



Representation of the People Act 1983

1983 CHAPTER 2

PART III U.K.

LEGAL PROCEEDINGS

Procedure on all election petitions

136 Security for costs. U.K.

- (1) At the time of presenting an election petition or within three days afterwards the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.
- (2) The security shall be—
 - (a) in the case of a parliamentary election petition, [^{F1}such amount not exceeding £5,000 as the High Court or a judge of the High Court, [^{F2}directs on an application made by the petitioner]]; and
 - (b) in the case of a petition questioning an election under the local government Act, such amount not exceeding [^{F3}£2,500] as the High Court, or a judge of the High Court, [directs on an application made by the petitioner],and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other; but in Scotland—
 - (i) [^{F4}the amount mentioned in paragraph (a) above shall be such amount not exceeding £5,000 as the Court of Session or a judge of the Court of Session directs and] the amount mentioned in paragraph (b) above shall be such amount not exceeding [^{F5}£2,500] as the election court or the sheriff directs; and
 - (ii) the persons finding caution for that amount may exceed four.
- [^{F6}(3) Within the prescribed time after giving the security the petitioner shall serve on the respondent in the prescribed manner—

Status: Point in time view as at 01/12/2006.

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- (a) a notice of the presentation of the petition and of the amount and nature of the security, and
- (b) a copy of the petition.]
- (4) Within a further prescribed time,^{F7} . . . the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the recognisance.
- ^{F8}(5)
- (6) An objection to a recognisance shall be decided in the prescribed manner.
- (7) If the objection is allowed, the petitioner may within a further prescribed time^{F9} . . . , remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.
- (8) If no security is given as required by this section or any objection is allowed and not removed as mentioned above, no further proceedings shall be had on the petition.

Textual Amendments

- F1** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 48(a)**
- F2** Words in s. 136(2) substituted (16.2.2001) by 2000 c. 41, s. 138(1)(2), **Sch. 18 para. 19(4)**, with s. 156(6); S.I. 2001/222, art. 2, Sch. I Pt. I (with **Sch. 1 Pt. II**)
- F3** "£2,500" substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 48(b)**
- F4** Words inserted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 48(c)(i)**
- F5** "£2,500" substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 48(c)(ii)**
- F6** S. 136(3) substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 48(d)**
- F7** Words repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, **Sch. 4 para. 48(e)(i)**, Sch. 5
- F8** S. 136(5) repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, **Sch. 4 para. 48(e)(ii)**, Sch. 5
- F9** Words repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, **Sch. 4 para. 48(e)(iii)**, Sch. 5

Modifications etc. (not altering text)

- C1** S. 136 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 136 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C2** S. 136 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**
S. 136 applied (with modifications) (11.3.1999) by 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. 136 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. 136 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**

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- S. 136 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. 136 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. 136 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](#)
- C3** S. 136 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](#)
- C4** S. 136 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, [Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, [Sch. 1](#))
- C5** S. 136(2)(b) applied (with modifications) (E.W.) (2.1.2007 for certain purposes) by [The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006 \(S.I. 2006/3305\)](#), [rule 6\(b\)](#)

[^{F10}**137** **Petition at issue.** **U.K.**

- (1) The petition shall be at issue as from the relevant time, as defined by subsection (2) below.
- (2) In this section “the relevant time” means—
- (a) where the petitioner gives the security for costs required by section 136 above by a deposit of money equal to the amount of the security so required, the time when the security is so given; and
- (b) in any other case, the time when—
- (i) the time prescribed for the making of objections under section 136(4) above expires, or
- (ii) if such an objection is made, that objection is disallowed or removed, whichever happens later.]

