

PUBLIC NOTICE

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THE ELECTORAL PROVISIONS ACT, 1962 (Act No. 14 of 1962)

THE ELECTION PETITION RULES, 1986

Short title.

In exercise of the powers conferred on the Chief Justice by section 62 of the Electoral Provisions Act, 1962 (Act No. 14 of 1962) the following Rules are hereby made:—

PRELIMINARY

1. In these Rules unless the context otherwise requires—

“Act” means the Electoral Provisions Act, 1962 (Act No. 14 of 1962);

“Master” means the Master and Registrar and includes a Deputy Master and Registrar;

“Member” means a member of Parliament or of a Local Authority.

Interpre-
tation.

PETITIONS

2. (1) The presentation of an Election Petition shall be made by filing it at the office of the Master.

Presentation
of petition.

(2) The petitioner shall supply the Master three additional copies of the petition.

(3) The Master shall deliver one each of the additional copies of the petition to the Returning Officer and the Electoral Commission respectively as prescribed by Rule 12 of these Rules.

(4) The Master shall give a receipt for the petition and the said additional copies thereof; and the receipt may be in Form A of the Schedule to these Rules.

3. (1) An election petition shall state the right of the petitioner to petition within section 59 of the Act.

Contents
of petition.

(2) It shall also state the holding and result of the election and shall briefly state the facts and grounds relied on to sustain the prayer.

Division
into
paragraphs.

4. (1) The petition shall be divided into paragraphs, each of which as nearly as may be, shall be confined to a distinct portion of the subject.

(2) Every paragraph of the petition shall be numbered consecutively.

(3) No costs shall be allowed for drawing or copying any petition which is not substantially in conformity with this rule unless otherwise ordered by the Court or a Judge.

Prayer.

5. (1) The petition shall conclude with a prayer as for instance that some specific person shall not be declared duly returned or elected or that the vote shall be recounted or that the election should be declared void, as the case may be.

(2) The petition shall also be signed by all the petitioners by whom it is presented.

Form of
petition.

6. The petition may be in Form B in the Schedule to these Rules.

Particulars.

7. Evidence need not be stated in the petition, but the Court or Judge may order such particulars as may be necessary to prevent surprise and unnecessary expense, and to ensure a fair and effectual trial in the same way as in ordinary proceedings in the High Court and upon such terms as to costs and otherwise as may be ordered.

PETITION AGENTS AND ADDRESSES FOR SERVICE

Name of
petitioner,
agent and
address for
service.

8. (1) With the petition the petitioner shall leave at the offices of the Master a writing, signed by him or on his behalf, giving the name of some person entitled to practise as a Barrister and Solicitor whom he authorises to act as his agent or stating that he acts for himself as the case may be, and in either case giving an address within one mile of the Master's Office, at which notices addressed to him may be left.

(2) Where no such writing is left or where no such address is given, then all notices and proceedings may be given and served respectively by sticking them up at the Master's Office in the manner described in subrule (3) of rule 33 of these Rules.

Name of
member's
agents
and
address for
service.

9. (1) Any person returned as a member may, at any time after he is returned, send or leave at the office of the Master a writing signed by him or on his behalf, appointing a person entitled to practise as a Barrister and Solicitor to act as his agent in case there is a petition against him or stating that he intends to act for himself and in either case giving an address within one mile of the Master's office at which notices may be left.

(2) Where no such writing has been left within seven days after service of the petition, then notices and proceedings may be given and served respectively by sticking them up at the Master's office in the manner described in subrule (3) of rule 33 of these Rules.

10. An agent employed for the petitioner or respondent under Rule 8 or 9 of these Rules shall, forthwith, leave written notice at the office of the Master of his appointment to act as such agent and service of notices and proceedings upon that agent shall be sufficient for all purposes. Notice of agent's appointment.

11. (1) The Master shall keep a book or books at his office in which he shall enter all addresses and the names of agents given under Rule 8, 9 or 10 of these Rules. Master's book of addresses and agents.

(2) Any such book shall be open for inspection by any person during office hours.

NOTICES, ETC.

12. (1) The Master shall, upon the presentation of the petition, forthwith, send to the Electoral Commission and the Returning Officer a copy of the petition, and shall send therewith, the name of the petitioner's agent, if any, and the address, if any, given as prescribed by these Rules, and also the name of the respondent's agent and the address, if any, given as so prescribed. Notification to Electoral Commission and Returning Officer.

