

**IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN**

**CASE NO: 10607/24**

In the matter between:

**MY VOTE COUNTS NPC**

Applicant

and

**PRESIDENT OF THE REPUBLIC OF SOUTH  
AFRICA**

First Respondent

**MINISTER OF JUSTICE AND CORRECTIONAL  
SERVICES**

Second Respondent

**MINISTER OF HOME AFFAIRS**

Third Respondent

**ACTING SPEAKER OF THE NATIONAL  
ASSEMBLY**

Fourth Respondent

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**REPLYING AFFIDAVIT TO THE THIRD RESPONDENT'S ANSWERING  
AFFIDAVIT**

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I, the undersigned

**QAASIM AKBAR GANEY**

do hereby state under oath:

1. I am a trainee attorney at Webber Wentzel, the applicant's attorneys of record.

2. The content of this affidavit falls within my personal knowledge, unless the contrary is stated or appears from the context, and it is, to the best of my knowledge and belief, true and correct.
3. I am the deponent to the founding affidavit in the urgent application instituted by the applicant in the Western Cape High Court under case number: 10607/24, dated 9 May 2024 ("**the founding affidavit**"). I remain duly authorised to depose to this affidavit on behalf of the applicant.
4. The purpose of this affidavit is to respond to the third respondent's answering affidavit dated 16 May 2024 ("**the answering affidavit**"). Defined terms used herein bear the meaning ascribed to them in the founding affidavit.

#### **PRELIMINARY POINTS**

5. The third respondent's answering affidavit was delivered just after 16:00 on Thursday, 16 May 2024. This is despite the fact that the State Attorney filed a notice of opposition on behalf of the third respondent on 10 May 2024; being the day on which the application was before the Honourable Mr Justice Dolamo on the urgent court roll. On 10 May 2024, Judge Dolamo ordered that the matter be postponed for hearing until 17 May 2024, to allow the respondent time to file answering papers.
6. In the afternoon of 10 May 2024, Webber Wentzel addressed email correspondence to the State Attorney, attaching a notice of set down for 17 May 2024 in accordance with Judge Dolamo's order, with a proposed timetable for the filing of papers between the parties. Pursuant to the timetable, it was proposed that the respondent's answering papers be filed by 14 May 2024, and

the applicant's replying papers be filed thereafter by 15 May 2024. A copy of Webber Wentzel's email is annexed marked "**RA1**".

7. Subsequently, the State Attorney delivered the fourth respondent's notice to abide on 14 May 2024, and the second respondent's notice to abide was delivered thereafter on 16 May 2024. By that time, the Democratic Alliance ("**the DA**") had filed an application to intervene in the application ("**the intervention application**"), which the applicant had dealt with in a separate set of papers. The first respondent's answering affidavit presently remains outstanding.
8. It is thus remarkable that the third respondent spends a good portion of the answering affidavit complaining about the timelines imposed by the applicant at the time when this (very short) application was issued on an urgent basis. No mention is made by the third respondent about Judge Dolamo's order, which afforded all respondents more time to file answering papers. It is the third respondent who arrogated to himself the authority to decide when to file papers and did so on the eve of the hearing, thus jeopardising the orderly disposal of this matter on the urgent court roll on 17 May 2024.
9. The applicant has been prejudiced by the third respondent's conduct, but has done its best to file this affidavit so as to facilitate a hearing on the 17<sup>th</sup>.

### **THE POINTS *IN LIMINE* ARE BASELESS**

#### **Urgency**

10. The third respondent's position on urgency is confounding, and its allegations are unsustainable. The applicant was forced to bring this application on a highly urgent basis because the EMAA was enacted, leaving a blatant lacuna in the law

(as recognised by the National Assembly itself), on 8 May 2024. The applicant served unsigned copies of its founding papers in the evening of 9 May 2014.

11. Importantly, as set forth in the founding affidavit, if the applicant is correct insofar as it submits that there is an unconstitutional lacuna in the law created as a result of the effect of the sections 29(g) and (h) EMAA on regulations 7 and 9 of the PPFA, then the urgency of this application cannot seriously be disputed. Each day that passes places our constitutional democracy in jeopardy, as private parties have the unfettered ability to exert undue influence on political parties through funding without any limitation and political parties have no reciprocal obligation to disclose any funding received, for as long as the lacuna persists. The legal position must therefore be remediated forthwith.
12. Moreover, contrary to what is suggested by the third respondent, the relief sought by the applicant has nothing to do with the relief it seeks in its application under case number 7630/2023. That application concerns the constitutionality and validity of provisions and regulations of the PPFA, and is thus a broader, substantive challenge, which is not the same as the narrow issue being raised in this application. In the present application, the relief sought by the applicant is limited to restoring the monetary amounts comprising the upper limit and disclosure threshold, pending regulations to be passed by the President under the PPFA as amended by the EMAA. The relief does not concern the substantive constitutional invalidity of the provisions, notwithstanding the fact that the basis of the relief is the unconstitutional lacuna in the law at present.
13. It is also of no moment to contend that the applicant had lodged complaints about the Electoral Matters Amendment Bill, before its assent by the President. In fact,