Textual Amendments

- F10** S. 137 substituted (16.2.2001) by [2000 c. 41 s. 137, Sch. 17 para. 3\(1\)](#) (with s. 156(6), [Sch. 17 para. 3\(2\)](#)); [S.I. 2001/222](#), [art. 2 Sch. 1 Pt. I](#)

Modifications etc. (not altering text)

- C6** S. 137 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), reg. 19(8), [Sch. 6](#)
- S. 137 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. 137 applied (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. 137 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](#)
- C7** S. 137 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, [Sch. 6](#)
- C8** S. 137 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](#)
- C9** S. 137 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, [Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, [Sch. 1](#))

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138 List of petitions. **U.K.**

- (1) The prescribed officer shall—
- (a) as soon as may be, make out a list of all election petitions at issue presented to the court of which he is officer, placing them in the order in which they were presented, and
 - (b) keep at his office a copy of the list, open to inspection in the prescribed manner,
- and the petitions questioning elections under the local government Act shall be in a separate list^{F11} . . .
- (2) The petitions shall, so far as convenient, be tried in the order in which they stand in the list.
- (3) In the case of a petition questioning an election under the local government Act, two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part of this Act the petition shall be deemed to be a separate petition against each respondent.
- (4) Where more petitions than one are presented relating to the same election or to elections under the local government Act held at the same time for more than one electoral area in the same local government area, all those petitions shall be bracketed together in the election list and shall be dealt with as one petition, standing, unless the High Court otherwise direct, in the election list in the place where the last of them would have stood if it had been the only petition presented.
- (5) Subsections (1), (2) and (4) above do not apply in relation to petitions questioning an election of councillors in Scotland but where two or more of those petitions are presented relating to the same election they shall be tried together.

Textual Amendments

F11 Words in s. 138(1) repealed by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 4, **Sch. 22** (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with Sch. 1 Pt. II)

Modifications etc. (not altering text)

C10 S. 138 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), **Sch. 1 Pt. I**

C11 S. 138 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

S. 138 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), **Sch. 1**

S. 138 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(2), **Sch. 6 Pt. I** (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. 138 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**

S. 138 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 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)

S. 138 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. 138 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 Pt. I**

S. 138 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**

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- C12** S. 138 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](#)
- C13** S. 138 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, [Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, [Sch. 1](#))

139 Trial of petition. **U.K.**

- (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 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 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 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.

Modifications etc. (not altering text)

- C14** 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 [S.I. 1996/1220](#), art. 3(1)(5)-(8), [Sch. 1](#)

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- S. 139 applied (with modifications) (11.3.1999) by 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 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
- C15** 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
- C16** S. 139 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, Sch. 1)

140 Witnesses. U.K.

- (1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in the High Court, but this subsection does not apply to Scotland in relation to an election of councillors.
- (2) On the trial a member of the election court may, by order signed by him, require any person who appears to him to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.
- (3) The election court may examine any person so required to attend or who is in court although he is not called and examined by any party to the petition.
- (4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.
- ^{F12}(5)
- (6) The Director of Public Prosecutions shall without any direction from the court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and shall, with the leave of the court, examine him as a witness.
- (7) [^{F13}Subsection (6) above does] not apply [^{F13}Scotland, and in Scotland one of the deposes of the Lord Advocate or the procurator fiscal of the district [^{F14}may, if the Lord Advocate so decides, and shall, if the election court so requests] attend the trial of the petition as part of his official duty ^{F15}... ..

Textual Amendments

- F12** S. 140(5) repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, Sch. 4 para. 49(a), Sch. 5
- F13** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, Sch. 4 para. 49(b) (i)
- F14** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, Sch. 4 para. 49(b) (ii)

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F15 Words repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, **Sch. 4 para. 49(b)(iii)**, Sch. 5

Modifications etc. (not altering text)

C17 S. 140 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

S. 140 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

C18 S. 140 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**

S. 140 applied (with modifications) (11.3.1999) by 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. 140 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**

S. 140 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. 140 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. 140 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. 140 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**

C19 S. 140 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales)

Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**

C20 S. 140 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted

(10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

141 Duty to answer relevant questions. U.K.

(1) A person called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offence at or connected with the election—

(a) on the ground that the answer to it may incriminate or tend to incriminate—

(i) that person or that person's [^{F16}spouse or civil partner,] , or

(ii) in Scotland, that person; or

(b) on the ground of privilege.

(2) An answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against—

(a) that person or that person's [^{F16}spouse or civil partner,] ; or

(b) in Scotland, that person.

^{F17}(3)

Textual Amendments

F16 Words in s. 141(1)(a)(i)(2)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 84**; S.I. 2005/3175, **art. 2**, Sch.

