BACKGROUND & ISSUES

• Background
• Issues Surrounding the Need for Regulation
  • Control of Elected Representatives
  • Tainted Funds
  • Unequal Access
  • Uneven playing field
GOVERNING LEGISLATION:

1. The Representation of the People (Amendment) Act 2016
2. Election Campaign Financing Regulations, 2017

intended to regulate election campaign financing and monitor streams of income supporting the campaigns of political parties and candidates.
GOVERNING LEGISLATION:

I. Standard of impermissible contributors.

II. Guidelines within which contributions may be made.

III. Requirements of declaration and disclosure by contributors.

IV. Responsibilities of reporting and declaration by political parties and candidates.
WHAT QUALIFIES AS A CONTRIBUTION?

- DONATIONS
- GIFTS
- SERVICES
- SPONSORSHIPS
- MONEY
- EQUIPMENT
A CONTRIBUTION IS:

• (i). a donation, that is made or provided to-

  (A) a registered political party or a candidate;

  (B) a group or an organization that is acting in support of a registered political party or a candidate; or
A CONTRIBUTION IS:

(C) any person or entity acting in support or opposition of the candidature of another person, or for the purpose of influencing an election.

• (ii). any loan of funds for the purpose of supporting or opposing the candidature of another, or for the purpose of influencing an election.
A DONATION IS:

• (a) any gift to a registered political party or a candidate consisting in whole or part of money, property, services, facilities or equipment;

• (b) any sponsorship provided to or for the benefit of a candidate or a registered political party;
A DONATION IS:

- (c) money spent otherwise than by, or on behalf of, a registered political party or candidate in paying any expenses incurred directly, or indirectly, by a registered political party or a candidate;

or

- (d) any subscription to a political party.
WHO MAY FUND ELECTION CAMPAIGNS?

I. Private Individuals.
II. Companies and other entities.
III. Jamaican Diaspora groups.
IV. Registered Political Parties.
V. Candidates
WHO MAY NOT FUND ELECTION CAMPAIGNS?

IMPERMISSIBLE CONTRIBUTORS:

I. The agent(s) of any state;

II. A public body; government agency;

III. An entity, individual or company whose identity is undisclosed or cannot be accounted for;

IV. An entity, individual or company whose activities are illegal.
WHEN CAN PERSONS CONTRIBUTE?

- Persons may contribute toward Political Parties on an ongoing basis, for the duration of a Reporting Period.

- Contributions toward Candidates, however, shall take place during the time designated as a Campaign Period.
A CAMPAIGN PERIOD MEANS:

In relation to-

• (A) a general election, the period-

  (i) commencing on the earlier of—
     (a) the day immediately following the last day of the period of fifty-four months from the commencement of the term of office of the Government; or
A CAMPAIGN PERIOD MEANS:

(b) the day on which the date for an election is officially announced by or on behalf of the Prime Minister; and

(ii) ending twenty-four hours before the time fixed for the opening of the poll on election day; and
A REPORTING PERIOD:

- Pursuant to Section 2 of the Act, a reporting period is the period commencing on the first day of a campaign period and ending one hundred and eighty-one days after the end of the campaign period.
CONTRIBUTION DEEMED ACCEPTED:

- Pursuant to Section 52AU (a) –
  
  Where it is received and retained by a registered political party or a candidate for a period of thirty days, subsequent to its initial issue to or for the benefit of a registered political party or candidate.
CONTRIBUTION DEEMED UNACCEPTED:

- Pursuant to Section 52AU (c) –

  - Where a registered political party or candidate returns a contribution to the contributor, within thirty (30) days after first receiving the contribution.
NATIONAL ELECTION CAMPAIGN FUND - (NECF)

- A composition of funds which will be administered by the Electoral Commission, for use in the reimbursement of up to 40% of election campaign expenses, which are incurred by candidates in an election.
NATIONAL ELECTION CAMPAIGN FUND (NECF)

• The Fund shall be held and applied for:
  a) accepting and receiving contributions from—

  • Private individuals;
  • Companies and other entities;
  • Jamaican Diaspora groups;
MANAGEMENT OF THE NECF:

- Pursuant to Section 52 AO of the Act –
  
  - The Director shall be responsible for the management and administration of the Fund.
  
  - Moneys in the Fund may be invested by the Commission.
  