this redounds to the applicant's benefit. The applicant acted responsibly. The applicant wrote to the President in hopes that he would not approve the Bill, given its obvious shortcomings as raised by the applicant in its correspondence. It would have been premature for the applicant to challenge the Bill, given that its provisions had not yet come into legal force and effect. The case law on this score is trite. The applicant was hopeful that the President would not assent to the Bill due to the issues therein. But yet the President approved the Bill, and signed the EMAA into law on 8 May 2024. This is when the lacuna in the law took effect, and the applicant was left without choice but to approach this Court on an urgent basis.

14. Lastly, the third respondent's understanding of the Interpretation Act, 1957 is plainly incorrect. The cited provisions of the Interpretation Act find no application because the EMAA has come into force. It is not simply the fact that the regulations 7 and 9 of the Schedule 2 to the PPFA have been repealed: the provisions of the EMAA go further and legislate a new regime. Section 11 of the Interpretation Act only applies if there was an *interregnum* period, which there is none in this case, given that the repealed provisions have been *replaced and substituted* by sections 29(g) and (h) of the EMAA. The proper interpretation of the legal position is thus that there is a lacuna in the law of political party funding that can and will likely be exploited by political parties and private donors; while ostensibly cynical, this is the very reality we are dealing with. The applicant will advance legal argument on this point. In any event, if the third respondent truly believes that the prior regime continues to apply, then it is unclear on what conceivable basis it would be opposing this application, given that in substance

what the applicant seeks is the prior regime continuing to apply in the interim, pending the determination of the new limits.

15. In fact, the National Assembly's order paper of 9 May 2024 reinforces the applicant's interpretation. The order paper clearly stated that the National Assembly recognised that there is a "gap in the law" due to the repeal of the PPFA provisions and the effect of the commencement of the EMAA. Furthermore, various political parties' representatives have raised concerns, in Parliament, about the potential abuse that may ensue due to this "gap in the law".
16. The suggestion that it is only the applicant that understands there to be a lacuna is unfounded. On 1 March 2024, when the Portfolio Committee on Home Affairs deliberated on the EMAB, a DA representative on that Committee, DA Shadow Deputy Minister of Home Affairs, Mr Adriaan Roos, who was the most vocal on this exact issue. During the committee meeting, Mr Roos argued that with the removal of the R15 million limit, political parties could receive unlimited donations with no regulatory oversight.
17. In this regard Mr Roos stated as follows:<sup>1</sup>

*"The DA objects to Clause 29 in specific to item B, G, and H on the formula and the regulations for allocating funds to parties and independent representatives on the disclosure limits and the upper limits being removed. These are, the formula in particular is a substantive amendment and we should have an impact assessment of the Political Party Funding Act that would advise changes in a future general Electoral Amendment Bill".*

<sup>1</sup> The link to the committee meeting may be found at: <https://www.youtube.com/watch?v=XF63CTCO7BA>.

18. Mr Roos went further on 12 March 2024 as follows:<sup>2</sup> *"This is being done by changing how party funding is allocated to suit themselves and by possibly removing limits for maximum donations and reporting thresholds for a while to create an opportunity to stuff their couches. These amendments have nothing to do with the inclusion of independent candidates." "As the bill is now referred to the National Council the DA will continue to challenge this allocation and press for limits for maximum donations and reporting thresholds to be retained in the interests of fairness to enhance multi-party democracy."* A copy of the full issued statement by Mr Roos, as published on the DA website, is attached as **"RA2"**.
19. In his address in Parliament on 12 March 2024, Mr Roos also stated as follows:<sup>3</sup> *"House Chair, it was John Steinbeck who said, and I quote: 'Power does not corrupt. Fear corrupts... perhaps the fear of a loss of power.'*
- The Electoral Matters Amendment Bill is supposed to contain consequential amendments arising from the Electoral Amendment Act 1 of 2023, that makes provision for independent candidates to participate in national and provincial elections. However, the Bill before us today is a crude attempt at directing more public and donor funds into the coffers of the ANC to help them to try and cling on to power. The Bill in its current form will change how party funding is allocated and create the possibility of a period of time where there will be no upper limit on party donations nor threshold for when a party must disclose a donation. These clauses have nothing to do with the inclusion of independent candidates."*

<sup>2</sup> The statement issued by Mr Roos may be found at: <https://www.da.org.za/2024/03/da-rejects-attempted-anc-heist-from-multi-party-democracy-fund>.