F17 S. 141(3)(4) repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, Sch. 4 para. 50, **Sch. 5**

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Modifications etc. (not altering text)

- C21** S. 141 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 141 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C22** S. 141 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C23** S. 141 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**
S. 141 applied (with modifications) (11.3.1999) by 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)**))
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S. 141 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))
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- C24** S. 141 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**
- C25** S. 141 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**
- C26** S. 141 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

^{F18} **142** **U.K.**

Textual Amendments

- F18** S. 142 repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, **Sch. 4 para. 50, Sch. 5**

143 **Expenses of witnesses.** **U.K.**

- (1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the election court or of the prescribed officer.
- (2) If the witness was called and examined by virtue of section 140(2) above, the expenses referred to in subsection (1) above shall be deemed part of the expenses of providing a court, but otherwise they shall be deemed costs of the petition.

This subsection does not apply to Scotland in relation to an election of councillors.

Modifications etc. (not altering text)

- C27** S. 143 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 143 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
S. 143 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C28** S. 143 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**

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- S. 143 applied (with modifications) (11.3.1999) by 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. 143 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), Sch. 6
- S. 143 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. 143 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. 143 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
- C29** S. 143 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, Sch. 5
- C30** S. 143 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, Sch. 1)

144 Conclusion of trial of parliamentary election petition. U.K.

- (1) At the conclusion of the trial of a parliamentary election petition, the election court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void, and the determination so certified shall be final to all intents as to the matters at issue on the petition.
- (2) The election court shall forthwith certify in writing the determination to the Speaker.
- (3) If the judges constituting the election court—
 - (a) differ as to whether the member whose election or return is complained of was duly elected or returned, they shall certify that difference and the member shall be deemed to be duly elected or returned;
 - (b) determine that the member was not duly elected or returned but differ as to the rest of the determination, they shall certify that difference and the election shall be deemed to be void.
- (4) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report to the Speaker as required by sections 158 and 160 below and also stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.
- (5) The election court may at the same time make a special report to the Speaker as to matters arising in the course of the trial an account of which in the judgment of the court ought to be submitted to the House of Commons.
- (6) Every report sent to the Speaker under this section shall be signed by both judges of the election court and if the judges differ as to the subject of the report, they shall certify that difference and make no report on the subject on which they so differ.
- (7) The House of Commons, on being informed by the Speaker of a certificate and any report of an election court, shall order the certificate and report (if any) to be entered in their journals and shall give the necessary direction—
 - (a) for confirming or altering the return, or

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- (b) for issuing a writ for a new election, or
- (c) for carrying the determination into execution as the circumstances may require,

and where the court make a special report, the House of Commons may make such order in respect of that report as they think proper.

Modifications etc. (not altering text)

- C31** S. 144 applied (with modifications (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 144 applied (with modifications (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
S. 144 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**
S. 144 applied (with modifications) (11.3.1999) by 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. 144 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. 144 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**
- C32** S. 144 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

145 Conclusion of trial of local election petition. **U.K.**

- (1) At the conclusion of the trial of a petition questioning an election under the local government Act, the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

[^{F19}(1A) In the application of subsection (1) above in relation to an election of the London members of the London Assembly at an ordinary election, for the words from “shall determine” to “void,” there shall be substituted “shall determine whether—

- (a) the person or persons whose return is complained of were duly returned,
- (b) some other person or persons should have been declared to be returned, or
- (c) the election was void, ”.]

- (2) The election court shall forthwith certify in writing the determination to the High Court.
- (3) Where a charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report in writing to the High Court as required by sections 158 and 160 below and also stating whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the area of the authority for which the election was held or in any electoral area of that authority’s area.
- (4) The election court may at the same time make a special report to the High Court as to matters arising in the course of the trial an account of which in the judgment of the court ought to be submitted to the High Court.

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- (5) A copy of any certificate or report made to the High Court shall be sent by the High Court to the Secretary of State.
- (6) The High Court shall by the signatures of two or more of its judges certify a copy of the certificate mentioned in subsection (5) above to the proper officer of the authority for which the election was held.
- (7) The foregoing provisions of this section, except subsection (1) above, do not apply to Scotland, but where in a petition questioning an election of councillors in Scotland a charge is made of any corrupt or illegal practice having been committed at the election, the court—
 - (a) shall determine the matters mentioned in sections 158 and 160 below; and
 - (b) shall also determine whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election and whether illegal practices, payments, employments or hirings committed in reference to the election for the purpose of promoting the election of a candidate at the election have or have not so extensively prevailed that they may be reasonably supposed to have affected the result of the election.

