

- (b) in the case of officers the approved rates applicable to officers of the authority.

Sealed with the Official Seal of the Ministry of Education for Northern Ireland this 27th day of February, 1964.

(L.S.)

A. C. Williams,
Secretary.

EXPLANATORY NOTE

(This note is not part of the Regulations but is intended to indicate their general purport.)

These Regulations prescribe the conditions in which a local education authority may incur reasonable expenditure in connection with educational conferences or meetings.

1964. No. 28

[NC]

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Election Petition Rules 1964

We, the Northern Ireland Supreme Court Rules Committee, being the authority for the time being having power under section 7 of the Northern Ireland Act 1962(a) to make rules for the purposes of Part II and Part III of the Representation of the People Act 1949(b), hereby exercise those powers and all other powers enabling us in that behalf as follows:—

Citation, Commencement and Application

1.—(1) These rules may be cited as the Election Petition Rules 1964, and shall come into force on the 6th day of April, 1964.

(2) These rules shall apply to proceedings questioning an election or return or complaining of no return to the Parliament of the United Kingdom.

(3) Nothing in these rules shall affect any petition presented before these rules came into force.

Interpretation

2.—(1) The Interpretation Act 1889(c) shall apply to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

(2) In these rules, unless the context otherwise requires—

“the Act” means the Representation of the People Act 1949;

“Attorney General” means the Attorney General for Northern Ireland;

(a) 10 & 11 Eliz. 2. c. 30.

(c) 52 & 53 Vict. c. 63.

(b) 12, 13 & 14 Geo. 6. c. 68.

“the court” means the election court;

“Clerk of the Crown” means Clerk of the Crown for Northern Ireland;

“election petitions office” means the Central Office in the Royal Courts of Justice (Ulster), Belfast;

“prescribed officer” means the Registrar of the Supreme Court, being the officer appointed by the Lord Chief Justice under section 137(4) of the Act to be the prescribed officer or such other officer of the Supreme Court as the Lord Chief Justice may appoint from time to time.

(3) Subject to the provisions of the Act and these rules, the practice and procedure of the High Court, including the rules relating to discovery and inspection of documents and the delivery of interrogatories, shall apply to a petition under these rules as if it were an ordinary action within its jurisdiction, notwithstanding any different practice, principle or rule on which the committees of the House of Commons used to act in dealing with election petitions.

(4) Any document required to be filed in proceedings under these rules shall be filed in the election petitions office.

Form of Petition

3.—(1) A petition shall be in the form set out in Schedule A hereto or a form to the like effect with such variations as the circumstances may require, and shall state—

- (a) in which of the capacities mentioned in section 108(1) of the Act the petitioner or each of the petitioners presents the petition;
- (b) the date and result of the election to which the petition relates, and the date on which the return was made to the Clerk of the Crown of the member declared to have been elected;
- (c) in the case of a petition mentioned in subsection (2) or (3) of section 109 of the Act, the date from which the time for the presentation of the petition is to be calculated; and
- (d) the grounds on which relief is sought, setting out with sufficient particularity the facts relied on but not the evidence by which they are to be proved;

and shall conclude with a prayer setting out particulars of the relief claimed.

(2) The petition shall be presented by filing it and at the same time leaving three copies at the election petitions office.

Notice of Presentation of Petition

4.—(1) Within five days after the presentation of the petition, the petitioner shall serve on the respondent within the meaning of section 108(2) of the Act and on the Attorney General a notice of the presentation of the petition, and of the nature of the security for costs which the petitioner has given or proposes to give pursuant to section 119 of the Act, together with a copy of the petition.

(2) Service shall be effected—

- (a) on the respondent, by delivering the notice and a copy of the petition to the respondent personally; and
- (b) on the Attorney General in the same manner as a writ of summons is served;

and an affidavit of service shall be filed as soon as practicable after service.

Security for Costs

5. Where security for costs pursuant to section 119 of the Act is given in whole or in part—

(a) by recognisance—

- (i) the recognisance shall be acknowledged before a person authorised to take affidavits for use in the Supreme Court;
- (ii) the recognisance shall be filed forthwith and shall be accompanied by an affidavit sworn by each surety stating that after payment of all his debts he is worth a sum not less than that for which he is bound by his recognisance and a copy of the affidavit shall forthwith be served by the petitioner on the respondent; or

(b) by a deposit of money—

- (i) the money shall be placed on deposit receipt in the Bank of Ireland in the name of the Accountant General of the Supreme Court to the credit of the matter and may be drawn upon by the court from time to time for the purposes for which security is required by the Act;
- (ii) the deposit receipt shall forthwith be left with the Accountant General who shall certify the amount of such deposit and such certificate shall then be left with the prescribed officer.

