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The following Act was passed by Parliament on 22nd May 2000 and assented to by the President on 5th June 2000:—

THE POLITICAL DONATIONS ACT 2000

(No. 20 of 2000)

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REPUBLIC OF SINGAPORE

No. 20 of 2000.

I assent.



LIM KIM SAN,
*Person exercising the
Functions of the President.
5th June 2000.*

An Act to regulate donations to political parties and political associations and to candidates and election agents in a parliamentary election or presidential election so as to prohibit foreign donations and restrict anonymous donations thereto and for matters connected therewith, and to make related amendments to the Parliamentary Elections Act (Chapter 218 of the 1999 Revised Edition) and the Presidential Elections Act (Chapter 240A of the 1999 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I
PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the Political Donations Act 2000 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) The Minister may appoint different dates for the coming into operation of the different provisions of this Act.

Interpretation

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

“anonymous donation” means a donation which the recipient is (whether because the donation is offered anonymously or by reason of deception or concealment) unable to ascertain the identity of the person giving the donation;

“bequest” includes any form of testamentary disposition;

“candidate” means a person who is nominated as a candidate at an election or at a presidential election, and includes any person (whether or not a member of any political association) who, on or after the date of the issue of a writ for the election or presidential election, as the case may be, is declared, by himself or others, as seeking nomination as a candidate at that election or (as the case may be) presidential election;

“donation report” means a report required to be prepared under section 12, 18, 19 or 21;

“election” has the same meaning as in the Parliamentary Elections Act (Cap. 218);

“election agent”, in relation to a candidate, means the person named as his election agent under section 62 (1) of the Parliamentary Elections Act or section 43 (1) of the Presidential Elections Act (Cap. 240A);

“gift” includes bequest;

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- “market value”, in relation to any property, means the price which that property might reasonably be expected to fetch on a sale in the open market;
- “nomination day” means the day of nomination at an election or presidential election, as the case may be;
- “organisation” includes any body corporate (other than a body established by written law) and any combination of persons or other unincorporated association;
- “permissible donor” means —
- (a) an individual who is a citizen of Singapore and is not less than 21 years of age; or
 - (b) a Singapore-controlled company which carries on business wholly or mainly in Singapore;
- “political association” means —
- (a) a political party or an organisation which has as one of its objects or activities the promotion or procuring of the election to Parliament or to the office of President of a candidate or candidates endorsed by the organisation; or
 - (b) an organisation (not being a branch of any organisation) whose objects or activities relate wholly or mainly to politics in Singapore and which is declared by the Minister, by order in the *Gazette*, to be a political association for the purposes of this Act;
- “presidential election” means an election under the Presidential Elections Act (Cap. 240A);
- “principal election agent” has the same meaning as in the Presidential Elections Act;
- “property” includes any description of property, and references to the provision of property accordingly include the supply of goods;
- “recordable donation”, in relation to any donation report, means a donation required by this Act to be recorded in that report;
- “Registrar” means the Registrar of Political Donations appointed under section 7, and includes any Assistant Registrar appointed under that section;

“reporting period” means any period for which a donation report is required to be prepared under this Act;

“responsible officers”, in relation to a political association, means —

(a) in the case of a political association which is a body corporate, the persons for the time being holding the offices of chairman, managing director and company secretary, respectively, of the association, or any positions analogous thereto; or

(b) in the case of a political association which is an unincorporated association, the persons for the time being holding the offices of president, secretary and treasurer, respectively, of the committee of the association, or any positions analogous thereto,

and includes any person carrying out the duties of any such office referred to in paragraph (a) or (b) if the office is vacant;

“Singapore-controlled company” means a company incorporated in Singapore, the majority of whose directors and members are citizens of Singapore or, in the case of any member being another company, where that other company is incorporated in Singapore and the majority of whose directors and members are citizens of Singapore, and where that other company has a member who is a company which in turn has a member who is a company and so on, where each of those member companies are companies incorporated in Singapore and the majority of whose directors and members are citizens of Singapore;

“writ” means a writ of election issued under section 24 of the Parliamentary Elections Act (Cap. 218) or, in the case of a presidential election, under section 6 of the Presidential Elections Act (Cap. 240A).

(2) Where a company has for the time being only 2 directors or 2 members, then, notwithstanding the definition of “Singapore-controlled company” in subsection (1), the company shall still be regarded as a Singapore-controlled company for the purposes of this Act if —

(a) one of the directors is a citizen of Singapore; or

(b) one of the members is a citizen of Singapore or a Singapore-controlled company.

(3) For the purposes of this Act —

(a) any money or other property which is transferred to a candidate, election agent or political association for a consideration which is less than the value of the money or (as the case may be) the market value of the property shall be regarded as constituting a gift to the candidate, election agent or political association, as the case may be;

(b) anything given or transferred to any branch of a political association or to any officer, member or agent of a political association in his capacity as such (and not for his political activities or his own use or benefit) is to be regarded as given or transferred to the political association, and references to donations received by a political association accordingly include references to donations so given or transferred; and

(c) any reference in this Act to the giving or transfer of anything to —

(i) a candidate or his election agent; or

(ii) a political association,

shall include a reference to its being so given or transferred either directly or indirectly through any third person.

(4) For the purposes of this Act, any document or sum that is required by any provision of this Act to be sent to the Registrar shall be regarded as sent only when it is actually received by the Registrar.

