STATUTORY INSTRUMENTS

1985 No. 1426 (S. 108)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 6) (Election Petitions) 1985

Made - - - -	10*th September* 1985
Coming into Operation	1*st October* 1985

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(**a**), section 182(3) of the Representation of the People Act 1983(**b**) and of all other powers enabling them in that behalf, do hereby enact and declare:—

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 6) (Election Petitions) 1985 and shall come into operation on 1st October 1985.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendments to Rules of Court

2.—(1) Section 1 of Chapter VI (Election Petitions) of the Rules of Court(**c**) shall be amended as follows.

(2) In rule 298(*b*) (form of petition)—

(*a*) for the words "section 108(2)", substitute "section 121(2)";

(*b*) for "1949", substitute "1983", and

(*c*) for the words "section 108(1)" substitute "section 121(1)".

(3) After rule 299 (notice of solicitor), insert the following rule—

"299A Fixing of security for expenses

On presentation of a parliamentary election petition, a motion shall be enrolled for the fixing of the amount of security for expenses.

(4) In rule 300 (caution for expenses), for the words "section 119" substitute "section 136".

(**a**) 1933 c. 41.
(**b**) 1983 c. 2, as amended by the Representation of the People Act 1985 (c. 50), Sch. 4, Part III.
(**c**) S.I. 1965/321, as amended by S.I. 1979/516.

(5) In rule 303 (service of petition)—

(*a*) after the word "respondent", insert the words "and the Lord Advocate"; and

(*b*) after the word "nature" wherever it occurs, insert the words "and amount".

(6) In rule 304(*a*) (objection to security)—

(*a*) for the words "section 119(4)" substitute "section 136(4)"; and

(*b*) for the word "five" substitute "14".

(7) In rule 307(*a*) (list of petitions), for the words "section 121(1)" substitute "section 138(1)".

(8) In rule 308(*a*) (time and place of trial), after the word "parties", insert the words ", Lord Advocate".

(9) In rule 310(*a*) (procedure where seat claimed), after the word "parties", insert the words "and to the Lord Advocate".

(10) In rule 311 (evidence of undue return)—

(*a*) in the heading, for the words "section 122(5)" substitute "section 139(5)";

(*b*) in paragraph (*a*)—

(i) for the words "section 122(5)", substitute "section 139(5)": and

(ii) after the words "parties to the petition", insert the words "and to the Lord Advocate".

(11) In rule 313 (statement of matters), after the words "parties to the petition", insert the words "and to the Lord Advocate".

(12) In rule 318 (application to state special case), for the words "section 126(1)" substitute "section 146(1)".

(13) In rule 319 (opinion of court), for the words "section 126(2)" wherever they occur, substitute "section 146(4)".

(14) In rule 320 (notice of application for leave to withdraw)—

(*a*) in paragraph (*a*), for the words "section 127" substitute "section 147"; and

(*b*) in paragraph (*b*), after the word "respondent", insert the words ", the Lord Advocate".

(15) In rule 325 (death of petitioner), for the words "section 133(3)" substitute "section 152(3)".

(16) In rule 327 (notice that respondent does not oppose)—

(*a*) for the words "section 134(1)(*a*)" substitute "section 153(1)(*a*)"; and

(*b*) after the word "solicitor," insert the words "the Lord Advocate".

(17) In rule 328 (death of respondent), for the words "section 134" substitute "section 153".

(18) In rule 329 (application to be admitted as respondent), for the words "section 134" substitute "section 153".

(19) In the Appendix—

(*a*) in Forms 46, 49, 50 and 51, for the words "Representation of the People Act 1949" wherever they occur, substitute the words "Representation of the People Act 1983";

(*b*) in Form 47—

(i) for the words "Representation of the People Act 1949" wherever they occur, substitute the words "Representation of the People Act 1983";

(ii) omit the words "1,000 (*or as the case may be*)";

(iii) for the words "section 119(4)" substitute "section 136(4)"; and

(iv) for the word "five" substitute "14".

(*c*) in Form 48—

(i) for the words "Representation of the People Act 1949" wherever they occur, substitute the words "Representation of the People Act 1983";

(ii) for the words "section 119" substitute "section 136"; and

(iii) omit the figures "1,000".

Emslie,
Lord President,
I.P.D.

Edinburgh.
10th September 1985.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt amends the Rules of Court relating to election petitions—

(*a*) to give effect to amendments to the Representation of the People Act 1983 in the Representation of the People Act 1985—

(i) by requiring a motion to be enrolled on the presentation of a parliamentary election petition for the fixing of security for expenses (paragraph 2(3));

(ii) by requiring the petitioner to serve on the Lord Advocate, a notice of the presentation of the petition, a copy of the petition and notice of the nature and amount of the security for expenses (paragraph 2(5));

(iii) by extending to 14 days the period within which a respondent may object to the petitioner's security (paragraph 2(6)(*b*));

(iv) by requiring intimation to be made to the Lord Advocate of the time and place of trial (paragraph 2(9)), the list of voters (paragraph 2(10(*b*)(ii)), the statement of matters upon which evidence is to be led (paragraph 2(11)), the notice of application for leave to withdraw a petition (paragraph 2(14)(*b*)) and the notice that the respondent does not intend to oppose the petition (paragraph 2(16)(*b*));

(v) by making minor consequential amendments (paragraph 2(19)); and

(*b*) to substitute references to the Representation of the People Act 1983 for references to the Representation of the People Act 1949 (c. 68) (paragraph 2(2), (4), (5)(*a*), (7), (10(*a*) and (*b*)(i), (12), (13), (14)(*a*), (15), (16)(*a*), (17), (18) and (19)).

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