



Electoral Law Act (Northern Ireland) 1962

1962 CHAPTER 14

PART IX

QUESTIONING OF ELECTIONS

72 Election courts.

- (1) Election courts for the trial in accordance with this Part of petitions relating to parliamentary and local elections shall be constituted in accordance with this section.
- ^{F1}(2) An election court for the trial of petitions relating to parliamentary elections (in this Act referred to as a parliamentary election court) shall consist of 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 .]
- (3) An election court for the trial of petitions relating to local elections (in this Act referred to as a local election court) shall consist of a barrister-at-law of not less than ten years' standing in practice, not being a person who—
 - (a) is a member of either House of Parliament;
 - (b) holds any office or place of profit under the Crown; or
 - (c) resides within or is registered as a local elector for the local government electoral area (or where the area is the [^{F2} City] of Belfast, resides within or is registered as a local elector for the [^{F3} district electoral area]) to which the petition relates;

and the judges of the^{F4} Supreme Court or a majority of them may from time to time appoint as many barristers-at-law, not exceeding five, as they may think necessary for the trial of local election petitions, and shall assign petitions to each such barrister in rotation; and where a barrister to whom a petition has been assigned dies or declines to act or becomes incapable of acting the said judges may assign the trial to be conducted or continued by any other barrister so appointed.

Subs.(4) rep. by 1978 c.23

- (5) The provisions of the Eighth Schedule shall have effect in relation to election courts.

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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Electoral Law Act (Northern Ireland) 1962. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Subs.(6) repeals s.11 (pt.) of 1868 c.125; s.43 of 1877 c.57; 1879 c.75; s.42 of 1883 c.51

- F1** [1978 c.23](#)
- F2** 1972 NI 13
- F3** SI 1985/454
- F4** prosp. subst. by [2005 c. 4](#)

73 Attendance of Director of Public Prosecutions at trial of election petition.

^{F5}[^{F6} The Director of Public Prosecutions for Northern Ireland] shall attend the trial of every election petition or cause it to be attended on his behalf.[^{F7} At the trial of a petition relating to a local election, this section shall have effect as if for the word shall there were substituted may and, if the election court so requests him, shall.]

- F5** continue to am. [2002 c. 26](#)
- F6** 1972 NI 1
- F7** SI 1987/168

74 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, an undue return or no return (hereinafter referred to as a parliamentary election petition) presented in accordance with this Part.
- (2) Where a petition complains of no return, the High Court may make such order thereon as they think expedient for compelling a return to be made or may allow the petition to be heard by an election court as provided with respect to ordinary election petitions.

75 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 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 in the Queen's Bench Division.
- (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.

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- (5) The petition shall be served as nearly as may be in the manner in which a writ of summons may be served or in such other manner as may be prescribed.

76 Time for presentation or amendment of parliamentary election petition.

- (1) Subject to the provisions of this section, a parliamentary election petition other than a petition complaining of no return shall be presented within twenty-one days after the return of the member to whose election the petition relates has been made to the Clerk of the Crown.
- (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 or promised by the member or on his account or with his privity since the time of the said return in pursuance or in furtherance of the alleged corrupt practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.
- (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—
- (a) not later than the expiration of fourteen days after the day specified in sub-section (4); or
 - (b) if specifically alleging a payment of money or some other act to have since the day so specified been made or done 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 twenty-eight days after the date of the payment or other act whether or not any other petition against that person has been previously presented or tried.
- (4) The said day is—
- (a) that on which the returning officer receives the return and declarations as to election expenses made by the said member or 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 sub-section (1) or sub-section (2) 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 sub-section (3).
- (6) Sub-sections (3), (4) and (5) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice and shall apply to a corrupt practice under paragraph 7 of the Ninth Schedule as if it were an illegal practice.
- (7) For the purposes of this section, an allegation that an election is avoided under section ninety-eight shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

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77 Conclusion of trial of parliamentary election petition.