(2) The Master shall also, within seven days after the presentation of the petition, publish those particulars in the *Gazette* along with the petition as he considers necessary.

(3) The cost of the publication under this rule and of any other matter required to be published by the Master or the Returning Officer shall be paid by the petitioner or person moving in the matter, and shall form part of the general costs of the petition.

13. (1) The petitioner shall, within ten days after presentation of the petition, exclusive of the day of presentation, serve on the respondent notice of— Time limit for service.

- (a) the presentation of the petition; and
- (b) full compliance with the provisions of Rule 18 of the Rules as to the giving of security for costs.

(2) The notice shall be accompanied by a copy of the petition.

How service effected.

14. (1) Where the respondent has named an agent or given an address, the service of an election petition may be by delivery of it to the agent, or by posting it in a registered letter to the address given at such time that in the ordinary course of post it would be delivered within the prescribed time.

(2) In any other case the service must be by personal service on the respondent unless a Judge, on an application made to him not later than fourteen days after the petition is presented, an affidavit showing what has been done, is satisfied that all reasonable effort has been made to effect personal service and cause the matter to come to the knowledge of the respondent, in which case, the Judge may order that what has been done shall be considered sufficient service subject to such conditions as he may consider reasonable.

Evasion of service.

15. In the case of evasion of service, the sticking up of a notice in the office of the Master in the manner described in sub-rule (3) of rule 33 of the petition having been presented stating the petitioner, the prayer and that the provisions of rule 18 of these Rules as to the giving of security for costs have been fully complied with, shall be deemed equivalent to personal service if so ordered by a Judge.

Filing of orders etc.

16. (1) Every order shall, except where the Court or Judge otherwise directs, be filed with the Master by the party who obtained it, within three days after obtaining it.

(2) Every particular delivered shall be filed with the Master by the party by whom it was delivered within three days after it was delivered.

Affidavit of service.

17. Within seven days after notice of the presentation of a petition has been served under these Rules, there shall be filed with the Master by or on behalf of the petitioner, an affidavit of time and manner of service of the petition.

SECURITY FOR COSTS

Security for costs.

18. (1) At the time of presentation of a petition, the petitioner shall give security for the payment of all costs, charges and expenses which may become payable by him to any witness summoned on his behalf or to any respondent.

(2) The security shall be in the form of a deposit of the sum of five thousand leones and by recognisances of the same amount entered into by not more than four sureties so, however that the petitioner may deposit money in lieu of any recognisance.

19. The deposit of money by way of security for payment of costs, charges and expenses payable by the petitioner shall be made by payment to the Master, who shall forthwith pay any amount so deposited into the Treasury and he shall obtain a separate receipt for every amount so deposited. Furnishing of security by deposit of money.

20. The Master shall file the receipt referred to in rule 19 and shall keep a book open to inspection of all parties concerned, in which shall be entered from time to time the amount and the petition to which it is applicable. Deposit Book to be kept.

21. (1) A recognisance given as security for costs under rule 18 may be acknowledged before a Judge, Master or Magistrate. Recognisance as security for costs.

(2) There may be one recognisance acknowledged by all the sureties or separate recognisances by one or more as may be convenient.

22. (1) Any such recognisance shall contain the name and usual place of abode of each surety with such sufficient description as would enable him to be found or ascertained. Form of recognisance.

(2) The recognisance may be in Form C in the Schedule to these Rules.

23. The recognisance or recognisances shall forthwith after being acknowledged, be filed with the Master by or on behalf of the petitioner. Recognisance to be left at Master's Office.

24. Objection may be made to a recognisance for any of the reasons set out in rule 25 of these Rules within ten days after the date of service of the notice of the petition, exclusive of the day of service. Objections to recognisance within 10 days.

25. An objection to the recognisance must state the ground or grounds of the objection, as that the sureties or any and which of them are insufficient, or that a surety is dead, or that he cannot be found, or that a person named in the recognisance has not duly acknowledged the recognisance. Grounds of objection to recognisance.

26. Any objection made to the security shall be heard and decided by the Master. Objection to be heard by Master.

27. Any such hearing and decision may be either upon affidavit or personal examination of witnesses or both as the Master may think fit. Form of evidence in objection.

