

2004 No. 1415 (L. 9)

REPRESENTATION OF THE PEOPLE

SUPREME COURT OF ENGLAND AND WALES

**The European Parliamentary Election Petition (Amendment)
Rules 2004**

<i>Made</i> - - - -	<i>23rd May 2004</i>
<i>Laid before Parliament</i>	<i>24th May 2004</i>
<i>Coming into force</i> - -	<i>13th June 2004</i>

The Civil Procedure Rule Committee, being the authority for the time being having power to make rules of court for the Supreme Court(a), in exercise of the power conferred on it by regulation 120 of the European Parliamentary Elections Regulations 2004(b), makes the following Rules:—

1.—(1) These Rules may be cited as the European Parliamentary Election Petition (Amendment) Rules 2004 and shall come into force on 13th June 2004.

(2) They extend to England, Wales and Gibraltar.

2. The European Parliamentary Election Petition Rules 1979(c) are hereby amended in accordance with the Schedule to these Rules.

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Rupert Jackson, J.
Terence Etherton, J.
Steven Whitaker
Carlos Dabezies
Michael Black
Philip Rainey
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(a) In accordance with section 2 of the Civil Procedure Act 1997 (c. 12).

(b) S.I. 2004/293, which was made under section 7 of the European Parliamentary Elections Act 2002 (c.24) and section 17 and 23 of the European Parliament (Representation) Act 2003 (c.7). Regulation 120 corresponds with section 182 of the Representation of the People Act 1983 (c.2).

(c) S.I. 1979/521, originally entitled the European Assembly Election Petition Rules 1979, but renamed by virtue of section 3(1) of the European Communities (Amendment) Act 1986 (c. 58), and amended by S.I. 1988/557, S.I. 1999/1398 and S.I. 2003/971.

SCHEDULE

Rule 2

Amendments to the European Parliamentary Election Petition Rules 1979

1. In rule 1—

- (a) at the beginning, insert “(1)”; and
- (b) after paragraph (1) insert—
“(2) They extend to England, Wales and Gibraltar.”

2. In rule 2—

- (a) in paragraph (1)—
 - (i) omit the definition of “the Act”;
 - (ii) before the definition of “constituency” insert—
““the 2004 Regulations” means the European Parliamentary Elections Regulations 2004;
“combined region” means the electoral region(a) which includes Gibraltar, namely the South West electoral region(b);”;
 - (iii) omit the definition of “constituency”;
 - (iv) after the definition of “combined region”, insert—
““Director of Public Prosecutions” means the Director of Public Prosecutions for England and Wales;”;
 - (v) in the definition of “petition”, for the word “1978” substitute “2002”; and
 - (vi) in the definition of “returning officer”, for the word “constituency” substitute “electoral region”.
- (b) in paragraph (2), for the words “section 157(4) of the Act” substitute “section 157(4) of the Representation of the People Act 1983(c)”; and
- (c) in paragraph (3), for the words “the Act” substitute “the 2004 Regulations”; and
- (d) for paragraph (4) substitute—
“(4) Any document required to be filed in proceedings under these Rules shall be filed—
 - (a) if the petition relates to an electoral region other than the combined region, in the election petitions office; or
 - (b) if the petition relates to the combined region, in—
 - (i) the election petitions office, or
 - (ii) the Supreme Court Registry of the Gibraltar Supreme Court for transmission to the election petitions office, together with any fee payable(d).”.

(a) See section 1 of the European Parliamentary Elections Act 2002 for the definition of “electoral region”.

(b) See article 2 of S.I. 2004/366.

(c) 1983 c.2.

(d) On the commencement of the proceedings and at certain other specified steps in the proceedings a fee is to be paid in accordance with the Supreme Court Fees Order 1999 (S.I. 1999/687), which has been amended by S.I. 1999/2569, S.I. 2000/641, S.I. 2000/937, S.I. 2000/1544, S.I. 2000/2382, S.I. 2002/222, S.I. 2003/646 and S.I. 2003/717.

(e) After paragraph (4), insert—

“(5) References in these Rules to a named Ordinance are to the Gibraltar Ordinance of that name.”.

3. In rule 4—

(a) in paragraph (1)—

(i) in sub-paragraph (a), for the words “section 121 of the Act”, substitute “regulation 89(1) of the 2004 Regulations”; and

(ii) omit sub-paragraph (c); and

(b) in paragraph (2), after the words “election petitions office” insert “or the Supreme Court Registry of the Gibraltar Supreme Court (as the case may be).”.

4. In rule 5—

(a) in paragraph (1), for the words “section 136 of the Act.” substitute “regulation 94 of the 2004 Regulations.”; and

(b) for paragraph (2) substitute—

“(2) A recognisance as security for costs shall be acknowledged—

(a) if the petition relates to an electoral region other than the combined region, before a person authorised to take affidavits under the Commissioners for Oaths Acts 1889(a) and 1891(b) or the Solicitors Act 1974(c); or

(b) if the petition relates to the combined region—

(i) before a person authorised to take affidavits under the Commissioners for Oaths Acts 1889 and 1891 or the Solicitors Act 1974; or

(ii) before a person authorised to take affidavits under the Commissioner for Oaths Ordinance,

and shall be filed forthwith after being acknowledged.”; and

(c) after paragraph (3) insert—

“(4) Without prejudice to this rule, a petitioner when making a payment into court on account of his security for costs, may do so—

(a) if a petition relates to an electoral region other than the combined region, at the election petitions office, or

(b) if the petition relates to the combined region at—

(i) the election petitions office, or

(ii) the Supreme Court Registry of the Gibraltar Supreme Court for transmission to the election petitions office.”.

