

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(1) which includes Gibraltar, namely the South West electoral region(2);”;
 - (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(3)”; 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(4).”.
 - (e) After paragraph (4), insert—

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

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

(2) See article 2 of [S.I. 2004/366](#).

(3) [1983 c. 2](#).

(4) 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](#).

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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(5) and 1891(6) or the Solicitors Act 1974(7); 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”.
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—

(5) 1889 c. 10.

(6) 1891 c. 50.

(7) 1974 c. 47.

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- (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—

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- “(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”.