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CONTENT

Bill for Introduction into the National Assembly—

	PAGE
The Election Campaign Financing Bill, 2012.....	5411

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THE ELECTION CAMPAIGN FINANCING BILL, 2012*Clause***PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.

PART II—FUNCTIONS OF THE COMMISSION

- 3—Functions of the Commission.
- 4— Powers of the Commission.

PART III—REGULATION OF EXPENDITURE

- 5— Party campaign expenditure rules.
- 6— Expenditure Committees
- 7— Party candidate expenditure committee.
- 8—Party expenditure committee.
- 9— Independent candidate expenditure committee.
- 10— Referendum expenditure committee.
- 11— Submission of expenditure reports.

PART IV—CAMPAIGN EXPENSES

- 12—Disclosure of funds.
- 13—Failure to disclose.
- 14— Spending limits.

PART V—CONTRIBUTIONS AND DONATIONS

- 15 – Sources of campaign finances.
- 16—Harambees.
- 17—Anonymous contributions or contributions from an illegal source.

- 18—Prohibition on contributions.
- 19—Support by an organization.
- 20— Surplus campaign funds.

PART VI— OFFENCES

- 21— Offences.
- 22— Offences by a candidate, a political party or a referendum committee.
- 23—General penalty.

PART VII— MISCELLANEOUS

- 24— Registration and dissolution of expenditure Committees.
- 25 —Records.
- 26—Audit of accounts.
- 27—Claims and objections.
- 28— Regulations.

A Bill for

AN ACT of Parliament to provide for the regulation, management, expenditure and accountability of election campaign funds during election and referendum campaigns; and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Election Campaign Financing Act, 2012. Short title.

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

“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;

“campaign period” has the meaning assigned to it

No. 24 of 2011 under the Elections Act;

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

“contribution” means money, 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 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
- (c) in relation to a referendum, all expenses incurred by referendum committees for the purpose of a referendum campaign;

“election period” has the meaning assigned to it

under the Elections Act;

“expenditure account” means a bank account opened by a candidate, a political party or a referendum committee for purposes of depositing contributions received by that candidate, political party or referendum committee during an election period or a referendum campaign period as the case may be;

“expenditure committee” means a committee established by a candidate, a political party or a referendum committee to regulate spending by a candidate, a political party or a referendum committee during an election or a referendum campaign period as the case may be;

“expenditure report” means a report of expenses incurred by a candidate, a political party, or a referendum committee during a nomination or election period or a referendum campaign period;

“harambee” means the public collection of monies or other property in aid support of an election or referendum campaign;

“illegal source” means a contribution from an unlawful source;

“nomination day”, in respect of an election, means the day gazetted by the Commission as the day for the nomination of candidates for that election;

“organisation” includes a club, group, foundation, business, a registered society or a corporate body;

“party campaign expenditure rules” means rules of a political party intended to guide the political party in matters related to campaign expenses during an election

period;

“party candidate” means a candidate who is sponsored by a political party to contest in an election;

No. 11 of 2011. “political party” means a political party registered under the Political Parties Act;

“party nomination” means the process where a political party nominates candidates to be sponsored by that political party to contest in an election;

“public resource” includes-

- (a) monies intended for public use;
- (b) a vehicle or equipment owned by or in the possession of the State, a state organ, statutory corporation or a company in which the State owns a controlling interest; or
- (c) premises owned or occupied by the State, a state organ, statutory corporation or a company in which the State owns a controlling interest;

“referendum committee” has the meaning assigned to it under the Elections Act;

“Registrar” means the Registrar of Political Parties appointed under the Political Parties Act;

“spending limit” means the maximum threshold of money a candidate, political party or referendum committee may expend during a nomination, election or referendum campaign and includes the expenditure incurred by any person or organization on behalf of a

candidate, political party or referendum committee;

“technical assistance” means support in knowledge, skills and ideas provided to a candidate, political party or referendum committee in connection with an election or referendum campaign;

“volunteer services” means the rendering of personal services related to the campaign activities of a candidate, political party or a referendum committee during an election or referendum period, without compensation.