(5) For the purposes of this Act, any donation received by a candidate, election agent or political association by way of a donation by a trustee, in his capacity as such, shall be regarded as a donation received by the candidate, election agent or association, as the case may be, from a person who is not a permissible donor.

(6) In this Act, “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the candidate’s election at the election or presidential election, as the case may be, including prejudicing the electoral prospects of another candidate at that election or presidential election.

Meaning of “donation”

3.—(1) In this Act, unless the context otherwise requires, “donation”, in relation to a candidate at an election or at a presidential election, means —

- (a) any gift of money or other property to the candidate or his election agent;
- (b) any money spent (otherwise than by the candidate as permitted by any other written law) in paying any expenses incurred, directly or indirectly, by the candidate or by his election agent or any person authorised by his election agent;
- (c) any money lent to the candidate or his election agent otherwise than on commercial terms;
- (d) the provision otherwise than on commercial terms of any property, services or facilities (including the services of any person) to the candidate or his election agent; or
- (e) the provision of any sponsorship in relation to the candidate,

which is given, spent, lent or provided (whether before or after he becomes a candidate) for the purposes of the candidate’s election.

(2) In this Act, unless the context otherwise requires, “donation”, in relation to a political association, means —

- (a) any gift of money or other property to the political association;
- (b) any money spent (otherwise than by the political association or a person acting on its behalf) in paying any expenses incurred, directly or indirectly, by the political association;
- (c) any money lent to the political association otherwise than on commercial terms;
- (d) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the political association (including the services of any person);
- (e) the provision of any sponsorship in relation to the political association; or
- (f) any subscription or other fee paid for affiliation to, or membership of, the political association.

Excluded donations

4.—(1) Notwithstanding section 3, the following shall not be regarded as donations:

- (a) the lawful transmission by a broadcaster, free of charge, of a party political broadcast;
- (b) the postage-free election communications provided to candidates pursuant to any written law;
- (c) the provision by an individual of his own services which he provides voluntarily and free of charge (even if they fall within the course of his normal work); and
- (d) any interest accruing to a candidate or his election agent or a political association in respect of any donation which is dealt with by the candidate, election agent or political association, as the case may be, in accordance with section 9 (2) or 15 (2).

(2) In the case of a candidate, the following shall also not be regarded as donations:

- (a) any money or other property, or any services or facilities, provided out of public moneys for the personal security of the candidate; and
- (b) where the candidate is the President or Prime Minister, a Minister, Parliamentary Secretary or Member of Parliament, any remuneration or allowances paid to the candidate in his capacity as such.

(3) In subsection (1), “broadcaster” means a person who is licensed under the Singapore Broadcasting Authority Act (Cap. 297) to provide broadcasting services.

Value of donations

5.—(1) The value of any donation which is a gift to a candidate, election agent or political association shall be the market value of the property in question.

(2) Where any donation, being money or property, is transferred to a candidate, election agent or political association for a consideration which is less than the value of the money or market value of the property, the value of the donation shall be taken to be the difference between —

- (a) the value of the money, or the market value of the property, in question; and
 - (b) the consideration provided by or on behalf of the candidate, election agent or political association, as the case may be.
- (3) The value of any donation, being —
- (a) any money lent to a candidate, election agent or a political association otherwise than on commercial terms; or
 - (b) the provision otherwise than on commercial terms of any property, services or facilities (including the services of any person),

shall be taken to be the amount representing the difference between —

- (i) the actual cost (if any) to the candidate, election agent or political association; and
- (ii) the cost that would have been incurred by the candidate, election agent or the political association, as the case may be, had the loan been made, or the property, services or facilities been provided, on commercial terms.

(4) The value of any donation, being the provision of any sponsorship in relation to a candidate or political association, shall be taken to be the value in monetary terms of the benefit conferred by the sponsorship in question on the candidate or association; and any such value conferred on the sponsor shall be disregarded.

(5) Where a donation referred to in subsection (3) or (4) confers an enduring benefit on any candidate, election agent or political association during the whole or part of the relevant reporting period, the amount to be recorded in any donation report required to be prepared under this Act shall be so much of the total value of the donation (as determined in accordance with subsection (3)) as accrues during the whole or part of that relevant reporting period to which the donation report relates.

- (6) In subsection (5), “relevant reporting period” means —
- (a) any period for which a donation report is required to be prepared under this Act; or
 - (b) 2 or more such periods.

Acceptance, receipt, etc., of donations: general

6.—(1) Subject to the provisions of this Act, a donation is accepted —

- (a) by a candidate or his election agent if it is received and retained by the candidate or his election agent for the purposes of the candidate's election; or
- (b) by a political association if it is received and retained by the political association for its use and benefit.

(2) Where a donation is made to any candidate, election agent or political association by paying an amount into any account held by the candidate, election agent or political association with a financial institution, it shall be taken for the purposes of this Act to have been received by the candidate, election agent or political association at the time when the candidate, election agent or association, as the case may be, is notified in the usual way of the payment into the account.

Registrar of Political Donations, etc.

7.—(1) The Minister may, by notification in the *Gazette*, appoint a public officer to be the Registrar of Political Donations for the purposes of this Act, and such number of Assistant Registrars of Political Donations as he considers necessary.

(2) An Assistant Registrar of Political Donations may exercise all powers and may perform all duties of the Registrar under this Act or any regulations made thereunder subject to the general or specific directions of the Registrar.

