

SCHEDULE 9

Article 134(3)

Modification of Election Petition Rules 1960

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Explanatory Note

Assembly election petition: modification of the Election Petition Rules 1960

1. The Election Petition Rules 1960(1) (“the 1960 Rules”) shall apply to an Assembly election petition subject to the following modifications.

Rule 2(2) of the 1960 Rules (definitions)

2. In rule 2(2) of the 1960 Rules(2), the following definitions shall be modified as follows—
- (a) “the Act” shall (except in rule 2(3)) be construed as meaning this Order and a reference to a provision of the 1983 Act in the 1960 Rules shall be construed as a reference to the corresponding provision in this Order as set out in paragraph 9 of this Schedule;
 - (b) “local election petition” shall be disregarded as shall be rule 18 of the 1960 Rules and any reference in the 1960 Rules which is a reference to a provision of the 1983 Act that applies only to such a local election petition;
 - (c) “petition” shall be construed as meaning an Assembly election petition;
 - (d) “constituency” shall be construed as meaning—
 - (i) in the case of a petition relating to a constituency election, the Assembly constituency to which the petition relates;
 - (ii) in the case of a petition relating to a regional election, to the Assembly electoral region to which the petition relates; and
 - (iii) in the case of a petition relating to a return in respect of an electoral region vacancy, to the Assembly electoral region to which the petition relates; and
 - (e) “returning officer” shall be construed as meaning the constituency returning officer in the case of a petition relating to a constituency election and the regional returning officer in

(1) [S.I. 1960/543](#) as amended by S.I.s [1985/1278](#), [1999/1352](#) and [2003/972](#) and as modified by [S.I. 1991/2684](#).

(2) Rule 2(2) was amended by [S.I. 1985/1278](#).

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the case of a petition relating to a regional election, or as the case may be, an electoral regional vacancy.

Rule 2(3) of the 1960 Rules (prescribed officer)

3. Rule 2(3) of the 1960 Rules(3) shall apply as if for “the prescribed officer in relation to elections under the Local Government Act” there were substituted “the prescribed officer in relation to elections under Part 1 of the Government of Wales Act 1998 or, as the case may be, under Part 1 of the Government of Wales Act 2006”.

Rule 4(1) of the 1960 Rules (form of petition)

4.—(1) Rule 4 of the 1960 Rules shall apply with the following modifications.

(2) In rule 4(1)(b)—

- (a) “in the case of a parliamentary election” shall be disregarded;
- (b) “the Clerk of the Crown” shall be construed as a reference to the Assembly constituted by the 1998 Act in respect of a return made before the 2007 Assembly general election and as a reference to the Clerk in respect of any subsequent return; and
- (c) in the case of a regional election, “result”, “return was” and “member” shall be construed as “results”, “returns were” and “members” respectively.

(3) Rule 4(1) shall be construed as if after paragraph (1)(b) there were inserted—

- “(ba) in the case of a petition relating to a return in respect of an electoral region vacancy the date on which the person was declared to be returned as an Assembly member;”.

Rule 9(3) of the 1960 Rules (display etc. of notice of time and place of trial)

5. In rule 9(3) of the 1960 Rules(4)—

- (a) “a parliamentary election petition” shall be construed as “an Assembly election petition”
- (b) “and in any other case not less than seven days” shall be disregarded.

Rule 10(1) of the 1960 Rules (identifying votes at issue)

6. In rule 10(1) of the 1960 Rules, in the case of a regional election, “he had a majority of lawful votes,” shall be construed as “he or the registered political party on whose list he was a candidate had a higher electoral figure(5) than that of another individual candidate or of another registered party to whom a seat in that Assembly electoral region was allocated.

References to “election” in the 1960 Rules

7.—(1) Rule 10(2) and (4)(b) of the 1960 rules(6) shall apply to an Assembly election petition complaining of an undue return in respect of an electoral regional vacancy as it applies to an Assembly election petition complaining of an undue election; and references in those paragraphs to “undue election” “duly elected”, and “election” shall be construed accordingly.

(3) Rule 2(3) was amended by [S.I. 1985/1278](#).

(4) Rule 9(3) was amended by [S.I. 1985/1278](#).

(5) In relation to the 2007 Assembly general election, see sections 6 and 7 of the Government of Wales Act 1998 and in relation to subsequent Assembly general elections, see sections 8 and 9 of the Government of Wales Act 2006.

(6) Rule 10(2) was amended by [S.I. 1985/1278](#).

(2) In rules 12(3), 14(2) and 16(3) of the 1960 Rules(7), references to “election” shall, in the case of an Assembly election petition relating to a return in respect of an electoral region vacancy, be construed as references to such a return.