- (1) At the conclusion of the trial of a parliamentary election petition, the election court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void, and shall forthwith certify in writing the determination to the Speaker, and the determination so certified shall be final to all intents and purposes:

Provided that—

- (a) if the judges constituting the election court differ as to whether the member whose election or return is complained of was duly elected or returned, they shall certify that difference and the member shall be deemed to be duly elected or returned; and
 - (b) if they determine that the member was not duly elected or returned but differ as to the rest of the determination, they shall certify that difference and the election shall be deemed to be void.
- (2) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report in writing to the Speaker as required by sections ninety-four and ninety-six and also stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.
- (3) The election court may at the same time make a special report to the Speaker as to any matters arising in the course of the trial an account of which ought, in the judgment of the court, to be submitted to the House of Commons.
- (4) Every report sent to the Speaker under this section shall be signed by both judges of the election court and if the judges differ as to the subject of the report, they shall certify that difference and make no report on the subject on which they so differ.
- (5) The House of Commons, on being informed by the Speaker of a certificate and any report of an election court, shall order the certificate and report, if any, to be entered in their Journals and shall give the necessary direction for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require; and where the court make a special report, the House of Commons may make such order in respect of that report as they think proper.

78 Method of questioning local election.

Any such local election as is conducted in accordance with the Local Elections Rules may be questioned on the ground that the person whose election is questioned—

- (a) was at the time of the election disqualified; or
- (b) was not duly elected;

or on the ground that the election was avoided by corrupt or illegal practices or on the grounds provided by section ninety-eight or section ninety-nine and shall not be questioned on any of those grounds except by an election petition.

79 Presentation and service of local election petition.

- (1) A petition questioning any such local election as is referred to in section seventy-eight (in this Part referred to as a local election petition) may be presented either by four

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or more persons who voted as electors or had a right so to vote at the election or by a person alleging himself to have been a candidate at the election.

- (2) Any person whose election is questioned by the petition, and [^{F8}, if the petition complains of his conduct, the Chief Electoral Officer] may be made a respondent to the petition.
- (3) The petition shall be in the prescribed form signed by the petitioner and shall be presented to the High Court in accordance with rules of court.
- (4) The prescribed officer shall send a copy of the petition to the...^{F9} clerk of the local authority for which the election was held who shall forthwith publish it in the area of that local authority.
- (5) A local election petition shall be served in the prescribed manner.

F8 1972 NI 13

F9 1972 NI 13

80 Time for presentation or amendment of local election petition.

- (1) Subject to the provisions of this section, a local election petition shall be presented within twenty-one days after the day on which the election was held.
- (2) If the petition questions the election upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made or promised by a candidate elected at the election, or on his account or with his privity since the election, in pursuance or in furtherance of the alleged corrupt practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.
- (3) If the petition questions the election upon an allegation of an illegal practice and specifically alleges a payment of money or some other act to have since the election been made or done by the person to whose election the petition relates, or an agent of his or with the privity of that person or his election agent, in pursuance or in furtherance of the alleged illegal practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or other act, whether or not any other petition against that person has been previously presented or tried.
- (4) An election petition presented within the time limited by sub-section (1) or sub-section (2) may, for the purpose of questioning the election 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 sub-section (3).
- (5) Sub-sections (3) and (4) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice and shall apply to a corrupt practice under paragraph 7 of the Ninth Schedule as if it were an illegal practice.
- (6) For the purposes of this section, an allegation that an election is avoided under section ninety-eight shall be deemed to be an allegation of corrupt practices notwithstanding that the offences alleged are or include offences other than corrupt practices.

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81 Conclusion of trial of local election petition.

- (1) At the conclusion of the trial of a local election petition, the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and the determination shall be final to all intents and purposes.
- (2) The election court shall forthwith certify in writing the determination to the High Court.
- (3) Where a charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate and at the same time, make a report in writing to the High Court as required by sections ninety-four and ninety-six and also stating whether any corrupt or illegal practices have, or whether there is reason to believe that any corrupt or illegal practices have, extensively prevailed at the election in the area of the authority for which the election was held or in any electoral division thereof.
- (4) The election court may at the same time make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court, to be submitted to the High Court.
- (5) A copy of any certificate or report made to the High Court shall be sent by the High Court to the Minister.
- (6) A copy of the said certificate shall be certified by the proper officer of the High Court to the...^{F10} clerk of the authority for which the election was held.

