

SCHEDULES

SCHEDULE 9

Article 74

Application to PCC elections of existing provisions about legal proceedings

PART 1

Representation of the People Act 1983

1.—(1) The provisions of Part 3 of the 1983 Act listed in the first column of the table apply for the purposes of PCC elections.

(2) In their application by virtue of this paragraph, those provisions have effect—

- (a) with the modifications (if any) shown in the second column of the table, and
- (b) with any other necessary modifications, including in particular those set out in subparagraph (3).

(3) Except where the context otherwise requires—

- (a) a reference to a provision that is applied by this Schedule has effect as a reference to that provision as so applied;
- (b) expressions are to be construed in accordance with the definitions listed in article 2 of this Order.

(4) The provisions of the 1983 Act that apply for the purpose of PCC elections by virtue of this paragraph are in addition to the provisions of that Act that would apply for those purposes in any event.

(5) Articles 75 to 78 contain further provision as to the application of provisions in Part 3 of the 1983 Act.

<i>Provision</i>	<i>Modification</i>
Section 127 (method of questioning local election)	In the title, for “ local election ” substitute “ police and crime commissioner election ”. For “An election under the local government Act” substitute “ An election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 ”.
Section 128 (presentation of petition questioning local election)	In the title, for “ local election ” substitute “ police and crime commissioner election ”. In subsection (1), for “an election under the local government Act” substitute “ an election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 ”.

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In subsection (2), for “any returning officer” substitute “ any police area returning officer or local returning officer ”.

In subsection (3), omit paragraph (b).

For subsection (4) substitute—

“(4) In England and Wales the prescribed officer shall send a copy of the petition to the appropriate officer for the police area for which the election was held, who shall publish it in the police area.”

Section 129(1) to (8) (time for presentation or amendment of petition questioning local election)

In the title, for “**local election**” substitute “ **police and crime commissioner election** ”.

In subsection (1), for “an election under the local government Act” substitute “ an election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 ”.

In subsection (5)(a), for “the appropriate officer” substitute “ the police area returning officer ”.

After subsection (5), insert—

“(5A) For the purposes of subsection (5)—

“the date of the allowance of an authorised excuse” has the meaning assigned to it by article 45(9) of the Police and Crime Commissioner Elections Order 2012;

“declaration as to election expenses” means a declaration made under article 41 of the Police and Crime Commissioner Elections Order 2012;

“return as to election expenses” means a return made under article 40 of the Police and Crime Commissioner Elections Order 2012”.

In subsection (6), omit the second paragraph.

In subsection (7), for paragraph (b) substitute—

“(b) to a corrupt practice under article 34 of the Police and Crime Commissioner Elections Order 2012 as if it were an illegal practice.”

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Section 130 (election court for local election in England and Wales, and place of trial) In the title, for “**local election in England and Wales**” substitute “**police and crime commissioner election**”.

In subsection (1), for “an election in England and Wales under the local government Act” substitute “an election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011”.

In subsection (2) for “any local government area in which he resides” substitute “any police area in which he resides”

In subsection (3)(a), for “elections in England and Wales under the local government Act” substitute “elections under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011”.

In subsection (6), for “the area of the authority for which the election was held” substitute “the police area for which the election was held”.

In subsection (7), for “the local government area” substitute “the police area”.

Section 131 (accommodation of and attendance on court) In subsection (1)—

(a) for “The proper officer of the authority for which the election was held” substitute “The appropriate officer for the police area in which the election was held”;

(b) for “shall be paid by that authority” substitute “shall be paid by the [F1Secretary of State] out of money provided by Parliament”.

Section 132 (remuneration and allowances) In subsection (2), for the words from “in the first instance” to the end substitute “by the [F1Secretary of State] out of money provided by Parliament”.

Section 133 (repayments under sections 131 and 132) In subsection (1)—

(a) for “the proper officer of the authority” (in both places) substitute “the appropriate officer”;

(b) for “or to the Treasury” substitute “or to the [F1Secretary of State]”.

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Section 136 (security for costs) For subsection (2) substitute—

“(2) The security shall be such amount not exceeding £5,000 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 by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other.”

Section 137 (petition at issue)

Section 138(1) to (4) (list of petitions) In subsection (1), omit the words from “and the petitions” to the end.

In subsection (3), omit “In the case of a petition questioning an election under the local government Act”.

In subsection (4) omit “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”.