PART II**DONATIONS TO POLITICAL ASSOCIATIONS***Division 1 — Restrictions on donations***Donations from permissible donors only**

8.—(1) Subject to the provisions of this Act, every political association must not accept any donation it receives if —

- (a) it is offered by a person who is not, at the time of its receipt by the political association, a permissible donor; or
- (b) the political association is (whether because the donation is offered anonymously or by reason of any deception or

concealment) unable to ascertain the identity of that person offering the donation.

(2) Nothing in this section shall prohibit a political association from accepting during any one financial year of the association anonymous donations less than a total sum of \$5,000, or such other prescribed sum.

(3) In relation to a donation in the form of a bequest, subsection (1) (a) shall be read as referring to an individual who was at death a citizen of Singapore and not less than 21 years of age.

Return of donations

9.—(1) Where a donation is received by a political association and it is not immediately decided that the association should (for whatever reason) refuse the donation, all reasonable steps must be taken without delay by or on behalf of the political association to verify or, so far as the following is not apparent, ascertain —

- (a) the identity of the donor;
- (b) whether he or it is a permissible donor; and
- (c) if he or it is a permissible donor, all such details in respect of the donor as are required by the Schedule to be given in respect of a donor of a recordable donation.

(2) Notwithstanding section 6, if a political association receives any donation which it is prohibited from accepting by virtue of section 8, or which the association has decided that it should for any reason refuse, then —

- (a) in the case of any anonymous donation, the requirements of section 10 (1) must be complied with in respect of the whole donation; or
- (b) in any other case, the donation must be sent back, or a payment of an equivalent amount must be sent, to the person who made the donation or any other person appearing to be acting on his behalf,

within a period of 30 days beginning with the date when the donation is so received by the political association.

(3) For the purposes of this Act, a donation received by a political association shall be taken to have been accepted by the political association unless —

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- (a) the steps referred to in subsection (2) (a) or (b), whichever is applicable, have been taken within the time limited by that subsection; and
 - (b) a record can be produced of the receipt of the donation and —
 - (i) of the required steps being taken in relation to the donation as mentioned in subsection (2) (a); or
 - (ii) of the return of the donation, or the equivalent amount, as mentioned in subsection (2) (b).

Return of donations whose donors are unidentifiable

10.—(1) Subject to the provisions of this Act, where any anonymous donation is offered to any political association, and section 8 prohibits the political association from accepting (whether wholly or in part) the donation, the following requirements must be complied with:

- (a) if the donation was transmitted by a person (other than the donor) and the identity of that person is apparent, the whole donation must be returned to that person;
- (b) if paragraph (a) does not apply but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, the whole donation must be returned to that financial institution; or
- (c) in all other cases, the whole donation must be sent to the Registrar.

(2) Any amount sent to the Registrar in pursuance of subsection (1) (c) shall be paid into the Consolidated Fund.

Forfeiture of donations not made by permissible donors, etc.

11.—(1) Where any donation, being a donation which, by virtue of section 8, any political association is prohibited from accepting, is made to a political association and has been accepted by the association, a District Court may, on the application of the Public Prosecutor, order the forfeiture by the political association of an amount equal to the value of the donation.

(2) Where, on an application by the Public Prosecutor under subsection (1), the District Court makes an order of forfeiture or refuses the application, the political association concerned or the

Public Prosecutor, as the case may be, may, before the end of the period of 30 days beginning with the date of the order or refusal to order, appeal to the High Court.

(3) An appeal under subsection (2) shall be by way of a rehearing; and the High Court hearing such appeal may make such order as it considers appropriate.

(4) The standard of proof in proceedings under this section shall be that applicable to civil proceedings.

(5) An order may be made under this section whether or not proceedings are brought against any person for an offence connected with the donation.

(6) Any amount forfeited by an order under this section shall be paid into the Consolidated Fund.

(7) Where an appeal is made under subsection (2), subsection (6) shall not apply before the appeal is determined or otherwise disposed of.

(8) In the case of a political association which is not a body corporate —

- (a) proceedings under this section shall be brought against or by the political association in its own name (and not in that of any of its members);
- (b) for the purposes of any such proceedings any rules of court relating to the service of documents shall apply as if the political association were a body corporate; and
- (c) any amount forfeited by an order under this section shall be paid out of the funds of that political association.

(9) Where any amount forfeited by an order of the District Court under subsection (1) or an order of the High Court under subsection (3) where there is an appeal, is not paid in compliance with the terms of the order, the District Court or High Court, as the case may be, may, on the application of the Public Prosecutor, issue a warrant for the levy of the amount forfeited against any property belonging to the political association concerned.

(10) Such a warrant may be executed in the same manner as a warrant for the levy of the amount of a fine under section 224 (b) (iii) of the Criminal Procedure Code (Cap. 68).

(11) Where any amount recovered under any warrant issued under subsection (9) is in excess of the amount forfeited under this section, the balance shall be returned to the political association concerned.

Division 2 — Reporting of donations by political associations

Annual donation report

12.—(1) Subject to the provisions of this Act, the responsible officers of every political association shall, within 31 days after the close of each financial year of the association, prepare and send to the Registrar a donation report under this section in respect of every recordable donation referred to in subsections (2) and (3), giving all such details in respect of each donor thereof as are required by the Schedule to be given in respect of a donor of a recordable donation.