F10 1972 NI 13

82 Consequences of avoidance of local election.

- (1) Where on a local election petition the election of any person has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy.
- (2) Where a candidate who has been elected to a corporate office, is by a certificate of an election court or a decision of the High Court declared not to have been duly elected, acts done by him in execution of the office before the time when the certificate or decision is certified to the...^{F11} clerk of the local authority for which the election was held shall not be invalidated by reason of that declaration.

F11 1972 NI 13

83 Special case for determination of Court of Appeal.

- (1) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct it to be stated accordingly.
- (2) If it appears to the election court on the trial of an election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the [^{F12} Court of Appeal], the election court may postpone the granting of a certificate

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until the question has been determined by the [^{F12} Court of Appeal], and for this purpose may reserve the question by stating a case for the decision of the [^{F12} Court of Appeal].

- (3) A special case under sub-section (1) or sub-section (2) shall be stated to and heard and determined by the [^{F12} Court of Appeal] in accordance with rules of court.

As respects a parliamentary election petition, the proper officer of the [^{F12} Court of Appeal] shall certify to the Speaker the decision of the court in reference to the special case.

As respects a local election petition, a statement of the decision on the special case shall be sent by the proper officer of the [^{F12} Court of Appeal] to the Minister and shall also be certified by that officer to the...^{F13} clerk of the authority for which the election was held.

- (4) Any decision of the [^{F12} Court of Appeal] on a case stated under sub-section (1) shall be final.

Subs.(5) rep. by 1978 c.23

F12 1978 c.23

F13 1972 NI 13

84 Withdrawal of petition.

- (1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place.
- (2) The application shall not be made until the prescribed notice of the intention to make it has been given in the constituency or local government electoral area to which the petition relates.
- (3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.
- (4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

Ss. 85#90 rep. by SI 2001/417

91 Costs of petition.

- (1) All costs of and incidental to the presentation of an election petition and the proceedings consequent thereon, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine; and in particular any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.

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- (2) If a petitioner neglects or refuses, in the case of a petition questioning a parliamentary election or return, for six months, and in the case of a local election petition, 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 him for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, every person who under this Act entered into a recognisance relating to the petition shall be held to have made default in the recognisance, and the prescribed officer shall thereupon certify the recognisance to be forfeited and any sum payable thereunder shall be dealt with under section twenty of the Administration of Justice Act (Northern Ireland), 1954 .

92 Further provision as to costs of petition.

- (1) Where upon the trial of an election petition it appears to the election court that a corrupt practice in reference to the election has not been proved to have been committed by or with the knowledge and consent of the respondent to the petition, and that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make an order or orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as provided by sub-section (2) or (4).^{F14} In respect of a petition relating to a local election, this subsection shall have effect as if the reference to subsection (2) were omitted.]
- (2) If it appears to the court that corrupt practices extensively prevailed in reference to the election, the court may order the whole or part of the costs to be paid, in relation to a parliamentary election, by the constituency for which the election was held,^{F14}
- (3) The Ministry of Finance^{F15} shall pay any costs ordered to be paid by a constituency under sub-section (2) and shall obtain re-payment of the amount so paid from the [^{F16} district council] in which the constituency is wholly or partly situate; and where more than one council is concerned the said amount shall be repaid by the councils concerned in such proportions as the Ministry of Finance^{F15} shall direct. Any amount payable under this sub-section—

Para.(a) rep. by 1972 NI 13

- (b) by [^{F16} a district council], shall be paid out of the rate or fund out of which the general expenses of the council are paid;

and if not paid shall be recoverable summarily as a civil debt due to the Ministry of Finance^{F15}.

- (4) If it appears to the court that any person or persons is or are proved to have been extensively engaged (whether by providing money or otherwise) in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election, the court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.
- (5) Where any person appears to the court to have been guilty of a corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or

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to the said person to be paid by the said person to such person or persons as the court may direct.

