

**CHAPTER 7****PARLIAMENTARY ELECTIONS****PART I****Subsidiary Legislation made under the Representation of the People Act, 1969****ELECTIONS REGISTRATION APPEAL RULES***G.N. 222/1959***(SECTION 22)***[Commencement 24th October, 1959]*

1. These Rules may be cited as the Elections Registration Appeal Rules. Short title.

2. The provisions of the Magistrates Act relating to appeals shall apply *mutatis mutandis* to an appeal from a decision of a revising officer given in pursuance of the provisions of section 22 of the Representation of The People, as if the decision was that of a magistrate. Provisions of Ch. 54 to apply.

3. Notwithstanding the aforesaid provisions of the Magistrates Act relating to appeals, the Attorney-General or the Solicitor General shall have a right of audience at the hearing of any appeal from a decision of a revising officer. Right of audience.

**<sup>1</sup>ELECTION COURT RULES****(SECTIONS 64(3) and 87)***S.I. 5/1967**[Commencement 10th January, 1967]*

1. These rules may be cited as the Election Court Rules. Title.

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<sup>1</sup> Originally made under section 88 of the House of Assembly Election Act (No. 39 of 1959.)

Interpretation.

**2.** In these Rules, unless the context otherwise requires —

“Act” means the Representation of the People Act;

“Election Court” means an election court appointed in accordance with Article 51 of the Constitution and section 75 of the Act;

“election petition” means a petition presented in accordance with sections 76 to 79 of the Act;

“membership petition” means a petition presented in accordance with section 85 of the Act;

“petition” means either an election petition or a membership petition;

“Registrar” means the Registrar of the Supreme Court;

“returning officer” means the returning officer of any constituency to which a special application on an election petition relates;

“special application” means an application made to an Election Court in accordance with section 64 of the Act.

Supreme Court practice applicable.

**3.** Subject to the provisions of the Constitution, the Act and these Rules, the practice and procedure of the Supreme Court, including the rules relating to the discovery and inspection of documents and the delivery of interrogatories, shall apply to all proceedings before an Election Court as if they were civil proceedings before the Supreme Court on its Common Law Side.

### ELECTION PETITIONS

Form of election petition.

**4.** Every election petition shall be in Form A in the Schedule to these Rules with such variations as the circumstances of the case may require and shall state —

- (a) in which of the capacities mentioned in section 76 of the Act the petitioner presents the petition;
- (b) the date and result of the election to which the petition relates showing the date on which the return was made to the Parliamentary Registrar of the member or members declared to have been elected;

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- (c) that leave has been granted pursuant to section 78 of the Act for the presentation of the petition, giving the date and the name of the judge of the Supreme Court granting the same;
  - (d) the nature of the relief claimed by reference to section 77 of the Act, and
  - (e) the grounds on which such relief is sought, setting out with sufficient particularity the facts relied on but not the evidence by which they will be proved.

**5.** Every member of the House of Assembly whose election or return is complained of in an election petition, shall be made a respondent thereto and, if a petitioner complains of the conduct of a returning officer, he shall make that officer an additional respondent to the petition.

Respondents to election petitions.

**6.** (1) All recognizances as security for costs shall be acknowledged before the Registrar or any magistrate.

Recognizances.

(2) Each surety shall be required to satisfy the Registrar or the magistrate, as the case may be, that, after paying all his debts, he is worth a sum not less than that for which he is bound.

**7.** Service of all documents required by section 78 of the Act shall be effected in the same manner in which a writ of summons in the Supreme Court is served, and the petitioner shall cause every respondent, and the Attorney-General, to be served therewith in accordance with subsection (3) of that section within five days after the presentation of the petition.

Service of documents.

**8.** (1) Where any respondent intends to object to a recognizance on any ground specified in section 78(4) of the Act, he shall, within five days of the service on him of the notice referred to in that subsection, serve on the petitioner notice of his objection stating the grounds thereof and issue and serve on the petitioner a summons to determine the validity or otherwise of the objection.

Objections to recognizances.

(2) The summons shall be heard in chambers by the Registrar, subject to an appeal to a judge within five days of the Registrar's decision.

(3) If the objection is allowed, the Registrar or judge shall, at the same time, determine what sum of money will make the security sufficient, and the petitioner may, within five days thereafter, remove the objection by deposit of the sum.