5. In rule 6(1), for the words “section 121(2) of the Act, substitute “regulation 89(2) of the 2004 Regulations”.

6. In rule 7(1), for the words “section 136(4) of the Act”, substitute “regulation 94(4) of the 2004 Regulations”.

7. Omit rule 8.

8. In rule 10(2), for the words “section 139(5) of the Act”, substitute “regulation 96(4) of the 2004 Regulations”.

(a) 1889 c.10.
(b) 1891 c.50.
(c) 1974 c.47.

9. In rule 11, for the words “section 146(1) of the Act”, substitute “regulation 101(1) of the 2004 Regulations”.

10. In rule 12—

(a) for paragraph (2) substitute—

“(2) Not less than seven days before the day so appointed the petitioner shall—

(a) serve the application notice on—

- (i) the respondent,
- (ii) the returning officer, and
- (iii) the Director of Public Prosecutions;

(b) file a copy of the application notice in—

- (i) if the petition relates to an electoral region other than the combined region, the election petitions office, or
- (ii) if the petition relates to the combined region in—
 - (aa) the election petitions office, or
 - (bb) the Supreme Court Registry of the Gibraltar Supreme Court for transmission to the election petitions office; and

(c) publish notice of the application—

- (i) if the petition relates to an electoral region other than the combined region, in at least one newspaper circulating in the region, or
- (ii) if the petition relates to the combined region, in at least one newspaper circulating in the part of the region which is in the United Kingdom and in at least one newspaper circulating in Gibraltar.”; and

(b) for paragraph (4) substitute—

“(4) The returning officer shall upon receipt of the application notice forthwith publish it—

- (a) if the petition relates to an electoral region other than the combined region, in the region, or
- (b) if the petition relates to the combined region, in—
 - (i) the part of the region which is in the United Kingdom, and
 - (ii) Gibraltar.”.

11. In rule 13(2) substitute—

“(2) Not less than seven days before the date so appointed the respondent—

(a) shall serve the application notice, stating the grounds thereof, on—

- (i) the petitioner,
- (ii) any other respondent,
- (iii) the returning officer, and
- (iv) the Director of Public Prosecutions; and

(b) file a copy in—

- (i) if the petition relates to an electoral region other than the combined region, the election petitions office, or,
- (ii) if the petition relates to the combined region—
 - (aa) the election petitions office, or
 - (bb) the Supreme Court Registry of the Gibraltar Supreme Court for transmission to the election petitions office.”.

12. In rule 14(1), for sub-paragraphs (a), (b) and (c) substitute—

- “(a) file notice thereof—
 - (i) if the petition relates to an electoral region other than the combined region, in the election petitions office, or,
 - (ii) if the petition relates to the combined region—
 - (aa) the election petitions office, or
 - (bb) the Supreme Court Registry of the Gibraltar Supreme Court for transmission to the election petitions office;
- (b) serve notice thereof on the returning officer, who shall forthwith publish it—
 - (i) if the petition relates to an electoral region other than the combined region, in the region, or
 - (ii) if the petition relates to the combined region in—
 - (aa) the part of the region which is in the United Kingdom, and
 - (bb) Gibraltar; and
- (c) publish notice thereof—
 - (i) if the petition relates to an electoral region other than the combined region, in at least one newspaper circulating in the region, or
 - (ii) if the petition relates to the combined region, in at least one newspaper circulating in the part of the region which is in the United Kingdom and in at least one newspaper circulating in Gibraltar.”.

13. Omit rule 16.

14. In rule 18—

- (a) in paragraph (1), for the words “section 119 of the Act”, substitute “regulation 87 of the 2004 Regulations”; and
- (b) in paragraph (2)—
 - (i) for the word “Act” where it first appears substitute “2004 Regulations”;
 - (ii) for the words “section 119(2) of the Act” substitute “regulation 32(2) of the 2004 Regulations”; and
 - (iii) after the words “election petitions office” insert “or the Supreme Court Registry of the Gibraltar Supreme Court (as the case may be)”.

15. In rule 20(2)(b), for the words “section 184 of the Act” substitute “regulation 122 of the 2004 Regulations”.

16. In the Schedule to the Rules (election petition)—

- (a) for the words “In the matter of” to “the day of , 19 .” substitute—

“In the Matter of the European Parliamentary Elections Regulations 2004,
And in the Matter of a European Parliamentary Election for [state electoral region]
Held on the day of , 20 .”;

- (b) in particular 2., for number “19”, in both places it occurs, substitute “20”;
- (c) omit particular 4.; and
- (d) in paragraph (2) of the prayer, for number “19” substitute “20”.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the European Parliamentary Election Petition Rules 1979 (“the 1979 Rules”) so as—

(1) to extend the operation of the rules to Gibraltar, which by virtue of the European Parliament (Representation) Act 2003 (2003 c.7) and the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004 (S.I.2004/366), has been combined with the Southwest electoral region in England to form a new electoral region (“the combined region”) for the purposes of European Parliamentary elections, and

(2) to correct references made obsolete by the coming into force of the European Parliamentary Elections Regulations 2004 (S.I.2004/293).

The 1979 Rules regulate the presentation and hearing of an election petition to the High Court which questions the declared result of any election to the European Parliament.

In particular, and in respect of their extension to Gibraltar, the 1979 Rules have been modified so that, where a petition relates to an election held in the combined region, a party may file his papers at the Supreme Court Registry of the Gibraltar Supreme Court for transmission to the election petitions office at the Royal Courts of Justice, London.

These Rules refer to a Gibraltar Ordinance which can be obtained from: Publications, Government Secretariat, No 6 Convent Place, Gibraltar. Telephone: 00 350 47932. Fax: 00 350 74524. E-mail: legisunit2@gibnynex.gi.

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