PART II—FUNCTIONS OF THE COMMISSION

3.(1) Pursuant to Article 88 (4)(i) of the Constitution and section 4 (i) of the Independent Electoral and Boundaries Commission Act, the Commission shall be responsible for the regulation and administration of campaign financing under this Act and shall—

Functions of
the
Commission.

- (a) keep a register of campaign expenditure committees:

- (b) supervise candidates, political parties and referendum committees in relation to campaign expenses;
 - (c) set spending limits and enforce compliance with such limits;
 - (d) verify sources of contributions to a candidate, a political party or a referendum committee;
 - (e) monitor and regulate campaign expenses;
 - (f) provide a framework for the reporting of campaign expenses;
 - (g) advise a candidate, a political party or a referendum committee on any matter relating to campaign expenses; and
 - (h) receive expenditure reports from candidates, political parties and referendum committees.
- (2) In performing its functions under subsection (1), the Commission may act in consultation with the Registrar.

Powers of the Commission.

4. (1) The Commission shall have the power to investigate or examine all matters relating to the performance of its functions under this Act.

(2) For purposes of an investigation or examination under this Act, the Commission or a representative of the Commission authorised in writing may, at any reasonable time enter into any premises in which books, and documents of a candidate, a political party or a referendum committee or where material relevant to the subject matter of the investigation or

examination is kept.

(3) The Commission may request any person for information relating to party nomination expenses and election campaign expenses of a candidate, a political party or a referendum committee that is reasonably required in respect of the functions of the Commission under this Act.

(4) Where a request for information is made pursuant to subsection (3), such information shall be furnished to the Commission by any person or organisation within such reasonable time as the Commission may determine.

(5) The Commission may take such other action as is necessary for purposes of carrying out its functions under this Act.

PART III—REGULATION OF EXPENDITURE

5. A political party shall, at least three months before the nomination of its candidates submit its Party Campaign Expenditure Rules to the Commission.

Party
Campaign
Expenditure
Rules.

6.(1) For purposes of regulating campaign financing during nominations, elections or a referendum there shall be established —

Expenditure
committees.

(a) party candidate expenditure committees;

(b) party expenditure committees;

(c) independent candidate expenditure committees; and

(d) referendum campaign expenditure committee.

(2) The committees referred to in subsection (1)

shall be registered by the Commission –

(a) for a general election, at least three months before the general election; or

(b) for a by-election, within seven days after the notice of a vacancy issued by the relevant Speaker.

(c) for a referendum, within fourteen days after the publication of the referendum question by the Commission.

(3) Each of the committees referred to in subsection (1) shall open an expenditure account and submit details of the account to the Commission at the time of the registration of the expenditure committee.

(4) There shall be deposited into the expenditure account of a party candidate—

(a) contributions by the candidate;

(b) contributions by the political party; and

(c) contributions received from any person, organisation, or any other lawful source.

(5) There shall be deposited into the expenditure account of an independent candidate—

(a) contributions by the candidate; and

(b) contributions received from any person, organisation, or any other lawful source.

(6) There shall be deposited into the expenditure account of a political party-

- (a) contributions from the political party; and
- (b) contribution received from any person, organisation or any other lawful source.

(7) There shall be deposited into the expenditure account of a referendum committee contributions received by a person, organization or any other lawful source.

7. (1) A candidate intending to contest in a party nomination or after the party nomination, who is duly nominated to contest in elections as the candidate for the party, shall, in accordance with the constitution and rules of the political party, establish a party candidate expenditure committee which shall be registered by the Party Expenditure Committee.

Party
candidate
expenditure
committee.

(2) The Party Candidate Expenditure Committee referred to in subsection (1) shall consist of three members nominated by the party candidate.

(3) The Party Candidate Expenditure Committee established by a party candidate for purposes of party nominations shall continue to carry out the functions specified under subsection (5) for purposes of an election.

(4) Whenever there is change in membership within the Party Candidate Expenditure Committee, the party candidate shall, as soon as reasonably practicable, notify the Party Expenditure Committee of the change.

