

Election Offences and Controversies

Cap. 3.

**ELECTION OFFENCES AND CONTROVERSIES
RULES, 1959**L.N. 1959/
25.

Made by the Judicial Advisory Council under section 64 of the Election Offences and Controversies Act.

Cap. 3.

Preliminary

1. These Rules may be cited as the Election Offences and Controversies Rules, 1959. Short title.

2. (1) The Interpretation Act shall apply to these rules as if they were an Act. Interpretation.

(2) In these rules—

Cap. 1.

“Registry” means the Registry of the Supreme Court;

“Court” means the Supreme Court of Barbados;

“Judge” means a Judge of the Court, and includes the Chief Justice;

“Registrar” means the Registrar of the Supreme Court, and includes the Deputy Registrar.

3. The fees prescribed in Appendix A to these rules shall be received and taken by the Registrar in respect of proceedings mentioned therein. Fees of Court.

4. The Registrar when taxing the fees for professional legal services in proceedings under the Act shall, so far as the same are applicable, adhere to the provisions of Order 50, Rule 7 (1) of the Rules of the Supreme Court, 1958. Legal practitioners fees.

5. So far as the same are applicable, the provisions of Order 50, Rules 52 to 56 inclusive, of the Rules of the Supreme Court, 1958, shall apply to the taxation of costs upon proceedings brought under the Act. Taxation of costs.

6. In all proceedings under the Act, the parties may appear in person or be represented by an attorney-at-law. Right of audience.

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Notice of
date of time
and place of
hearing.

7. (1) The Registrar shall give notice of the time and place of hearing of a petition by causing a notice of such time and place to be exhibited on the notice board of the Supreme Court and by causing a copy thereof to be served personally on the parties to the petition.

(2) Where personal service cannot be effected, the Registrar shall cause the copy of the notice to be served in such manner as may be directed by the Judge.

Petitions

Form of
petition.

Form 1.

8. Every petition shall be addressed “ To the Supreme Court of Barbados ”. It shall be in the form set out in Appendix B to these rules with such variations as the particular circumstances may require.

Presentation
of petition.

9. A petitioner shall present his petition by leaving the same at the Registry and shall at the same time leave as many copies thereof as there are respondents, and in addition shall leave two copies for the use of the Court.

Address for
service.

10. (1) A petitioner presenting a petition in person shall endorse upon the petition before presenting the same some place to be called his address for service at which all notices and other documents may be left for him.

(2) An attorney-at-law presenting a petition on behalf of a petitioner shall endorse on the petition before the same is presented his name or that of his firm, together with the address of his place of business, to be called his address for service, where all notices and other documents may be served or left.

Power of
Registrar
to refuse
petition.

11. The Registrar shall be entitled to refuse any petition which does not comply with any of the foregoing rules.

Filing of
proceedings.

12. All petitions, notices, summonses, orders or other documents filed in or issued from the Registry under these rules shall be stamped with the seal of the Court and shall bear the date of the filing or issuing thereof. Copies of all documents of which the original is sealed with the seal of the Court shall also be sealed and handed back to the party filing the same.

13. (1) The Registrar shall upon presentation of the petition exhibit a copy thereof on the notice board of the Registry and cause notice of the presentation thereof to be published in a newspaper for three consecutive days. Such notice shall be in the form set out in Appendix B to these rules.

Notice and publication of petition.

Form 2.

(2) The cost of publishing this and any other matter required to be published shall be paid by the petitioner or person moving in the matter and shall form part of the general costs of the petition.

14. (1) A petitioner shall after the presentation of the petition serve the respondent personally with a notice in the form in Appendix B of the presentation of the petition and of the nature of the proposed security together with a copy of the petition. A copy of this notice shall be filed together with an affidavit of the time and manner of service thereof.

Service of petition.

Form 3.

(2) Where personal service cannot be effected, service in some other manner may be permitted by the Judge on an application *ex parte* by affidavit made within five days after failure to effect such service.

Substituted service.

15. When a petition or copy thereof is served upon a respondent he shall within five days of such service deliver or leave at or send to the Registry an address for service where all notices, summonses or other documents in the proceedings may be left for him. If the respondent fails to comply with the provisions of this rule, service of any document upon him shall be sufficient if filed in the Registry.

Respondent's address for service.

16. (1) Recognizance for security for costs shall be in the form in Appendix B with such variations as circumstances may require.

Recognizance for security for costs.

Form 4.

Form 5.

(2) Except where the Registrar otherwise directs, sureties to a recognizance shall justify.

17. A deposit of money by way of security shall be made by lodging the same with the Registrar, who shall deposit the same to the account of the Registrar of the Supreme Court pending the final determination of the petition. Payment thereof shall be made on the direction of a Judge.

Security by way of deposit.

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Hearing of objections.

18. An objection to a recognizance by an original petitioner shall be heard and determined by the Registrar by summons taken out by either party to declare the security sufficient or insufficient. Such hearing may either be by affidavit or by the examination of witnesses, or both, as the Registrar shall think fit.

Cost of proceedings on objection.

