

1964. No. 83

[NC]

**SUPREME COURT, NORTHERN IRELAND
PROCEDURE**

The Election Petition (Northern Ireland) Rules 1964

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, and being the authority having for the time being power to make rules for the purposes of Part IX of the Electoral Law Act (Northern Ireland) 1962(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 (Northern Ireland) Rules 1964, and shall come into force on the 15th day of June, 1964.

(2) These rules shall apply to proceedings:—

(a) questioning an election or return or complaining of no return to the Parliament of Northern Ireland; and

(b) questioning a local election.

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

Interpretation

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

“the Act” means the Electoral Law Act (Northern Ireland) 1962;

“the court” means the election court;

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

“prescribed officer” means an officer of the Supreme Court, appointed by the Lord Chief Justice under section 93(3) of the Act.

(2) 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 of the Parliament of the United Kingdom 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.

Constitution of election courts

3.—(1) A parliamentary election court shall consist of two judges of the Supreme Court.

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

(b) 1962. c. 14.

(2) A local election court shall be constituted as prescribed by section 72(3) of the Act.

Forms of petition

4.—(1) A parliamentary election petition shall be in the form set out in Schedule A and a local election petition shall be in the form set out in Schedule B or in forms to the like effect with such variations as the circumstances shall require.

(2) A petition shall state:—

- (a) in which of the capacities mentioned in section 75(1) or section 79(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, showing in the case of a parliamentary election 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 76 or subsection (2) or (3) of section 80 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.

(3) 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 75(2) or section 79(2) of the Act and on the Chief Crown Solicitor 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 paragraph 7(1) of the Eighth Schedule to 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 Chief Crown Solicitor 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

6.—(1) Where security for costs pursuant to paragraph 7(1) of the Eighth Schedule to 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;

(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.

(2) Where in the case of a local election petition, the amount of the security for costs which the petitioner proposes to give is the maximum which may be directed under the Act, the application to fix the security at that amount may be made *ex parte* by summons to the prescribed officer.

Notice of objection to recognisance

7.—(1) Where the respondent intends to object to a recognisance on any ground mentioned in paragraph 7(4) of the Eighth Schedule to 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 or otherwise of the objection.

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

(3) If the objection is allowed, the prescribed officer, or the court, 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.

Lists of petitions at issue

8. The lists of petitions at issue kept by the prescribed officer pursuant to paragraph 9 of the Eighth Schedule to the Act shall be conspicuously displayed in the election petitions office, and shall be available for inspection by the public during office hours.

Time of trial

9.—(1) The day for trial of each election petition shall be fixed by:—

- (a) a Judge of the court in the case of a parliamentary election petition; and
- (b) the barrister to whom the petition has been assigned under section 72(3) of the Act in the case of a local election petition.

(2) In the case of a parliamentary election petition not less than fourteen days, and in any other case not less than seven days, before the day so fixed, the prescribed officer shall cause notice of the time and place of trial to be displayed in a conspicuous place in the election petitions office and sent by post to—

- (a) the petitioner;
- (b) the respondent;
- (c) the Chief Crown Solicitor; and
- (d) in the case of a parliamentary election petition, the returning officer for the constituency for which the election to which the petition relates

was held, and in any other case the returning officer for the local government electoral area for which the election was held.

(3) The person to whom a notice is sent under paragraph (2)(d) shall, upon the receipt of such notice, publish it forthwith in the constituency or local government electoral area, as the case may be.

(4) In the case of a parliamentary election petition, the Lord Chief Justice shall appoint an officer of the Supreme Court to act as registrar for the purposes of the trial and in the case of a local election petition the barrister constituting the court shall appoint some fit and proper person to act as registrar.

Evidence

10.—(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 Chief Crown Solicitor.

(2) Where the respondent to a petition complaining of an undue election and claiming a seat for some other person intends to give evidence pursuant to paragraph 11(5) of the Eighth Schedule to 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 Chief Crown Solicitor.

(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

11. An order under paragraph 12(2) of the Eighth Schedule to 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 C hereto or a form to the like effect.

Certificate of indemnity

12. The certificate of indemnity to be given by a member of the court pursuant to the provisions of paragraph 12(7) of the Eighth Schedule to the Act may be in the form set out in Schedule D hereto or a form to the like effect.

Witnesses' expenses

13.—(1) At the conclusion of the trial the Registrar of the 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 paragraph 12(2) of the Eighth Schedule to the Act, the Registrar shall in addition certify that the attendance of such witness was required by the court.

Case stated

14.—(1) An application for a special case to be stated pursuant to section 83(1) of the Act shall be made by motion to a Judge of the High Court.

(2) A special case under subsection (1) or subsection (2) of section 83 of the Act shall be stated to, heard and determined by the Court of Appeal.

Withdrawal of petition

15.—(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 Chief Crown Solicitor and shall 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 or the local government electoral area 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 or in his local government electoral area, as the case may be.

(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

16.—(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 Chief Crown Solicitor, and shall file a copy in the election petitions office.

Death of petitioner

17.—(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 or in his local government electoral area; and
- (c) publish notice thereof in at least one newspaper circulating in the constituency or in the local government electoral area 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 paragraph (1)(c) 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

18. 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 Chief Crown Solicitor.

Substitution of respondents

19.—(1) On the happening of any event mentioned in section 90 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 or in his local government electoral area; and
- (c) publish notice thereof in at least one newspaper circulating in the constituency or local government electoral area 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 has no solicitor, by any petitioner learning of his death.

(3) Within fourteen days after the publication of any notice referred to in paragraph (1)(c) 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 to be admitted as the respondent to oppose the petition.

Duty to file copies

20. 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.