(5) The Party Candidate Expenditure Committee

shall—

- (a) open a party candidate expenditure account into which all the money received in respect of the election campaign of that candidate shall be deposited;
 - (b) be signatories to the party candidate expenditure committee account;
 - (c) advise the party candidate on all financial matters related to party nomination or campaign expenditure;
 - (d) manage the expenditure committee account of the party candidate and keep the books of accounts updated and available for inspection; and
 - (e) prepare and submit a preliminary nomination expenditure report and a final campaign expenditure report to the Party Expenditure Committee of the party with respect to the nomination or the campaign of the party candidate.
- (6) A preliminary expenditure report prepared and submitted under subsection 5(e) shall cover campaign expenditure during the nomination period
- (7) The members of a Party Candidate Expenditure Committee and a party candidate shall sign the report referred to in subsection (5) (e) and submit the report to the Party Expenditure Committee of the political party that the

candidate is a member.

(8) Where a Party Candidate Expenditure Committee fails to submit the preliminary nomination expenditure report referred to in subsection (5)(e), the party candidate shall be disqualified from contesting in that election.

(9) The provisions of subsections (4), (5) and (6) shall apply, with necessary modification, to an independent candidate.

8. (1) A political party intending to contest in an election shall, in accordance with the constitution and rules of the political party, constitute a party expenditure committee which shall consist of nine members —

Party
expenditure
committee.

- by
- (a) three of whom shall be persons nominated the governing body of that political party;
 - (b) not more than one of whom shall be from one region; and
 - (c) not more than two-thirds of whom shall be of one gender.

(2) The appointment of members of the referendum expenditure committee referred to in subsection (1) shall take into account regional and other diversity of the people of Kenya.

(3) The members of a party expenditure committee shall not include members of a party candidate expenditure committee.

(4) The party expenditure committee referred to in subsection (1) shall—

- (a) open a party expenditure committee account into which all the money in respect of the election campaign of that party shall be deposited;
- (b) be signatories to the party expenditure committee account;
- (c) advise the political party on all financial matters related to the party nomination or to the party campaign expenditure;
- (d) manage the party expenditure committee account of the political party and keep the books of account updated and available for inspection; and
- (e) receive party nomination and campaign expenditure reports from each party candidate;
- (f) monitor the campaign expenditure of the party candidate and ensure that the party candidate complies with party nomination and campaign expenditure rules;
- (g) compile the expenditure reports received from the party candidates and submit to the Commission the preliminary nomination expenditure report and the final campaign expenditure report; and
- (h) submit to the Commission the preliminary nomination expenditure report and the final campaign expenditure report of the political party.

(5) A political party shall, as soon as reasonable, notify the Commission of any changes in the membership of the

party expenditure committee.

9. (1) An independent candidate intending to contest in an election, shall, constitute an independent candidate expenditure committee.

Independent candidate expenditure committee.

(2) The Independent Candidate Expenditure Committee referred to in subsection (1) shall consist of three members nominated by the candidate.

(3) The Independent Candidate Expenditure Committee shall—

- (a) open an independent candidate expenditure Committee account into which all the money in respect of the election campaign of that candidate shall be deposited;
- (b) be signatories to the independent candidate expenditure committee account;
- (c) advise the independent candidate on all financial matters related to the campaign expenditure; and
- (d) manage the candidate expenditure committee account of the independent candidate and keep the books of account updated and available for inspection;
- (e) receive expenditure reports from the independent candidate; and
- (f) compile and submit to the Commission the final campaign expenditure report of the independent candidate with respect to the

election period.

Referendum
expenditure
committee.

10.(1) A national referendum committee intending to campaign in a referendum shall constitute a referendum expenditure committee which shall consist of nine members

- (a) three of whom shall be persons nominated by the national committee established under section 51 of the Elections Act;
- (b) not more than one of whom shall be from one region; and
- (c) not more than two-thirds of whom shall be of one gender.

(2) The appointment of members of the referendum expenditure committee referred to in subsection (1) shall take into account regional and other diversity of the people of Kenya.