Section 139(1) to (6) (trial of petition) In subsection (1), for the words from “not less than” to the end substitute “ not less than seven days before the day of trial ”.

For subsection (3) substitute—

“(3) The trial of an election petition shall be proceeded with notwithstanding that the respondent has ceased to hold the office of police and crime commissioner to which his election is questioned by the petition.”

For subsection (4) substitute—

“(4) On the trial of a petition, unless the court otherwise directs, any charge of a corrupt practice or illegal 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 or illegal practice.”

For subsection (6) substitute—

“(6) If it appears that there is an equality of votes between any candidates at an election conducted under the PCC elections rules, and that the addition of a vote would entitle any of those candidates to be declared elected then—

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(a) any decision under the provisions as to equality of votes in the PCC elections rules 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.”

Section 140(1) to (6) (witnesses) In subsection (1), omit the words from “but this subsection” to the end.

Section 141 (duty to answer relevant questions) In subsection (1), omit paragraph (a)(ii).

In subsection (2), omit paragraph (b).

Section 143 (expenses of witnesses) In subsection (2), omit the second paragraph.

Section 145(1) and (2) to (6) (conclusion of trial of local election petition) In the title, for “**local election petition**” substitute “**police and crime commissioner election petition**”.

In subsection (1), for “an election under the local government Act” substitute “an election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011”.

In subsection (3), for “in the area of the authority for which the election was held or in any electoral area of that authority's area” substitute “in the police area in which the election was held.”

In subsection (6), for “the proper officer of the authority for which the election was held” substitute “the appropriate officer for the police area in which the election was held”.

Section 146(1), (3) and (4) (special case for determination of High Court) In subsection (3)—
(a) omit the words from the beginning to “local government Act”;

(b) for “the proper officer of the authority for which the election was held” substitute “the appropriate officer for the police area for which the election was held”.

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In subsection (4), omit the second paragraph.

Section 147 (withdrawal of petition) In subsection (1), omit the second paragraph.

In subsection (2), for “the constituency or local government area” substitute “ the police area ”.

Section 154(1) and (2) (costs of petition)

Section 155 (neglect or refusal to pay) For subsection (1) substitute—

“(1) Subsection (2) below applies if a petitioner neglects or refuses 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.”

For subsection (2) substitute—

“(2) Where subsection (1) applies, every person who under this Act entered into a recognisance relating to that petition shall be held 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.”

Section 156 (further provision as to costs)

Section 157(1), (2), (3) and (6) (appeals and jurisdiction) In subsection (2)—

(a) for “Subject to the provisions of this Act and of the rules made under it,” substitute “ Subject to the provisions of this Part of this Act, the Police and Crime Commissioner Elections Order 2012 and the rules contained in that Order, ”;

(b) for “an election under the local government Act” substitute “ an election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 ”.

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In subsection (3), after “subject to the provisions of” insert “ this Part of ”.

In subsection (6), “elections under the local government Act” substitute “elections under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011”.

Section 158 (report as to candidate guilty of corrupt or illegal practice) In subsection (1) omit “section 144 or”.

In subsection (2), for “at a parliamentary election” substitute “ at an election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 ”.

In subsection (3), omit the second paragraph.

Section 159(1) and (4) (candidate reported guilty of corrupt or illegal practice) In subsection (4) after “this Act” insert “ or the Police and Crime Commissioner Elections Order 2012 ”.

Section 161 (justice of the peace)

Section 162 (member of legal and certain other professions)

Section 163 (holder of licence or certificate under the Licensing Acts)

Section 164 (avoidance for general corruption etc) In subsection (3), for “An election under the local government Act” substitute “ An election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 ”.

After subsection (3) insert—

“(4) The reference to promoting or procuring a person's election includes doing so by prejudicing the electoral prospects of another candidate at the election.”