(2) Every donation from a permissible donor to a political association which is received by the political association during its financial year and accepted by the political association must be recorded in a donation report under this section for that financial year —

- (a) if it is a single donation of not less than \$10,000, or such other prescribed sum; or
- (b) if, when it is added to any other donation from the same permissible donor, the aggregate amount of the donations is not less than \$10,000, or such other prescribed sum.

(3) If during any financial year no donations have been received by the political association which, by virtue of the provisions of this section, are required to be recorded in a donation report for that financial year, the donation report shall contain a statement to that effect.

(4) Every donation report of a political association under this section shall be in the prescribed form and signed by all the responsible officers of the political association.

Submission of accompanying declarations

13. Every donation report under section 12 shall, when sent to the Registrar, be accompanied by a declaration in the prescribed form made by the responsible officers of the political association which states that, to the best of their knowledge and belief —

- (a) all donations recorded in the donation report as having been accepted by the political association are from permissible donors; and
- (b) during the financial year to which the donation report relates —
 - (i) no other donations required by this section to be recorded in the donation report have been accepted by the political association;
 - (ii) no anonymous donation in excess of the amount permitted under section 8 (2) has been accepted by the political association; and
 - (iii) no other donation from any person or body other than a permissible donor has been so accepted by the political association.

PART III

DONATIONS TO CANDIDATES

Division 1 — Restrictions on donations

Prohibition of donations from impermissible donors

14.—(1) Subject to the provisions of this Act, every candidate and his election agent must not accept any donation he receives if —

- (a) it is offered by a person who is not, at the time of its receipt by the candidate or his election agent, a permissible donor; or
- (b) the candidate or his election agent is (whether because the donation is offered anonymously or by reason of any deception or concealment) unable to ascertain the identity of the person offering the donation.

(2) Nothing in this section shall prohibit a candidate at an election and his election agent, or a candidate at a presidential election and his principal election agent, from accepting during the relevant period anonymous donations less than a total sum of \$5,000, or such other prescribed sum.

(3) In relation to a donation in the form of a bequest, subsection (1) (a) shall be read as referring to an individual who was at death a citizen of Singapore and not less than 21 years of age.

(4) In this section, “relevant period”, in relation to a candidate and his election agent or (as the case may be) principal election agent, means —

- (a) in the event a writ is issued within 12 months of the commencement of Part III, the period beginning on the date of such commencement and ending on the latest date the candidate’s declaration under section 19 is required by that section to be sent to the Registrar; or
- (b) in any other case, the period beginning on a date 12 months preceding the date the declaration is made by the candidate under section 18 before nomination day at an election or (as the case may be) a presidential election, and ending on the latest date the candidate’s declaration under section 19 is required by that section to be sent to the Registrar after the election or (as the case may be) presidential election.

Return of donations

15.—(1) Where a donation is received by a candidate or his election agent and it is not immediately decided that the candidate or election agent should (for whatever reason) refuse the donation, all reasonable steps must be taken without delay by the candidate or election agent to verify or, so far as the following is not apparent, ascertain —

- (a) the identity of the donor;
- (b) whether he or it is a permissible donor; and
- (c) if he or it is a permissible donor, all such details in respect of the donor as are required by the Schedule to be given in respect of a donor of a recordable donation.

(2) Notwithstanding section 6, if a candidate or his election agent receives a donation which he is prohibited from accepting by virtue of section 14, or which the candidate or his election agent has decided he should for any reason refuse, then —

- (a) in the case of any anonymous donation, the requirements of section 16 (1) must be complied with in respect of the whole donation; or
- (b) in any other case, the donation must be sent back, or a payment of an equivalent amount must be sent, to the person who made the donation or any other person appearing to be acting on his behalf,

within a period of 30 days beginning with the date when the donation is so received by the candidate or his election agent, as the case may be.

(3) For the purposes of this Act, a donation received by a candidate or his election agent shall be taken to have been accepted by the candidate or his election agent unless —

- (a) the steps referred to in subsection (2) (a) or (b), whichever is applicable, have been taken within the time limited by that subsection; and
- (b) a record can be produced of the receipt of the donation and —
 - (i) of the required steps being taken in relation to the donation as mentioned in subsection (2) (a); or
 - (ii) of the return of the donation, or the equivalent amount, as mentioned in subsection (2) (b).

Return of donations whose donors are unidentifiable

16.—(1) Subject to the provisions of this Act, where any anonymous donation is offered to any candidate or his election agent, and section 14 prohibits him from accepting (whether wholly or in part) the donation, the following requirements must be complied with:

- (a) if the donation was transmitted by a person (other than the donor) and the identity of that person is apparent, the whole donation must be returned to that person;
- (b) if paragraph (a) does not apply but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, the whole donation must be returned to that financial institution; or
- (c) in all other cases, the whole donation must be sent to the Registrar.

(2) Any amount sent to the Registrar in pursuance of subsection (1) (c) shall be paid into the Consolidated Fund.

Forfeiture of donations not made by permissible donors, etc.

17.—(1) Where any donation, being a donation which, by virtue of section 14, any candidate or his election agent is prohibited from accepting, is made to a candidate or his election agent and has been

accepted by the candidate or his election agent, a District Court may, on the application of the Public Prosecutor, order the forfeiture by the candidate or election agent, as the case may be, of an amount equal to the value of the donation.

(2) Where, on an application by the Public Prosecutor under subsection (1), the District Court makes an order of forfeiture or refuses the application, the candidate or election agent concerned or the Public Prosecutor, as the case may be, may, before the end of the period of 30 days beginning with the date of the order or refusal to order, appeal to the High Court.