<sup>3</sup> The link to the speech may be found at <https://www.youtube.com/watch?v=z4NgcmKe81E&t=129s>.

20. The content of the EMAA has remained unchanged since February 2024.
21. Moreover, numerous articles in the press have been published since the enactment of the EMAA, acknowledging the lacuna and the implications thereof. Copies of selected articles are annexed as "**QG3**" to the applicant's affidavit filed in response to the DA's intervention application.

Recent important developments

22. Some of the concerns which underpinned the applicant's application have now come to pass, and have added impetus to the urgency of the relief sought.
23. On 16 May 2024, the National Assembly published an order paper with a draft resolution to be motioned in the National Assembly meeting at 10:00 on 16 May 2024. According to the order paper, the National Assembly intends to resolve to require the President:
  - 23.1 in terms of clause 4(a) of the order paper: "*on an urgent basis*", make regulations in terms of section 24 of the PPFA concerning the amounts contemplated in section 8(2) (ie upper limit of donations) and 9(1)(a) (ie disclosure threshold of donations), "*as set out in regulations 7 and 9*" of Schedule 2 to the PPFA, as ostensibly as amended by EMAA.
  - 23.2 in terms of clause 4(b) of the order paper: "*within six months*", table regulations for consideration by the National Assembly, for a resolution to be taken by the National Assembly in terms of section 24(1)(a) of the PPFA, ostensibly as amended by the EMAA
24. A copy of the draft order paper is attached as "**RA3**".

25. The resolutions tabled by the 16 May order paper are incomprehensible and exacerbate the problem, as they seem to recognise that the making of regulations takes time and that the President for this purpose must present draft regulations to Parliament within six months. It also contemplates that only after this is done will the National Assembly then consider passing a resolution to authorise him to make regulations.
26. Moreover, the order paper is a clear departure from the National Assembly's order paper of 9 May 2024, where it was tabled that the Assembly would resolve to retain (notwithstanding the operation of the EMAA) the amounts for the upper limit and disclosure threshold under regulations 7 and 9. That motion was supposedly postponed for a week, but now that the proposed motion does not set any reasonable parameters and does not envisage the President making regulations in short order, leaving the lacuna unaddressed.
27. Moreover, the proposed resolution under 4(b) does nothing to remediate the issue. Without interim measures, there will be a significant period—potentially six months or more—during which there are no enforceable limits on donations and no mandatory disclosures. This lacuna will allow for unchecked and potentially unlimited donations to political parties, which undermines transparency and accountability, especially with the imminent national elections.
28. The urgency of the relief sought in the main application is thus amplified by these developments. Immediate judicial intervention is necessary to maintain the integrity of the political funding framework and ensure compliance with constitutional principles. The reimplementation of the previous PPFA regulations

on an interim basis is essential to prevent a regulatory vacuum and uphold the constitutional mandate for transparency and accountability in political funding.

29. In the fourth respondent's explanatory affidavit, it is alleged that the above draft resolution has been passed in the afternoon of 16 May 2024. For the reasons set forth above, such a resolution only accentuates the problems and recognises that regulations may take a substantial period, potentially months, to come to fruition. Most importantly, however, to date, there are simply no regulations in place, now 9 days after the enactment of the EMAA.

#### **Non-joinder**

30. There is no merit in the non-joinder objection. No political party has a direct and substantial interest in this relief: if the applicant is successful, all that will happen is that amounts set forth in regulations 7 and 9 of Schedule 2 to the PPFA will remain in place. There are many people who could potentially be impacted by challenges to the constitutional validity of the legislation. It has never been the case that every person in the country who is interested in this fashion need be cited: only the State respondents are necessary respondents in such an instance.
31. What is suggested by the third respondent invites chaos. There are innumerable persons who could qualify as a political party under the EMAA. It includes not only every person and party standing for election in 2024 (hundreds of persons and parties across the country in national and provincial elections and thousands in local elections), but in addition "*any entity that accepts donations principally to support or oppose any registered political party or its candidates, in an election as defined in section 1 of the Electoral Act, 1998 (Act No. 73 of 1998)*" (section

1 of PPFA). It is noteworthy that 531 political parties were registered with the IEC as of the end of the financial year 2022/2023. <sup>4</sup>

32. In any event, what the applicant seeks is interim relief, pending the President's passing of regulations for purposes of prescribing the appropriate limit and disclosure threshold. The applicant need not cite any and every person who may have an interest, particularly because the interim relief is sought as a rule nisi, and any interested person will be entitled to challenge the rule on the return date, including political parties and the IEC.