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- Section 166(2) and (3) (votes to be struck off for corrupt or illegal practices) In subsection (3), for the words from “an incapacity to vote” to the end substitute “ an incapacity to vote at an election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 votes at that election, his vote shall be void ”.
- Section 167(1), (1A) and (2) (application for relief) In subsection (1), for the words from “if in respect of” to the end substitute “ if in respect of a payment made in contravention of article 37(1) or (2) of the Police and Crime Commissioner Elections Order 2012, to a county court ”.
- In subsection (2)—
- (a) for “this Act” (in each place) substitute “ this Part of this Act or any provision of the Police and Crime Commissioner Elections Order 2012 ”;
- (b) in paragraph (c), for “in the constituency or, as the case may be, the area of the authority” substitute “ in the police area ”.
- Section 168 (prosecutions for corrupt practices) In subsection (1)(a), in sub-paragraph (i), for “corrupt practice under section 60 or 62A above” substitute “ corrupt practice under article 17 of, or paragraph 10 of Schedule 2 to, the Police and Crime Commissioner Elections Order 2012 ”.
- Section 169 (prosecutions for illegal practices)
- Section 170 (conviction of illegal practice on charge of corrupt practice etc)
- Section 174 (mitigation and remission etc)
- Section 175 (illegal payments or employments) In subsection (2), omit the words from “and if an offence” to the end.
- Section 176 (time limit for prosecutions) In subsection (1)—
- (a) for “this Act” substitute “ this Part of this Act or contained in the Police and Crime Commissioner Elections Order 2012 ”;
- (b) omit “(or, in Northern Ireland, the Magistrates' Courts (Northern Ireland) Order 1981)”;

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(c) omit “or Order”.

For subsection (2), substitute—

“(2) For the purposes of this section, the laying of an information shall be deemed to be the commencement of a proceeding.”

In subsection (2C)—

(a) omit “or Crown Prosecutor”;

(b) for “rule 57 of the parliamentary elections rules” substitute “rule 68 of the PCC elections rules”.

In subsection (2D), for paragraph (a) substitute—

“(a) directing the registration officer not to cause the documents to be destroyed at the expiry of the period of one year mentioned in rule 68 of the PCC elections rules,”.

Section 177 (local election punishable summarily)

In the title, for “**local election**” substitute “**police and crime commissioner election**”.

For subsection (1) substitute—

“(1) A prosecution for any offence punishable summarily in reference to an election under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011—

(a) may be instituted before any magistrates' court in the county in which the whole or part of the police area for which the election is held is situated or which it adjoins; and

(b) the offence shall be deemed for all purposes to have been committed within the jurisdiction of that court.”

Section 178 (prosecution of offences committed outside the United Kingdom)

For “an offence under this Act” substitute “an offence under this Part of this Act or under the Police and Crime Commissioner Elections Order 2012”.

Section 179 (offences by associations)

For paragraph (b) substitute—

“(b) any offence under article 64 of the Police and Crime Commissioner Elections Order 2012 (details to appear on election publications),”.

After “by this Act” insert “or by the Police and Crime Commissioner Elections Order 2012”.

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Section 180 (evidence by In this section—
certificate of holding of
elections)

- (a) omit “and” at the end of paragraph (a);
- (b) omit paragraph (b);
- (c) for “the certificate of the returning officer” substitute “ the certificate of the police area returning officer ”.

Section 180A (evidence
by certificate of electoral
registration)

Section 181(1) to (3A), (5) In subsection (1), for “any offence under this Act” substitute “
and (6) (Director of Public any offence under this Part of this Act, or under the Police and
Prosecutions) Crime Commissioner Elections Order 2012, ”.

In subsection (5), for “the Treasury” substitute “ the [^{F1}Secretary of State]”.

In subsection (6), for “the Treasury” (in both places) substitute “the [^{F1}Secretary of State]”.

Section 183(1) and (2) (costs) In subsection (1), for “under Part 2 or this Part of this Act”
substitute “ under this Part of this Act or under Part 3 of the
Police and Crime Commissioner Elections Order 2012, ”.

Section 184 (service of notices) In subsection (1)(a), for the words from “in the constituency” to
the end substitute “ in the police area for which the election was
held ”.

In section 185 (interpretation), In the definition of candidate, for the words from “has the same
the definition of “candidate”, meaning” to the end substitute “ has the same meaning as in the
“costs”, “Licensing Acts”, Police and Crime Commissioner Elections Order 2012 ”.
“money” and “pecuniary
award”, “payment”,
“prescribed”.

In the definition of “Licensing Acts”, for the words from
“means” to the end substitute “ means the Licensing Act
2003 ^{M1} and the Acts amending that Act, or the corresponding

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enactments forming part of the law of Scotland or Northern Ireland.”

In the definition of “prescribed” for the words from “means” to the end substitute “ means prescribed by the Election Petition Rules 1960, as applied by paragraph 2 of Schedule 9 to the Police and Crime Commissioner Elections Order 2012 ”.

