

REVIEW OF THE REGULATION OF ELECTION EXPENDITURE ACT NO.3 OF 2023 AS PER STANDARDS FOR INTEGRITY IN POLITICAL FINANCE



Compliance with the Standards for Integrity in Political Finance

Principle	Standards	Provision in the REEA or other laws	Comments/Recommendation
1.TRANSPARENCY	1.1. BOOKKEEPING OBLIGATIONS	No provision	<p>Introduce provisions for;</p> <ul style="list-style-type: none"> Record management in line with int'l accounting standards. Manage all income and expenditure through dedicated bank accounts.
	1.2. REPORTING OBLIGATIONS	<ul style="list-style-type: none"> s.3(1) Within a period of five days after the conclusion of the period of nomination specified in the Proclamation or Order requiring the conduct of an election under any law specified in section 2, the Election Commission shall, in consultation with the recognized political parties, and the independent groups contesting such election, fix by Order published in the Gazette, a sum of money in Sri Lankan rupees to be used for the purpose of calculating an authorized amount, in accordance with the provisions of this section, for such election: 	<ul style="list-style-type: none"> Amend the provision to extend the timeframe to capture expenses from the commencement of the nomination period.
		<ul style="list-style-type: none"> s.6(1) Every recognized political party, independent group and candidate at an election conducted under any law specified in section 2 shall within twenty-one days of the date of publication of the result of such election, submit to the respective authority specified in subsection (3) - <ol style="list-style-type: none"> a. a return of all donations or contributions b. a return of all expenses 	<ul style="list-style-type: none"> This could be further improved by introducing a standardized electronic reporting format to be mandatorily followed. The format shall cover details such as value, date, source of each income, identity of vendors etc. <p>Introducing a digital reporting format could be more useful, especially for verification and recordkeeping purposes.</p> <p>Introduce reporting of income and expenditure prior to the election.</p>
<ul style="list-style-type: none"> s.6(6) The returns referred to in subsection (1) shall be signed by the secretary to the recognized political party, group leader of the independent group or the candidate as the case may be and accompanied by a declaration signed by such secretary, group leader or candidate and attested by a Justice of the Peace, to the effect that the information in such returns is to the best of the knowledge of such secretary, group leader or candidate, true and correct. 	<ul style="list-style-type: none"> Oversight of returns auditing to ensure expenses and donations match with supporting documents - Can be signed by person with knowledge of accounting. 		

	1.3. PUBLICATION OF POLITICAL FINANCE INFORMATION	<ul style="list-style-type: none"> • S.7 Publication of notice relating to receipt of returns and declarations 	<p>Introduce provisions for;</p> <ul style="list-style-type: none"> • Publication of reports through a centralized and user-friendly platform. • Making dedicated bank accounts of political parties, candidates and campaigns publicly available. • Set a reasonable limit on the aggregate allowable amount of income to a political party, candidate, or campaign whose source is not publicly identified (where full identification is not possible or due to threats etc.)
2.CLEAN MONEY	2.1. DUE DILIGENCE AND "KNOW-YOUR-DONOR" GOOD PRACTICES	No provision	<ul style="list-style-type: none"> • Mandate financial institutions to regularly monitor the bank accounts designated to manage political finance and report any suspicious transactions to authorities. • Stipulate provisions defining a reasonable period during which political parties, candidates and campaigns can carry out appropriate checks before accepting, refusing or returning a donation.
	2.2. CRIMINALISATION OF ILLICIT POLITICAL FINANCING AND VOTE BUYING	S.8 Offence of an illegal practice	N/A
	2.3. REPORTING OBLIGATIONS FOR THIRD PARTIES INFLUENCING ELECTORAL OUTCOMES	No provision	<p>Extend reporting requirements to third-party or non-contestant groups which aim to influence electoral outcomes.</p> <p>Media including social media are not obliged to disclose advertising prices and income generated from political publicity - Introduce a provision mandating media outlets and online platforms to submit reports on prices of and revenue from paid political advertising.</p>

