

GUYANA.

No. 5 of 1968.

RULES
MADE UNDER
THE VALIDITY OF ELECTION RULES, 1968.

In pursuance of the provisions of article 71 of the Constitution of Guyana, and by virtue and in exercise of all other powers enabling us in that behalf, we, EDWARD VICTOR LUCKHOO, Acting Chancellor, HAROLD BRODIE SMITH BOLLERS, Chief Justice, VICTOR EMMANUEL CRANE, Acting Justice of Appeal, KENNETH MONTAGUE GEORGE, Puisne Judge, MOHAMED SHAHABUDEEN, Solicitor-General, KENNETH WYNDHAM BARNWELL, Registrar of the Supreme Court of Judicature, JOSEPH OSCAR FITZCLARENCE HAYNES, Queen's Counsel and MAURICE ERIC CLARKE, Solicitor, constituting the rule-making authority under section 75 of the High Court Ordinance, do hereby make the following Rules:—

1. These Rules may be cited as the Validity of Election Rules, 1968. Citation.

2. In these Rules, unless the context otherwise requires — Interpretation.
 - “Appendix” means the Appendix to these Rules;
 - “the Court” means the High Court;
 - “the Regulations” means the Validity of Election Regulations, 1964; No. 40 of 1964.
 - “the Registrar” means the Registrar of the Supreme Court of Judicature;
 - “registry” means registry of the Supreme Court of Judicature;
 - “regulation” means a regulation of the Regulations.

3. (1) Except by way of an election petition for redress in conformity with the Regulations, there shall be no reference to the Court of any question regarding the qualifications of any person to be elected as a member of the National Assembly, or whether the result of an election may have or has been affected by any unlawful act or omission, or whether the seats in the Assembly have been lawfully allocated, or whether any election the results whereof are declared by the Elections Commission in pursuance of regulation 71 of the Elections Regulations, 1964, has been lawfully conducted. Election to be questioned by Election Petition only.

- (2) An election petition shall be in Form 1 in the Appendix and shall contain the particulars required in the Form. Form 1 Appendix.

4. When an election petition is presented under paragraph (3) of regulation 4, seven copies of the petition shall be left with the person to whom delivery is made in accordance with that paragraph. Presentation of petition.

5. (1) The solicitor of a petitioner who presents an election petition through a solicitor shall indorse upon the petition before the Address for Service.

same is presented the address of his place of business and also a proper place to be called his address for service where all notices, summonses, orders and other documents may be left for him, which address shall be within one mile of the registry where the petition is presented.

(2) A petitioner presenting an election petition in person shall indorse upon the petition before presenting the same some proper place to be called his address for service where all notices, summonses, orders and other documents may be left for him, which address shall be within one mile of the registry where the petition is presented.

Failure to comply with rules 3, 4 and 5.

6. If rules 3 and 4 and paragraph (1) or (2) of rule 5 of these Rules are not complied with in relation to any election petition, delivery thereof under paragraph (3) of regulation 4 shall not be accepted.

File and record of proceedings

7. (1) Without prejudice to the provisions of any other rule of court, all petitions, notices, summonses, orders or other documents to be filed in or issued from the registry in proceedings under the Regulations shall be brought into the registry together with a copy thereof and the original and the copy shall be sealed with an official seal, whereupon the original shall be filed and the copy handed out to the party filing the same. A sealed copy shall be evidence of the contents of the original filed.

(2) The Registrar shall keep a record book of all proceedings brought under the Regulations. There shall be entered in the record book —

- (a) the number of the election petition and the subject matter;
- (b) the names of the parties and their addresses for service;
- (c) interlocutory applications, the nature, date of filing, determination and date thereof;
- (d) the date and place of trial;
- (e) the name of every counsel or solicitor engaged;
- (f) the decision of the Court.

(3) The file of proceedings and the record book shall be open to inspection by any person during office hours.

8. (1) The Registrar shall upon presentation of an election petition forthwith —

- (a) send a copy of the petition to the Speaker of the National Assembly, the Attorney-General, the Director of Public Prosecutions and the Chief Election Officer; and

Persons to whom copy of petition must be sent and publication of petition.

- (b) exhibit on a notice board at the registry a copy of the petition and cause such notice of the presentation and substance thereof as shall be settled by the Chief Justice to be published in the Gazette and one newspaper.

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

9. (1) The time and manner of service of an election petition are, for the purposes of regulation 8, prescribed by virtue of the following provisions of this paragraph and paragraphs (2), (3) and (4) of this rule. The time for service of a copy of an election petition and notice of the presentation of the petition and of the nature of the proposed security shall be five days, exclusive of the day of presentation. Service.

(2) Where the respondent has given an address in pursuance of paragraph (1) of rule 10 of these Rules, such service may be by registered post to the address so that, in the ordinary course of post, the documents served would be delivered within the prescribed time.