Rejection
of objection
to security.
Allowance
of objection.

28. Where by order made by the Master upon such hearing the security is declared sufficient the petition shall be at issue.

29. Where by an order made upon such hearing an objection is allowed and the security is declared insufficient the Master shall, in that order, state what is required to be done to render the security sufficient, and the further prescribed time to remove the objection by deposit shall be within three days after the date of the order not including the day of the order and such deposit shall be made in the manner already prescribed.

Costs of
objection.

30. The costs of hearing and deciding objections made to the security given shall be paid as ordered by the Master and in default, of such order, shall form part of the general costs of the petition.

Affidavit
of suffi-
ciency of
security.

31. (1) The costs of hearing and deciding an objection upon the ground of insufficiency of a surety or sureties shall be paid by the petitioner, and a clause to that effect shall be inserted in the order declaring its sufficiency or insufficiency.

(2) Subrule (1) does not apply where at the time of filing the recognisance with the Master there is also filed with him an affidavit of sufficiency of the surety sworn by each surety before some person authorised to take affidavits in the High Court that the surety is seised or possessed of real or personal estate or both, above what will satisfy his debts of the clear value of the sum for which he is bound by his recognisance.

(3) Any such affidavit may be in Form D in the Schedule to these Rules.

Enforce-
ment of
order for
costs.

32. The order for payment of costs shall have the same force as an order made by the High Court in a civil action and may be enforced in like manner as an order for costs is enforceable under Rules of Court.

NOTICE OF TRIAL

List of
election
petitions.

33. (1) The Master shall make out a list of election petitions.

(2) In the list he shall insert the names of agents of petitioners and respondents and the addresses if any, to which notices may be sent.

(3) The list may be inspected at the Master's office at any time during office hours, and shall be put up for that purpose upon a notice board headed "The Electoral Provisions Act, 1962."

34. (1) The time and place of the trial of each election petition shall be fixed by a Judge, and a notice thereof shall be given in writing by the Master by publication in the *Gazette* and by sticking a copy up in his office in the manner described in subsection (3) of rule 33, and sending one copy by registered post to the address given by the petitioner or his agent, another to the address given by the respondent or his agent if any, and a copy by registered post to the Returning Officer.

Time and
notice of
trial.

(2) Where a petition is in respect of an election held in the Western Area, the notice shall be given seven days before the day appointed for the trial.

(3) In any other case, fifteen days notice shall be given.

(4) On receipt of a copy of the notice the Returning Officer shall, as expeditiously as possible, give such publicity to the notice as he considers necessary.

35. The publication of the notice of trial in the *Gazette* shall be deemed to be notice in the manner prescribed in these Rules and such notice shall not be vitiated by any miscarriage of or relating to the copy or copies thereof to be stuck up or sent as described in rule 34 of these Rules.

Miscarriage
of notice.

36. The notice of trial may be in Form E in the Schedule of these Rules.

Form of
notice.

37. (1) Notice of the time and place of trial of each election petition shall be given in writing by the Master to the Secretary of the Electoral Commission not less than fifteen days before the day fixed for the trial and the Secretary of the Electoral Commission shall, on or before the day fixed for the trial, deliver or cause to be delivered, to the Master all voting tokens, documents and things in his custody relating to the election for which the Master shall give a receipt.

Delivery
to Master
of election
documents
etc.

(2) The Master shall keep the said tokens and documents and things in safe custody until the trial is over and return them to the Secretary of the Electoral Commission.

TRIALS

38. The High Court may from time to time by order made upon the application of a party to the petition, or by notice in such form as the Court may direct to be sent to the Master, postpone the beginning of the trial to such day as he may name and the Master shall, within seven days after receipt of such notice, give publicity to it in such manner as he may consider necessary.

Postpone-
ment of
trial.

Trial
delayed
by non-
arrival of
Judge.

39. Where the Judge has not arrived at the time appointed for trial, or to which the trial is postponed, the commencement of the trial shall *ipso facto* stand adjourned to the ensuing day, and so from day to day.

Adjourn-
ment.

40. No formal adjournment of the Court for the trial of an election petition shall be necessary, but the trial is to be deemed adjourned, and may be continued from day to day until the trial is concluded; and where the Judge who begins the trial is disabled by illness or otherwise, it may be recommenced and concluded by another Judge.