(3) An appeal under subsection (2) shall be by way of a rehearing; and the High Court hearing such appeal may make such order as it considers appropriate.

(4) The standard of proof in proceedings under this section shall be that applicable to civil proceedings.

(5) An order may be made under this section whether or not proceedings are brought against any person for an offence connected with the donation.

(6) Any amount forfeited by an order under this section shall be paid into the Consolidated Fund.

(7) Where an appeal is made under subsection (2), subsection (6) shall not apply before the appeal is determined or otherwise disposed of.

(8) Where any amount forfeited by an order of the District Court under subsection (1) or an order of the High Court under subsection (3) where there is an appeal, is not paid in compliance with the terms of the order, the District Court or High Court, as the case may be, may, on the application of the Public Prosecutor, issue a warrant for the levy of the amount forfeited against any property belonging to the candidate or election agent concerned.

(9) Such a warrant may be executed in the same manner as a warrant for the levy of the amount of a fine under section 224 (b) (iii) of the Criminal Procedure Code (Cap. 68).

(10) Where any amount recovered under any warrant issued under subsection (8) is in excess of the amount forfeited under this section, the balance shall be returned to the candidate or election agent concerned.

*Division 2 — Declarations and donation reports***Political donation certificate for nomination day**

18.—(1) Any person who is or desires to be a candidate at any election or presidential election shall, at any time after the date of the notice of the writ referred to in section 25 of the Parliamentary Elections Act (Cap. 218) or, in the case of a presidential election, section 7 of the Presidential Elections Act (Cap. 240A), but at least 2 clear days before nomination day at that election or (as the case may be) presidential election, send to the Registrar —

- (a) a donation report in the prescribed form in respect of every recordable donation referred to in subsections (2) and (3), giving all such details in respect of each donor thereof as are required by the Schedule to be given in respect of a donor of a recordable donation; and
- (b) a declaration subscribed by the person in the prescribed form stating that, to the best of his knowledge and belief —
 - (i) no other donations required by this section to be recorded in the donation report have been accepted by the person during the relevant period;
 - (ii) no donation from any person or body other than a permissible donor has been so accepted by the person during the relevant period; and
 - (iii) no anonymous donations, or no anonymous donations in excess of the sum permitted under section 14 (2), have been accepted by the person during that same period.

(2) Every donation from a permissible donor to a person who is or desires to be a candidate at an election or (as the case may be) a presidential election which is received and accepted by the person during the relevant period must be recorded in a donation report under this section for that relevant period —

- (a) if it is a single donation of not less than \$10,000, or such other prescribed sum; or
- (b) if, when it is added to any other donation from the same permissible donor, the aggregate amount of the donations is not less than \$10,000, or such other prescribed sum.

(3) If during any relevant period no donations have been received by a person who is or desires to be a candidate at an election or a presidential election which, by virtue of the provisions of this section, are required to be recorded in a donation report for that relevant period, the donation report shall contain a statement to that effect.

(4) Upon receipt of a donation report and declaration in compliance with the requirements of subsection (1), the Registrar shall issue to the person concerned not later than the eve of the nomination day at the election or (as the case may be) presidential election, a political donation certificate stating that the person has complied with subsection (1).

(5) Any such certificate issued under subsection (4) shall, for the purposes of any written law, be conclusive as to the facts it certifies.

(6) In this section, “relevant period”, in relation to any person, means —

- (a) in the event a writ is issued within 12 months of the commencement of Part III, the period beginning on the date of such commencement and ending on the date the declaration under this section is made by that person; or
- (b) in any other case, the period of 12 months preceding the date the declaration under this section is made by that person (that date inclusive).

Post-election donation reports and declarations

19.—(1) Within 31 days after the date of publication of the statement of the poll referred to in section 51 of the Parliamentary Elections Act (Cap. 218) or, in the case of a presidential election, in section 34 (1) of the Presidential Elections Act (Cap. 240A), the candidate and his election agent at that election or, in the case of a presidential election, the candidate and his principal election agent, shall send to the Registrar —

- (a) a donation report in the prescribed form in respect of every recordable donation referred to in subsections (2) and (3), giving all such details in respect of each donor thereof as are required by the Schedule to be given in respect of a donor of a recordable donation; and
- (b) a declaration under subsection (4) and such other declarations under subsection (5), if applicable.

(2) Every donation from a permissible donor to a candidate or any of his election agents which is received and accepted by the candidate or any of his election agents during the relevant period must be recorded in a donation report under this section for that relevant period —

- (a) if it is a single donation of not less than \$10,000, or such other prescribed sum; or
- (b) if, when it is added to any other donation to the candidate or any of his election agents from the same permissible donor, the aggregate amount of the donations is not less than \$10,000, or such other prescribed sum.

(3) If during any relevant period no donations have been received by a candidate or any of his election agents which, by virtue of the provisions of this section, are required to be recorded in a donation report for that relevant period, the donation report shall contain a statement to that effect.

(4) A declaration under this section by a candidate at an election and his election agent, or a candidate at a presidential election and his principal election agent, shall be subscribed jointly in the prescribed form and shall state that, to the best of their knowledge and belief —

- (a) all donations recorded in the donation report as having been accepted by the candidate and his election agent or agents, as the case may be, during the relevant period are from permissible donors;
- (b) no other donations required by this section to be recorded in the donation report have been accepted by the candidate or any of his election agents during the relevant period;
- (c) no anonymous donations, or no anonymous donations in excess of the sum permitted under section 14 (2), have been received and accepted by the candidate and his election agent or (as the case may be) the principal election agent during that same period; and
- (d) no other donation from any person or body other than a permissible donor has been so received and accepted by the candidate or his election agent or agents during that same period.

