1984 No. 162

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The European Assembly Election Petition Rules (Northern Ireland) 1984

Made	*14th May 1984*
Coming into operation . . .	*13th June 1984*

To be laid before Parliament

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power to make rules of court for the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, make the following Rules in exercise of the power conferred on us by section 55 of the Judicature (Northern Ireland) Act 1978(**a**):—

Citation and commencement

1. These Rules may be cited as the European Assembly Election Petition Rules (Northern Ireland) 1984, and shall come into operation on 13th June 1984.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires:—

"the Act" means the Representation of the People Act 1983(**b**), as applied by the European Assembly Elections (Northern Ireland) Regulations 1984(**c**);

"Assembly" means the Assembly of the European Communities;

"the Court" means a court of the Queen's Bench Division consisting of two or more judges;

"election petitions office" means the Writ and Judgment office in the Central Office at the Royal Courts of Justice, Belfast;

"petition" means a petition questioning an election under the European Assembly Elections Act 1978(**d**);

"prescribed officer" has the meaning ascribed by section 157(4) and (8) of the Act;

"judge" means a judge selected in accordance with Section 108 of the Judicature (Northern Ireland) Act 1978 for the trial of parliamentary election petitions;

"returning officer" means the Chief Electoral Officer for Northern Ireland.

(2) Subject to the provisions of the Act and these Rules, the practice and procedure of the High Court, including the rules relating to the discovery and inspection of documents and the delivery of interrogatories, shall apply to a petition

(**a**) 1978 c. 13
(**b**) 1983 c. 2
(**c**) S.I. 1984/198
(**d**) 1978 c. 10

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.

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

Jurisdiction

3.—(1) Any jurisdiction conferred by these Rules on a judge shall, if practicable, be exercised by a selected judge and, if not, by some other judge of the Supreme Court.

(2) Any jurisdiction conferred by these Rules on a master shall be exercised by the prescribed officer.

Form of petition

4.—(1) A petition shall be in the form set out in the Schedule to these Rules 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 121(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;

(*c*) in the case of a petition mentioned in subsection (2) or (3) of section 122 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

5.—(1) Within five days after the presentation of the petition, the petitioner shall serve on the respondent within the meaning of section 121(2) of the Act and on the Director of Public Prosecutions for Northern Ireland a notice of the presentation of the petition, and of the nature of the security for costs which the petitioner proposes to give pursuant to section 136 of the Act, together with a copy of the petition.

(2) Service shall be effected in the manner in which a writ of summons is served and an affidavit of service shall be filed as soon as practicable after service has been effected.

Security for costs

6. Where security for costs pursuant to section 136 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 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

7.—(1) Where the respondent intends to object to a recognisance on any ground mentioned in section 136(4) of the Act, he shall, within five days after service on him of the notice referred to in rule 5, 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 of the objection.

(2) The summons shall be heard in chambers by a master, subject to an appeal to a judge within five days after the master's decision.

(3) If the objection is allowed, the master or judge having cognisance of the matter 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 deposit of that sum.

List of petitions at issue

8. The list of petitions at issue kept by the prescribed officer pursuant to section 138(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

9.—(1) Within 28 days after the first day on which a petition is at issue, the petitioner shall apply by summons to a selected judge for a time and place to be fixed for the trial of the petition and, if the petitioner fails to do so, any respondent may, within a further period of 28 days, apply in the same manner as the petitioner could have done.

(2) If no application to fix a time and place for the trial of a petition is made in accordance with the last foregoing paragraph, the prescribed officer shall refer the matter to a selected judge, who shall thereupon fix such a time and place.

(3) Not less than 14 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 sent by post to—

(*a*) the petitioner,

(*b*) the respondent, and

(*c*) the Director of Public Prosecutions.

(4) The selected judge fixing the time and place of trial shall also appoint an officer sitting in the Supreme Court to act as registrar of the election court for the purposes of the trial.

Evidence

10.—(1) Where the petition claims the office for an unsuccessful candidate on the ground that the total number of lawful votes cast in his favour equalled or exceeded the quota or that, where only one vacancy remained unfilled, that total was equal to or greater than the total number of lawful votes (together with any surplus not transferred) credited to another or other continuing candidates, every party to the