

1985 No. 1278
REPRESENTATION OF THE PEOPLE
The Election Petition (Amendment) Rules 1985

<i>Made - - - -</i>	<i>30th July 1985</i>
<i>Laid before Parliament</i>	<i>21st August 1985</i>
<i>Coming into Operation</i>	<i>1st October 1985</i>

We, the authority having for the time being power to make rules of court for the Supreme Court, in exercise of the powers conferred on us by sections 136 and 182 of the Representation of the People Act 1983 (a), hereby make the following Rules:—

1. These Rules may be cited as the Election Petition (Amendment) Rules 1985, and shall come into operation on 1st October 1985.

2. The Election Petition Rules 1960 (b) (“the principal Rules”) shall be amended as follows:—

(1) For Rules 5 and 6 of the principal Rules there shall be substituted the following Rules:—

“5.—(1) Within three days after the presentation of the petition the petitioner shall apply *ex parte* by summons to a master to fix the amount of security for costs which he is to give pursuant to section 136 of the Act.

(2) A recognisance as security for costs shall be acknowledged before a person authorised to take affidavits under the Commissioners for Oaths Acts 1889 and 1891 or the Solicitors Act 1974, and shall be filed forthwith after being acknowledged.

(3) The recognisance shall be accompanied by an affidavit sworn by each surety and stating that after payment of all his debts he is worth a sum not less than that for which he is bound by his recognisance.

6.—(1) Within five days after giving the security the petitioner shall serve on the respondent within the meaning of section 121 (2) or section 128(2) of the Act and on the Director of Public Prosecutions a notice of the presentation of the petition and of the nature and amount of the security which he has given, together with a copy of the petition and of the affidavit accompanying any recognisance.

(2) Service shall be effected in the manner in which a writ of summons is served and an affidavit of service shall be filed as soon as practicable after service has been effected.”.

(2) Rule 7(1) of the principal Rules shall be amended by substituting, for the words “within five days”, the words “within fourteen days”, and, for the words “Rule 5”, the words “Rule 6”.

(a) 1983 c.2, amended by the Representation of the People Act 1985 (c.50).

(b) S.I. 1960/543, amended by S.I. 1979/543.

- (3) Rule 19(1) of the principal Rules shall be amended by substituting, for the words "prescribed by Rule 7" the words "prescribed by Rules 5, 6 or 7".
- (4) The Rules of the principal Rules cited in the first column of the Schedule to these Rules shall be amended by omitting the words in the second column and by substituting the words (if any) in the third column.
3. The Election Petition (Amendment) Rules 1979 are hereby revoked.

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Dated 30th July 1985.

Rule 2(4)

SCHEDULE

RULE	WORDS TO BE OMITTED	WORDS TO BE SUBSTITUTED
Rule 2(1)	“Interpretation Act, 1889” (a)	“Interpretation Act 1978” (b)
Rule 2(2) (definition of “the Act”)	“Representation of the People Act, 1949” (c) “section 172 (1)” “Masters’ Secretary’s Department at the Royal Courts of Justice”	“Representation of the People Act 1983” “section 203 (1)” “Queen’s Bench Masters’ Secretary’s Department at the Central Office of the Royal Courts of Justice”
Rule 2(3)	“master of the Supreme Court (Queen’s Bench Division)” “section 137(4)”	“master of the Queen’s Bench division” “section 157(4)”
Rule 3(2)	“master of the Supreme Court (Queen’s Bench Division)”	“master of the Queen’s Bench Division”
Rule 4(1)	“section 108(1)” “section 109” “section 113(1)” “section 114”	“section 121(1)” “section 122” “section 128(1)” “section 129”
Rule 7(1)	“section 119(4)”	“section 136(4)”
Rule 8	“section 121(1)”	“section 138(1)”
Rule 9(3)	“in the case of a parliamentary election petition the sheriff or mayor by whom the judges trying the petition are to be received and in any other case the clerk of the authority for which the election was held.”	“the returning officer.”
Rule 9(4)	“The said sheriff, mayor or clerk” “his county or borough or in the area of his authority, as the case may be.”	“The returning officer” “his constituency.”
Rule 9(5)	“the judge”	“the rota judge”
Rule 10(2)	“section 122(5)”	“section 139(5)”
Rule 11	“section 126(1)”	“section 146(1)”
Rule 16(1)	“section 134(1)”	“section 153(1)”
Rule 18(1)	“at assizes”	_____
Rule 19(1)	“section 106” “Order LXIV”	“section 119” “Order 3”
Rule 19(2)	“section 106(2)”	“section 119(2)”
Rule 21(2)	“section 162”	“section 184”
Schedule	“Representation of the People Act 1949” “section 109(2) or (3)” “section 114(2), (3) or (4)”	“Representation of the People Act 1983” “section 122(2) or (3)” “section 129(2), (3) or (4)”

(a) 1889 c.63.

(b) 1978 c.30.

(c) 1949 c.68.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Election Petition Rules 1960 so as—

- (1) to give effect to amendments to the Representation of the People Act 1983 contained in the Representation of the People Act 1985 by—
 - (a) requiring an application to be made within three days after the presentation of a parliamentary or local election petition to fix the security for costs to be given by the petitioner (Rule 2(1));
 - (b) requiring the petitioner, within five days after giving security, to serve on the respondent and the Director of Public Prosecutions, a copy of the petition and notice of its presentation, a copy of the affidavit accompanying any recognisance, and notice of the nature and amount of security that he has given (Rule 2(1));
 - (c) extending to 14 days the period within which the respondent may object to the petitioner's surety (Rule (2));
- (2) to extend the application of section 119 of the Representation of the People Act 1983 (computation of time) to the periods prescribed by Rules 5 and 6 (Rule 2(3));
- (3) to correct certain obsolete references (Rule 2(4)).

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