#### **Alleged lack of personal knowledge**

33. Webber Wentzel has been the attorneys of record of My Vote Counts NPC since its inception in 2014 and through all of its litigation. Webber Wentzel was also the attorneys of record for My Vote Counts before its incorporation as a company in 2014. It has been deeply and consistently involved in the issues pertaining to the Electoral Matters Amendment Bill. I thus have full knowledge of the relevant and material facts, and I am likewise authorised by the applicant to file this and other affidavits related to the application on its behalf.
34. In any event, simply to put paid to this perfunctory and dilatory objection, a confirmatory affidavit will be filed by Mr Joel Bregman, who is a senior researcher employed as such by the applicant.

<sup>4</sup> [https://static.pmg.org.za/Political\\_Party\\_Funding\\_Annual\\_Report\\_2023.pdf](https://static.pmg.org.za/Political_Party_Funding_Annual_Report_2023.pdf), p.20.

**THE CONSTITUTIONALITY AND COMPETENCY OF THE RELIEF SOUGHT**

35. The third respondent contends that the applicant's relief amounts to an interference in legislative and regulatory processes currently undertaken by the National Assembly and the President. According to the third respondent, this amounts to an incursion on executive functions. On a proper understanding of the relief sought by the applicant, this is not so.
36. The applicant seeks only to reinstate, on an interim basis, the prescribed amounts that were in place a mere couple of days before the enactment of the EMAA, and which according to the third respondent are applicable as a matter of law in any event. There is no resurrection of repealed law sought by the applicant: the relief is simply to prevent the irrational effects of the lacuna, until the President passes the necessary regulations to prescribe new amounts. All that the relief is concerned with is ensuring that there is a limit on donations and a disclosure threshold of donations, which give effect to *My Vote Counts II*. The Constitutional Court has over two decades ago spoken loudly and clearly that the kind of gap which we currently have cannot be permitted to endure and is unconstitutional.
37. The third respondent's contention that there is no lacuna is based on a fundamentally incorrect understanding of the repealed law and the commencement of the EMAA, together with a misapplication of the Interpretation Act. As to the correct interpretation, the substitute statutory provisions of the EMAA have, in fact and in law, come into operation. (See annexure "FA9" of the founding affidavit, in which the President proclaims 8 May 2024 as the date on which the Act shall come into effect). This is the very problem. Specifically,

sections 29(g) and 29(h) of the EMAA, which amend regulations 7 and 9 of the PPFA, respectively, have come into effect and operation, and regulations 7 and 9 have been fundamentally amended. Neither the National Assembly nor the President has acted in terms of the newly operational regulations, however. Those regulations now provide the President with the discretion to determine the upper limit of donations and the disclosure threshold, acting on a resolution by the National Assembly. The National Assembly, however, has only on 16 May 2024 passed a resolution, but the import of which is unclear, and the President has to date not published new regulations to establish these thresholds.

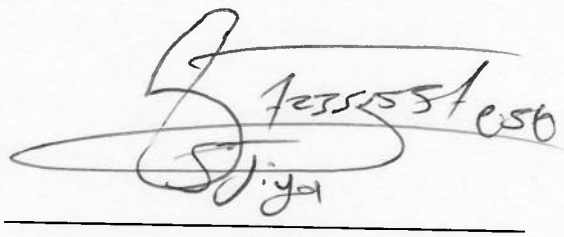
38. Section 11 of the Interpretation Act only applies to provisions that have not yet come into operation. This is not the case here. Since sections 29(g) and 29(h) of the EMAA have already come into force (see Commencement Notice above), the previous regulations 7 and 9 of the PPFA no longer apply. The third respondent's reliance on section 11 of the Interpretation Act is therefore misplaced, as this section cannot be invoked to maintain the effect of the repealed provisions after the new provisions have commenced and thus come into operation.
39. The third respondent also tries to rely on the new section 27(5) of the PPFA. That section is of no assistance to the third respondent. Regulations 7 and 9, following their amendment by the EMAA, do not prescribe the disclosure threshold or the upper limit for donations. Section 27(5) of the PPFA will regulate the situation going forward once there is a determination of the disclosure threshold and the upper limit for donations, and not before then.