19. (1) The costs of hearing and determining objections made to the security given by an original petitioner shall be paid as ordered by the Registrar.

(2) An order of the Registrar for payment of costs shall be enforceable in the same manner as an order made by a Judge, and for this purpose may be made a rule of the Court.

(3) An appeal shall lie to a Judge in chambers from a decision of the Registrar on an objection to security for costs.

(4) Such appeal will lie at the request of the party desiring to appeal by notifying the Registrar in writing of his intention within three days of the decision.

(5) Upon receipt of the notice of appeal, the Registrar shall place all relevant documents before a Judge in chambers, who shall appoint a day for hearing the appeal.

Application for particulars.

20. (1) Evidence need not be stated in the petition, but the Court or Judge may upon application by summons order such particulars as may be necessary to prevent surprise and unnecessary expense, and to ensure a fair and effectual trial and upon such terms as to costs or otherwise as may be ordered.

(2) Before applying for particulars, the party desiring the same shall by letter request the petitioner to furnish the required particulars within five days, and a summons for particulars shall not issue until the expiration of that time.

Title of proceedings. Form 6A, 6B.

21. All proceedings shall be intitled as nearly as possible in the manner set out in the appropriate form in Appendix B.

Notice of trial. Form 7.

22. (1) Notice of trial may be in the form in Appendix B.

(2) Such notice shall be sent by the Registrar by registered post to the address for service of the parties to the petition and shall not be vitiated by any miscarriage thereof if properly directed to a party at his address for service.

23. Notice of withdrawal of a petition shall be in the form in Appendix B and filed in the Registry. A copy of such notice shall be served on the respondent.

Notice of withdrawal.
Form 8.

24. (1) Application to a Judge by any person to be substituted as a petitioner shall be by summons accompanied by an affidavit sworn to by the applicant or by his attorney-at-law, setting forth the nature of the deposit to be given by the applicant in the event of his being substituted as a petitioner and specifying some place to be called his address for service at which the notice and other documents may be left for him.

Substitution of another petitioner.

(2) A copy of the summons for leave to be substituted together with a copy of the affidavit as to the nature of the intended deposit shall at the same time as the application is made to the Judge be served by the applicant on every respondent to the petition, or, if personal service cannot be effected, then in such other manner as may be permitted by the Judge on an application *ex parte* by affidavit made within five days after failure to effect such service.

(3) Recognizance as security for costs shall be in the form in Appendix B to these rules with such variations as circumstances may require.

Form 4.

(4) Except where the Registrar otherwise directs, sureties to a recognizance shall justify.

25. Where a petition has become abated by the death of a petitioner or a surviving petitioner, the Registrar on receipt of notice of such death shall publish in a daily newspaper notice of such abatement. The Registrar shall cause a copy of such notice to be exhibited at every police station in the constituency to which the petition relates.

Notice of abatement of petition.

26. (1) Application to a Judge by a person to be substituted as a petitioner shall be by summons and shall be made within fourteen days of the publication of the notice of abatement.

Substitution of petitioner on abatement.

(2) The summons shall be accompanied by an affidavit sworn to by the applicant or his attorney-at-law setting forth the nature of the deposit to be given by the applicant in the event of his being substituted as a petitioner, and specifying

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some place, to be called his address for service, at which the notice and other documents may be left for him.

(3) The provisions of rule 24 (2), (3) and (4) shall apply to an application under this rule.

Notice of
intention not
to oppose
petition.
Form 9.

27. (1) A respondent who does not intend to oppose a petition shall give notice to the Registrar in the form in Appendix B.

(2) Such respondent shall at the same time leave as many copies of the notice as there may be parties to the petition, and the Registrar shall forthwith send a copy thereof by registered post to each of the parties thereto, and shall also publish the same in a daily newspaper.

(3) The Registrar shall forthwith on receipt of such notice cause a copy thereof to be exhibited at every police station in the constituency to which the petition relates.

Time within
which to
apply for
admission as
a respondent.

28. The time for applying to be admitted as a respondent in any of the events mentioned in paragraphs (a) and (b) of subsection (1) of section 49 of the Act shall be within fourteen days after such notice is published as hereinbefore provided, or such further time as the Judge may allow.

Regulation
for writing
etc.

29. Every document required by these rules to be filed in the Registry, and the copy of every document supplied for the use of the Court, shall be legibly written, typewritten, or printed in blue or black upon thick white foolscap paper of good quality, with an inner margin of not less than two inches wide and an outer margin of about half an inch. Copies for use of the Court may, instead of being written, be typewritten or printed, or be photographic copies of the same size as the original document.

Affidavit to
support
summons.

30. Every application by summons under these rules shall be supported by an affidavit which shall state concisely the facts upon which the applicant relies in support of his application.

APPENDIX A

Rule 3.