PETITIONS THAT DO NOT COME TO TRIAL

Applica-
tion for
leave to
withdraw a
petition.

41. (1) Notice of an application for leave to withdraw a petition shall be in writing and signed by the petitioner or his agent

(2) It shall state the ground on which the application is intended to be supported.

(3) It shall be sufficient if the notice is in Form F of the Schedule to these Rules.

Notice to
Master.

42. The notice of application for leave to withdraw shall be filed at the Master's Office.

Notice to
respondent
and
publication
by Returning
Officer.

43. (1) A copy of such notice of the intention of the petitioner to apply for leave to withdraw his petition shall be given by the petitioner to the respondent, to the other petitioners (if any), and to the Returning Officer.

(2) The notice referred to in subrule (1), may be in Form G in the Schedule to these Rules.

Time and
place of
hearing.

44. The time and place for hearing the application shall be fixed by a Judge, but shall be not more than seven days after the giving of the notices prescribed in rule 43 of these Rules.

Notice that
respondent
will not
oppose
petition.

45. The manner and time of the respondent's giving notice to the Court that he does not intend to oppose the petition, shall be by filing notice thereof in writing with the Master, signed by the respondent, six days before the day appointed for trial, exclusive of the day of filing such notice.

Copy to
petitioner.

46. Upon such notice being filed at the Master's Office, the Master shall, forthwith send a copy thereof by the post to the petitioner or his agent, and to the Returning Officer who shall forthwith give such publicity to the notice as he considers necessary.

47. (1) Where all the respondents give notice that they do not intend to oppose the petition, the Court or Judge may either declare the election void or direct the trial to proceed. Unopposed petitions.

(2) Notice of such order shall forthwith be given by the Master to the Secretary of the Electoral Commission and the Returning Officer.

(3) Where the election is declared void the seat of the person to whom it relates shall become vacant from the first day (not being a *dies non*) after the date of the order.

(4) The Court or Judge may also make such orders as to costs as may be just.

48. (1) Notice of abatement of a petition by death of the petitioner or surviving petitioner shall be given by the party or person interested in the same manner as a notice of an application to withdraw a petition. Death of petitioner.

49. (1) After receiving notice of the petitioner's intention to apply for leave to withdraw, or of the abatement of the petition by death, if such notice is received after notice of trial has been given but before trial has commenced, the Master shall forthwith countermand the notice of trial. Counter-manding trial.

(2) The countermand shall be given in the same manner as near as may be, as the notice of trial.

MISCELLANEOUS

50. Subject to the provisions of the Act, All interlocutory questions and matters shall be heard and disposed of before a Judge who shall have the same control over the proceedings under the Act as a Judge in the ordinary proceedings of the High Court. Inter-locutory matters.

51. Orders to compel the attendance of a person as a witness and warrants to commit a person for contempt given or issued in proceedings arising out of election petitions shall be in the respective forms in use in the High Court from time to time with such variations as circumstances may require, and shall be obeyed and executed accordingly. Forms of orders, etc.

52. (1) Costs shall be taxed by the Master upon the Court or Judge's order by which the costs are payable, and costs when taxed may be recovered in like manner as if payable under a judgment or order of the Court or Judge in the ordinary proceedings in the High Court. Costs and fees.

(2) The office fees for filing inspection, office copies and other proceedings under the Act and these Rules, shall be the same as those payable, if any, for like proceedings according to the practice for the time being of the High Court.

Claims to money deposited.

53. All claims at law or in equity to money deposited or to be deposited in the Treasury for payment of costs, charges and expenses payable by the petitioner pursuant to these Rules shall be disposed of by the Court or a Judge.

Order disposing of money deposited.

54. Money so deposited shall, if and when it is no longer needed for securing payment of such costs, charges and expenses, be returned or otherwise disposed of as justice may require by order of the Court or Judge.

Requirements as to notice and proof.

55. Such order may be made after such notice of intention to apply and proof that all just claims have been satisfied or otherwise sufficiently provided for as the Court or Judge may require.

Direction as to disposal of money.

56. The order may direct payment either to the party on whose account the sum is deposited or to any person entitled to receive the payment.

Formal objection.

57. No proceedings under the Act shall be defeated by any formal objection.

Where no provision made by these Rules.