Textual Amendments

F19 S. 145(1A) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 33** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**

Modifications etc. (not altering text)

- C33** S. 145 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**
S. 145 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. 145 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**
- C34** S. 145 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**

^{F20}145A Determination in respect of election of Mayor of London or constituency member of London Assembly. **U.K.**

- (1) This section applies where the election court makes a determination under section 145 above in respect of—
 - (a) the election of the Mayor of London, or
 - (b) the election of a constituency member of the London Assembly,and the conditions in subsections (2) and (3) below are satisfied.
- (2) The first condition is that the determination of the election court is—
 - (a) that the person whose election is complained of was not duly elected; or
 - (b) that the election was void.
- (3) The second condition is that the return of that person at that election was taken into account for the purpose of deciding which persons were to be returned as London members of the London Assembly.

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- (4) Where this section applies, the validity of the return of the London members of the London Assembly shall not be affected by—
- (a) the determination of the election court; or
 - (b) in a case falling within subsection (1)(b) above, the subsequent return of a person as the constituency member for the Assembly constituency concerned.]

Textual Amendments

F20 S. 145A inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 34** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**.

146 Special case for determination of High Court. **U.K.**

- (1) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct it to be stated accordingly and the special case shall be heard before the High Court.
- (2) In the case of a parliamentary election petition, the High Court shall certify to the Speaker its decision on the special case.
- (3) In the case of a petition questioning an election in England and Wales under the local government Act, a statement of the decision on the special case shall be sent by the High Court to the Secretary of State and the High Court shall by the signatures of two or more of its judges also certify that statement to the proper officer of the authority for which the election was held.
- (4) If it appears to the election court on the trial of an election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve the question by stating a case for the decision of the High Court.

In the application of this subsection to Northern Ireland the references to the High Court are to the Court of Appeal.

- (5) In Scotland the decision of the Court of Session on a special case under subsection (1) above shall be final and in the case of a petition questioning an election of councillors in Scotland, the application under subsection (1) for a direction for the statement of a case for the Court of Session shall be made to the election court.

Modifications etc. (not altering text)

C35 S. 146 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 146 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
S. 146 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**
S. 146 applied (with modifications) (11.3.1999) by 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. 146 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**

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- S. 146 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 Pt. I** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))
- S. 146 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. 146 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 Pt. I**
- C36** S. 146 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**
- C37** S. 146 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**
- C38** S. 146 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, **Sch. 1** (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)

147 **Withdrawal of petition.** **U.K.**

- (1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place.

In the application of this subsection to a petition questioning an election of councillors in Scotland there shall be omitted the reference to the High Court.

- (2) The application shall not be made until the prescribed notice of the intention to make it has been given in the constituency or local government area to which the petition relates.
- (3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.
- (4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

Modifications etc. (not altering text)

- C39** S. 147 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 147 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**
S. 147 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**
- C40** S. 147 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)-(8), **Sch. 1**
S. 147 applied (with modifications) (11.3.1999) by [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. 147 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), reg. 19(8), **Sch. 6**
S. 147 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 Pt. I** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))
S. 147 applied (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. 147 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 Pt. I**

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- C41** S. 147 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, [Sch. 5](#)
- C42** S. 147 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, [Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, [Sch. 1](#))

[^{F21}148 Evidence required for withdrawal of petition. U.K.]

- (1) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits—
- (a) by all the parties to the petition and their solicitors, and
 - (b) if the election was an election at which candidates are required to have election agents, by the election agents of all of those parties who were candidates at the election.

but the High Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds just so to do.

In the application of this subsection to an election of councillors in Scotland, the reference to the High Court is to an election court, but, if the election was a local government election, the sheriff may act instead of the election court.

- (2) Each affidavit shall state that, to the best of the deponent's knowledge and belief—
- (a) no agreement or terms of any kind whatsoever has or have been made, and
 - (b) no undertaking has been entered into, in relation to the withdrawal of the petition,

but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement and shall make the foregoing statement subject to what appears from the affidavit.