(5) A declaration under this section by each and every election agent of a candidate at a presidential election in the prescribed form stating that, to the best of his knowledge and belief —

- (a) all donations recorded in the donation report as having been accepted by the election agent during the relevant period are from permissible donors;
- (b) no other donations required by this section to be recorded in the donation report have been accepted by the election agent during the relevant period; and
- (c) no anonymous donation and no other donation from any person or body other than a permissible donor have been so accepted by the election agent during that same period,

shall also accompany the donation report and declaration of the candidate and principal election agent.

(6) In this section, “relevant period”, in relation to any candidate or his election agent, means the period beginning on the date of the candidate’s declaration under section 18 (1) (b) and ending on the latest date the candidate’s declaration under this section is required to be sent to the Registrar.

PART IV

OBLIGATIONS OF CERTAIN DONORS

Donations on behalf of others

20.—(1) For the purposes of this Act, where any person (referred to in this section as the principal donor) causes an amount (referred to in this section as the principal donation) to be received by a candidate or his election agent or a political association by way of a donation —

- (a) on behalf of himself and one or more other persons; or
- (b) on behalf of one or more other persons,

then each individual contribution by each person referred to in paragraph (a) or (b) shall be treated as if it were a separate donation by that person.

(2) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the candidate, election agent or the political association, the

candidate, election agent or association, as the case may be, is given all such details in respect of the person treated by subsection (1) as giving the donation as is required by the Schedule to be given in respect of a donor of a recordable donation.

(3) Where a person (referred to in this subsection as the agent) causes an amount to be received by a candidate, election agent or political association by way of a donation on behalf of another person (referred to in this subsection as the donor), the agent must ensure that, at the time the amount is received by the candidate, election agent or political association, he or it, as the case may be, is given all such details in respect of the donor as are required by the Schedule to be given in respect of a donor of a recordable donation.

(4) Any person who fails, without reasonable excuse, to comply with subsection (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

Reporting of multiple small donations to political associations

21.—(1) This section shall apply where a person (referred to in this section as the donor) has during the course of a calendar year made one or more donations (each of which is referred to in this section as a small donation) to a political association, the aggregate value of which is not less than \$10,000, or such other prescribed sum.

(2) The donor must make a donation report in the prescribed form to the Registrar in respect of the small donations, giving the following particulars:

- (a) the aggregate value of the donations and the year in which they were made;
- (b) the name of the political association to which they were made; and
- (c) the full name and address of the donor and such other details in respect of the donor as are required by the Schedule to be given in respect of a donor of a recordable donation,

whether or not the small donations are subject to inclusion in the donation report under section 12 of the political association concerned.

(3) Every donation report under subsection (2) shall be sent to the Registrar no later than 31st January of the year following that in which the donations were made.

(4) Every donation report under subsection (2) shall be accompanied by a declaration in the prescribed form by the donor stating —

- (a) that small donations whose aggregate value was that specified in the report were made by him to the specified political association during the specified year; and
- (b) that no other small donations were made by him to that political association during that same year.

PART V

OFFENCES

Offences in connection with donation reports, etc.

22.—(1) Where any donation report or declaration which is required under section 12 (1), 13 or 19 (1) to be sent to the Registrar is not so sent within the time limited under the applicable section, then —

- (a) in the case of a donation report or declaration required under section 12 (1) or 13, the responsible officers of the political association in question shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part thereof during which the offence continues after conviction; or
- (b) in the case of a donation report or declaration required under section 19 (1), the candidate at an election and his election agent in question or (as the case may be) the candidate at a presidential election and his principal election agent in question, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part thereof during which the offence continues after conviction.

(2) If a donation report under section 12 or 19 is sent to the Registrar, but such a report does not comply with the requirements of section 12 or, as the case may be, section 19 as regards the recording of donations in such report, then —

- (a) in the case of a donation report under section 12, the responsible officers of the political association in question shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000; or
- (b) in the case of a donation report under section 19, the candidate and his election agent or agents in question shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000.

(3) Where any person is charged with an offence under subsection (1) or (2), it shall be a defence to prove that he took all reasonable steps, and exercised all due diligence to ensure that any requirements —

- (a) as regards preparation or sending of a donation report; or
- (b) as regards the information to be given in any donation report,

as the case may be, have been complied with in relation to the donation report.

(4) Where the court is satisfied, on an application made by the Public Prosecutor, that any failure to comply with any such requirements in relation to any donation received by a political association, candidate or election agent was attributable to an intention on the part of any person to conceal the existence or true amount of the donation, the court may order the forfeiture of an amount equal to the value of the donation; and sections 11 and 17 shall apply in connection with such an application with the necessary modifications.

(5) Any person who makes a false declaration under section 13, 18 (1) (b) or 19 (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years or to both.

(6) Where any responsible officer of a political association, candidate or election agent is charged with an offence under subsection (5), it shall be a defence to prove that he did not know and could not reasonably have known that the declaration was false.

