

2003 No. 1645 (L. 28)

MAGISTRATES' COURTS, ENGLAND AND WALES

PROCEDURE

**The Magistrates' Courts (Forfeiture of Political Donations)
Rules 2003**

<i>Made - - - - -</i>	<i>22nd June 2003</i>
<i>Laid before Parliament</i>	<i>27th June 2003</i>
<i>Coming into force - -</i>	<i>24th July 2003</i>

The Lord Chancellor, in exercise of the powers conferred upon him by sections 144 and 145(1)(g) of the Magistrates' Courts Act 1980(a) and section 60(1) of the Political Parties, Elections and Referendums Act 2000(b), after consultation with the Rule Committee appointed under section 144, makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Forfeiture of Political Donations) Rules 2003 and shall come into force on 24th July 2003.

(2) In these Rules—

- (a) a reference to a section by number alone or reference to a schedule by number alone is a reference to the section so numbered or schedule so numbered respectively in the Political Parties, Elections and Referendums Act 2000;
- (b) any reference to a form is a reference to a form set out in the Schedule to these Rules or a form to like effect.
- (c) “applicant” means the Commission.
- (d) “forfeiture order” means an order pursuant to section 58(2) and includes orders made under section 58(2) as applied by—
 - (i) paragraph 8 of Schedule 7;
 - (ii) paragraph 7 of Schedule 11;
 - (iii) paragraph 7 of Schedule 15; and
 - (iv) paragraph 7 of Schedule 2A to the Representation of the People Act 1983(c); or
 - (v) an order made under section 65(6); or
 - (vi) an order made under paragraph 12(4) of Schedule 7.
- (e) “respondent” means the registered party, regulated donee, recognised third party, permitted participant or candidate or election agent (as appropriate) respectively, against whom a forfeiture order is sought.

(a) 1980 c. 43; section 144 was amended by the Access to Justice Act 1999 (c. 22), section 78(2) and Schedule 11, paragraphs 26 and 29 and section 90(1) and Schedule 13, paragraphs 95 and 116 and by the Courts and Legal Services Act 1990 (c. 41), section 125(3) and Schedule 18, paragraph 25; section 144 is extended by section 145 of that Act.
(b) 2000 c. 41.
(c) 1983 c. 2; Schedule 2A was inserted by section 130(3) and Schedule 16 to the Political Parties, Elections and Referendums Act 2000.

- (f) “relevant petty sessions area” means the petty sessions area within which the Commission’s principal office is situated.

Application for forfeiture

2.—(1) An application for a forfeiture order shall be in Form A, A1, A2, A3, A4, B, or B1 as appropriate, and shall be addressed to the justices’ chief executive for the relevant petty sessions area.

(2) The justices’ clerk shall, as soon as reasonably practicable, fix a date for the hearing, give notice in writing to the applicant of it and give notice in writing to the respondent of the application and of the date, time and place fixed for the hearing.

Transfer

3.—(1) The court may, of its own initiative or on the application of any party to the proceedings, order that the hearing be transferred to the court of another petty sessions area having regard to—

- (a) whether it would be more convenient or fair for the hearing to be held in some other court;
- (b) the importance of the outcome of the hearing to the public in general;
- (c) the facilities available at the court where the application for a forfeiture order was lodged and whether they may be inadequate because of—
 - (i) any disability of any party to the proceedings or representative of any such party (as appropriate) or any potential witness;
 - (ii) press and public interest;
- (d) any other matters that may affect the just disposal of the hearing.

(2) If the court makes an order under paragraph (1) the justices’ chief executive shall give notice to the parties to the proceedings.

(3) Any order of the court made before the transfer of proceedings shall not be affected by the order for transfer.

Joinder

4.—(1) The court may order that any person who is not already a party to the proceedings (“the joined party”) be made one, if it thinks it is desirable to do so.

(2) The court may make an order under paragraph (1), on the application of an existing party to the proceedings, or otherwise, including of its own initiative.

(3) If the court makes an order under paragraph (1) the justices’ chief executive shall give notice to the parties to the proceedings.

(4) The court may give such further directions as to the joinder of the joined party as it thinks fit.

(5) If the court makes an order under paragraph (4) the justices’ chief executive shall give notice to the other parties to the proceedings.

Procedure at hearing

5.—(1) Any person—

- (a) to whom notice of the application has been given; or
 - (b) who has been joined as a party to the proceedings under rule 4;
- may attend and be heard on the question of whether a forfeiture order should be made.

(2) If any person referred to in paragraph (1) fails to attend or to be represented at the hearing of which he has been duly notified the court may unless it is satisfied that there is good and sufficient reason for such absence—

- (a) hear and determine the proceedings in the absence of the party to the proceedings or his representative, or
- (b) postpone or adjourn the hearing.

- (3) Before deciding to hear and determine any proceedings in the absence of a party to the proceedings or his representative, the court shall—
- (a) consider any representations in writing; or
 - (b) otherwise submitted by or on behalf of that party in response to the notice of the hearing; and
 - (c) shall give any party to the proceedings present at the hearing an opportunity to be heard in regard to those representations.
- (4) The justices' chief executive shall, as soon as reasonably practicable after the hearing, send a copy of any order made at the hearing to any person referred to in paragraph (1) who has failed to attend or to be represented at the hearing.
- (5) Subject to the foregoing provisions of these Rules—
- (a) proceedings on an application for a forfeiture order shall be regulated in the same manner as proceedings on complaint; and
 - (b) accordingly, for the purpose of this rule—
 - (i) the application shall be deemed to be a complaint;
 - (ii) the applicant to be the complainant;
 - (iii) the respondent to be the defendant; and
 - (iv) any notice given under rule 2(2) of these Rules to be a summons;but nothing in this rule shall be construed as enabling a warrant of arrest to be issued for failure to appear in answer to any such notice.