	<p>2.4. CLOSING LOOPHOLES FOR ANONYMOUS DONATIONS</p>	<p>s.5(1) A recognized political party, an independent group and a candidate at an election conducted under any law specified in section 2, shall not, directly or indirectly accept or receive a donation or contribution whether such donation or contribution is in cash or kind from</p> <p>(a) a government department, a public corporation or a company incorporated under the Companies Act, No.7 of 2007 or under any former written law relating to companies in which the government or a public corporation owns any shares;</p> <p>(b) a foreign government, an international organization or a body corporate incorporated or registered outside Sri Lanka;</p> <p>(c) a company incorporated in Sri Lanka under the Companies Act, No. 7 of 2007 or under any former written law relating to companies where the foreign shareholding in such company, either direct or indirect, is fifty percent or above; or</p> <p>(d) any person whose identity is not disclosed,</p>	<p>Donations in cryptocurrency and other crypto assets without a public or open ledger, or that are unsupported by a central bank, are not covered.</p>
	<p>2.5. ONLINE POLITICAL ADVERTISING</p>		<p>Definition of “political advertising” to include paid online communications aimed at influencing voters on regulatory and election outcomes.</p> <p>Require platforms or publishers of advertisements to create and maintain machine-readable registers of all adverts and relevant details including the aggregated amounts or value of the publishing services incurred for placing the ads.</p> <p>Require online platforms to implement safeguards against the abuse of paid online communications by third parties to circumvent political finance rules.</p>

	2.6. CORPORATE POLITICAL DONATIONS	No provision	<p>Corporate policies on monetary and in-kind contributions should be subject to review and approval by the company's governing body. Companies making political finance donations to declare their beneficial owners.</p> <p>Restrict or limit donations from companies or legal entities to the same officials targeted by their lobbying or from companies that provide services to public administrations, participate in public procurement tenders, or receive state subsidies, permits and concessions.</p> <p>Proactive disclosure of companies' political finance contributions.</p>
	2.7. FOREIGN DONATIONS	<ul style="list-style-type: none"> • s.5(1) A recognized political party, an independent group and a candidate at an election conducted under any law specified in section 2, shall not, directly or indirectly accept or receive a donation or contribution whether such donation or contribution is in cash or kind from - • (b) a foreign government, an international organization or a body corporate incorporated or registered outside Sri Lanka; 	Does not cover 'foreign citizens' and Sri Lankan diaspora domiciled outside Sri Lanka.
3. A LEVEL PLAYING FIELD	3.1. RESTRICTIONS ON DONATIONS AND SPENDING	<p>Spending</p> <p>s.3(1) Within a period of five days after the conclusion of the period of nomination specified in the Proclamation or Order requiring the conduct of an election under any law specified in section 2, the Election Commission shall, in consultation with the recognized political parties, and the independent groups contesting such election, fix by Order published in the Gazette, a sum of money in Sri Lankan rupees to be used for the purpose of calculating an authorized amount, in accordance with the provisions of this section, for such election:</p> <p>s.4(1) A recognized political party, an independent group and a candidate at an election conducted under any law specified in section 2, shall not incur expenditure in excess of the authorized amounts referred to in subsections (3) and (4) of section 3 as the case may be, in respect of such election.</p> <p>Donations: The provision is silent about the donation limit, although there are provisions banning donations from certain sources.</p>	Introduce a donation limit.

	3.2. DIRECT AND INDIRECT PUBLIC FINANCING	<p>The S.114 of the Presidential Elections Act and S.125 of the Parliamentary Elections Act allow the candidate or the Secretary of a recognized political party or the group leader of an independent group contesting an election, as the case may be, to post communications relating to only such election free of any charges for postage to each elector.</p> <p>Further, S.117 of the Presidential Elections Act and S.126 of the Parliamentary Elections Act allow candidates to use broadcasting facilities upon application on that behalf subject to conditions stipulated.</p>	
	3.3. MEDIA ACCESS AND OWNERSHIP	<p>Media Guidelines by ECSL https://elections.gov.lk/en/elections/election_Media%20Guidelines_E.html</p>	<p>Introduce separate limits for the expenses incurred in electronic and print media.</p> <p>Mandate media outlets to disclose their full ownership structure, including beneficial owners.</p>
	3.4. INTERNAL PARTY GOVERNANCE	No provision	Mandate political parties to adopt, publish and periodically review their own integrity policies (e.g. codes of conduct, rules or guidelines), including during nomination and campaign periods.
	3.5. PUBLIC FUNDING TO SUPPORT UNDERREPRESENTED GROUPS	No provision	N/A
4.GENDER EQUALITY	4.1. TARGETED FINANCIAL MEASURES TO INCREASE WOMEN'S REPRESENTATION	No provision	N/A
	4.2. PUBLICATION OF GENDER DISAGGREGATED INFORMATION	No provision	