Evasion of restrictions on donations

23.—(1) Where a person —

- (a) enters into; or
- (b) knowingly does any act in furtherance of,

any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of donations to a candidate, election agent or political association by any person or body other than a permissible donor, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Where a person —

- (a) knowingly gives an officer of a political association or a candidate or his election agent any information relating to the identity of the donor or the amount of any donation made to the political association or the candidate or election agent or to the person or body making such a donation, which is false in a material particular; or
- (b) with intent to deceive, withholds from any officer of a political association or a candidate or his election agent any material information relating to the identity of the donor or the amount of any donation made to the political association or candidate or election agent or to the person or body making such a donation,

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 12 months or to both.

Non-reporting of small donations

24. Any donor to which section 21 applies who —

- (a) delivers a donation report under section 21 which does not comply with subsection (2) thereof;
- (b) fails to deliver such donation report in accordance with section 21 (3) or such a report, when delivered by him, is not accompanied by a declaration under section 21 (4); or
- (c) knowingly or recklessly makes a false declaration under section 21 (4),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part thereof during which the offence continues after conviction.

Corporate offenders and unincorporated associations

25.—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

- (a) any director, manager, secretary or other similar officer of the body; or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Proceedings for an offence alleged to have been committed under this Act by an unincorporated association shall be brought against the association in its own name (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to service of documents shall have effect as if the association were a corporation.

(4) A fine imposed on an unincorporated association on its conviction for an offence under this Act shall be paid out of the funds of the association.

(5) Where a partnership is guilty of an offence under this Act, every partner (other than a partner who is proved to have been ignorant of, or to have attempted to prevent the commission of, the offence) shall also be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Where any other unincorporated association is guilty of an offence under this Act —

- (a) every officer of the association who is bound to fulfil any duty of which the offence is a breach; or

- (b) if there is no such officer, every member of the committee or other similar governing body (other than a member who is proved to have been ignorant of, or to have attempted to prevent the commission of, the offence),

shall also be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

Seizable offence

26. Every offence under this Part shall be deemed to be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).

Composition of offences

27.—(1) The Registrar may, in his discretion, compound any offence under this Act or any regulations made thereunder which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding \$500.

(2) On payment of such sum of money, no further proceedings shall be taken against such person in respect of the offence.

Sanction to prosecute

28. No prosecution for any offence under this Act shall be instituted without the sanction of the Public Prosecutor.

Monitoring powers of Registrar

29.—(1) The Registrar may by notice require the relevant person in the case of any political association —

- (a) to produce, for inspection by the Registrar or a person authorised by the Registrar, any such books, documents or other records relating to the income and expenditure of the political association as the Registrar may reasonably require for the purposes of the carrying out by his function under this Act or any regulations made thereunder; or
- (b) to furnish the Registrar, or a person authorised by the Registrar, with such information or explanation relating to

the income and expenditure of the political association as the Registrar may reasonably so require,

and to do so within such reasonable time as is specified in the notice.

(2) The Registrar, or a person authorised by the Registrar, may —

- (a) make copies of, or records of any information contained in, any books, documents or other records produced under subsection (1) (a); or
- (b) make copies or records of any information or explanation furnished under subsection (1) (b).

(3) The Registrar or a person authorised in writing by the Registrar may, for the purposes of the carrying out of his functions, enter at any reasonable time premises occupied by a political association and having entered any such premises may —

- (a) inspect any books, documents or other records relating to the income and expenditure of the political association; and
- (b) make copies of, or records of any information contained in, any such books, documents or other records.

(4) Where any such records as are mentioned in subsection (1) or (3) are kept in electronic form, then —

- (a) the power of the Registrar under subsection (1) to require any such records to be produced for inspection includes power to require a copy of the records to be made available for inspection in legible form (and subsection (2) (a) shall accordingly apply in relation to any copy so made available); and
- (b) the power of any person (referred to in this subsection as the inspector) under subsection (3) to inspect any such records includes power to require any person on the premises in question to give the inspector such assistance as the inspector may reasonably require to enable him —
 - (i) to inspect and make copies of the records in legible form or to make records of information contained in them; or
 - (ii) to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the records.

(5) A person who fails, without reasonable excuse, to comply with any requirement imposed under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

(6) Any person who intentionally obstructs the Registrar or a person authorised as mentioned in subsection (3) in the carrying out of his functions under that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

(7) The powers conferred by virtue of subsection (1) shall apply in relation to candidates and election agents except that the powers may only be exercised by the Registrar (or, as the case may be, by a person authorised by the Registrar) for or in connection with obtaining such information or explanations relating to the income and expenditure of candidates and election agents in connection with their political activities as the Registrar reasonably require for the purpose of monitoring compliance on the part of candidates or election agents with the requirements imposed by or by virtue of this Act.

Supply of false or misleading information to Registrar, etc.

30.—(1) Any person who knowingly or recklessly provides the Registrar with information which is false or misleading in a material particular shall be guilty of an offence if the information is provided —

- (a) in purported compliance with a requirement imposed by or under this Act; or
- (b) otherwise than as mentioned in paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Registrar for the purpose of discharging his functions under this Act.

(2) A person who —

- (a) alters, suppresses, conceals or destroys; or
- (b) causes or permits the alteration, suppression, concealment or destruction of,

any document or other record relating to the financial affairs or transactions of a political association, candidate or election agent with

the intention of falsifying the document or record or enabling that organisation or individual to evade any of the provisions of this Act shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 12 months or to both.

