PART II- GENERAL PRINCIPLES

- General principles

PART III-ESTABLISHMENT OF THE OFFICE OF THE REGISTRAR

- Establishment of the office of the Registrar
- Funds for the Office of the Registrar
- Management and audit of the funds of the Office of the Registrar
- Appointment of the Registrar
- Powers, functions and duties of the Registrar
- Independence of the office of the Registrar
- Tenure of office of the Registrar
- Register

PART IV: REGISTRATION AND DEREGISTRATION OF A REGISTERED POLITICAL PARTY

- Application for registration of a political party
- Certificate of registration and its effect
- Refusal to register
- Appeal against refusal to register a political party
- Deregistration of a registered political party
- Appeal against deregistration or intended deregistration of a registered political party
- Notice of change in registered particulars
- Failure to notify changes
- Refusal to register amendments

PART V: FINANCES OF POLITICAL PARTIES

- Entitlement to State funding
- Uses of State funding
- Banking, accounts and audit
- Suspension of State funding
- Closure of books and records of account upon dissolution of Parliament
- Power of Minister responsible for finance to give financial instructions
- Private funding and receipt of donations
- Separate bank account for private funding
- Registration and declaration of assets
- Auditing of private financing
- Members' access to financial records

PART VI: RIGHTS AND DUTIES OF POLITICAL PARTIES IN ELECTIONS

- Right to participate in elections
- Freedom of assembly
- Freedom of expression

PART VII – MISCELLANEOUS PROVISIONS

- Inspection by the Registrar
- Access to information received by the Registrar
- Onus of proof
- Provision of false information to, obstruction of, etc., the Registrar
- Unauthorized distribution of the constitution
- Regulations
- Repeal and savings

PART VIII: TRANSITIONAL PROVISIONS

- Status of political parties already registered
- Saving of existing rights, powers, etc.
- Compliance with this Act

A BILL

entitled

An Act to make provision for regulating the registration, financing and functioning of political parties; and to provide for matters incidental thereto and connected therewith

ENACTED by the Parliament of Malawi as follows—

PART I – PRELIMINARY

- This Act may be cited as the Political Parties Act, 2016, and shall come into force on such date as the Minister shall appoint, by notice published in the *Gazette*.

- In this Act, unless the context otherwise requires—

“member” means a citizen of the Republic of Malawi eligible to vote and whose name, address and signature are entered in a register of members kept and maintained by that political party;

“office bearer” means a member of a political party who holds a particular position at any level of the administrative structure of the party and includes the leader of a political party and all executive members of the party;

“political party” means a combination of natural persons who have constituted themselves with an objective to bring about the election of its candidates to public office or strive for power by the electoral process and, by this means, to control or influence the actions of government;

“registered political party” means a political party registered under section 12; and

“Registrar” means the Registrar of Political Parties appointed under section 7.

PART II – GENERAL PRINCIPLES

- (1) The establishment and operation of political parties in Malawi shall be founded on the following principles—

- all political parties shall be established and conduct their affairs in accordance with the Constitution of the Republic of Malawi and this Act;

- every person shall have the right to form a political party and to cease to be a member of a political party, and no person shall be compelled to belong to a political party;

Provided that one person shall not be a member of more than one political party; and

- every member of a political party shall have the right to enjoy the rights and privileges of membership of the party without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, disability, property, birth or other status or condition.

(2) Subject to subsection (1), every political party shall have the right to regulate its own affairs and procedures, including the rights and duties of its members.

(3) In the interpretation, application and enforcement of this Act, the relevant organs of State shall have due regard to the principles stated under this Part.

PART III — ESTABLISHMENT OF THE OFFICE OF THE REGISTRAR

- (1) There shall be a Registrar of Political Parties whose office shall be a public office.

(2) In addition to the Registrar, there shall be appointed in the public service such other officers subordinate to the Registrar as are necessary for the proper performance of the functions of the Registrar.

(3) The office of the Registrar shall be—

- a body corporate with perpetual succession and a common seal;
- capable of suing and being sued in its corporate name;
- capable of acquiring and disposing of any moveable or immovable property; and
- able, in the exercise of its powers, functions and duties, to do such acts and perform such things as bodies corporate may by law do or perform.