40. The third respondent fails to recognise that the legal framework has fundamentally changed with the enactment of the EMAA. The responsibility now lies with the National Assembly to pass a resolution enabling the President to set the new thresholds, and for the President actually to determine those thresholds. Until such action is taken, there is a clear gap in the law, leaving no upper limit on donations and no requirement for disclosure. That is the crux of the issue.
41. The third respondent thus unjustifiably seeks to invoke the separation of powers doctrine, in circumstances where the applicant does not ask the Court for any encroachment on the doctrine in the first instance. All that is sought by the relief is an interim order operating as rule nisi, which sets a monetary upper limit amount and a disclosure threshold amount, pending new regulations to be promulgated by the President, which, in fact, is a mere reinstatement of the previously prescribed amounts. This is in any event a clear case of constitutional irrationality. To construe the relief sought as a constitutional affront is without foundation.
42. The applicant therefore persists with the relief it seeks, including costs against the first to third respondents.

  
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**DEPONENT**

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me at Table Bay Harbour on this the 17 day of **May 2024**, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.

  
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**COMMISSIONER OF OATHS**

Full Names: Sandi Sule Jiyi

Capacity: Table Bay Harbour

Designation: Constable

Address: 01 Duncan road T.B.H

SOUTH AFRICAN POLICE SERVICE
TABLE BAY HARBOUR
2024 -05- 17
TABLE BAY HARBOUR
SOUTH AFRICAN POLICE SERVICE

"RAJ"  
245

**From:** [Ahmed Rajan](#)  
**To:** [Kariiker Shireen](#); [zadhikarie@parliament.gov.za](#); [Barbara Loots](#); [sisaac@parliament.gov.za](#)  
**Cc:** [Vlad Movshovich](#); [Daniel Rafferty](#); [Qaasim Ganey](#); [Diyajal Ramrajh](#); [Caroline Campbell](#); [Sipho Tlhaole](#)  
**Subject:** Urgent application: My Vote Counts NPC / President of the Republic of South Africa and Others (WCC case no. 10607/24)  
**Date:** 10 May 2024 19:42:52  
**Attachments:** [Notice of set down 10052024-signed.pdf](#)

Dear Sirs

We refer to the order of court directing that the matter will be heard on 17 May 2024.

The court also directed all the parties to ensure that all papers are filed before 17 May 2024, so as to ensure that the hearing proceeds on the 17<sup>th</sup>. We attach the notice of set down.

To this end, and to ensure an orderly process, we propose the following timetable:

1. the respondents will deliver answering papers by 14 May 2024;
2. the applicant will deliver replying papers by 15 May 2024;
3. the parties are to deliver any written submissions by 14:00 on 16 May 2024.

Please revert as soon as possible.

Yours faithfully

**Ahmed Rajan | Senior Associate | Webber Wentzel**

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**From:** Qaasim Ganey <Qaasim.Ganey@webberwentzel.com>

**Sent:** Friday, May 10, 2024 2:44 PM

**To:** Ahmed Rajan <Ahmed.Rajan@webberwentzel.com>; president@po.gov.za; presidentrsa@po.gov.za; ministry@justice.gov.za; LKgasi@justice.gov.za; Carmen.h@dha.gov.za; Karjiker Shireen <skarjiker@justice.gov.za>; Felix F.M. Mbeki <FMbeki@justice.gov.za>; speaker@parliament.gov.za; pmasiza@parliament.gov.za; Robert@presidency.gov.za; Nomusa@presidency.gov.za; mike@presidency.gov.za; makhosini@presidency.gov.za

**Cc:** Vlad Movshovich <vlad.movshovich@webberwentzel.com>; Daniel Rafferty <Daniel.Rafferty@webberwentzel.com>; Diyajal Ramrajh <Diyajal.Ramrajh@webberwentzel.com>; Caroline Campbell <Caroline.Campbell@webberwentzel.com>; Sipho Tlhaole <Sipho.Tlhaole@webberwentzel.com>

**Subject:** Re: Urgent application: My Vote Counts NPC / President of the Republic of South Africa and Others

Dear Sirs

We write to inform you that the above matter has been enrolled and issued under case number 10607/24.

The matter was called at 14:00. The Honourable Mr Justice Dolamo has directed that the matter stand down for hearing until 15:30 today, and directed that any party who intends to oppose must do so before then by filing a notice of intention to oppose.

The proceedings will be heard in Court 13.