PART VI

MISCELLANEOUS

Register of donations

31. The Registrar shall establish and maintain a register of all donations sent to and reported to him under this Act.

Regulations and amendment of Schedule

32.—(1) The Minister may make regulations to prescribe anything which is required to be prescribed under this Act and generally for the carrying out of the provisions of this Act.

(2) The Minister may, from time to time, by regulations, amend the Schedule.

No regulations between writ and return respecting election expenses

33. Notwithstanding section 32, where a writ is issued, no regulations shall be made amending —

- (a) the maximum amount of anonymous donations a political association or a candidate and his election agent is permitted by section 8 (2) or 14 (2) to accept; or
- (b) the minimum amount of donation that is a recordable donation specified in section 12 (2) or 19 (2) (a),

until after the last day prescribed by section 74 (1) of the Parliamentary Elections Act (Cap. 218) or, in the case of a presidential election, by section 56 (1) of the Presidential Elections Act (Cap. 240A), for the transmission of returns respecting election expenses in connection with the election or (as the case may be) presidential election.

Supplementary provisions about forfeiture orders under section 11 or 17

34.—(1) Provision may be made by rules of court —

- (a) with respect to applications or appeals to any court under section 11 or 17;
- (b) for the giving of notice of such applications or appeals to persons affected; and
- (c) generally with respect to the procedure under those sections before any court.

(2) Subsection (1) is without prejudice to the generality of any existing power under any other written law to make rules of court.

Saving

35. This Act shall not apply to any donation which is received and accepted —

- (a) by any political association before the commencement of Part II of this Act; or
- (b) by any candidate or election agent before the commencement of Part III of this Act.

Related amendments to Parliamentary Elections Act

36.—(1) Section 27 of the Parliamentary Elections Act (Cap. 218) is amended —

- (a) by deleting subsection (3) and substituting the following subsection:

“(3) Every candidate shall, at the time of his nomination, deliver to the Returning Officer —

- (a) a statutory declaration of his qualifications and subscribed by the candidate in Form 10 in the First Schedule; and
 - (b) a political donation certificate issued to him by the Registrar of Political Donations under section 18 (4) of the Political Donations Act 2000.”; and
- (b) by deleting the words “subsection (3)” in subsection (3A) and substituting the words “subsection (3) (a) or the political

donation certificate which is required by subsection (3) (b) to be delivered”.

(2) Section 27B (3) of the Parliamentary Elections Act (Cap. 218) is amended by deleting the word “and” at the end of paragraph (a) and, by inserting immediately thereafter the following paragraph:

“(aa) a political donation certificate issued to him by the Registrar of Political Donations under section 18 (4) of the Political Donations Act 2000; and”.

(3) Section 29 of the Parliamentary Elections Act is amended —

(a) by inserting, immediately after the words “statutory declarations” in the 3rd line of subsection (1), the words “, political donation certificates issued by the Registrar of Political Donations”; and

(b) by inserting, immediately after the word “Every” in subsection (2), the word “such”.

Related amendments to Presidential Elections Act

37.—(1) Section 9 (4) of the Presidential Elections Act (Cap. 240A) is amended by deleting the word “and” at the end of paragraph (b) and, by inserting immediately thereafter the following paragraph:

“(ba) a political donation certificate issued to him by the Registrar of Political Donations under section 18 (4) of the Political Donations Act 2000; and”.

(2) Section 11 of the Presidential Elections Act is amended —

(a) by inserting, immediately after the words “statutory declarations” in subsection (1), the words “, political donation certificates issued by the Registrar of Political Donations”; and

(b) by inserting, immediately after the word “Every” in subsection (2), the word “such”.

THE SCHEDULE

Sections 9 (1), 12 (1), 15 (1), 18 (1),
19 (1), 22 (2) and (3) and 21 (2)

DETAILS TO BE GIVEN IN DONATION REPORTS

Identity of donors

1. A donation report must give the following information about the donor of each recordable donation:

- (a) in the case of an individual, the report must give his full name, identity card number and the address of his residence at the date of receipt of the donation;
- (b) in relation to a donation in the form of a bequest, the report must give the deceased donor's full name, identity card number and the address of his residence at the date of his death; and
- (c) in the case of a company, the report must give —
 - (i) the company's registered name;
 - (ii) the address of its registered office; and
 - (iii) the number with which it is registered.

Value of donation

2. If the recordable donation was a donation of money (in cash or otherwise), the donation report must give the amount of the donation, otherwise the donation report must give details of the nature of the donation and its value determined in accordance with section 5.

Circumstances in which donation made

3. In relation to each recordable donation, a donation report must —
- (a) state whether the donation was made to the political association or any of its branches or, in the case of a donation to an election agent, the name of the election agent; and
 - (b) in the case of a donation referred to in section 12 (2) (a) or 19 (2) (a), the date when the donation was received by the candidate, election agent or political association; or
 - (c) in the case of a donation referred to in section 12 (2) (b) or 19 (2) (b), the date when the donation was received by the candidate, election agent or political association which caused the aggregate amount in question to be not less than \$10,000 or the amount prescribed for the purposes of that provision.

Aggregate donations

4. In relation to each recordable donation which was made by any person —
- (a) on behalf of himself and one or more other persons; or
 - (b) on behalf of one or more other person,

THE SCHEDULE — *continued*

a donation report must give the aggregate value of the donation as well as the value of each separate donation which, by virtue of section 20 (1), is to be regarded as having been made by each of those persons.

Other details

5. A donation report must give such other information as is prescribed by regulations made under section 32.