5. — The funds of the Office of the Registrar shall consist of—

- such sums as shall be appropriated by Parliament for the purpose of the Office;
- such sums as may be payable to the Office by way of—
 - fees;
 - finances; and
 - donations.

6. — (1) The Office of the Registrar shall maintain, with such bank as the Minister may determine, a designated account into which shall be paid the funds payable to the Office.

(2) The Office of the Registrar shall cause to be kept proper books of accounts of the payments made to the Office.

(3) The accounts related to the Office of the Registrar shall be audited annually by the Auditor General.

7. — (1) Nominations for appointment to the office of Registrar shall be received from the public by way of a public advertisement placed by the Clerk of Parliament and the successful candidate shall be appointed by the Public Appointments Committee of Parliament in accordance with this section.

(2) The person to be appointed to the office of Registrar shall —

- have sufficient knowledge of the law;
- have sufficient knowledge of political systems;
- within the last seven years, not have been convicted by a competent court of a crime involving dishonesty or moral turpitude;
- not have been declared bankrupt;
- be a holder of a degree from a recognized institution; and
- not hold any other public office.

8. — (1) The Registrar shall oversee the overall administration and the implementation of this Act.

(2) Without prejudice to the generality of subsection (1), the Registrar shall—

- register, regulate, monitor, investigate and supervise political parties to ensure compliance with this Act;
- ensure publication of audited annual accounts of political parties;
- verify and make publicly available the list of all members of political parties;
- maintain a register of political parties and the symbols of the political parties;
- ensure and verify that no person is a member of more than one political party and notify the Commission of his findings;
- investigate complaints received under this Act; and
- perform such other functions as may be conferred by this Act or any other written law.

9. — The Registrar shall, in the exercise of his powers, functions and duties, be independent of the interference or direction of any other person or authority.

10. — (1) The Registrar shall be appointed to a term of office of three years, and may be re-appointed for further two terms of three years each.

(2) The Registrar shall be removed from office on any of the following grounds—

- incompetence;
- misconduct that brings the Authority into disrepute;
- undischarged bankruptcy;
- non disclosure of interest;
- if he is disqualified for failure to meet the requirements for appointment under section 5;
- involvement in active politics; or
- incapability to perform his duties as Registrar by reason of mental or physical infirmity.

(3) The Registrar shall only be removed from office by the appointing authority;

(4) The Registrar shall not be removed from office unless he has been given an opportunity to be heard.

11. — (1) The Registrar shall keep a register in which shall be recorded such particulars relating to a registered political party as are prescribed in this Act.

(2) A copy of an entry in the register certified by the Registrar or a person authorized by the Registrar shall, for the purposes of any written law, be *prima facie* evidence of the facts stated in the certificate.

PART IV – REGISTRATION AND DEREGISTRATION OF A REGISTERED POLITICAL PARTY

12. — (1) A political party, consisting of not less than twenty persons in each of the districts of Malawi who are eligible to vote, may apply in writing to the Registrar for registration of the party under this Act.

(2) An application for registration shall be signed by the office bearers of the political party and shall—

- specify the name of the party; and
- be accompanied by—
 - two copies of the constitution, and manifesto of the party, duly certified by the leader of the party;
 - the particulars of the registered office of the party;
 - a list giving the names and postal and physical addresses of the leader and other office bearers of the party;
 - a list giving the names, addresses and signatures of not less than twenty members of the party resident in each of the districts of Malawi, which shall reflect fair representation of gender, youth, and people with disabilities; and
 - a graphic representation of the symbol of the party in the form prescribed by the Registrar.

The list referred to in paragraph (b) (iv) shall be accompanied by a written confirmation from the District Commissioner of each district that the people mentioned in the list are residents of that district.

13—(1) Where the Registrar registers a political party, he shall issue the party with a certificate of registration, shall register, and stamp copies of the constitution, and manifesto of the party submitted with the application and return a copy of each to the party.

(2) Where the Registrar issues a certificate of registration of a political party, the party shall become—

- a body corporate with perpetual succession and a common seal;
- capable of suing and being sued in its corporate name;
- capable of acquiring and disposing of any moveable or immovable property; and
- able, in the exercise of its powers, functions and duties, to do such acts and perform such things as bodies corporate may by law do or perform.

(3) A registered political party shall display its certificate of registration at a conspicuous place at its registered office.