ST 04

Yours faithfully

**Qaasim Ganey | Trainee Attorney | Webber Wentzel**

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**From:** Ahmed Rajan <[Ahmed.Rajan@webberwentzel.com](mailto:Ahmed.Rajan@webberwentzel.com)>  
**Sent:** Friday, May 10, 2024 1:11:06 AM  
**To:** Qaasim Ganey <[Qaasim.Ganey@webberwentzel.com](mailto:Qaasim.Ganey@webberwentzel.com)>; [president@po.gov.za](mailto:president@po.gov.za) <[president@po.gov.za](mailto:president@po.gov.za)>; [presidentrsa@po.gov.za](mailto:presidentrsa@po.gov.za) <[presidentrsa@po.gov.za](mailto:presidentrsa@po.gov.za)>; [ministry@justice.gov.za](mailto:ministry@justice.gov.za) <[ministry@justice.gov.za](mailto:ministry@justice.gov.za)>; [LKgasi@justice.gov.za](mailto:LKgasi@justice.gov.za) <[LKgasi@justice.gov.za](mailto:LKgasi@justice.gov.za)>; [Carmen.h@dha.gov.za](mailto:Carmen.h@dha.gov.za) <[Carmen.h@dha.gov.za](mailto:Carmen.h@dha.gov.za)>; Karjiker Shireen <[skarjiker@justice.gov.za](mailto:skarjiker@justice.gov.za)>; Felix F.M. Mbeki <[FMbeki@justice.gov.za](mailto:FMbeki@justice.gov.za)>; [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za) <[speaker@parliament.gov.za](mailto:speaker@parliament.gov.za)>; [pmasiza@parliament.gov.za](mailto:pmasiza@parliament.gov.za) <[pmasiza@parliament.gov.za](mailto:pmasiza@parliament.gov.za)>; [Robert@presidency.gov.za](mailto:Robert@presidency.gov.za) <[Robert@presidency.gov.za](mailto:Robert@presidency.gov.za)>; [Nomusa@presidency.gov.za](mailto:Nomusa@presidency.gov.za) <[Nomusa@presidency.gov.za](mailto:Nomusa@presidency.gov.za)>; [mike@presidency.gov.za](mailto:mike@presidency.gov.za) <[mike@presidency.gov.za](mailto:mike@presidency.gov.za)>; [makhosini@presidency.gov.za](mailto:makhosini@presidency.gov.za) <[makhosini@presidency.gov.za](mailto:makhosini@presidency.gov.za)>  
**Cc:** Vlad Movshovich <[vlad.movshovich@webberwentzel.com](mailto:vlad.movshovich@webberwentzel.com)>; Daniel Rafferty <[Daniel.Rafferty@webberwentzel.com](mailto:Daniel.Rafferty@webberwentzel.com)>; Diyajal Ramrajh <[Diyajal.Ramrajh@webberwentzel.com](mailto:Diyajal.Ramrajh@webberwentzel.com)>; Caroline Campbell <[Caroline.Campbell@webberwentzel.com](mailto:Caroline.Campbell@webberwentzel.com)>; Sipho Tlhaole <[Sipho.Tlhaole@webberwentzel.com](mailto:Sipho.Tlhaole@webberwentzel.com)>  
**Subject:** RE: Urgent application: My Vote Counts NPC / President of the Republic of South Africa and Others

Dear Sirs

Further to the below, please see attached paginated application bundle, together with the relevant index thereto.

Yours faithfully

**Ahmed Rajan | Senior Associate | Webber Wentzel**

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**From:** Qaasim Ganey <[Qaasim.Ganey@webberwentzel.com](mailto:Qaasim.Ganey@webberwentzel.com)>  
**Sent:** Friday, May 10, 2024 12:53 AM  
**To:** [president@po.gov.za](mailto:president@po.gov.za); [presidentrsa@po.gov.za](mailto:presidentrsa@po.gov.za); [ministry@justice.gov.za](mailto:ministry@justice.gov.za); [LKgasi@justice.gov.za](mailto:LKgasi@justice.gov.za); [Carmen.h@dha.gov.za](mailto:Carmen.h@dha.gov.za); Karjiker Shireen <[skarjiker@justice.gov.za](mailto:skarjiker@justice.gov.za)>; Felix F.M. Mbeki <[FMbeki@justice.gov.za](mailto:FMbeki@justice.gov.za)>; [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za); [pmasiza@parliament.gov.za](mailto:pmasiza@parliament.gov.za); [Robert@presidency.gov.za](mailto:Robert@presidency.gov.za); [Nomusa@presidency.gov.za](mailto:Nomusa@presidency.gov.za); [mike@presidency.gov.za](mailto:mike@presidency.gov.za); [makhosini@presidency.gov.za](mailto:makhosini@presidency.gov.za)  
**Cc:** Vlad Movshovich <[vlad.movshovich@webberwentzel.com](mailto:vlad.movshovich@webberwentzel.com)>; Daniel Rafferty <[Daniel.Rafferty@webberwentzel.com](mailto:Daniel.Rafferty@webberwentzel.com)>; Ahmed Rajan <[Ahmed.Rajan@webberwentzel.com](mailto:Ahmed.Rajan@webberwentzel.com)>; Diyajal Ramrajh <[Diyajal.Ramrajh@webberwentzel.com](mailto:Diyajal.Ramrajh@webberwentzel.com)>; Caroline Campbell <[Caroline.Campbell@webberwentzel.com](mailto:Caroline.Campbell@webberwentzel.com)>; Sipho Tlhaole <[Sipho.Tlhaole@webberwentzel.com](mailto:Sipho.Tlhaole@webberwentzel.com)>  
**Subject:** RE: Urgent application: My Vote Counts NPC / President of the Republic of South Africa and Others