(3) In cases to which paragraph (2) of this rule does not apply, such service must be personal on the respondent unless a judge on an application made to him not later than five days after the election petition is presented and on affidavit showing what has been done, shall be satisfied that all reasonable effort has been made to effect personal service and cause the matter to come to the knowledge of the respondent, including when practicable, service upon a solicitor, in which case the judge may order that what has been done shall be considered sufficient service for the purposes of this rule, subject to such conditions as he may think reasonable.

(4) Where it is proved to the satisfaction of a judge that there has been an evasion of service and that a notice of the nature of the proposed security has been posted on the board mentioned in sub-paragraph (b) of paragraph (1) of rule 8 of these Rules, and a copy of the election petition has been exhibited under that sub-paragraph, within the time prescribed by paragraph (1) of this rule, service shall, if the judge so orders, be deemed to have been duly effected for the purposes of this rule by such posting and exhibition.

(5) The petitioner or his agent shall, as soon as may be after service has been effected in accordance with any provisions of this rule, file in the registry an affidavit of the time and manner of such service.

(6) Service of a petition under paragraph (5) of regulation 4 shall, upon service of a copy of the petition in accordance with any of the foregoing provisions of this rule or any direction given by the court under regulation 8, be deemed to have been thereby affected.

Address
for
Service.

10.(1) Any person who was the representative of any list of candidates for election, as defined by paragraph (2A) of regulation 4, or has been elected as a member of the National Assembly, may at any time after the election leave at the office of the Registrar —

- (a) an address for service at a place within one mile thereof; or
- (b) the name and address for service (which shall be at such a place) of a solicitor who will act for such person in case there should be an election petition against him.

(2) When an election petition or copy thereof is served upon a respondent other than the Chief Election Officer, he shall, unless he has already complied with paragraph (1) of this rule, within five days of such service deliver or send by registered post to the Registrar and to the petitioner an address for service at a place referred to in subparagraph (a) or (b) of the preceding paragraph. All notices, summonses, orders or other documents in the proceedings consequent on the petition shall, if the respondent fails to comply with the provisions of this paragraph, be deemed duly served upon him if left in the registry.

Recognizances for security for costs. Form 2 Appendix.

11.(1) The recognizances giving security for costs as provided in regulation 7 shall, with such variations as circumstances may require, be in Form 2 in the Appendix and shall be acknowledged before the Registrar. There may be one recognizance acknowledged by all the sureties, or separate recognizances by one or more as may be convenient.

(2) The recognizance or recognizances shall forthwith after being acknowledged be left at the registry by or on behalf of the petitioner in like manner as a petition.

Security for costs by deposit.

12.(1) Every deposit of money by way of security pursuant to regulation 7 or paragraph (2) of regulation 9 shall be lodged in the registry.

(2) The Registrar shall keep open to inspection by all parties concerned a book in which shall be entered from time to time the amount of every such deposit and the petition to which it relates.

(3) All claims to the amount of any such deposit or part thereof shall be disposed of by a judge upon application by summons.

(4) The amount of such deposit or of any part thereof shall, if and when no longer required for securing the payment of costs, be returned or otherwise disposed of on the order of a judge as justice may require.

(5) Such order may be made after such notice of intention to apply, and after such proof that all just claims have been satisfied or otherwise sufficiently provided for, as the judge may require.

(6) The order may direct payment either to the party in whose name the deposit was made or to any person entitled to receive the same.

13. An objection to a recognizance under paragraph (1) of regulation 9 shall be made by giving notice thereof to the petitioner within ten days after the service of the notice of the presentation of the petition; and the notice of objection shall state the grounds thereof.

Objection to security.

14.(1) Any such objection to security made in accordance with the preceding rule shall be heard and decided by a judge upon summons taken out by either party to declare the security sufficient or insufficient.

Summons to determine objection to recognizance.

(2) Such hearing and decision may be either upon affidavit or personal examination of witnesses, or both, as the judge thinks fit.

15. If by order made upon such summons an objection be allowed and the security be declared insufficient, the judge shall in such order state how and within what time (which shall not exceed five days after the date of the order) the objection may be removed as in paragraph (2) of regulation 9 provided.

Removing objection.

16. 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 judge's order declaring their sufficiency or insufficiency, unless at the time of leaving the recognizance under paragraph (2) of rule 11 of these Rules there be also left an affidavit of the sufficiency of the surety or sureties sworn by each surety in Form 3 in the Appendix.

Costs where no justification of sureties.

Form 3 Appendix.

17.(1) An application for an order directing the dismissal of a petition under regulation 10 shall be made by way of summons before a judge and a copy thereof shall be served on the petitioner and written notice thereof given to the Registrar.

Notice of application for dismissal.