(4) The Registrar shall, within thirty days, publish a notice of the registration of a political party in the *Gazette*.

14—(1) The Registrar may refuse to register a political party if he is satisfied that—

- the application is not in conformity with the Constitution of the Republic of Malawi or this Act;
- the name of the party—
 - is identical to the name of a registered political party or a political party that has been deregistered under this Act: Provided that where five years have elapsed since the deregistration is made, the application to register may be granted;
 - is confusingly similar to a name of a registered political party or a political party which has been deregistered under this Act: Provided that where five years have elapsed since the deregistration is made, the application to register may be granted;
 - denotes a religious faith or a regional or ethnic identity; or
 - is provocative or offends against public decency and morals or is contrary to any other written law;
- the symbol of the party is confusingly similar to a symbol of a political party registered under this Act or a political which has been deregistered under this Act: Provided that where five years have elapsed since the deregistration is made, the application to register may be granted; or
- the purpose or objects of the party are unlawful.

(2) A political party shall be deemed to have a purpose or objects which are unlawful for the purpose of this Act if—

- it seeks, directly or indirectly, to further discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, disability, property, birth or other status or condition;
- its purpose, objects or membership are based on a religious faith; or
- it advocates or seeks to effect political change in the Republic through violence or unlawful means.

(3) For the purposes of determining whether a political party has an unlawful purpose or objects, the Registrar may consider any document issued or statement made by, or on behalf of, the party or by an office bearer of the party.

(4) Where the Registrar refuses to register a political party, he shall, within thirty days, serve upon the party a notice in writing to that effect and shall specify the grounds for his refusal.

15. — A political party that is aggrieved by the decision of the Registrar made under section 14 may, within thirty days of receiving the notice of refusal, appeal to the High Court, through an office bearer, against the decision of the Registrar, and the High court may make such order as it thinks fit.

16. — (1) The Registrar shall deregister a registered political party, on his own motion or upon application by a member of the political party—

- if he is satisfied that—
 - the registration of the party was obtained by fraud or mistake;
 - the party has a purpose or objects which are unlawful;
 - the party has not held a convention for a period of at least five consecutive years from the date of its registration or the date the party held its last convention;
- the party has secured none of the following—
 - at least a seat in parliamentary elections; or
 - at least five per cent of national votes for parliamentary elections; or
 - at least two seats in local government elections or ten per cent of the total votes in the local government elections; or
- the party has been dissolved in accordance with its constitution.

- if the party, after notice of the Registrar requiring the party to comply with this Act, fails to do so within thirty days;
- if the Registrar is satisfied that the party or its agents are giving handouts during campaign period or elections period; or
- if the Registrar is satisfied that the party has ceased to exist.

(2) The Registrar shall, not less than twenty one days before deregistering a political party under subsection (1)–

- issue a written notice informing the party in writing the intended deregistration and the reasons for the deregistration; and
- request the party to give reasons in writing within a period specified in the notice why the party should not be deregistered.

(3) The Registrar shall, within thirty days after deregistering a political party, publish a notice of the deregistration in the *Gazette*.

(4) In addition to the power to deregister a political party under this section, the Registrar may recommend to the National Assembly for suspension of the funding of the offending political party.

(5) For purposes of this section, “convention” means an assembly of delegates or representatives of a political party for purposes of nominating, appointing or electing candidates for office and adopting party policies or rules, and includes a national conference aimed at achieving the same purposes.

Certificate of registration and its effect

Refusal to register

Appeal against refusal to register a political party

Deregistration of a registered political party

Establishment of the office of the Registrar

Funds for the Office of the Registrar

Management and audit of the funds of the Office of the Registrar

Appointment of the Registrar

Powers, functions and duties of the Registrar

Independence of the office of the Registrar

Tenure of office of the Registrar

Register

Application for registration of a political party

Appeal against deregistration or intended deregistration of a registered political party

Notice of change in registered particulars

Failure to notify changes

Refusal to register amendments

Entitlement to State funding

Uses of State funding

Banking, accounts and audit

Suspension of State funding

(6) When exercising the powers under this section, the Registrar shall sit as a Tribunal.