- F14** SI 1987/168
- F15** Now Treasury, SI 1973/2163
- F16** 1972 NI 13

93 Jurisdiction.

- (1) Subject to the provisions of this Act and of the rules made under it, the principles, practice and rules on which committees of the House of Commons of the Parliament of the United Kingdom used to act in dealing with election petitions shall be observed, so far as may be, by the High Court and election courts in relation to election petitions; and in particular the principles and rules with regard to agency and evidence and to a scrutiny, and to the declaring any person elected in the room of any other person declared not to have been duly elected, shall be observed, as far as may be, in relation to a local election petition as in relation to a parliamentary election petition.
- (2) The High Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with respect to an election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.
- (3) The duties to be performed by the prescribed officer under this Part shall be performed by such officer of the^{F17} Supreme Court as the Lord Chief Justice may determine, and there may be awarded to such officer, in addition to his salary payable apart from the provisions of this sub-section, such remuneration for the performance of his duties in relation to elections under this Part as the Lord Chief Justice with the consent of the Ministry of Finance^{F18} may determine.

- F17** prosp. subst. by 2005 c. 4
- F18** Now Minister for Civil Service, SI 1973/2163

94 Report as to candidate guilty of a corrupt or illegal practice.

- (1) The report of an election court under section seventy-seven or section eighty-one shall state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice.
- (2) For the purposes of sections ninety-five and ninety-six, if it is reported that a corrupt or illegal practice was committed with the knowledge and consent of a candidate, he shall be treated as having been reported personally guilty of that corrupt or illegal practice.
- (3) The report shall also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election; but if a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports that the candidate has proved to the court—
 - (a) that no corrupt or illegal practice was committed at the election by the candidate or his election agent and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent; and

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- (b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election; and
- (c) that the offences mentioned in the report were of a trivial, unimportant and limited character; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents;

then the candidate shall not be treated for the purposes of section ninety-five as having been reported guilty by his agents of the offences mentioned in the report.

- (4) The provisions of sections ninety-five and ninety-six as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice shall have effect subject to the express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices.

95 Avoidance of election and incapacity of candidate reported guilty of a corrupt or illegal practice.

- (1) If a candidate who has been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.
- (2) A candidate at a parliamentary election shall also be incapable from the date of the report of being elected to and sitting in the House of Commons for the constituency for which the election was held or any constituency which includes the whole or any part of the area of the first-mentioned constituency as constituted for the purposes of the election—
 - (a) if reported personally guilty of a corrupt practice, for ten years;
 - (b) if reported guilty by his agents of a corrupt practice or personally guilty of an illegal practice, for seven years;
 - (c) if reported guilty by his agents of an illegal practice, during the Parliament for which the election was held.

Subs. (3) rep. by SI 2001/417

96 Provisions applying to all persons reported personally guilty of a corrupt or illegal practice.

- (1) The report of the election court under section seventy-seven or section eighty-one shall state the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice and whether they have been furnished with certificates of indemnity, but, as respects someone who is not a party to the petition nor a candidate on behalf of whom the seat or office is claimed by the petition, the election court shall first cause notice to be given to him, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

It shall be the duty of^{F19} [^{F20} the Director of Public Prosecutions for Northern Ireland] to obey any directions given to him by the election court with respect to any person to whom such a notice is given.

- (2) The report shall be laid before the Attorney-General with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in his opinion, be sufficient to support a prosecution.

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- [^{F21}(3) Subject to the provisions of subsection (3A) and section 113(2) to (6), a candidate or other person reported by an election court personally guilty of a corrupt or illegal practice—
- (a) shall during the relevant period specified in subsection (4) be incapable of—
 - (i) being registered as an elector or voting at any local election in Northern Ireland, or
 - (ii) holding any elective office; and
 - (b) if already holding any such office shall vacate it as from the date of report.
- (3A) The incapacity incurred by subsection (3)(a)(i) applies to a candidate or other person reported personally guilty of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences).
- (4) For the purposes of subsection (3) the relevant period is the period beginning with the date of the report and ending—
- (a) in the case of a person reported personally guilty of a corrupt practice, five years after that date, or
 - (b) in the case of a person reported personally guilty of an illegal practice, three years after that date.]

[^{F22}(5) In respect of the report of an election court at the trial of a local election petition, this section shall have effect subject to the following amendments:

 - (a) in subsection (1) the words from and whether to indemnity and from It shall be the duty to is given shall be omitted; and
 - (b) for subsection (2) there shall be substituted:

“(2) The report shall be laid before the Director of Public Prosecutions for Northern Ireland.”]