Dear Sirs

S 04

We attach the applicant's signed founding affidavit, for service.

Yours faithfully

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**From:** Ahmed Rajan <[Ahmed.Rajan@webberwentzel.com](mailto:Ahmed.Rajan@webberwentzel.com)>

**Sent:** Thursday, May 9, 2024 10:29 PM

**To:** [president@po.gov.za](mailto:president@po.gov.za); [presidentrsa@po.gov.za](mailto:presidentrsa@po.gov.za); [ministry@justice.gov.za](mailto:ministry@justice.gov.za); [LKgasi@justice.gov.za](mailto:LKgasi@justice.gov.za); [Carmen.h@dha.gov.za](mailto:Carmen.h@dha.gov.za); Karjiker Shireen <[skarjiker@justice.gov.za](mailto:skarjiker@justice.gov.za)>; Felix F.M. Mbeki <[FMbeki@justice.gov.za](mailto:FMbeki@justice.gov.za)>; [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za); [pmasiza@parliament.gov.za](mailto:pmasiza@parliament.gov.za); [Robert@presidency.gov.za](mailto:Robert@presidency.gov.za); [Nomusa@presidency.gov.za](mailto:Nomusa@presidency.gov.za); [mike@presidency.gov.za](mailto:mike@presidency.gov.za); [makhosini@presidency.gov.za](mailto:makhosini@presidency.gov.za)

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**Subject:** Urgent application: My Vote Counts NPC / President of the Republic of South Africa and Others

Dear Sirs

We represent My Vote Counts NPC.

We annex, for service, our client's notice of motion and (unsigned) founding affidavit, in an **urgent application** to be set down for hearing in the Cape Town High Court at **14:00 on Friday, 10 May 2024**.

A signed copy of our client's founding affidavit will be transmitted as soon as it is ready.

Yours faithfully

**Ahmed Rajan | Senior Associate | Webber Wentzel**

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## DA rejects attempted ANC heist from Multi-party democracy fund

Issued by Adrian Roos MP – DA Shadow Deputy Minister of Home Affairs

12 Mar 2024 in News

The Democratic Alliance has rejected the attempted money grab by the ANC as the Electoral Matters Amendment Bill (the Bill) was passed in the National Assembly today.

The Electoral Matters Amendment Bill is supposed to contain consequential amendments arising from the Electoral Amendment Act 1 of 2023 that makes provision for independent candidates to participate in National and Provincial Elections. However, the bill passed today is a crude attempt at directing more public and donor funds in to the coffers of the ANC to help them try and cling on to power.

This is being done by changing how party funding is allocated to suit themselves and by possibly removing limits for maximum donations and reporting thresholds for a while to create an opportunity to stuff their couches. These amendments have nothing to do with the inclusion of independent candidates.

Section 236 of the Constitution provides that: "National legislation must provide for the funding of political parties participating in national and provincial legislatures on an equitable and proportional basis." Section 236 is clear that this must be done to enhance multi-party democracy.

Clause 29 of the Bill does exactly the opposite. It increases the proportionality of the party funding allocation from 66.6% to 90% and decreases the equitable allocation from 33.3% to 10%.

The proportional portion is split amongst represented parties according to their share of seats in the relevant legislature while the equitable allocation is shared equally between all represented parties.

This has the effect of an extra R50m going to the ANC in the next year alone while smaller parties income is drastically reduced. As independent representatives are limited to one seat their allocation would be more than halved.

A 2017 ANC submission on the Political Party Funding Act (the PPFA) states that "Funds should be divided between parties proportionally, largely in line with current practice. However, additional resources should be allocated to the smallest parties in order to support political diversity and prevent the system favouring incumbents."

