1979 No. 179

JUDICATURE, NORTHERN IRELAND

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The European Assembly Election Petition Rules (Northern Ireland) 1979

Made . . . . . *17th May* 1979

Coming into operation . . . . *7th June* 1979

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 160 of the Representation of the People Act, 1949(a):—

Citation and commencement

1. These Rules may be cited as the European Assembly Election Petition Rules (Northern Ireland) 1979, and shall come into operation on 7th June 1979.

Interpretation

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

"the Act" means the Representation of the People Act 1949, as applied by the European Assembly Elections (Northern Ireland) Regulations 1979;

"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 of the Royal Courts of Justice, Belfast;

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

"prescribed officer" means the Master (Queen's Bench and Appeals), being the officer appointed by the Lord Chief Justice under section 137(4) of the Act or such other officer serving in the Supreme Court as the Lord Chief Justice may from time to time appoint;

"rota judge" means a judge on the rota for the trial of parliamentary election petitions;

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

(a) 1949 c. 68; section 160 was applied by Regulation 3 of, and Schedule 1 to, the European Assembly Elections (Northern Ireland) Regulations 1979 (S.I. 1979/322)
(b) 1978 c. 10

(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 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 rota 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 or, in his absence, by the Registrar (Queen's Bench and Appeals).

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 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;

(*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

5.—(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 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 119 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 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 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 119(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 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

9.—(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 by post to—

(*a*) the petitioner,

(*b*) the respondent, and

(c) the Director of Public Prosecutions.

(3) The rota judge fixing the time and place of trial shall also appoint an officer serving 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 he had a majority of lawful votes, every party 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 Director of Public Prosecutions.

(2) Where the respondent to a petition complaining of an undue election and claiming the office 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 Director of Public Prosecutions.

(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 election 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.

Case stated

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

Withdrawal of petition

12.—(1) An application for leave to withdraw a petition shall be made by motion to the election court or the Court at such time and place as the 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 Director of Public Prosecutions and lodge a copy in the election petitions office;

(*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 to withdraw is made and 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

13.—(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 election court or the Court at such time and place as the 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 Director of Public Prosecutions, and shall lodge a copy at the election petitions office