  - Funds are to be held in a bank in Jamaica.
MANAGEMENT OF THE NECF:

- The Director shall cause proper accounts of the Fund to be kept and shall prepare Annual Statements of Accounts, which conform with generally accepted accounting principles in Jamaica.
DEPOSITS TO THE NECF:

- By way of Private contributions.
- Detailed on Banker’s Draft in address to the Electoral Commission of Jamaica.
- Should be sent / delivered to the Director of Elections, who will investigate to determine the permissibility of contributions.
DISBURSEMENT FROM THE NECF:

- The total amount of funding a candidate can receive shall not exceed 40% of the lesser of—
  - The total expenditure the candidate was permitted to incur within the campaign period in accordance with Section 52BI; or
  - The actual expenditure incurred by the candidate.
DISBURSEMENT FROM THE NECF:

- Formula to be applied for re-imbursement:

\[
\frac{A \times C}{B}
\]

- \(A\) is the number of votes cast for that Candidate;
- \(B\) is the total number of votes cast for all Candidates in that constituency;
- \(C\) is the total amount, equally allocated from the Fund, to each constituency for an election.
ACCESSING NECF FUNDING:

- Certification from:
  - the Director of Elections
  - the Political Ombudsman
STATE FUNDING

• Pursuant to Section 52BN of the Act –

• Such funds which may be allocated by the Government in the Estimates of Expenditure for the reimbursement of election expenses incurred by candidates of registered political parties and independent candidates in an election.
DISBURSEMENT OF STATE FUNDING

• Uses a similar formula to calculations within the NECF.
• Allocations from the Fund shall be no more than 40% of declared Campaign Expenditure.
• The total amount within the Fund to be equally allotted to all candidates in an election.
ACCESSING STATE FUNDING:

- Certification from:
  - the Director of Elections
  - the Political Ombudsman
RESPONSIBILITIES OF CONTRIBUTORS, POLITICAL PARTIES & CANDIDATES
RESPONSIBILITIES OF CONTRIBUTORS:

A. THEY MUST DECLARE:

i. Any Contribution at or above $250,000 made to a candidate or political party during a reporting period, using the prescribed form (Form 5).
DECLARATION OF CONTRIBUTIONS:

• Multiple contributions to a candidate or political party which in the aggregate amount to $250,000 or more, must be reported, even if each sum contributed is less than $250,000.
RESPONSIBILITIES OF CONTRIBUTORS:

B. THEY MUST DISCLOSE:

   i. *Contracts Held:*
      
      Any award of Government contracts at or above $500,000 that is existent for up to two (2) years prior to making a contribution must be declared to the Commission within 14 days of making a contribution, in the prescribed form (Form 2A).
RESPONSIBILITIES OF CONTRIBUTORS:

ii. **Contracts Gained:**

Any award of Government contracts at or above $500,000 which is entered into within two (2) years of making a contribution, must be declared to the Commission within 14 days after entering such a contract, in the prescribed form (Form 2B).
SUBMISSION OF DECLARATIONS:

A). Declaration of Contracts Held / Gained:

These should be submitted within 14 days of making a contribution where one holds a government contract of $500,000 or more, or within 14 days of being awarded said government contract, following a contribution.
SUBMISSION OF DECLARATIONS:

A). Declaration of Contracts Held / Gained:

- Should be addressed for the attention of:
  The Chairman
  Electoral Commission of Jamaica
  16 Red Hills Road,
  Kingston 10.

OR
by email to: registry.ecj@gmail.com
B). Ordinary Declaration of Contribution:

These should be submitted within six weeks after an election to coincide with the Declarations of Election Campaign Expenditure which political parties and candidates must submit to the Commission.
SUBMISSION OF DECLARATIONS:

• At Section 52BA (2) of the Act, it states:

• Where a declaration is received by or on behalf of a registered political party or a candidate, it shall be retained for the purpose of submitting it to the Commission under section BJ (Campaign Expenditure Report) or 52BP (Final Disclosure Report).
SUBMISSION OF DECLARATIONS:

• Otherwise, a Declaration of Contributor may be addressed for the attention of:

  The Chairman
  Electoral Commission of Jamaica
  16 Red Hills Road,
  Kingston 10.