- (3) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.
- (4) Copies of those affidavits shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the court—
- (a) may hear the Director of Public Prosecutions or his assistant or other representative ^{F22} . . . in opposition to the allowance of the withdrawal of the petition; and
 - (b) shall have power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his assistant, or other representative, may consider material.

In the application of this subsection to an election of councillors in Scotland the references to the Director of Public Prosecutions include references to the procuratorfiscal.

- (5) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.
- (6) Except in Scotland, the jurisdiction vested by subsection (1) above in the High Court in matters relating to parliamentary elections shall, subject to rules of court, be exercised—
- (a) by one of the judges for the time being on the rota for the trial of parliamentary election petitions,

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- (b) in Northern Ireland, by one of the judges of the High Court or the Court of Appeal for the time being selected under section 108 of the ^{M1}Judicature (Northern Ireland) Act 1978,
sitting either in court or at chambers, or may be exercised by a master of the Supreme Court in manner directed by and subject to appeal to those judges.]

Textual Amendments

- F21** S. 148 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22, (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)
F22 Words repealed by Representation of the People Act 1985 (c. 50, SIF 42), s. 28, Sch. 5

Modifications etc. (not altering text)

- C43** S. 148 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I
C44 S. 148 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I
C45 S. 148 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), Sch. 6 Pt. I
C46 S. 148 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), Sch. 1

Marginal Citations

- M1** 1978 c. 23.

[^{F23}149 Penalty for corrupt withdrawal and breach of s. 148. U.K.]

If a person makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms or undertaking—

- (a) is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat or office should at any time be vacated, or in consideration of the withdrawal of any other election petition, or
(b) is or are (whether lawful or unlawful) not mentioned in the affidavits referred to in section 148 above,

he shall be [^{F24}liable—

- (i) on conviction on indictment, to imprisonment for a term not exceeding one year, or to a fine, or to both;
(ii) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both].]

Textual Amendments

- F23** S. 149 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)
F24 Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 23, Sch. 3 para. 7

Modifications etc. (not altering text)

- C47** S. 149 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I
C48 S. 149 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I
C49 S. 149 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), Sch. 6 Pt. I
C50 S. 149 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), Sch. 1

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[^{F25}150 **Substitution of new petitioner.** U.K.]

- (1) On the hearing of the application for leave to withdraw, any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if they think fit, substitute him accordingly.
- (2) If the proposed withdrawal is in the opinion of the court the result of any agreement, terms or undertaking prohibited by section 149 above or induced by any corrupt bargain or consideration, the court may by order direct—
 - (a) that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and
 - (b) that, to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petitioner.
- (3) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.
- (4) Subject to the above provisions, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.]

Textual Amendments

F25 S. 150 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)

Modifications etc. (not altering text)

C51 S. 150 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I

C52 S. 150 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I

C53 S. 150 applied (11.3.1999) by S.I. 1999/787 art. 85(1)(3), Sch. 6 Pt. I

C54 S. 150 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), Sch. 1

[^{F26}151 **Report on withdrawal.** U.K.]

- (1) In every case of the withdrawal—
 - (a) of a parliamentary election petition, the court giving leave for the withdrawal shall make a report to the Speaker as required by subsection (2) below; and
 - (b) by leave of the election court, of a petition questioning an election in England and Wales under the local government Act, that court shall make a report in writing to the High Court as so required.
- (2) The report shall state whether in the court's opinion the withdrawal of the petition was—
 - (a) the result of any agreement, terms or undertaking, or
 - (b) in consideration of any payment, or in consideration that the seat or office should at any time be vacated or in consideration of the withdrawal of any other election petition or for any other consideration,
 and, if so, shall state the circumstances attending the withdrawal.]

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Textual Amendments

F26 S. 151 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt.II)

Modifications etc. (not altering text)

C55 S. 151 applied with modifications (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I

C56 S. 151 applied with modifications (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I

C57 S. 151 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), Sch. 6 Pt. I

C58 S. 151 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)–(8), Sch. 1

[^{F27}152 Abatement of petition. U.K.]