An impact assessment of the PPFA must be undertaken to advise any substantive changes, including funding allocations, in a future Electoral Amendment Bill.

Parliamentary Legal Service has previously cautioned the Portfolio Committee on Home Affairs that should the formula change it could be found to unfairly discriminate against independent representatives or smaller parties this must bear a rational connection to a legitimate government purpose. The Minister of Home Affairs, Dr Aaron Motsoaledi has been unable to explain the legitimate government purpose.

As the bill is now referred to the National Council the DA will continue to challenge this allocation and press for limits for maximum donations and reporting thresholds to be retained in the interests of fairness to enhance multi-party democracy.

### Publication Date

12 Mar 2024

### Author

Adrian Roos MP

### Category

News

### Direct Link

<https://www.da.org.za/2024/03/da-rejects-attempted-anc-heist-from-multi-party-democracy-fund>

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PARLIAMENT OF THE  
REPUBLIC OF SOUTH AFRICA

NATIONAL ASSEMBLY

ORDER PAPER

THURSDAY, 16 MAY 2024

Meeting of House: 10:00

**MOTIONS:**

1. Draft resolution (Chief Whip of the Majority Party): That the House –
  - (1) notes that section 24(1)(a) of the Political Party Funding Act (Act No 6 of 2018) (“the Act”), requires that the President, acting on a resolution of the National Assembly, may by proclamation in the *Gazette* make regulations contemplated in sections 6(2), 7(2)(e), 8(2), 8(5) and 9(1)(a) of the Act;
  - (2) further notes that the Electoral Matters Amendment Act (Act No 14 of 2024) came into operation on 8 May 2024, and provides that regulations contemplated in section 24(1)(a) of the Act in respect of sections 8(2) and 9(1)(a) have to be made by the President, acting on a resolution of the National Assembly;
  - (3) acknowledges that when making the regulations in terms of section 24(1)(a) of the Act, the President must take into account the following factors:
    - (a) the amount of money previously appropriated by Acts of Parliament for the Political Representatives Fund within the previous five financial years;
    - (b) the constraints on the fiscus in funding political parties, independent representatives or independent candidates;
    - (c) the number of political parties represented in Parliament, including the potential number of independent representatives and independent candidates to be represented in the provincial legislatures and Parliament;
    - (d) the effects of inflation on the value of money over time;
    - (e) the need to allow sufficient donations (which must be disclosed) to political parties, independent representatives and candidates in order to deepen participatory democracy;
    - (f) the actual fiscal contribution to public funding for political purposes; and

- (g) the costs associated with participating as a political party, independent representative or independent candidate in elections and the democratic process in South Africa;
- (4) recognises that the task of making regulations requires time, and therefore resolves that:
- (a) the President make regulations regarding the amounts contemplated in section 8(2) and 9(1)(a) on an urgent basis as set out in regulations 7 and 9 of Schedule 2 of the Act; and
  - (b) the President must within six months from the date of this resolution, table comprehensive draft regulations for consideration by the National Assembly, and for a resolution to be made in terms of section 24(1)(a) of the Act.

#### ORDERS OF THE DAY:

1. Consideration of **Basic Education Laws Amendment Bill** [B 2D - 2022] (National Assembly – sec 76) and of Report of Portfolio Committee on Basic Education thereon (Announcements, Tablings and Committee Reports, 15 May 2024, p 3).
2. Consideration of **Statistics Amendment Bill** [B 31D – 2023] (National Assembly – sec 75) and of Report of Portfolio Committee on Planning, Monitoring and Evaluation on amendments proposed by National Council of Provinces (Announcements, Tablings and Committee Reports, 10 May 2024, p 3).
3. Consideration of **Pension Funds Amendment Bill** [B 3D - 2024] (National Assembly – sec 75) and of Report of Standing Committee on Finance on amendments proposed by National Council of Provinces (Announcements, Tablings and Committee Reports, 13 May 2024, p 25).
4. Consideration of **Public Procurement Bill** [B 18D – 2023] (National Assembly – sec 76) and of Report of Standing Committee on Finance thereon (Announcements, Tablings and Committee Reports, 13 May 2024, p 11).
5. Consideration of **Recommended nominees to serve on Electoral Reform Consultation Panel** (Report of Portfolio Committee on Home Affairs, see Announcements, Tablings and Committee Reports, 14 May 2024, p 3).
6. Consideration of Request for Approval by Parliament of **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa** terms of section 231(2) of Constitution, 1996 (Report of Portfolio Committee on Social Development, see Announcements, Tablings and Committee Reports, 2 May 2024, p 3).

#### FAREWELL SPEECHES.

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