F19 continue to am. 2002 c. 26

F20 1972 NI 1

F21 SI 2001/417

F22 SI 1987/168

97 Disciplinary action on report of corrupt practice.

- (1) Where a justice of the peace is reported by an election court to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of^{F23} [^{F24} the Director of Public Prosecutions for Northern Ireland] to report the case to the Governor with such evidence as may have been given of the corrupt practice.
- (2) Where a barrister-at-law, solicitor or any person who belongs to any profession the admission to which is regulated by law is reported by an election court to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of^{F23} [^{F24} the Director of Public Prosecutions for Northern Ireland] to bring the matter before the Inn of Court, the Incorporated Law Society of Northern Ireland or tribunal having power to take cognizance of any misconduct of the person in his profession; and such body or tribunal may deal with him as if the corrupt practice were misconduct by him in his profession.

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- (3) If it appears to an election court that a person holding a licence or certificate under the Licensing Acts (Northern Ireland) has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises,—
- (a) the court shall, after affording him such rights as are conferred on those about to be reported under sub-section (1) of section ninety-six, report the fact; and
 - (b) whether that person has obtained a certificate of indemnity or not, it shall be the duty of [^{F24} the Director of Public Prosecutions for Northern Ireland] to bring the report before the licensing court from whom, or on whose certificate, that person obtained his licence; and
 - (c) the licensing court shall cause the report to be entered in the proper register of licences, and on any application for the renewal of the licence or certificate the licensing court shall take the entry into consideration and may make it a ground for refusing the application.
- [^{F25}(4) In respect of the report of an election court at the trial of a local election petition, subsections (1), (2) and (3) shall have effect as if for the words from whether to for Northern Ireland to, in each place where those words occur, there were substituted the court shall.]

F23 continue to am. [2002 c. 26](#)

F24 1972 NI 1

F25 SI 1987/168

98 Avoidance of election for general corruption, etc.

- (1) Where on an election petition it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.
- (2) An election shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or undue influence.
- (3) A local election may be questioned on the ground that it is avoided under this section.

99 Avoidance of election for employing corrupt agent.

- (1) If at a parliamentary or local election a candidate or his election agent personally engages as a canvasser or agent for the conduct or management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of his having been convicted or reported guilty of any corrupt or illegal practice within the meaning of this Act, the candidate shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held.
- (2) A local election may be questioned on the ground that the person whose election is questioned was, at the time of the election, by virtue of this section incapable of being elected; but a vote given for such a person at either a parliamentary or local election shall not, by reason of his incapacity under this section, be deemed to be thrown

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away so as to entitle another candidate to be declared elected, unless given at a poll consequent on the decision of an election court that he was so incapable.

100 Votes to be struck off for corrupt or illegal practices.

- (1) Where, on a parliamentary election petition claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.
- (2) If any person who is guilty of a corrupt or illegal practice or of illegal payment, employment or hiring at an election votes at the election, his vote shall be void.
- (3) If any person who is subject under any enactment relating to corrupt or illegal practices to an incapacity to vote at a parliamentary election or an election to any corporate office votes at that election, his vote shall be void.

101 Service of notices, etc.

Any summons, notice or other document required by any provision of this Part to be served on any person for the purposes of any proceeding in the High Court or an election court, may be served—

- (a) in any such manner as is referred to in section twenty-four of the Interpretation Act (Northern Ireland), 1954 ; or
- (b) in such other manner as the court having seizin of the proceeding may direct.

102 Rules of court.

- (1) The authority having for the time being power to make rules of court may make rules for the purposes of this Part and such rules may (without prejudice to their generality) provide—
 - (a) that the rules for the time being in force with respect to the costs allowable in actions, causes and matters in the High Court are to apply, subject to any necessary modifications, in relation to petitions and other proceedings under this Part;
 - (b) that in any such proceedings under this Act costs are not to be allowed on any higher scale than would be allowed on the higher scale as between solicitor and client under the rules in force as aforesaid.
- (2) Where any costs or other sums are, under the order of an election court or otherwise under this Part, to be paid by any person, those costs or sums shall be a simple contract debt due from that person to the person or persons to whom they are to be paid, and if payable to the Ministry of Finance^{F26} shall be a debt due to Her Majesty, and in either case may be recovered accordingly.
- (3) In this Part and in the Eighth Schedule the expression prescribed means prescribed by rules of court.

F26 Now Treasury, SI 1973/2163

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