Notice of Objection to Recognisance

6.—(1) Where the respondent intends to object to a recognisance on any ground mentioned in section 119(4) of the Act, he shall, within five days after service on him of the notice referred to in rule 4, serve on the petitioner notice of his objection, stating the grounds thereof, and issue and serve on the petitioner a summons to determine the validity or otherwise of the objection.

(2) The summons shall be heard by the prescribed officer, subject to an appeal to a Judge of the court within five days after the prescribed officer's decision.

(3) If the objection is allowed, the prescribed officer or the Judge, as the case may be, shall at the same time determine what sum of money will make the security sufficient and the petitioner may, within five days thereafter, remove the objection by the deposit of that sum.

List of petitions at issue

7. The list of petitions at issue kept by the prescribed officer pursuant to section 121(1) of the Act shall be conspicuously displayed in the election petitions office, and shall be available for inspection by the public during office hours.

Time and place of trial

8.—(1) The time and place of the trial of each election petition shall be fixed by a Judge of the court.

(2) Not less than fourteen days before the day so fixed the prescribed officer shall cause notice of the time and place of the trial to be displayed in a conspicuous place in the election petitions office, and in the Great Hall of the Royal Courts of Justice, and shall send copies of the notice to—

- (a) the petitioner;
- (b) the respondent;
- (c) the Attorney General; and
- (d) the under sheriff of the county or county borough in which the election petition is to be tried.

(3) The under sheriff shall forthwith publish the notice in his county or county borough, as the case may be.

(4) The Judge fixing the time and place of trial shall also appoint an officer of the Supreme Court to act as Registrar of the court for the purposes of the trial.

Evidence

9.—(1) Where the petition claims the seat for an unsuccessful candidate on the ground that he had a majority of lawful votes, every party to the petition shall, not less than seven days before the day fixed for the trial, file a list of the votes which he contends were wrongly admitted or rejected, stating in respect of each such vote the grounds for his contention, and serve a copy of the list on every other party and the Attorney General.

(2) Where the respondent to a petition complaining of an undue election and claiming the seat for some other person intends to give evidence, pursuant to section 122(5) of the Act, to prove that that person was not duly elected, the respondent shall, not less than seven days before the day fixed for the trial of the petition, file a list of his objections to the election of that person on which he intends to rely and serve a copy of the list on the petitioner and the Attorney General.

(3) Any party to the petition may inspect and obtain an office copy of any list filed pursuant to either of the two last foregoing paragraphs.

(4) Except by leave of the court—

- (a) no evidence shall be given by a party against the admission or rejection of any vote, or as to any ground of contention, which is not specified in a list filed by him pursuant to paragraph (1) of this rule; and
- (b) no evidence shall be given by a respondent of any objection to a person's election which is not specified in a list filed by him pursuant to paragraph (2) of this rule.

Order to compel attendance of witness

10. An order under section 123(2) of the Act to compel the attendance of a witness at the hearing of an election petition may be in the form set out in Schedule B hereto or a form to the like effect.

Certificate of Indemnity

11. The certificate of indemnity to be given by a Judge of the court pursuant to the provisions of section 123(7)(a) of the Act may be in the form set out in Schedule C hereto or a form to the like effect.

Witnesses Expenses

12.—(1) At the conclusion of the trial the Registrar of the election court or the prescribed officer shall ascertain the reasonable expenses of any person who appeared to give evidence at the trial and shall certify under his hand the amount so allowed.

(2) Where a witness has been called and examined by virtue of an order made under section 123(2) of the Act, the Registrar shall in addition certify that the attendance of such witness was required by the court.

Case stated

13.—(1) An application for a special case to be stated pursuant to section 126(1) of the Act shall be made by motion to a Divisional Court.

(2) Notice of such motion shall be given to the opposite party and to the Attorney General not less than two clear days before the day of hearing.