Form of election petition in the 1960 Rules

8. The form of election petition in the Schedule to the 1960 Rules(8) shall apply in relation to an Assembly election petition as if—

(a) for the words after “Queen’s Bench Division” to before “The Petition of A.B. of”, there were substituted—

(i) in the case of an electoral region vacancy occurring before the 2007 Assembly general election—

“In the Matter of the Government of Wales Act 1998 and the National Assembly for Wales (Representation of the People) Order 2007

And in the Matter of a return of an Assembly member under section 9 of the Government of Wales Act 1998 for the electoral region and made on theday of20”;

(ii) in the case of any subsequent electoral regional vacancy—

“In the Matter of the Government of Wales Act 2006 and the National Assembly for Wales (Representation of the People) Order 2007

And in the Matter of a return of an Assembly member under section 11 of the Government of Wales Act 2006 for the dotfill;electoral region and made on the day of 20”;

(iii) in the case of an Assembly election at the 2007 Assembly general election—

“In the Matter of the Government of Wales Act 1998 and the National Assembly for Wales (Representation of the People) Order 2007

And in the Matter of an Assembly election for [state place] held on the day of 2007”;

(iv) in the case of any subsequent Assembly election—

“In the Matter of the Government of Wales Act 2006 and the National Assembly for Wales (Representation of the People) Order 2007

And in the Matter of an Assembly election for [state place] held on the day of 20

(b) but subject to sub-paragraph (c), for paragraphs 1 and 2, there were substituted—

“**1.** That the Petitioner A.B. 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] [or, in the case of a return under section 9 of the Government of Wales Act 1998 or, as the case may be, under section 11 of the Government of Wales Act 2006, claims to have had a right to be returned under section 9 of the Government of Wales Act 1998 (or, as the case may be, section 11 of the Government of Wales Act 2006)] and the Petitioner C.D.[state similarly the capacity in which he presents the petition].

(7) Rules 14(2) and 16(3) were amended by S.I. 1999/1352.

(8) The Schedule to the 1960 Rules was amended by S.I. 1985/1278.

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2. That the election was held on theday of20 when *[[in the case of an election for an Assembly constituency, insert names of candidates] [or; in the case of a regional election insert names]* were individual candidates and there were candidates for *[insert names of registered political parties appearing on the ballot paper]* the names of those candidates in respect of each such party are set down below*/annexed hereto* (**delete as appropriate*), and on the day of 20 , the returning officer returned *[insert name[s] of candidate[s]]* to the Clerk of the National Assembly for Wales as being duly elected.

*[*at an election for an Assembly electoral region set out the name of each registered political party appearing on the ballot paper and after the name of each party the names of the candidates of that party appearing on the ballot paper.]*;*

- (c) in the case of a petition relating to a return in respect of an electoral region vacancy instead of paragraph 2 set out in sub-paragraph (b) substitute—

“2. That in respect of a vacancy in the *[insert name of Assembly electoral region]*electoral region, on the day of 20 the returning officer notified the Presiding Officer of the National Assembly for Wales that E.F. was to fill that vacancy and pursuant to *section 9(6) of the Government of Wales Act 1998/ *section 11(6) of the Government of Wales Act 2006 (**delete as appropriate*) was on the day of 20 treated as having been declared to be returned.”;

- (d) in paragraph 4, for “section 122(2) or (3) or section 129(2), (3) or (4) of the above Act” there were substituted “article 88(2) or (3) of the above Order”; and

- (e) for paragraph (1) of the prayer, there were substituted—

- (i) in the case of a petition in relation to an election—

“(1) That it may be determined that the said *[insert name]* was not duly elected *[or returned]* and that the election was void *[or that the said [insert name] was duly elected and ought to have been returned] [or as the case may be].*”; and

- (ii) in the case of a petition in relation to a vacancy in respect of an electoral region—

“(1) That it may be determined that the said *[insert name]* was not duly returned and that the said *[insert name]* ought to have been returned under *section 9 of the Government of Wales Act 1998 / *under section 11 of the Government of Wales Act 2006 (**delete as appropriate*)[*or as the case may be.*”.

References to the 1983 Act

9. In the Table below references in column (2) to a numbered section of the 1983 Act set out opposite to a numbered rule of the 1960 Rules in column (1) shall be construed as a reference to the appropriate numbered article in this Order set out in column (3)—

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
rule 4(1)(a)	section 121(1)	article 87(1)
rule 4(1)(c)	section 122(2) or (3)	article 88(2) or (3)
rule 5(1)	section 136	article 92
rule 6(1)	section 121(2)	article 87(3)
rule 7	section 136(4)	article 92(4)
rule 8	section 138(1)	article 94(1)

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<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
rule 10(2)	section 139(5)	article 95(5)
rule 11	section 146(1)	article 102(1)
rule 19(1)	section 119	article 85
rule 19(2)	section 119(2)	article 85(2)
rule 21(2)(b)	section 184	article 136