5.STATE NEUTRALITY	5.1. PROHIBITION OF THE MISUSE OF STATE RESOURCES FOR ELECTORAL PURPOSES	<p>Section 2 of The Offences Against Public Property Act no 12 of 1982</p> <p>Gazette on Directions to prevent direct or indirect use of moveable or immovable properties belonging to the state, state corporations or statutory boards during the period of an election for the promotion of or in prejudice to any party group or candidate or obstructing the conduct of elections.</p>	<p>The Regulation of Election Expenditure Act does not specifically address this.</p> <p>However other legislation such as the Misuse of Public Property Act Gazette issued by the Election Commission on directions to prevent direct or indirect use of moveable or immovable properties belonging to the state, state corporations or statutory boards during the period of an election for the promotion of or in prejudice to any party group or candidate or obstructing the conduct of elections, exists. Hence, there is no need to include it under the REEA.</p>
	5.2. DECLARATION AND REIMBURSEMENT OF COSTS ASSOCIATED WITH THE USE OF STATE RESOURCES	No provision	<p>Candidates and political parties should be mandated to declare the value of any state resources they use, as well as the mechanisms to reimburse these costs. (Eg: use of public services when attending political rallies on behalf of their political party.)</p> <p>Special provision to be made under the REEA to mandate the relevant state authority to report such costs to the Election Commission.</p>
	5.3. EMPOWERING RELEVANT OVERSIGHT AUTHORITIES TO MONITOR AND SANCTION ABUSE OF STATE RESOURCES	The REEA does not have an oversight body to monitor campaign finance expenditure and to monitor accuracy of the returns filed by candidates. This responsibility is left with the public in this regard.	The ACT should introduce a provision to ensure that the expenditure returns filed by the candidates have been audited by a professional body to ensure accuracy of the expenditure reports.
	5.4. ENSURING NEUTRALITY OF STATE AUTHORITIES INVOLVED IN ELECTION CAMPAIGNS	The Establishment Code exists to ensure that state authorities involved in election campaigns are neutral. As the Code recognizes public officers 'with political rights' and 'without political rights', and this is used by the Election Commission when issuing Gazettes. Particularly, the Gazette on Directions to prevent direct or indirect use of moveable or immovable properties belonging to the state, state corporations or statutory boards during the period of an election for the promotion of or in prejudice to any party group or candidate or obstructing the conduct of elections.	N/A

6.ACCOUNTABILITY	6.1. ESTABLISHING EFFECTIVE OVERSIGHT BODY OR BODIES	No provision	<p>The Election Commission can be made the custodian of the REEA while CIABOC and IRD and ICTA and the AG office receives separate mandates to carry out aspects of the legislation.</p> <p>Introduce a provision to expand the responsibilities and powers of the ECSL, by obliging the Commission to verify the financial reports submitted by candidates, in collaboration with other institutions.</p>
	6.2. PROMOTING INTER-AGENCY COOPERATION	No provision	<p>EC, CIABOC, IRD, ICTA and the NAOSL should cooperate.</p> <p>Introduce a provision to oblige the Commission to verify the financial reports submitted by candidates, in collaboration with other institutions.</p>
	6.3. STRENGTHENING SANCTIONS AND ENSURING THEIR ENFORCEMENT	No criminal sanctions	<p>The severity of the punishment is not proportionate to the nature of the offence. Therefore, the Act requires amendment, as it did not originally envisage certain types of violations. For example, offences such as exceeding expenditure limits and receiving funds from prohibited sources currently carry the same penalty, despite differing in gravity.</p> <p>Eg:- Loss of voting rights and right to contest for 3 years for committing an offence at the presidential election is not proportionate as presidential elections are held every 5 years.</p>
	6.4. ENCOURAGING PARTICIPATION FROM SOCIETY IN CAMPAIGN FINANCE MONITORING	<p>Section 7(3) permits any person to inspect and allow to take copies of returns and declarations upon a payment.</p> <p>However, no provision mandating real-time information with public access which facilitates scrutiny.</p>	<p>Provision to establish a centralized mechanism with public access to real-time political finance information, considering the significant cost of litigation that may be incurred if legal proceedings are initiated post-elections based on such disclosures. This would also allow voters to make informed decisions based on the information available.</p>

Sources:

- Regulation of Election Expenditure Act, No. 3 of 2023
(Available on <https://www.parliament.lk/uploads/acts/gbills/english/6287.pdf>)
- "Standards for integrity in political finance: A global policy position"
(Available on <https://www.transparency.org/en/publications/standards-for-integrity-in-political-finance-global-policy-position>)