(3) The referendum expenditure committee referred to in subsection (1) shall—

- (a) open a referendum expenditure committee account into which all the money in respect of the referendum campaign shall be deposited;
- (b) be signatories to the referendum expenditure committee account;

- (c) advise the national committee on all financial matters related to referendum campaign expenditure;
- (d) manage the referendum expenditure committee account of the relevant national committee and keep the books of account updated and available for inspection; and
- (e) receive campaign expenditure reports from each constituency committee;
- (f) monitor the campaign expenditure of the national committee and the constituency committees and ensure that the committees comply with campaign expenditure rules; and
- (g) compile and submit to the Commission the preliminary nomination expenditure report and the final campaign expenditure report.

(5) A national committee shall, as soon as reasonable, notify the Commission of any changes in the membership of the referendum expenditure committee.

11. (1) A party candidate shall submit to the political party of that candidate and to the Commission —

- (a) a preliminary nomination expenditure report, within seven days of the political party nomination; and
- (b) the final expenditure report within, three months after elections.

Submission of expenditure reports.

(2) A political party shall within three months after the elections submit a final expenditure report to the Commission.

(3) An independent candidate shall within three months after the election, submit the final expenditure report to the Commission.

(4) A referendum committee shall, within three months after the referendum submit the final expenditure report to the Commission.

(5) The expenditure reports submitted under subsections (1)(b), (2), (3), and (4) shall include—

- (a) records showing all transactions;
- (b) records showing all assets acquired and commitments entered into;
- (c) a balance sheet;
- (d) an income and expenditure statement;
- (e) a cash flow statement; and
- (f) audited accounts.

PART IV—CAMPAIGN EXPENSES

Disclosure of funds.

12.(1) A candidate, a 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) The disclosure referred to in subsection (1), shall specify -

- (a) the amount of funds in the expenditure account of the candidate, the political party or referendum committee;
- (b) the sources of the contributions; and
- (c) the contributions or donations in cash or in kind received and the details of the donors.

(3) The disclosure referred to in subsection (1) shall be made -

(a) in the case of a party candidate, to the Party Expenditure Committee -

- (i) at least twenty days before the nomination day; and
- (ii) at least twenty days before the polling day,

(b) in the case of a political party and an independent candidate, to the Commission, at least twenty days before the polling day;

(c) in the case of a referendum committee to the commission at least twenty days before the referendum.

(4) The disclosure of funds under this section shall for purpose of this Act and in the absence of any other factors,

be sufficient evidence that the candidate or the political party has complied with the requirement for disclosure of funds.

(5) The disclosure of funds shall be confidential and shall not be divulged except where such information is the subject of a complaint or an investigation or is the subject of proceedings in a court of law.

Failure to disclose.

13.(1) A candidate who or a political party or referendum committee which fails to disclose funds or donations as required under this Act shall be disqualified from contesting in the election or campaigning in the referendum.

(2) Where the Commission discovers a failure to disclose contributions received as required under this Act the Commission shall investigate the matter and if satisfied that the candidate, the political party or the referendum committee did not disclose the contributions received, the Commission shall disqualify-

(a) that candidate, the political party or the referendum, committee from contesting or participating in the election; and

(b) the referendum committee from campaigning during the referendum campaign period .

(3) Where the failure to disclose referred to in subsection (2) is discovered after an election, the Commission shall disqualify that candidate from contesting in the next by-election or general election.

(4) Where a candidate disqualified under subsection (2) is a party candidate, the candidate shall not be replaced by another candidate from that political party.

(5) The Commission may, in addition to the disqualification referred to in sub-section (3), impose a fine against the candidate, the political party or the referendum committee.

14.(1) The Commission shall, at least three months before an election, by notice in the Gazette set out the spending limits prescribing the

Spending limits.

- (a) the total amount that a candidate or a political party contesting for an elective post may spend during an election campaign period;
- (b) the total amount that a referendum committee may spend during the referendum campaign period;
- (c) the limit of contributions that a candidate, a political party or a referendum committee may receive from a single source;
- (d) the limit of a loan that a candidate, a political party or a referendum committee may receive; and
- (e) the limit for media coverage.