17— (1) A political party in respect of which the Registrar has issued a notice under section 16 (2) may, upon receipt of the notice and before the period specified in the notice has elapsed, appeal to the Supreme Court of Appeal against the finding of the Registrar as contained in the notice of intended deregistration and the High Court may make such order as it thinks fit.

(2) Where a political party has been deregistered, the party may, within fourteen days after the publication of the notice of deregistration in the *Gazette*, appeal to the High Court against the deregistration, and the High Court may make such order as it thinks fit.

18— (1) A registered political party shall, within fourteen days of any change in its registered particulars, notify the Registrar in writing of such change.

(2) A registered political party shall, within fourteen days of making an amendment to its constitution or *manifesto*, submit two copies of the amendment to the Registrar and the amendment shall not take effect until it has been registered by the Registrar.

(3) Where the Registrar registers an amendment submitted under subsection (2), he shall stamp the two copies of the amended constitution or *manifesto* and return a copy of each to the political party.

19. A registered political party which fails to comply with section 18 commits an offence and is liable to a fine of K500, 000, and to a further fine of K50, 000 for each day that the offence continues.

20— (1) The Registrar may refuse to register an amendment submitted under section 18(2) if it appears to the Registrar that, by reason of the amendment—

- the purpose or objects of the political party would be unlawful; or
- the amendment contravenes this Act.

(2) Where the Registrar refuses to register an amendment under subsection (1), he shall give notice in writing to the political party, informing the party of his refusal to register the amendment, and giving reasons for such refusal.

(3) Where the Registrar refuses to register an amendment under subsection (1), any office bearer of the political party may, within fourteen days of the date of the notice of refusal, appeal to the High Court and the High Court may make such order as it thinks fit.

PART V — FINANCES OF POLITICAL PARTIES

21— (1) A political party which has secured more than one-tenth of the national vote in parliamentary elections shall be entitled to be provided with funds by the State to ensure that, during the life of any Parliament, the party has sufficient funds to continue to represent its constituency.

(2) The provision of funds to political parties by the State shall be made quarterly.

22—(1) A registered political party shall use funds received from the State for any of the following purposes—

- promoting the representation of the party in Parliament;
- promoting active participation of individual citizens in political life;
- covering the election expenses of a political party and the broadcasting of the policies of the political party;
- the organization by the party of civic education in democracy and other political processes; and
- administrative and staff expenses of the party.

(2) The funds received from the State shall not be used for personal gain.

23. — (1) A registered political party which receives funding from the State shall—

- keep, with a commercial bank in Malawi, a separate bank account into which funds provided to the party shall be deposited;
- keep proper books and records of account in relation to the funds, and shall balance its accounts for that year and produce statements of final accounts within six months after the end of each financial year; and
- submit the final accounts to the Registrar who shall forward a copy of the accounts to the Auditor General and the Speaker of the National Assembly.

(2) The accounts of a political party which receives funding from the State shall be audited by the Auditor General.

(3) The Auditor General or the auditor appointed under subsection (2), shall present a report of the audited accounts to—

- the Registrar;
- the political party concerned; and
- the National Assembly.

(4) After considering the report presented under subsection (3), the Registrar may recommend to the National Assembly to disallow any item of expenditure which is contrary to this Act.

(5) The National Assembly shall have power to—

- surcharge the amount of any expenditure disallowed on the party;
- surcharge any sum which has not been duly brought into account on the party;
- surcharge the amount of any loss or deficiency occasioned by the negligence or misconduct of any person on the party; or
- set off the amount irregularly spent against any allocation that may be or may become payable to the party.

(6) Any person aggrieved by a decision of the National Assembly under this section may apply to the High Court for judicial review.

(7) Any sum surcharged on a party shall be payable to the Registrar within one month of the written notification of the surcharge to such party, or in the case of an application under subsection (6), within one month of the decision of the High Court if such decision confirms the surcharge and shall be recoverable as a debt to the Government.

24. — (1) The National Assembly may, on the recommendation of the Registrar, order that the allocation of funds to a political party be suspended if he is satisfied that the party has failed to comply with any requirement under this Part.

(2) Where the National Assembly intends to order the suspension of the provision of funds to a political party by the State, he shall—

- by written notice inform the party of the intended suspension and the reasons for the suspension; and
- request the party to give reasons in writing within a period specified in the notice why the provision of funds by the State should not be suspended.