List of petitions.

**9.** A list of all election petitions which issue shall be kept by the Registrar and shall be conspicuously displayed at the Registry of the Supreme Court.

### MEMBERSHIP PETITIONS

Form.

**10.** Every membership petition shall be in Form B. in the Schedule to these Rules and shall state —

- (a) in which of the capacities mentioned in section 85(2) of the Act the petitioner presents the petition;
- (b) that leave has been granted for presentation of the petition, giving the date and the name of the judge of the Supreme Court granting the same;
- (c) the nature of relief claimed, and
- (d) the grounds upon which such relief is sought, setting out with sufficient particularity the facts relied on but not the evidence by which they are to be proved.

Respondent to membership petition.

**11.** The member of the House of Assembly in respect of whose membership a membership petition is presented, shall be made a respondent to such petition and service of the petition upon him shall be effected in the same manner in which a writ of summons in the Supreme Court is served.

Security.

**12.** Every petitioner, other than the Attorney-General, shall, on presentation of a membership petition, deposit with the Registrar in legal tender security for the costs of the proceedings in the sum of \$1429.57.

### TRIAL OF PETITIONS

Notice of hearing.

**13.** (1) Within twenty-eight days of the presentation of a petition, the petitioner shall apply by summons to a judge for a time to be fixed for the trial of the petition, and, if he fails to do so, any respondent may, within a further period of twenty-eight days, apply in the same manner as the petitioner could have done.

(2) If no application is made in accordance with paragraph (1) of this rule, the Registrar shall refer the matter to a judge who shall thereupon fix such a time.

(3) Not less than fourteen days before the day so fixed, the Registrar shall cause a notice of the time of trial to be publicly displayed and sent by post to the petitioner, to each respondent and to the Attorney-General.

**14.** (1) Where an election petition claims a seat for an unsuccessful candidate on the ground that he had a majority of lawful votes, every party shall, not less than seven days before the date fixed for trial, file a list of votes which he contends were wrongly admitted or rejected, stating in respect of each such vote the grounds of his contention, and serve a copy of the list on every other party.

List of particulars.

(2) Where a respondent to an election petition complaining of undue election and claiming the seat for some other person intends to give evidence to prove that that other person was not duly elected, he shall, not less than seven days before the date fixed for trial, file a list of his objections to the election of that person on which he intends to rely and serve a copy of the list on every other party.

(3) Except by leave of the Election Court —

- (a) no evidence shall be given by a party against the admission or rejection of any vote or as to any ground of contention which is not specified in a list filed by him pursuant to paragraph (2) of this rule, and
- (b) no evidence shall be given by a respondent of any objection to a person's election which is not specified in a list filed by him pursuant to paragraph (2) of this rule.

**15.** (1) An application for leave to withdraw an election petition shall be made on motion to the Election Court and, not less than seven days before the day appointed for the hearing thereof, the petitioner shall serve notice of motion on each respondent, the returning officer if he is not a respondent, and the Attorney-General.

Withdrawal of election petition.

(2) The notice of motion shall state the grounds on which the application to withdraw is made and contain a

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statement to the effect that, on the hearing of the application, any person who might have been a petitioner in respect of the election, may apply to the Election Court to be substituted as a petitioner.

(3) The returning officer shall upon receipt of the notice forthwith publish it in his constituency.

(4) Where on the hearing of the application a person is substituted as petitioner, any security required to be given by him shall be given within three days of the order of substitution.

Scrutiny.

**16.** At the trial of any election petition, where the Election Court sees fit to order a scrutiny of votes, the Court shall adjourn the proceedings into chambers and give such other directions as to the conduct of the scrutiny as will conduce to the ends of justice, having due regard for preservation of the secrecy of the ballot.

### SPECIAL APPLICATIONS

Form of special application.

**17.** (1) Every special application shall be signed by the candidate making the same or by his attorney and shall be filed with the Registrar within the time specified by section 64(2) of the Act.

(2) Every special application shall be made by way of originating summons which shall be served upon every other candidate nominated in respect of the election in the constituency concerned.

(3) Any other nominated candidate in such constituency may, within eight days of the service upon him of the summons, enter appearance thereto by filing a notice of appearance in Form C to these Rules in the Registry of the Supreme Court.