(2) A donation in cash or in kind from any person, organisation or any other lawful source contributed to a candidate, a political party or a referendum committee expenditure account, shall not exceed the limit of the total contribution prescribed under subsection (1).

(3) The Commission may, by notice in the

Gazette, vary the spending limits referred to in subsection (1).

(4) The Commission shall, in setting the spending limits referred to in subsection (1), take into consideration—

- (a) the difference in the geographical size of the electoral area;
- (b) the type of election;
- (c) the population in the electoral area;
- (d) the number of party members in the electoral area; and
- (e) the communication infrastructure in the electoral area.

(5) Subsection (4) (d) shall only apply for the purposes of setting spending limits for party nomination expenditure of a party candidate.

(6) No candidate, a political party or a referendum committee shall exceed the limit prescribed under subsection (1).

(7) Where a candidate, a political party or a referendum committee exceeds the spending limit prescribed under subsection (1), that candidate, political party or referendum committee shall file a report with the Commission specifying the reasons for exceeding the limit.

(8) Where the Commission is satisfied—

- (a) before an election, that a candidate or a political party has exceeded the prescribed, spending limit prescribed, without justification, the Commission shall disqualify that candidate or political party from contesting in that

election;

(b) after an election, that a candidate or political party has exceeded the spending limit prescribed, without justification, the Commission shall disqualify that candidate political party from contesting in the next by-election or general election; or

(c) before a referendum that a referendum committee has exceeded the spending limit prescribed, without justification, the Commission shall disqualify that referendum committee from campaigning during that referendum campaigning period.

(9) Where a candidate, a political party or a referendum committee exceeds the spending limit prescribed without justification, the candidate, the political party or the referendum committee shall pay to the Commission a penalty of an amount of money equivalent to the amount so exceeded.

(10) A candidate or a political party required to pay a penalty under subsection (9) shall be disqualified from participating in any election until the penalty due is paid.

(11) For purposes of this section, the time spent to render volunteer services by an individual in support of a candidate, a political party or a referendum committee shall not be included in the spending limits of that candidate, political party or referendum committee. .

PART V—CONTRIBUTIONS AND DONATIONS

Sources of
campaign
finances.

15.(1). The sources of funds for purposes of financing nomination, election or referendum campaign are —

- (a) monies received from any person, political party, organisation or other lawful source;
- (b) contributions from a lawful source not being from a foreigner, a foreign government, a foreign inter-governmental organization or non-governmental organization; and
- (c) contributions from a harambee as specified under section 16.

(2) A foreigner, a foreign government, a foreign inter-governmental organisation or a non-governmental organisation may, subject to full disclosure by a candidate, a political party or a referendum committee, provide technical assistance to that candidate, political party or referendum committee.

(3) A candidate who or a political party or a referendum committee which receives contributions under this Act shall—

- (a) use the contributions to pay for party nomination expenses, election campaign expenses, or referendum campaign expenses as the case may be;
- (b) issue a receipt for every contribution received; and
- (c) keep a receipt and documentary evidence of every

campaign expenditure incurred.

16.(1) A candidate, a political party or a referendum committee may, for purposes of financing political party nominations, elections or referendum campaign, as the case may be, receive contributions and donations through harambees.

Harambees.

(2) Contributions or donations received by a candidate, political party or a referendum committee in accordance with subsection (1), shall be accompanied by—

- (a) the specific details of the harambee including the venue, date and organizer of the harambee; and
- (b) a record of all individual contributions or donations collected at the harambee, in the prescribed form.

(3) Contributions and donations given by a person or organisation under this section shall not, at any time, exceed the limits specified in the Gazette Notice published under section 14.

17.(1) A candidate, a political party or a referendum committee shall not receive and keep—

- (a) anonymous contributions or support whether in cash or in kind; or
- (b) contributions from an illegal source as specified by this Act or by any other law.

Anonymous contributions or contributions from an illegal source.

(2) A candidate who, a political party or a referendum committee which receives contributions referred to in subsection (1) shall, within fourteen days of the receipt, report such receipt and submit the contribution to the

Commission.

(3) A candidate who or a political party or a referendum committee which fails to submit the contributions referred to in subsection (1) commits an offence.