22nd June 2003

Falconer of Thoroton, C

SCHEDULE

Rule 2

FORM

Form A

Application for Forfeiture pursuant to section 58(2)—Registered Party

.....Magistrates' Court

.....Code

Date

.....(name of applicant) of.....(address of applicant) applies for an order for forfeiture pursuant to section 58(2) of the Political Parties, Elections and Referendums Act 2000, against(name of registered party) of.....(address of registered party) of an amount equal to the value of the donation made on.....and accepted by the registered party on....., on the following grounds:

To: The Justices' Chief Executive

.....Magistrates' Court

SCHEDULE

Rule 2

FORM

Form A1

Application for Forfeiture pursuant to section 58(2)—Regulated Donee

.....Magistrates' Court

.....Code

Date

.....(name of applicant) of.....(address of applicant) applies for an order for forfeiture pursuant to section 58(2) of the Political Parties, Elections and Referendums Act 2000, as applied by paragraph 8 of Schedule 7 to that Act against.....(name of regulated donee) of.....(address of regulated donee) of an amount equal to the value of the controlled donation made on.....and accepted by the regulated donee on....., on the following grounds:

To: The Justices' Chief Executive

.....Magistrates' Court

SCHEDULE

Rule 2

FORM

Form A2

Application for Forfeiture pursuant to section 58(2)—Recognised Third Party

.....Magistrates' Court

.....Code

Date

.....(name of applicant) of.....(address of applicant) applies for an order for forfeiture pursuant to section 58(2) of the Political Parties, Elections and Referendums Act 2000, as applied by paragraph 7 of Schedule 11 to that Act, against.....(name of recognised third party) of.....(address of recognised third party) of an amount equal to the value of the relevant donation made on.....and accepted by the recognised third party on....., on the following grounds:

To: The Justices' Chief Executive

.....Magistrates' Court

SCHEDULE

Rule 2

FORM

Form A3

Application for Forfeiture pursuant to section 58(2)—Permitted Participants

.....Magistrates' Court

.....Code

Date

.....(name of applicant) of.....(address of applicant) applies for an order for forfeiture pursuant to section 58(2) of the Political Parties, Elections and Referendums Act 2000, as applied by paragraph 7 of Schedule 15 to that Act, against.....(name of permitted participant) of.....(address of permitted participant) of an amount equal to the value of the relevant donation made on.....and accepted by the permitted participant on....., on the following grounds:

To: The Justices' Chief Executive

.....Magistrates' Court

SCHEDULE

Rule 2

FORM

Form A4

Application for Forfeiture pursuant to section 58(2)—Candidates or Election Agents

.....Magistrates' Court

.....Code

Date

.....(name of applicant) of.....(address of applicant) applies for an order for forfeiture pursuant to section 58(2) of the Political Parties, Elections and Referendums Act 2000, as applied by paragraph 7 of Schedule 2A to the Representation of the People Act 1983, against.....(name of candidate/election agent as appropriate) of.....(address of candidate/election agent as appropriate) of an amount equal to the value of the relevant donation made on.....and accepted by the candidate/election agent (delete as appropriate) on....., on the following grounds:

To: The Justices' Chief Executive

.....Magistrates' Court

SCHEDULE

Rule 2

FORM

Form B

Application for Forfeiture pursuant to section 65(6)—Registered Party

.....Magistrates' Court

.....Code

Date

.....(name of applicant) of.....(address of applicant) applies for an order for forfeiture pursuant to section 65(6) of the Political Parties, Elections and Referendums Act 2000, against.....(name of registered party) of.....(address of registered party) of an amount equal to the value of the donation made on.....and accepted by the registered party on....., on the following grounds:

To: The Justices' Chief Executive

.....Magistrates' Court

SCHEDULE
FORM

Rule 2

Form B1

Application for Forfeiture pursuant to paragraph 12(4) of Schedule 7—Regulated Donee

.....Magistrates' Court

.....Code

Date

.....(name of applicant) of.....(address of applicant) applies for an order for forfeiture pursuant to paragraph 12(4) of Schedule 7 to the Political Parties, Elections and Referendums Act 2000, against.....(name of regulated donee) of.....(address of regulated donee) of an amount equal to the value of the controlled donation made on.....and accepted by the regulated donee on....., on the following grounds:

To: The Justices' Chief Executive

.....Magistrates' Court

EXPLANATORY NOTE

(This note is not part of the Rules)

The Political Parties, Elections and Referendums Act 2000 (“the Act”) establishes the Electoral Commission and makes provision in particular about the registration and finances of political parties and also makes provision about donations and expenditure for political purposes.

These Rules prescribe the procedure for applications by the Electoral Commission for forfeiture from registered parties, regulated donees, recognised third parties, permitted participants in referendums or candidates or election agents of amounts equal to the value of any prohibited donations.

These Rules also prescribe the procedure for applications for forfeiture in certain other circumstances of amounts equal to the value of donations to registered parties or controlled donations to regulated donees.

Rule 2 prescribes the procedure to be followed when an application for forfeiture is made.

Rule 3 deals with transfer.

Rule 4 deals with joinder of parties to the proceedings.

Rule 5 deals with the procedure to be followed at the hearing of an application for an order for forfeiture.

In addition the Rules prescribe the Forms to be used in connection with the various forfeiture applications.

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