

SCHEDULES

SCHEDULE 4

LEGAL PROCEEDINGS: APPLICATION TO RECALL PETITIONS OF EXISTING PROVISIONS

PART 2

THE ELECTION PETITION RULES 1960

40.—(1) The Election Petition Rules 1960 apply for the purposes of a recall petition and have effect—

- (a) with the modifications made by this Part of this Schedule, and
- (b) with any other necessary modifications.

(2) Except where the context requires otherwise—

- (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 regulation 3 (interpretation) of these Regulations.

(3) A reference in a provision of the Rules as applied by this Part of this Schedule—

- (a) to a parliamentary election petition (however expressed), other than the reference in the definition of “rota judge” in rule 2(2), has effect as if it were a reference to a recall petition complaint;
- (b) to a returning officer has effect as if it were a reference to the petition officer (within the meaning of section 6 of the Act) for the recall petition to which a petition complaint relates;
- (c) to a petitioner, has effect as if it were a reference to a complainant.

41. In rule 2 (definitions)—

- (a) omit the definitions of “local election petition” and “constituency”;
- (b) for the definition of “petition” substitute ““complaint” means a recall petition complaint within the meaning of the Recall of MPs Act 2015 (Recall Petition) Regulations 2016”;
- (c) omit paragraph (3);
- (d) in paragraph (4), for “and these Rules” substitute “these Rules and the Recall of MPs Act 2015 (Recall Petition) Regulations 2016”.

42. In rule 4 (form of petition), in paragraph (1)—

- (a) in subparagraph (a), omit “or section 128(1)”;
- (b) in subparagraph (b), for the words after “showing” to the end substitute “the date on which public notice of the outcome of the petition was given in accordance with section 14(2)(c) of the Recall of MPs Act 2015 (determination of whether recall petition was successful)”;
- (c) in subparagraph (c), omit “or subsection (2), (3) or (4) of section 129”.

43. In rule 6 (notice to be given to respondent and DPP), in paragraph (1), omit “or section 128(2)”.

44. In rule 9 (display etc of notice of time and place of trial), in paragraph (3), for the words from the beginning to “seven days” substitute “Not less than fourteen days”.

45. In rule 10 (duty to specify matters in issue in certain complaints)—

(a) for paragraphs (1) and (2), substitute—

“(1) Where a recall petition complaint is of an undue result in a petition, every party shall, not less than seven days before the date fixed for trial, file a list of the signatures which that party contends were wrongly admitted or rejected, stating in respect of each such signature the grounds for that contention, and serve a copy of the list on every other party and the Director of Public Prosecutions.

(2) Where the respondent to such a complaint intends to give evidence under section 139(5) of the 1983 Act (trial of petition) that the outcome of the petition was not undue, the respondent shall, not less than seven days before the day fixed for the trial of the petition, file a statement of the grounds for that contention and serve a copy of those grounds on the complainant and the Director of Public Prosecutions.”;

(b) in paragraph (4)—

(i) in subparagraph (a), for “vote” substitute “signature”;

(ii) in subparagraph (b), for “objection to a person’s election which is not specified in a list” substitute “ground of contention not included in a statement”.

46. Omit rules 14 (petition abated in the event of a complainant’s death), and 16 (withdrawal and replacement of respondents before trial) and 18 (appointments in connection with trials of local election petitions).

47. In rule 19 (computation of time)—

(a) in paragraph (1), for “section 119 of the Act” substitute “section 22(1) of the Act (definition of working day) and regulation 145 (time) of the Recall of MPs Act 2015 (Recall Petition) Regulations 2016”;

(b) in paragraph (2), omit “(not being a day mentioned in section 119(2) of the Act)”.

48. In the Schedule (form of recall petition complaint), for the form of petition, up to the end of paragraph (1) substitute—

“IN THE HIGH COURT OF JUSTICE

QUEEN’S BENCH DIVISION

In the matter of the Recall of MPs Act 2015

And in the matter of the recall petition held in respect of [*state name of MP in relation to whom the petition was held*] and [*state name of constituency*] ... beginning on the ... day of ... 20 ... and ending on the ... day of ... 20 ...

The complaint of A. B. of ... (and C. D. of ...) shows:

1

That the Complainant A. B. is a person who signed (or was entitled to sign) the above petition (or was the MP in relation to whom the petition was held) and the Complainant C. D. (*state similarly the capacity in which C. D. presents the complaint*).

2

That the petition was available for signing from the ... day of ... 20... to the ... day of ... 20 ... and on the ... day of ... 20... the petition officer notified the Speaker of the House of Commons that the petition was successful (*or unsuccessful*).

3

That (*state the facts on which the Complainant relies*).

4

That (*in the case of a complaint mentioned in section 122(2) or (3) of the Representation of the People 1983, as it has effect for the purposes of the Recall of MPs Act 2015 by virtue of the Recall of MPs Act 2015 (Recall Petition) Regulations 2016, state the event on which time for the presentation of the complaint depends and its date*).

The complainant claims—

That it may be determined that the outcome of the petition was void (*or as the case may be*).”