(4) A candidate who or a political party or a referendum committee which commits an offence under subsection (4) shall, in addition to the penalty specified under this Act, be disqualified from contesting in that election or in that referendum, as the case may be.

Prohibition on contributions.

18.(1) A candidate, a political party or a referendum committee shall not receive any contribution or donation, in cash or in kind from the State, a State institution or agency or any other public resource.

(2) A State or a State institution shall not use any public resource to—

- (a) support or to campaign in support of a candidate, a political party or a referendum committee; or
- (b) support any organisation that is supporting or campaigning for a candidate, political party or a referendum committee.

(3) A candidate who or a political party or a referendum committee which receives any campaign support referred to in subsection (1) shall immediately report such receipt to the Commission.

(4) A candidate who or a political party or a referendum committee which does not report receipt of support in accordance with subsection (2) shall be disqualified

from contesting in that election or in the referendum, campaigning as the case may be.

(5) Public resources referred to under subsection (1) shall not include public funding provided for the Political Party Fund established under the Political Parties Act.

19.(1) Any person who, or an organisation which contributes to a candidate, a political party or a referendum committee shall channel such contributions through the expenditure accounts specified under sections 8, 9, 10 and 11. Support by an organisation.

(2) An organisation which intends to campaign in support of a candidate, a political party or a referendum committee shall—

(a) in writing, seek consent to campaign from the candidate, the political party or the referendum committee as the case may be the organisation intends to campaign in support of;

(b) register with the Commission; and

(c) open an expenditure account into which the contributions shall be deposited, in the case of—

(i) a candidate or a political party committee, at least three months before the polling day; or

(ii) a referendum committee, at the time of registration of that committee.

(3) The money spent by an organisation to campaign in support of a candidate, a political party or a referendum committee shall be within the spending limits specified under section 14.

(4) An organisation which campaigns in support of a candidate or a political party contesting in an election or a referendum committee shall, within one month, after the election, submit its final report to the respective expenditure committee.

Surplus
campaign
funds.

20.(1) A candidate, a political party or a referendum committee, shall submit to the Commission any campaign funds held in excess of the amount the candidate, political party or referendum committee contributed to the account.

(2) A candidate who or a political party committee which does not submit the excess funds to the Commission as required under subsection (1), commits an offence and shall not be eligible to contest in that next election.

(3) A candidate who or a political party which does not submit excess funds under subsection (1) shall not be eligible to contest in the next election unless the funds have been submitted to the commission.

PART VI— OFFENCES

Offences.

21. A person who—

- (a) obstructs the Commission or any representative of the Commission from exercising powers under this Act;
- (b) refuses to produce books, reports and other documents when requested;
- (c) knowingly produces false books, reports and other documents;
- (d) knowingly gives false or incorrect information;

- (e) knowingly makes false or incorrect statements in any returns or financial report required under this Act; or
- (f) knowingly destroys any books, records or other documents or things related to the subject matter of investigation examination or inspection under this Act,

commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years or to both.

22.(1) A candidate who or a political party or a referendum committee which—

- (a) in the case of a party candidate or a political party, contravenes the party campaign expenditure rules;
- (b) knowingly gives false or incorrect information;
- (c) fails to submit the party expenditure reports to the Commission; or
- (d) exceeds the spending limits prescribed under section 13 without reasonable explanation,

Offences by a candidate, a political party or a referendum committee.

commits an offence, and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years or to both.

(2) Where a political party or a referendum committee commits an offence under this Act, every member of the governing body of that political party or the referendum committee shall be liable for the offence.

(3) In addition to the penalty prescribed under subsection (1), a candidate, a political party or a referendum committee shall be disqualified from contesting in that

election or that referendum, as the case may be.

General
penalty.

23. A person convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding two million shillings or a term of imprisonment not exceeding five years or to both.

PART VII—MISCELLANEOUS

Registration and
dissolution of
expenditure
committees.

24. (1) The Commission shall prescribe the procedures for the registration and dissolution of the expenditure committees referred to in section 7 .

(2) The expenditure committees shall stand dissolved on submission of the final expenditure reports referred to in section 11.

