

**EXPLANATORY MEMORANDUM TO
THE ELECTION JUDGES ROTA RULES 2015**

2015 No. 329 (L. 2)

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The purpose of this instrument is to make provision for the manner in which judges of the Queen's Bench Division are to be placed on the rota for judges to hear election petitions in England and Wales brought under the Representation of the People Act 1983.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 Section 142 of the Senior Courts Act 1981 (as amended) provides that the judges who are to be placed on the rota for the trial of parliamentary election petitions under Part III of the Representation of the People Act 1983 are to be selected from among the judges of the Queen's Bench Division (except those who are members of the House of Lords) in such manner as may be provided by rules of court. This instrument provides for those rules. The appropriate rule making body was originally the Supreme Court Rule Committee, and the responsibility for making such rules has passed to the Civil Procedure Rule Committee as the body which now has the general power and responsibility for making rules of court in relation to the Senior Courts.
5. **Territorial Extent and Application**
 - 5.1 This instrument extends to England and Wales.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - 7.1 The Representation of the People Act 1983 provides that no parliamentary election and no return to Parliament may be questioned except by a petition (a 'parliamentary election petition') complaining of an undue election or undue return. Section 123 of the 1983 Act provides for a parliamentary election petition to be tried by two judges on the rota for the

trial of parliamentary election petitions. The judges presiding at the trial of a parliamentary election petition are referred to as the election court, which is a court of record having, for England and Wales (separate provision is made in relation to the election court in Scotland and Northern Ireland) the same powers, jurisdiction and authority as a judge of the High Court.

- 7.2 For England and Wales, section 142 of the Senior Courts Act 1981 provides that the judges to be placed on the rota mentioned above are to be selected in such manner as may be provided by rules of court. The Election Judges Rota Rules 2015 are now made for purposes of transparency and regularising previous practice, and provide for judges to be placed on the rota to be nominated by the President of the Queen's Bench Division of the High Court at the beginning of each year. Provision is also made to cover the case where during the course of a year a judge becomes ineligible to continue on the rota: in such a case another judge may be nominated by the President of the Queen's Bench Division for the remainder of the year. A judge may be nominated in succeeding years.

Consolidation

- 7.3 There are no previous rules, so the issue of consolidation does not arise.

8. Consultation outcome

- 8.1 The Lord Chief Justice and President of the Queen's Bench Division were consulted in the preparation of the rules, and were content.

9. Guidance

- 9.1 These rules regularise the practice for placing of judges on the rota. No guidance for this purpose is required beyond the rules themselves.

10. Impact

- 10.1 A full Impact Assessment has not been produced for these Rules, as no, or no significant, impact on the private, voluntary or public sector is foreseen.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 These rules regularise the practice for placing of judges on the rota. There are no plans to undertake a formal review of their impact.

13. Contact

Jane Wright, Secretary to the Civil Procedure Rule Committee, Tel: 020 3334 3184 or email: Jane.Wright@justice.gsi.gov.uk ; can answer any queries regarding the instrument.