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Changes to legislation: Representation of the People Act 1983, Cross Heading: Questioning of a parliamentary election is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Representation of the People Act 1983

1983 CHAPTER 2

PART III

LEGAL PROCEEDINGS

Questioning of a parliamentary election

120 Method of questioning parliamentary election.

- (1) No parliamentary election and no return to Parliament shall be questioned except by a petition complaining of an undue election or undue return (“a parliamentary election petition”) presented in accordance with this Part of this Act.
- (2) A petition complaining of no return shall be deemed to be a parliamentary election petition and the High Court—
 - (a) may make such order on the petition as they think expedient for compelling a return to be made; or
 - (b) may allow the petition to be heard by an election court as provided with respect to ordinary election petitions.

Modifications etc. (not altering text)

- C1** S. 120 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
S. 120 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C2** S. 120 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**
S. 120 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 I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))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. 120 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 I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))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. 120 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**

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C3 S. 120 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)

121 Presentation and service of parliamentary election petition.

- (1) A Parliamentary election petition may be presented by one or more of the following persons—
 - (a) a person who voted as an elector at the election or who had a right so to vote; or
 - (b) a person claiming to have had a right to be elected or returned at the election ; or
 - (c) a person alleging himself to have been a candidate at the election.
- (2) The member whose election or return is complained of is hereinafter referred to as the respondent, but if the petition complains of the conduct of a returning officer, the returning officer shall for the purposes of this Part of this Act be deemed to be a respondent.
- (3) The petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner, or all the petitioners if more than one, and shall be presented to the High Court, or to the Court of Session, or to the High Court of Northern Ireland, depending on whether the constituency to which it relates is in England and Wales, or Scotland or Northern Ireland.
- (4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer of the constituency to which the petition relates, who shall forthwith publish it in that constituency.
- (5) The petition shall be served as nearly as may be in the manner in which a writ or summons is served or in such other manner as may be prescribed.

Modifications etc. (not altering text)

- C4 S. 121 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I
- C5 S. 121 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I
- C6 S. 121 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I II
- C7 S. 121 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), Sch. 1

122 Time for presentation or amendment of parliamentary election petition.

- (1) Subject to the provisions of this section, a parliamentary election petition shall be presented within 21 days after the return has been made to the Clerk of the Crown, or to the Clerk of the Crown for Northern Ireland, as the case may be, of the member to whose election the petition relates.
- (2) If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by the member or on his account or with his privity since the time of that return in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of the payment.
- (3) A petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented—

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- (a) within 21 days after the day specified in subsection (4) below; or
 - (b) if specifically alleging a payment of money or some other act to have been made or done since the day so specified by the member to whose election the petition relates or an agent of his, or with the privity of that member or his election agent, in pursuance or in furtherance of the alleged illegal practice, within 28 days after the date of the payment or other act.
- (4) The day referred to in subsection (3) above is the tenth day after the end of the time allowed for [^{F1}delivering] to the returning officer returns as to election expenses at the election or, if later—
- (a) that on which the returning officer receives the return and declarations as to election expenses by that member and his election agent; or
 - (b) where the return and declarations are received on different days, the last of those days; or
 - (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.
- (5) An election petition presented within the time limited by subsection (1) or subsection (2) above may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under subsection (3).
- (6) Subsections (3), (4) and (5) above apply—
- (a) notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice; and
 - (b) to a corrupt practice under section 75 above, as if it were an illegal practice.
- (7) For the purposes of this section, an allegation that an election is avoided under section 164 below shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

^{F2}(8)

Textual Amendments

F1 Word substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 44**

F2 [S. 122\(8\)](#) repealed (16.2.2001) by [2000 c. 41, ss. 138\(1\)\(2\), 158\(2\)\(3\)](#), [Sch. 18 para. 18\(1\)\(e\)](#), **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)

C8 [S. 122](#) applied (with modifications) (E.W.S.) by [S.I. 1986/2209, regs. 2, 3, 5\(1\)\(6\)-\(8\)](#), **Sch. 1 Pt. I**

[S. 122](#) applied (with modifications) (N.I.) by [S.I. 1986/2250, regs. 2, 3, 5](#), **Sch. 1 Pt. I**