Local election court expenditure

21. The barrister constituting a local election court and any officers, clerks or shorthand writers employed under the Eighth Schedule to the Act in relation to the trial of a local election petition may be paid the remuneration and allowances shown in the scale set forth in Schedule E hereto.

Cost of publication

22. 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

23. 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

24.—(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 101 of the Act.

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

Forfeiture of recognisance

25. An application to the High Court under the provisions of section 91(2) of the Act shall be by notice of motion to the petitioner and the sureties.

Payment from deposit on default

26. Where security has been given by the deposit of money and where the petitioner has neglected or refused to pay any costs due by him for the period prescribed by section 91(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

27. The provisions of rules 25 and 26 shall apply mutatis mutandis to cases where security is given partly by recognisance and partly by deposit of money.

Discharge of recognisance and deposit

28. 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 91(2) of 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

29. 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 except where the Act otherwise provides.

Costs

30. The Rules of the Supreme Court with respect to the costs and fees to be allowed in actions, causes and matters in the High Court shall apply, subject to any necessary modifications, in relation to petitions and other proceedings under Part IX of the Act.

Revocation

31.—(1) 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 to the Parliament of Northern Ireland, are hereby revoked.

(2) Order LXXXVI of the Rules of the Supreme Court, which relates to local government election petitions, is hereby revoked.

Dated this 29th day of May, 1964.

Signed

Arthur Black

H. A. McVeigh

E. W. Jones

Leonard I. G. Fox

Jas. J. Napier

SCHEDULE A

Rule 4(1)

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

In the Matter of the Electoral Law Act (Northern Ireland) 1962.

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] as an elector 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 the Petitioner(s) rely].

4. That [in the case of a petition mentioned in section 76(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 Chief Crown Solicitor.

SCHEDULE B

Rule 4(1)

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

In the Matter of the Electoral Law Act (Northern Ireland) 1962.

And In the Matter of a Local Government Election for [state place] held on the _____ day of _____ 19 _____

The Petition of **AB** of _____ and [here state the names of the other Petitioners (if any)] shows:—

1. That the Petitioner **AB** is a person who voted [or had a right to vote] as an elector at the above election [or was a candidate at the above election] [Here state in a similar manner the names of the other Petitioners (if any) and the capacity in which each Petitioner 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 _____, **EF** and **GH** were declared to be duly elected.

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

4. That [in the case of a petition mentioned in section 80(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 and that the election was void [or that the said **JK** was duly elected] [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 Chief Crown Solicitor.

SCHEDULE C

Rule 11

COURT FOR THE TRIAL OF AN ELECTION PETITION
FOR THE
CONSTITUENCY OF
[or Local Government Electoral Area]

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

Member of the said Court.

SCHEDULE D

Rule 12

Certificate of Indemnity

ELECTORAL LAW ACT (NORTHERN IRELAND) 1962
COURT FOR THE TRIAL OF AN ELECTION PETITION
FOR THE
CONSTITUENCY OF
[or Local Government Electoral Area]

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

Member of the said Court,

SCHEDULE E

LOCAL ELECTION COURT EXPENDITURE
 Scale of Remuneration and Allowances

	<i>Remuneration</i>	<i>Allowances</i>
Barrister constituting a local election court	£26 5 0 per day	Reasonable travelling and accommodation expenses.
Registrar	£10 10 0 per day	..
Shorthand writers	At the rate for the time being in force for the payment of shorthand writers in the Court of Criminal Appeal	..

The scale of remuneration and allowances in this Schedule was made with the concurrence of the Ministry of Finance for Northern Ireland.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 29th day of May, 1964.

(L.S.)

W. W. ARTHUR,
 Assistant Secretary,
 Ministry of Finance.

EXPLANATORY NOTE

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

These rules, which are made under the Northern Ireland Act 1962 and the Electoral Law Act (Northern Ireland) 1962, replace in modern form the rules relating to election petitions questioning a parliamentary election to the Parliament of Northern Ireland or a local government election.

The practice and procedure of the High Court, subject to the provisions of the above Act and these rules, have been applied to the petition as if it were an ordinary action within the jurisdiction of the High Court.

1964. No. 84

[C]

ROAD TRAFFIC

Speed Limits

ORDER*, DATED 11TH MAY, 1964, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER SECTION 23(4) OF THE ROAD TRAFFIC ACT (NORTHERN IRELAND) 1955.

The Ministry of Home Affairs in exercise of the powers conferred on it by section 23(4) of the Road Traffic Act (Northern Ireland) 1955(a) (hereinafter referred to as "the Act"), and of all other powers enabling it in that behalf, hereby orders and directs as follows:—

Citation and Commencement

1. This Order may be cited as the Roads (Speed Limit) Order (Northern Ireland) 1964 and shall come into operation on 1st June, 1964.

Revocation of Previous Directions

2. The directions contained in the Roads (Speed Limit) Order (Northern Ireland) 1956(b) relative to the lengths of road specified in the First Schedule to this Order are hereby revoked.

Speed Restrictions on Certain Roads

3. Each of the lengths of road specified in the Second Schedule shall be a restricted road for the purposes of section 23 of the Act.

Increase in Speed Limit

4. As respects the lengths of road specified in the Third Schedule, the rate of speed fixed by section 23(1) of the Act shall be increased to forty miles an hour.

Sealed with the Official Seal of the Ministry of Home Affairs for Northern Ireland this 11th day of May, 1964, in the presence of

(L.S.)

J. W. E. Cathcart,
Assistant Secretary.

(a) 1955. c. 27.

(b) S.R. & O. (N.I.) 1956, No. 124.

*This Order was affirmed by a Resolution of each House of Parliament on the 2nd day of June, 1964.