



Representation of the People Act 1983

1983 CHAPTER 2

PART III

LEGAL PROCEEDINGS

Procedure on all election petitions

139 Trial of petition.

- (1) An election petition shall be tried in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner, not less than, in the case of a parliamentary election petition, 14 days and in any other case, seven days, before the day of trial.
- (2) The election court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.
- (3) The trial of a parliamentary election petition shall be proceeded with notwithstanding the acceptance by the respondent of an office vacating his seat in Parliament and notwithstanding the prorogation of Parliament; and the trial of a petition questioning an election under the local government Act shall be proceeded with notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition.
- (4) On the trial of a petition, unless the court otherwise directs, any charge of a corrupt practice may be gone into, and evidence in relation to it received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt practice.

In relation to an election in England and Wales under the local government Act, this subsection applies as if corrupt practices included illegal practices.

- (5) On the trial of a petition complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person

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was not duly elected, in the same manner as if he had presented a petition against the election of that person.

- (6) If the petition relates to an election conducted under the parliamentary elections rules or the rules under section 36 [^{F1}, section 36A] or section 42 above and it appears that there is an equality of votes between any candidates at the election, and that the addition of a vote would entitle any of those candidates to be declared elected then—
- (a) any decision under the provisions as to equality of votes in the parliamentary elections rules or the rules under section 36 [^{F2}, section 36A] or section 42, as the case may be, shall in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and
 - (b) in so far as that question is not determined by such a decision, the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

Textual Amendments

- F1** Words in s. 139(6) inserted (E.W.) (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(3)(f), **Sch. 2 para. 2(15)**
- F2** Words in s. 139(6)(a) inserted (E.W.) (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(3)(f), **Sch. 2 para. 2(15)**

Modifications etc. (not altering text)

- C1** S. 139 applied (with modifications) (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**
S. 139 applied (with modifications) (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 139 applied (with modifications) (N.I.) (4.5.1996) by [Elections \(Northern Ireland\) Order 1996 \(S.I. 1996/1220\)](#), art. 3(1)(5)-(8), **Sch. 1**
S. 139 applied (with modifications) (11.3.1999) by [The Scottish Parliament \(Elections etc.\) Order 1999 \(S.I. 1999/787\)](#), art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), **arts. 1, 2** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), **art. 2(a)**))
S. 139 applied (with modifications) (2.4.2001) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2001 \(S.I. 2001/1298\)](#), reg. 19(8), **Sch. 6**
S. 139 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))
S. 139 applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))
S. 139 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pts. I, II**
S. 139 applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**
- C2** S. 139 applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**
- C3** S. 139 applied (with modifications) (1.8.2001) by [The Northern Ireland Assembly \(Elections\) Order 2001 \(S.I. 2001/2599\)](#), art. 3, **Sch. 1** (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)
- C4** S. 139 applied (with modifications) (30.12.2010 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2010 \(S.I. 2010/2999\)](#), arts. 1(1), 84(2)(3), **Sch. 6 Pt. 2** (with art. 1(2)(3))

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- C5** S. 139 applied (with modifications) (30.12.2010 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2010 \(S.I. 2010/2999\)](#), arts. 1(1), 84(1)(3), **Sch. 6 Pt. 1** (with art. 1(2)(3))
- C6** S. 139 applied (with modifications) (E.W.) (9.2.2012) by [The Local Authorities \(Conduct of Referendums\)\(England\) Regulations 2012 \(S.I. 2012/323\)](#), reg. 1, **Sch. 6**
- C7** S. 139 applied (with modifications) (18.2.2012) by [The Local Authorities \(Conduct of Referendums\) \(Council Tax Increases\) \(England\) Regulations 2012 \(S.I. 2012/444\)](#), reg. 1, **Sch. 6** (with reg. 27)
- C8** S. 139 applied (with modifications) (S.) (16.12.2015) by [The Scottish Parliament \(Elections etc.\) Order 2015 \(S.S.I. 2015/425\)](#), arts. 1(1), 82(2)(3), **Sch. 6 Pt. 2** (with art. 1(2))
- C9** S. 139 applied (with modifications) (S.) (16.12.2015) by [The Scottish Parliament \(Elections etc.\) Order 2015 \(S.S.I. 2015/425\)](#), arts. 1(1), 82(1)(3), **Sch. 6 Pt. 1** (with art. 1(2))
- C10** S. 139(1)-(6) applied (with modifications) (25.7.2012) by [The Police and Crime Commissioner Elections Order 2012 \(S.I. 2012/1917\)](#), arts. 1(2), 50(6), **Sch. 9 para. 1(5)**

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