- (1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.
- (2) the abatement shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.
- (3) On the abatement the prescribed notice of it shall be given in the constituency or local government area to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in the prescribed manner and in the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.
- (4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.
- (5) In the application of this section to an election of councillors in Scotland the reference in subsection (3) above to the High Court shall be omitted, and the sheriff may act instead of the election court.]

Textual Amendments

F27 S. 152 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt.II)

Modifications etc. (not altering text)

C59 S. 152 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I

C60 S. 152 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I

C61 S. 152 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)–(3), Sch. 6 Pts. I II

C62 S. 152 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), Sch. 1

[^{F28}153 Withdrawal and substitution of respondents before trial. U.K.]

- (1) If before the trial of an election petition a respondent other than a returning officer—
 - (a) gives the prescribed notice that he does not intend to oppose the petition or dies, or

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- (b) where the petition questions a parliamentary election or return, is summoned to Parliament as a peer by a writ issued under the Great Seal of the United Kingdom or the House of Commons have resolved that his seat is vacant, or
 - (c) where the petition questions an election under the local government Act, resigns or otherwise ceases to hold the office to which the petition relates,
- notice of any of those matters shall be given in the constituency or local government area to which the petition relates, and, within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to a member of the election court or to the High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed three.
- (2) The notice to be given under subsection (1) above in any local government area shall be such as may be prescribed.
 - (3) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings on the petition, and if the petition relates to a parliamentary election he shall not sit or vote in the House of Commons until the House of Commons has been informed of the report on the petition.
 - (4) Where a respondent to a parliamentary election petition has given that notice in the prescribed time and manner, the High Court or either of the judges constituting the election court shall report that fact to the Speaker.
 - (5) In the application of this section to an election of councillors in Scotland, the reference to the High Court shall be omitted and the sheriff may act instead of the election court.]

Textual Amendments

F28 S. 153 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)

Modifications etc. (not altering text)

C63 S. 153 applied with modifications (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. 1

C64 S. 153 applied with modifications (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. 1

C65 S. 153 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), Sch. 6 Pt. 1

C66 S. 153 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)–(8), Sch. 1

154 Costs of petition. **U.K.**

- (1) All costs of and incidental to the presentation of an election petition and the proceedings consequent on it, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine.
- (2) In particular—
 - (a) any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and
 - (b) any needless expense incurred or caused on the part of the petitioner or respondent,

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may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.

- (3) In the application of this section to Scotland, references to the High Court shall be omitted in relation to an election of councillors.

Modifications etc. (not altering text)

- C67** S. 154 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 154 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
S. 154 applied (E.) (28.7.2007) by *The Local Authorities (Conduct of Referendums) (England) Regulations 2007* (S.I. 2007/2089), reg. 15, **Sch. 6**
- C68** S. 154 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**
S. 154 applied (with modifications) (11.3.1999) by 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. 154 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**
S. 154 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. 154 applied (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. 154 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**
- C69** S. 154 applied (W.) (24.7.2008) by *The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008* (S.I. 2008/1848), reg. 11, **Sch. 5**
- C70** S. 154 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, **arts. 1(2), 3, Sch. 1**)

155 Neglect or refusal to pay costs. U.K.

- (1) Subsection (2) below applies if a petitioner neglects or refuses—
- (a) in the case of a parliamentary election petition, for six months after demand, and
 - (b) in the case of a petition questioning an election under the local government Act, for three months after demand,
- to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to that person or the respondent for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, or, in Scotland, the election court.
- (2) Where subsection (1) above applies, every person who under this Act entered into a recognisance relating to that petition shall be held to be in default of the recognisance, and—
- (a) the prescribed officer shall thereupon certify the recognisance to be forfeited, and
 - (b) it shall be dealt with as if forfeited by the Crown Court, or, in Northern Ireland, under the ^{M2}Fines Act (Ireland) 1851, as the case may be,
- but in Scotland the prescribed officer shall, where otherwise competent under the provisions of this subsection—

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- (i) certify that the conditions contained in the bond of caution have not been fulfilled; and
- (ii) it shall then be competent for the party or parties interested to register that bond, and do diligence upon it as accords of law.