[S. 122](#) applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220, art. 3\(1\)\(5\)-\(8\)](#), **Sch. 1**

[S. 122](#) 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. 122](#) 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. 122 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](#)
- C9** S. 122 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](#))

123 Constitution of election court and place of trial.

- (1) A parliamentary election petition shall be tried by—
- (a) two judges on the rota for the trial of parliamentary election petitions, and the judges for the time being on that rota shall, unless they otherwise agree, try the election petitions standing for trial according to their seniority,
 - (b) in Northern Ireland, the two judges of the High Court or the Court of Appeal for the time being selected under section 108 of the Judicature (Northern Ireland) Act 1978,
- and the judges presiding at the trial of a parliamentary election petition are hereinafter referred to as the election court.
- (2) The election court has, subject to the provisions of this Act, the same powers, jurisdiction and authority as a judge of the High Court (or, in Scotland, a judge of the Court of Session presiding at the trial of a civil cause without a jury) and shall be a court of record.
- (3) The place of trial shall be within the constituency for which the election was held, but—
- (a) the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial; and
 - (b) if that constituency is wholly or partly in Greater London, the petition may be heard at such place within Greater London as the High Court may appoint.
- (4) The election court may adjourn the trial from one place to another within the constituency.

Modifications etc. (not altering text)

- C10** S. 123 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), [Sch. 1 Pt. I](#)
S. 123 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, [Sch. 1 Pt. I](#)
- C11** S. 123 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(5)-(8), [Sch. 1](#)
S. 123 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. 123 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. 123 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](#)
- C12** S. 123 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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124 Judges' expenses and reception: England and Wales and Northern Ireland.

In relation to the trial of a parliamentary election petition—

- (a) in England and Wales and Northern Ireland, the travelling and other expenses of the judges and all expenses properly incurred in ^{F3} . . . providing them with necessary accommodation and with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament;
- ^{F4}(b)

Textual Amendments

- F3** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, Sch. 4 para. 45, [Sch. 5](#)
- F4** [S. 124\(b\)](#) repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, Sch. 4 para. 45, [Sch. 5](#)

Modifications etc. (not altering text)

- C13** [S. 124](#) applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, [Sch. 1 Pt. I](#)
- C14** [S. 124](#) applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)–(8), [Sch. 1 Pt. I](#)
- C15** [S. 124](#) applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(5)–(8), [Sch. 1](#)
[S. 124](#) 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](#))

125 Judges' expenses and reception: Scotland.

In relation to the trial of a parliamentary election petition in Scotland—

- ^{F5}(a)
- (b) the travelling and other expenses of the judges, and of the officer or officers in attendance on them, and all expenses properly incurred in providing the judges with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament

Textual Amendments

- F5** [S. 125\(a\)](#) repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, Sch. 4 para. 46, [Sch. 5](#)

Modifications etc. (not altering text)

- C16** [S. 125](#) applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)–(8), [Sch. 1 Pt. I](#)
- C17** [S. 125](#) 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. 125](#) 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. 125](#) 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](#)

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126 Attendance of House of Commons shorthand writer.

- (1) The shorthand writer of the House of Commons or his deputy shall attend the trial and shall be sworn by one of the judges of the election court faithfully and truly to take down the evidence given at the trial and from time to time as occasion requires to transcribe that evidence or cause it to be transcribed.
- (2) The shorthand writer shall take down the evidence and from time to time transcribe it or cause it to be transcribed and a copy of the evidence shall accompany the certificate given by the election court to the Speaker.
- (3) In Scotland ^{F6}. . . the expenses of the shorthand writer shall be deemed to be part of the expenses incurred [^{F7}under section 125 above].

Textual Amendments

- F6** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 28, **Sch. 5**
- F7** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 47**

Modifications etc. (not altering text)

- C18** [S. 126](#) applied (with modifications) (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
- [S. 126](#) applied (with modifications) (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**
- [S. 126](#) applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(5)-(8), **Sch. 1**
- [S. 126](#) 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. 126](#) 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. 126](#) 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**
- C19** [S. 126](#) 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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