**FEES OF COURT IN PROCEEDINGS UNDER THE
ELECTION CONTROVERSIES ACT**

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	\$	¢
1. On presenting a General Assembly petition	10.00	
2. On Recognizance	2.50	
3. On objection to Recognizance, an inclusive fee (including filing etc.)	5.00	
4. On application by Summons (including hearing and Order) ..	5.00	
5. On application <i>ex parte</i> , an inclusive fee	3.00	
6. On filing any document	1.00	
7. On Sealing and Certifying any copy	1.00	
8. On Certifying any document as an office copy	0.50	
9. On Sealing Writ of Subpoena not exceeding three persons ..	1.50	
10. For office copy of document filed in Registry		
(1) Where copies are provided, per folio	0.05	
(2) Where copies are not provided, per folio	0.15	
11. For swearing Affidavit	0.50	
12. On taxation of any Bill of Costs including Certificate	3.00	
13. For preparing any notice for publication in a newspaper ..	1.50	
14. Advertisement	As paid	

APPENDIX B

Rule 8.

FORM 1*Petition in Respect of a General Assembly Election*

The petition of (here insert name or names and address or addresses) sheweth as follows—

1. Your petitioner is a person who voted (or had a right to vote, as the case may be) at the above election (or claims to have a right to be elected or returned at the above election) or was a candidate at the above election.
2. Your petitioner states that the election was held on the day of 19 when (name of candidate or candidates) were candidates and the returning officer has returned X as duly elected.
3. Your petitioner states that (here set out the facts and grounds on which petitioner relies).

Wherefore your petitioner prays that it might be determined (here state relief prayed for).

Dated this day of 19 .
Petitioner.

The address for service for the petitioner is

The attorney-at-law for the petitioner is whose address for service is

Where there is more than one petitioner the plural is to be used.

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Rule 13 (1).

FORM 2

Notice of Filing of Petition

Notice is hereby given that a petition has been presented to the Supreme Court in respect of the abovementioned election and a copy of such petition is exhibited on the notice board of the Registry and may be inspected by any person interested.

Dated this _____ day of _____ 19 ____ .
Registrar.

Rule 14 (1).

FORM 3

Notice to Respondent of Presentation of Petition

TAKE NOTICE that a petition has been presented to the Supreme Court in respect of the abovementioned election and FURTHER TAKE NOTICE that the security proposed in respect of the abovementioned petition is (by way of deposit of \$ _____ or by recognizance with _____ of _____ as surety). A copy of the petition is hereto annexed.

Dated this _____ day of _____ 19 ____ .
Petitioner or Petitioner's attorney-at-law.

To the abovenamed Respondent.

Rule 16 (1).

FORM 4

Recognizance as Security for Costs

We the undersigned A. B. of _____, C. D. of _____ and E. F. of _____ severally acknowledge ourselves to owe to Our Sovereign Lady the Queen the several following sums, namely, the said A. B. as principal the sum of \$ _____ and the said C. D. and E. F. as sureties the sum of \$ _____ to be levied on our several personal and real property respectively if the said A. B. fails in the condition hereon endorsed.

(Signed) A. B.
 C. D.
 E. F.

Taken before me this _____ day of _____ 19 ____ .

Registrar.

CONDITION ENDORSED

The condition of the within written recognizance is such that if the within bounden A. B. duly prosecutes the petition which he has presented to the Supreme Court and satisfies any judgment which may be pronounced against him by the said Court in respect of the said petition, including the payment of all costs thereof and in all other respects abides the decision made on the said petition, then the said recognizance shall be void but otherwise shall remain in full force.

FORM 5

Rule 16 (2).

Affidavit for Justification of Surety

I, C. B. of _____ make oath and say that I am well
and truly worth after payment of all my debts and obligations the sum of
\$ _____

Sworn to before me this _____ day of _____ 19 _____ .

FORM 6A

Rule 21.

Title of Proceedings

IN THE SUPREME COURT OF BARBADOS.
IN THE MATTER of the Election Offences and Controversies Act,

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Election for (state constituency or electoral area) holden on the
day of _____ 19 _____ .

BETWEEN

(Name and address) *Petitioner.*

and

(Name and address) *Respondent.*

FORM 6B

Rule 21.

Title of Proceedings

IN THE SUPREME COURT OF BARBADOS.
IN THE MATTER of the Election Offences and Controversies Act,

Cap. 3.

Election for (here state nature of office) for Council (here state City or
District Council) holden on the _____ day of _____
19 _____ .

BETWEEN

(Name and address) *Petitioner.*

and

(Name and address) *Respondent.*

FORM 7

Rule 22 (1).

Notice of Trial

TAKE NOTICE that the above petition will be tried at the Supreme Court
at the Law Courts on the _____ day of _____ 19 _____
and such other subsequent days as may be necessary.

Dated this _____ day of _____ 19 _____ .

By Order, _____
Registrar.

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Rule 23.

FORM 8

Notice of Withdrawal of Petition

The petitioner (or petitioners) hereby gives you notice that the petition filed in the above suit is hereby withdrawn.

Dated this day of 19 .

Petitioner.

To the Registrar.

Rule 27.

FORM 9

Notice of Intention Not to Oppose Petition

TAKE NOTICE that the abovenamed respondent does not intend to oppose the petition filed herein.

Dated this day of 19 .

Respondent.

To the Registrar.