Modifications etc. (not altering text)

- C71** S. 155 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 155 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
S. 155 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C72** S. 155 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**
S. 155 applied (with modifications) (11.3.1999) by 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. 155 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**
S. 155 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. 155 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. 155 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**
- C73** S. 155 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**
- C74** S. 155 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

Marginal Citations

M2 1851 c. 90.

156 Further provision as to costs. **U.K.**

- (1) Where upon the trial of an election petition it appears to the election court—
- (a) that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and
 - (b) that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf,

[^{F29}the court may, subject to the provisions of subsection (5) below, make such order with respect to the whole or part of the costs of the petition as is mentioned in that subsection].

^{F30}(2)

- (5) If it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election, the court may, after giving that person or those persons an opportunity of

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being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made—

- (a) order the whole or part of the costs to be paid by that person, or those persons or any of them, and
 - (b) order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.
- (6) Where any person appears to the court to have been guilty of a corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to that offence or to that person to be paid by that person to such person or persons as the court may direct.

Textual Amendments

- F29** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 51(a)**
- F30** [S. 156\(2\)–\(4\)](#) repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 51(b)**, Sch. 5

Modifications etc. (not altering text)

- C75** [S. 156](#) applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)–(8), **Sch. 1 Pt. I**
[S. 156](#) applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**
[S. 156](#) applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**
- C76** [S. 156](#) applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)–(8), **Sch. 1**
[S. 156](#) applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)(3), **Sch. 6 Pt. I** (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. 156](#) applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), reg. 19(8), **Sch. 6**
[S. 156](#) applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, **Sch. 1** (as substituted (10.2.2009) by [S.I. 2009/256](#), **arts. 1(2), 3**, {Sch. 1})
[S. 156](#) 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 Pt. I** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))
[S. 156](#) applied (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. 156](#) 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 Pt. I**
- C77** [S. 156](#) applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**

157 Appeals and jurisdiction. **U.K.**

- (1) No appeal lies without the special leave of the High Court from the decision of the High Court on any question of law, whether on appeal or otherwise, under the foregoing provisions of this Part of this Act, and if leave to appeal is granted the decision of the Court of Appeal in the case shall be final and conclusive.
- (2) Subject to the provisions of this Act and of the rules made under it, the principles, practice and rules on which committees of the House of Commons used to act in

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dealing with election petitions shall be observed, so far as may be, by the High Court and election court in the case of election petitions, and in particular the principles and rules with regard to—

- (a) agency,
- (b) evidence,
- (c) a scrutiny, and
- (d) declaring any person elected in place of any other person declared not to have been duly elected,

shall be observed, as far as may be, in the case of a petition questioning an election under the local government Act as in the case of a parliamentary election petition.

(3) The High Court has, subject to the provisions of this Act, the same powers, jurisdiction and authority with respect to an election petition and the proceedings on it as if the petition were an ordinary action within its jurisdiction.

(4) The duties to be performed in relation to parliamentary elections by the prescribed officer under this Part shall be performed by such one or more of the masters of the Supreme Court (Queen’s Bench Division) as the Lord Chief Justice may determine.

^{F31}(5)

(6) The duties to be performed in relation to elections under the local government Act by the prescribed officer under this Part shall be performed by the prescribed officer of the High Court.

(7) In the application of this section to Scotland, subsections (1) and (4) to (6) above and, in relation to elections of councillors, subsection (3) above, shall be omitted, but the duties to be performed in relation to parliamentary elections by the prescribed officer under this Part shall be performed by the Principal Clerk of Session.

(8) Subsection (1) above does not apply in Northern Ireland and, in the application of subsections (4) and (5) to Northern Ireland, the references to the Lord Chief Justice are references to the Lord Chief Justice of Northern Ireland and the reference to any master of the Supreme Court (Queen’s Bench Division) is a reference to an officer of the Supreme Court of Judicature of Northern Ireland.

Textual Amendments

F31 S. 157(5) repealed (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 6, **Sch. 22** (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with Sch. 1 Pt. II)

Modifications etc. (not altering text)

C78 S. 157 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

S. 157 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

S. 157 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**

S. 157 applied (with modifications) (11.3.1999) by 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. 157 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**

S. 157 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))

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- S. 157 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. 157 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. 157 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**
- C79** S. 157 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**
- C80** S. 157 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, Sch. 1 (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)

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