  OR

  by email to: registry.ecj@gmail.com
LIMITS ON CONTRIBUTIONS:

- The Campaign Expenditure limit for a candidate is $15 million dollars.

- Candidates may not accept contributions of more than ($1.5 million) or, 10% percent of the aggregate sum of campaign expenditure, from a contributor.

- Contributions by any one contributor must **NOT** exceed $1.5 million to a candidate, $31.5 million to a registered political party.
RESPONSIBILITIES OF POLITICAL PARTIES & CANDIDATES:

1. **Report Sources of Funding:**
   - Name and particulars of persons having provided funding for their election campaigns.
   - Declarations of Contributors received.
   - Copies of Receipts of Contributions issued.
RESPONSIBILITIES OF POLITICAL PARTIES & CANDIDATES:

1. Report Sources of Funding cont’d -
   - Itemized lists and receipts for funds, contributions and gifts received during a reporting period.
   - Final Disclosure and Campaign Expenditure Reports to the Commission.
FINAL DISCLOSURE REPORTS:

Will reflect among other aspects,

a. **Vouchers/Invoices** – from the suppliers of goods and services.

b. **Statements of Receipt** – for goods and services at or above $10,000 up to $249,999.

c. **Certificates of Receipt** – for contributions at or above $250,000.
LEGAL PENALTIES:

False Declarations:

• Any contributor or person who knowingly making a false statement in any report, declaration or other document required to be filed with the Commission constitutes an offence

• Liable on summary conviction to:
  • a fine not exceeding $3 million; or
  • in default of payment thereof, to a term of imprisonment not exceeding 12 months.
Non-Disclosure:

- Failure to declare contracts at or above $500,000.00, either held or gained up to 2 years prior, or subsequent to making a contribution constitutes an offence.
- Liable on summary conviction to a fine not exceeding $1,000,000.00.
LEGAL PENALTIES

- Extension of time for submission:
- A person who fails to file or submit a report, declaration, notice or statement within the time specified shall be liable to an administrative penalty of $25,000.00 for each day during which the report, declaration, notice or statement is not filed.
LEGAL PENALTIES:

• **Impermissible Contributions:**

• A registered political party or candidate who accepts an impermissible contribution commits an offence and shall be liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding $3,000,000.00 or to imprisonment for a term not exceeding twelve months.
LEGAL PENALTIES:

- **Forfeiture of contribution on conviction of offence.**

- Where a contribution has been knowingly accepted by a political party or candidate from an impermissible contributor and is not returned within the period of 30 days, the Commission may, in accordance with this Act or regulations made, seek an order from the Supreme Court for the forfeiture of property of the registered political party or candidate of value equivalent to the value of the contribution.
LEGAL PENALTIES:

• Every registered political party shall submit to the Commission a Campaign Period Expenditure Report within 180 days after an election.

• Failure to submit the Report within the prescribed period constitutes an offence.

• The Authorized Representative / General Secretary of the Political Party shall be liable on summary conviction to a fine not exceeding $1,000,000.00.
LEGAL PENALTIES:

• Where during any campaign period, the Commission is of the view that the provisions of section 21 of the Broadcasting and Radio Re-Diffusion Act has been breached, the Commission shall refer the matter to the Broadcasting Commission established under that Act for appropriate action to be taken.
LEGAL PENALTIES:

• Section 21 speaks to the impartiality in political broadcasts to solicit support for any political party or promote the election of any individual or political party to any public office.
LEGAL PENALTIES:

• Where an offence is committed by a registered political party or a corporate body and it is proved that with the consent or connivance of any officer or the authorized representative of the registered political party, or any director, manager, secretary or other similar officer of the body corporate or
LEGAL PENALTIES:

- any of the mentioned persons failed to exercise reasonable diligence to have prevented the offence, then such individual commits an offence and may be proceeded against and be punished accordingly.
WHERE ARE WE NOW?

- Registrar of Political Parties appointed
- Campaign Fund Account established
- Sensitization of stakeholders ongoing
- Organizational structure for the monitoring of the regulations are being rolled out
Q&A

PANEL DISCUSSION

• For further information, please contact the Office of the Registrar of Political Parties, Electoral Commission of Jamaica, 16 Red Hills Road, Kingston 10 at (876) 922-0425-9 or email registry.ecj@gmail.com

• Visit our website at www.ecj.com.jm for more information on Election Campaign Financing.