Withdrawal of petition

14.—(1) An application for leave to withdraw a petition shall be made by motion to the court or to a Divisional Court at such time and place as the court or the Divisional Court may appoint.

(2) Not less than seven days before the day so appointed the petitioner shall—

- (a) serve notice of motion on the respondent, the returning officer and the Attorney General and shall also file a copy in the election petitions office; and
- (b) publish notice of the intended motion in at least one newspaper circulating in the constituency to which the petition relates.

(3) The notice of motion shall state the grounds on which the application for withdrawal is made and shall contain a statement to the effect that on the hearing of the application any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner.

(4) The returning officer shall upon receipt of the notice forthwith publish it in his constituency.

(5) Where on the hearing of the application a person is substituted as a petitioner, any security required to be given by him shall be given within three days after the order of substitution.

Application to stay or dismiss petition

15.—(1) An application by a respondent to stay or dismiss a petition before the day fixed for the trial shall be made by motion to the court or to a Divisional Court at such time and place as the court or the Divisional Court may appoint.

(2) Not less than seven days before the date so appointed the respondent shall serve notice of motion, stating the grounds thereof, on the petitioner, any other respondent, the returning officer and the Attorney General, and shall file a copy at the election petitions office.

Death of Petitioner

16.—(1) Where a petition is abated by the death of a sole petitioner or the survivor of several petitioners, the solicitor acting for him in the proceedings at the date of his death or, if he had no such solicitor, any respondent learning of his death shall—

- (a) file notice thereof in the election petitions office;
- (b) serve notice thereof on the returning officer, who shall forthwith publish it in his constituency; and

- (c) publish notice thereof in at least one newspaper circulating in the constituency to which the petition relates.

Each such notice shall contain a statement to the effect of the next following paragraph.

(2) Within 28 days after the publication of the notice referred to in sub-paragraph (c) of the last foregoing paragraph any person who might have been a petitioner in respect of the election may apply by motion to the court or to a Divisional Court, at such time and place as the court or the Divisional Court may appoint, to be substituted as a petitioner.

Notice of intention not to oppose petition

17. A respondent who does not intend to oppose the petition shall, not less than seven days before the day fixed for the trial, serve notice to that effect on the petitioner and the Attorney General.

Substitution of respondents

18.—(1) On the happening of any event mentioned in section 134(1) of the Act, the respondent concerned shall—

- (a) file notice thereof in the election petitions office;
- (b) serve notice thereof on the returning officer who shall forthwith publish it in his constituency; and
- (c) publish notice thereof in at least one newspaper circulating in the constituency to which the petition relates.

Each such notice shall contain a statement to the effect of paragraph (3) of this rule.

(2) The duties imposed by the last foregoing paragraph on the respondent concerned shall, in the case of the death of a respondent, be performed by the solicitor acting for him in the proceedings at the date of his death, or if he had no solicitor, by any petitioner learning of his death.

(3) Within fourteen days after the publication of any notice referred to in sub-paragraph (c) of paragraph (1) of this rule any person who might have been a petitioner in respect of the election may apply by motion to a Judge of the court or to a Divisional Court to be admitted as a respondent to oppose the petition.

Duty to file copies

19. A party giving particulars in pursuance of an order or otherwise shall file a copy within two days after delivering the particulars to the party requiring them.

Cost of publication

20. Where by any provision of the Act or of these rules a petition or notice is required to be published by the returning officer, the cost of publication shall be paid in the first instance by the petitioner or, as the case may be, by the person by whom the notice was given, without prejudice to the manner in which such cost shall ultimately be borne by one or more of the parties to the petition.

Notice of appointment of respondent's solicitor

21. A solicitor appointed to act for a respondent in proceedings on a petition shall forthwith give notice of his appointment to the petitioner and lodge a copy of the notice in the election petitions office.

Service of Notices

22.—(1) Any notice required to be served on a respondent to a petition may be served—

- (a) by delivering it or sending it by post to any solicitor who has given notice under the last foregoing rule that he is acting for the respondent; or
- (b) if no such notice has been given, in the manner provided by section 162 of the Act.

(2) Any notice required to be served on the returning officer or the Attorney General in proceedings under these rules may be served by delivering it or sending it to him by post.

Forfeiture of recognisance

23. An application to the High Court under the provisions of section 135(2) of the Act shall be by notice of motion to the petitioner and the sureties.