Section 186 (computation of In this section—
time)

(a) for “Section 119 above” substitute “ Article 73 of the Police and Crime Commissioner Elections Order 2012 ”;

(b) for “as for Part 2 of this Act” substitute “ as for Part 3 that Order ”.

Textual Amendments

F1 Words in Sch. 9 Pt. 1 Table substituted (8.12.2021) by [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), **Sch. 2 para. 30(3)(k)** (with art. 12)

Marginal Citations

M1 2003 c.17.

PART 2

Election Petition Rules 1960

2.—(1) The Election Petition Rules 1960 ^{M2} apply for the purposes of PCC elections.

(2) In the application by virtue of this paragraph of any provision of those Rules which is listed in the first column of the table, that provision has effect—

- (a) with the modifications (if any) shown in the second column of the table, and
- (b) with any other necessary modifications, including in particular those set out in subparagraph (3).

(3) Except where the context otherwise requires—

- (a) a reference to a provision that is applied by this Schedule has effect as a reference to that provision as so applied;
- (b) expressions are to be construed in accordance with the definitions listed in article 2 of this Order.

Provision

Rule 2 (definitions)

Modification

In paragraph (2)—

- (a) omit the definition of “local election petition”;

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(b) in the definition of “petition” for the words from “means” to the end substitute “ means a PCC election petition ”;

(c) for the definition of “constituency” substitute “ “police area” means a police area listed in Schedule 1 to the Police Act 1996 (police areas outside London) ”;

(d) in the definition of “returning officer”, for the words from “means” to the end substitute “ means the police area returning officer for the police area to which the PCC election petition relates ”.

In paragraph (3), for “the prescribed officer in relation to elections under the local government Act” substitute “ the prescribed officer in relation to elections under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 ”.

In paragraph (4), for “Subject to the provisions of the Act and these Rules,” substitute “ Subject to the provisions of the Act, these Rules and the Police and Crime Commissioner Elections Order 2012, ”.

Rule 4 (form of petition)

In paragraph (1)—

(a) in sub-paragraph (a), omit “section 121(1) or”;

(b) in sub-paragraph (b), omit the words from “showing” to the end;

(c) in sub-paragraph (c), omit “subsection (2) or (3) of section 122 of”.

Rule 6 (notice to be given to respondent and DPP)

In paragraph (1), omit “section 121(2) or”.

Rule 9 (display etc of notice of time and place of trial)

In paragraph (3), omit the words from the beginning to “and in any other case”.

In paragraph (4), for “in his constituency” substitute “ in the police area for which the returning officer acts ”.

Rule 12 (application for leave to withdraw a petition)

In paragraph (2)(b), for “in the constituency” substitute “ in the police area ”.

In paragraph (4), for “in his constituency” substitute “ in the police area for which the returning officer acts ”.

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Rule 14 (petition abated in the event of a petitioner's death) In paragraph (1)—

(a) in sub-paragraph (b), for “in his constituency” substitute “in the police area for which the returning officer acts”;

(b) in sub-paragraph (c), for “in the constituency” substitute “in the police area”.

Rule 16 Omit rule 16

Rule 19 (computation of time) In paragraph (1), for “section 119 of the Act” substitute “article 73 of the Police and Crime Commissioner Elections Order 2012”.

In paragraph (2), for “section 119(2) of the Act” substitute “article 73(1)(a) to (c) of the Police and Crime Commissioner Elections Order 2012”.

Schedule (form of election petition) In the preamble, for “And in the matter of a Parliamentary (or Local Government) Election for (*state place*)” substitute “ And in the matter of a police and crime commissioner election for (*state police area*) ”.

In paragraph 1, omit “(or in the case of a parliamentary election claims to have had a right to be elected or returned at the above election)”.

For paragraph 2, substitute—

“2 That the election was held on the ... day of ..., 20 ..., when E.F., G.H. and J.K. were candidates, and on the ... day of ..., 20 ..., and E.F. was declared to be duly elected as police and crime commissioner”.

In paragraph 4, omit “in section 122(2) or (3) or”

For the prayer, substitute—

“The Petitioner(s) therefore pray(s)—

(1) That it may be determined that the said E.F. was not duly elected and that the election was void (*or that the said J.K. was duly elected and ought to have been returned*) (*or as the case may be*).

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(2) That the Petitioner(s) may have such further or other relief as may be just.”

Marginal Citations

M2 [S.I. 1960/543](#).

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