Notice of hearing.

**18.** Within fourteen days of the filing of any special application, the applicant shall apply by summons to a judge for a time to be fixed for the trial of the issues raised thereby and, if he fails to do so, the Registrar shall refer the matter to a judge who shall thereupon fix such a time.

Procedure on hearing.

**19.** At the hearing of any special application, where the Election Court is satisfied that the validity of any protest votes ought to be determined by a scrutiny, the Court shall adjourn the proceedings into chambers and

give such other directions as to the conduct of the scrutiny as will conduce to the ends of justice, having due regard for the preservation of the secrecy of the ballot.

**MISCELLANEOUS**

**20.** Every certificate signifying a determination of an Election Court shall be signed by the Registrar and shall be forthwith transmitted by him to the proper authority to receive the same.

Certificates of Election Court.

**SCHEDULE**

**FORM A (Rule 4)**

**ELECTION PETITION**

BAHAMA ISLANDS  
IN THE ELECTION COURT

IN THE MATTER OF the Representation of the People Act (Chapter 7.)

AND

IN THE MATTER OF an Election for the .....  
Constituency held on the ..... day of ..... 19 .....

\_\_\_\_\_ shows —

1. That the Petitioner, A.B., is a person who voted (or had a right to vote) at the above election (or was a candidate at the above election) (or claims to have had the right to be returned or elected at the above election).

2. That the election was held on the ..... day of ..... 19 ..... when E.F., etc., etc., were candidates, and on the ... day of ..... 19 ..... the Returning Officer returned .... (and ..... ) to the Parliamentary Registrar as being duly elected.

3. That (state facts on which Petitioner relies).

The Petitioner therefore prays-

(1) That it may be determined that the said ..... (and ..... ) was/were not duly returned and that the election was void (or that the said ..... and ..... was/were duly elected and ought to have been returned)

(2) (Where appropriate) That there may be a scrutiny of the votes cast at the election.

(3) That the Petitioner may have such further or other remedy as may be just.

DATED this ..... day of ..... 19 .....

(Signed)

Petitioner.

This Petition was presented by ..... whose address for service is .....

(Solicitor for the said Petitioner)

It is proposed to serve a copy of this Petition on ..... of ..... (and ..... of .....) and on the Attorney-General.

### FORM B (Rule 10)

#### MEMBERSHIP PETITION

BAHAMA ISLANDS  
IN THE ELECTION COURT

IN THE MATTER OF the Representation of the People Act  
(Chapter 7.)

AND

IN THE MATTER OF the Member for the ..... Constituency.

The Petition of ..... of ..... shows —

1. That the Petitioner is the Attorney-General of The Bahamas (or is a Member of the House of Assembly for the ..... Constituency) (or is a person who is a registered voter for the ..... Constituency)

2. That by reason of the matters hereinafter set out the Member of the House of Assembly for the Constituency has vacated his seat (or is required in pursuance of Article 49 of the Constitution to cease to exercise his functions as a member of that House).

3. That (state the facts on which the Petitioner relies)

The Petitioner therefore prays —

(1) That it may be determined that the said ..... has acted (claimed to act) as a member of the House of Assembly while disqualified from so acting (or while required to cease to exercise any of his functions as such member).



(2) That the member for the said Constituency has vacated his seat and that the said seat is now vacant.

(3) An injunction restraining ..... from acting as a member of the House of Assembly until further order.

(4) That the Petitioner may have such further or other relief as may be just.

DATED this ..... day of ..... 19 .....

(Signed)

Petitioner.

This Petition was presented by ..... whose address for service is .....

(Solicitor for the said Petitioner)

It is proposed to serve a copy of this Petition on ..... of ..... (and ..... of ..... ) (and on the Attorney-General)

**FORM C (Rule 17)**

**APPEARANCE TO SPECIAL APPLICATION**

(Heading as in Originating Summons)

**NOTICE OF APPEARANCE**

Please enter an appearance in these proceedings for C.D. of ..... a candidate nominated in respect of the election in the ..... Constituency.

DATED this ..... day of ..... 19 .....  
(Signed)

Respondent

(Or Attorney for the above Respondent)  
whose address for service is.....