58. Where no provision is made by these Rules, the procedure, practice and forms from time to time in force in the High Court, so far as they can conveniently be applied, shall be in force in relation to the trial of election petitions under the Act.

Existing Election Petition Rules revoked.

59. The Parliament Election Petition Rules (page 407 of Vol. VI of Laws of Sierra Leone) are hereby revoked.

FORM A

ELECTORAL PROVISIONS ACT, 1962
RECEIPT OF PRESENTATION OF PETITION

Received on the _____ day of _____ 19____
at the Master's Office, a petition touching the election of A.B. member for
_____, purporting to be signed by (insert the
names of the petitioners) and three additional copies thereof.

C.D.,
Master.

FORM B

ELECTORAL PROVISIONS ACT, 1962
PETITION

In the High Court of Sierra Leone
Election for (state the electoral area _____ or electing body)
held on the _____ day of _____ 19____
The petition of A., of _____ (or of A., of and
B., of as the case may be) whose names are subscribed.

1. Your petitioner A. is a person who voted (or had a right to vote, as the case may be) at the above election (or claims to have had a right to be returned or elected at the above election, or alleges himself to have been a candidate at the above election); and your petitioner B. (here state in like manner the right of each petitioner).

2. And your petitioners state that the election was held on the day of _____ 19____ when A. B., C. D., and E. F. were candidates, and the Returning Officer has returned A. B., as being duly elected.

3. And your petitioners say (here state the facts and grounds on which the petitioners reply).

Wherefore your petitioners pray that it might be determined that the said A. B., was not duly elected or returned, and that the election was void.

(Signed)

A.
B.

FORM C

ELECTORAL PROVISIONS ACT, 1962

RECOGNISANCE AS SECURITY FOR COSTS

Be it remembered that on the _____ day of _____ 19____ before me (name of Judge, Master or Magistrate) came A. B., of _____ and C. D., of _____, and acknowledged themselves severally and jointly their and each of their executors and administrators to owe to the State the sum of five thousand leones to be levied on their goods, chattels, lands and tenements to the use of State.

The condition of this recognisance is such that if (name of petitioner and if more than one, add "or any of them") shall well and truly pay all costs, charges and expenses in respect of the Election Petition signed by him (or them), relating to the (here insert the name of the electoral area or as the case may be) which shall become payable by the said petitioner (or petitioners, or any of them) under the Election Petition Rules, 1986 to any person or persons, then this recognisance shall be void, otherwise to stand in full force.

(Signed).....
Sureties.

Taken and acknowledged by the above-named (name of sureties) on the _____ day of _____ 19____ at _____ before me.

E. F.
Judge (or as the case may be)

FORM D

ELECTORAL PROVISIONS ACT, 1962

AFFIDAVIT OF SUFFICIENCY OF SECURITY

In the High Court of Sierra Leone.

Rule 31

Title

I, A. B., of (as in recognisance), make oath and say that I am seised or possessed of real (or personal) estate (describe property) above what will satisfy my debts of the clear value of Le.....

Sworn, etc.

FORM E
ELECTORAL PROVISIONS ACT, 1962
NOTICE OF TRIAL

Rule 36

Election petition of.....Electoral Area
(or as the case may be).

Take notice that the above petition (or petitions) will be tried at.....
.....on the.....day of.....19.....
and on such other subsequent days as may be necessary.

Dated the.....day of.....19.....

(Signed) By Order
A. B.,
Master

FORM F
ELECTORAL PROVISIONS ACT, 1962
APPLICATION FOR LEAVE TO WITHDRAW A PETITION

Rule 41

Electoral Area of.....(or as the case may be)
petition of (state petitioners) presented the.....day of
.....19.....

The petitioner proposes to withdraw his petition upon the following
ground (here state the ground) and prays that a day may be appointed for
hearing his application.

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

(Signed).....

FORM G
ELECTORAL PROVISIONS ACT, 1962
NOTICE TO RESPONDENT AND RETURNING OFFICER OF
INTENTION TO WITHDRAW PETITION

Rule 43

In the Election Petition for.....in which.....
is petitioner and.....respondent.

Notice is hereby given, that the above petitioner has, on the.....
.....day of.....19.....lodged at the Master's
Office, notice of an application to withdraw the petition, of which notice
the following is a copy (set it out).

MADE this 8th day of April, 1986.

S. M. F. KUTUBU,
Chief Justice.