Records.

25.(1) For purposes of financial accountability under this Act, a candidate, a political party, a referendum committee or an organization registered to campaign in support of a candidate, a political party or a referendum committee shall keep records of—

- (a) funds received for campaign expenses indicating the amount and the nature of funds received;
- (b) names, postal, physical and electronic addresses of contributors;
- (c) funds spent for nomination expenditure and campaign expenditure, as the case may be; and
- (d) in case of an organization registered to campaign in support of a candidate, a political party or a referendum committee, the name of the candidate, the political party or the referendum committee that the organization supported.

(2) The Commission shall on request, make available for inspection information submitted by a candidate, a political party or a referendum committee under this Act.

(3) A request for information referred to under subsection (2) shall be subject to—

- (a) a prescribed fee; and
- (b) confidentiality requirements of the Commission.

26. The Auditor-General may, on the request of the Commission, audit the accounts relating to the campaign expenses of a candidate, a political party or a referendum committee.

Audit of accounts.

27.(1) A person who objects to any matter related to campaign finance expenditures submitted by a candidate, political party or a referendum committee may file a claim to the Commission in the prescribed form and manner and within the prescribed time.

Claims and objections

(2) The claim submitted under subsection (1), shall be determined within —

- (a) seven days, if filed before an election; and
- (b) fourteen days, if filed after an election.

28. (1) The Commission may make regulations for the better performance of its functions under this Act.

Regulations.

(2) In particular and without prejudice to the

generality of the power conferred by sub-section (1), the Commission may make regulations—

- (a) providing for spending limits for the different elections;
- (b) providing guidelines for expenditure rules for political parties and independent candidates;
- (c) prescribing the manner in which contributions may be made;
- (d) prescribing procedures for disclosure of the amount of contributions made to a candidate or to a party, the nature of these contributions and the intended expenditures by a candidate or a party;
- (e) prescribing mechanisms and procedures for reporting on and monitoring the spending limits;
- (f) prescribing the manner in which records shall be prepared and maintained;
- (g) prescribing procedures for the determination of claims and objections; and
- (h) prescribing anything which is required to be prescribed for purposes of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principle object of this Bill is to give effect to Article 88(4) (i) of the Constitution and section 4(i) of the Independent Electoral and Boundaries Commission Act, 2011. The Bill seeks to provide for the regulation, management, expenditure and accountability of election campaign funds during election and referendum campaigns.

Part I of the Bill deals with preliminary matters including the interpretation of terms used in the Bill.

Part II of the Bill sets out the functions and powers of the Independent Electoral and Boundaries Commission in the regulation and administration of campaign financing. Clause 3 provides for the Commission to keep a register of campaign expenditure committees, supervise candidates, political parties and referendum committees in relation to campaign expenses, set spending limits and enforce compliance with such limits, monitor and regulate campaign expenses and receive expenditure reports from candidates, political parties and referendum committees. Clause 4 gives the Commission power to investigate or examine all matters relating to campaign expenses under the Act.

Part III of the Bill deals with the regulation of campaign expenditure. The Part requires each political party to submit its campaign expenditure rules to the Commission at least three months before the nomination of its candidates. Clause 6 provides for the establishment of expenditure committees to regulate expenditure during campaigns.

Part IV of the Bill deals with campaign expenses and provides for a candidate, a political party and a referendum committee to disclose the amount and source of contributions received for campaign. Clause 14 provides for the Commission to, at least three months before an election, set the spending limits for campaigns.

Part V of the Bill deals with contributions and donations and specifies the sources of funds for purposes of financing campaigns. Clause 16 provides for the use of funds received through harambees and the procedure to be followed in accounting for such funds. Clause 17 prohibits anonymous contributions or contributions from an illegal source and clause 18 prohibits contributions or donations from the State, a State institution or agency. Clause 20 provides for surplus funds to be submitted to the Commission.

Part VI provides for various offences and penalties.

Part VII contains miscellaneous provisions

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

Dated the 12th November, 2012.

EUGENE WAMALWA,
*Minister for Justice,
National Cohesion and Constitutional Affairs.*