Payment from deposit on default

24. Where security has been given by deposit of money and where the petitioner has neglected or refused to pay any costs due by him or witnesses expenses for the period prescribed by section 135(2) of the Act, the High Court may upon notice of motion to the petitioner, made within the time limited by the said subsection, by or on behalf of any respondent or any witness summoned on behalf of the petitioner, order that the sum certified to be due to him for his costs, shall be paid by the Accountant General out of the sum deposited.

Recognisance and deposit

25. The provisions of rules 23 and 24 shall apply mutatis mutandis to cases where security is given partly by recognisance and partly by deposit of money.

Discharge of Recognisance and Deposit

26. The court, or a Judge thereof, on being satisfied that the purposes for which security was given have been fulfilled, or that the period of one year fixed by section 135(2) for the Act has elapsed, may order that:—

- (a) any recognisance entered into be vacated, and
- (b) any money deposited or remaining on deposit be repaid.

Time

27. The provisions of Order LXIV of the Rules of the Supreme Court shall apply to any period of time prescribed by these rules as if it were prescribed by the Rules of the Supreme Court in so far as the same are not inconsistent with the provisions of the Act.

Revocation

28. The General Rules for Election Petitions, dated the 25th day of November, 1868, and the additional Rule for Election Petitions dated the 4th day of January, 1869, in so far as they relate to elections of the Parliament of the United Kingdom are hereby revoked.

Dated this 28th day of February, 1964.

(Signed) Arthur Black
L. E. Curran
Charles L. Sheil
Brian Maginess
James J. Napier

Rule 3(1)

SCHEDULE A

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION

In the Matter of the Representation of the People Act 1949

And in the Matter of a Parliamentary Election for [state place] held on the.....day of.....19.....

The Petition of AB of.....[and CD of.....] shows:—

1. That the Petitioner AB is a person who voted [or had a right to vote] at the above election [or was a candidate at the above election] [or claims to have had a right to be elected or returned at the above election] and the Petitioner CD [state similarly the capacity in which he presents the petition].

2. That the election was held on the.....day of.....19....., when EF, GH, and JK were candidates, and on the.....day of.....19....., the Returning Officer returned EF to the Clerk of the Crown as being duly elected.

3. That [state the facts on which Petitioner(s) rely].

4. That [in the case of a petition mentioned in section 109(2) or (3) of the above Act state the event on which the time for the presentation of the petition depends and its date].

The Petitioner(s) therefore pray(s):—

(1) That it may be determined that the said EF was not duly elected [or returned] and that the election was void [or] that the said JK was duly elected and ought to have been returned [or as the case may be].

(2) That the Petitioner(s) may have such further or other relief as may be just.

Dated this.....day of.....19.....

(Signed).....
Petitioner(s)

This petition was presented by.....whose address for service is.....[and who is agent for.....of.....] [solicitor for the said Petitioner(s)].

It is proposed to serve a copy of this petition on.....of.....[and.....of.....] and on the Attorney General for Northern Ireland.

Rule 10

SCHEDULE B

COURT FOR THE TRIAL OF AN ELECTION PETITION
FOR THE
CONSTITUENCY OF

Between:

A

B

Petitioner(s);

and

C

D

Respondent(s).

To..... of.....
in the County of.....

YOU ARE HEREBY REQUIRED to attend before the above Court at the
Courthouse, in the County of.....
on the.....day of.....19.... at the hour of.....
to be examined as a witness in the matter of the said Petition and to attend
the said Court until your examination shall have been completed.

As Witness my hand

.....day of.....19.....

.....
A Judge of the said Court.

Rule 11

SCHEDULE C

Certificate of Indemnity

REPRESENTATION OF THE PEOPLE ACT 1949
COURT FOR THE TRIAL OF AN ELECTION PETITION
FOR THE
CONSTITUENCY OF

Between:

A

B

Petitioner(s);

and

C

D

Respondent(s).

Whereas.....of..... was called and
examined as a witness before us on the trial of the said Petition, now I do
hereby certify that the said.....as such witness aforesaid,
was upon his examination required by us to answer questions relating to an
offence at or connected with the election to which the said Petition referred, the
answers to which questions criminated or tended to criminate him, and that the
said.....answered truly all such questions.

As Witness my hand this.....day of.....19.....

.....
A Judge of the said Court.