(2) The Registrar shall forthwith publish in the Gazette and one newspaper a notice in Form 4 in the Appendix.

Form 4 Appendix.

18.(1) Evidence need not be stated in an election petition, but the Court or a judge may upon application 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 and otherwise as may be ordered.

Application for particulars

(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.

19. All applications in proceedings under the Regulations of these Rules shall be determined summarily by a judge, who may hear the parties to the application.

Procedure on applications made under the Regulations or these Rules.

Title of
proceedings.
Form 5 -
Appendix.

20. It shall be sufficient to entitle all proceedings in respect of an election petition as is prescribed in Form 5 in the Appendix.

Mode of
trial of
petitions.

21. The following provisions shall apply to the trial of election petitions:—

(i) The Chief Justice shall determine which of the judge shall try a petition and direct in which country the trial shall take place.

(ii) All interlocutory matters may be heard and disposed of by a judge in chambers.

(iii) The judge who is to try a petition shall fix the day and time of the trial and at least fourteen days notice thereof shall be published by the Registrar in the Gazette and one newspaper and served on the petitioner, the respondent and the Chief Election Officer.

(iv) The judge presiding at a trial may, if the Chief Justice shall so direct, adjourn the same to another county.

(v) Where the trial of a petition has taken place wholly or partly in a county other than the county of Demerara the Court may, if it thinks fit, declare its determination on the petition at a sitting in Georgetown.

Adjournments.

22.(1) The Court may from time to time, by order upon the application of a party to an election petition or by notice in such form as the Court may direct, postpone the commencement of the trial to such a day as it may name. A copy of such notice or order shall be sent to the Chief Election Officer and another copy shall be exhibited on a notice board at the registry.

(2) In the event of the Judge not being present at the time appointed for the trial, or to which the trial is postponed, the trial shall ipso facto stand adjourned to the ensuing day and so from day to day.

(3) No formal adjournment of the Court at the trial of an election petition shall be necessary, but in the absence thereof the trial is to be deemed adjourned, and may be continued from day to day until the inquiry is concluded.

(4) In the event of the judge who begins the trial being disabled by illness or otherwise, the trial shall be recommenced and concluded by such judge as the Chief Justice may determine.

Application to
withdraw
petition.
Form 6
Appendix.

23.(1) Notice of application for leave to withdraw an election petition shall be in writing and signed by the petitioner or his solicitor and shall be sufficient if given in Form 6 in the Appendix and left at the registry and a copy of such notice shall be served on the respondent and sent to the Chief Election Officer.

Form 7
Appendix.

(2) The Registrar shall forthwith publish in the Gazette and one newspaper a notice in Form 7 in the Appendix.

(3) Any person who might have been a petitioner in respect of the matter to which the election petition relates, may, within five days after such notice is published, give notice in writing signed by him or on his behalf to the Registrar of his intention to apply under paragraph (1) of regulation 24 to be substituted for the petitioner but the want of such notice shall not defeat such application if in fact made under that paragraph.

(4) The time of hearing the application for leave to withdraw the petition shall not be less than five days after the publication of the notice by the Registrar as in paragraph (2) of this rule provided and notice of the time and place appointed for the hearing shall be given by the Registrar to any person who shall have given him notice of an intention to apply to be substituted as petitioner, and otherwise as the Court may direct.

24.(1) On the abatement of an election petition by the death of a petitioner, notice of such abatement shall be given by any party or person interested to the Registrar who shall forthwith publish in the Gazette and one newspaper a notice thereof in Form 8 in the Appendix.

Abatement of petition on death of petitioner.

Form 8 Appendix.

(2) The time within which application may be made to a judge to be substituted as a petitioner under paragraph (3) of regulation 26 shall be one month or such further time as upon consideration of any special circumstances a judge may allow.

25.(1) The manner and time of the respondent's giving notice to the Court that he does not intend to oppose an election petition shall be by leaving at the registry notice thereof in writing signed by the respondent, six days before the day appointed for trial, exclusive of the day of leaving such notice.

Notice of intention not to oppose petition.

(2) Upon such notice being left at the registry or upon receiving notice of the death of the respondent, the Registrar shall forthwith send by registered post to the petitioner or his solicitor, as the case may be, and to the Chief Election Officer, and shall forthwith cause to be published in the Gazette and one newspaper, a notice thereof in Form 9 in the Appendix.

Form 9 Appendix.

26. The time for applying to be admitted as a respondent under sub-paragraph (i) of paragraph (1) of regulation 27 shall be within ten days after such notice is given as hereinbefore directed, or such further time as a judge may allow.

Time within which to apply for admission as respondent.

27. The persons making any application under sub-paragraph (ii) of paragraph (1) of regulation 27 shall leave at the registry notice thereof signed by them or on their behalf, stating the grounds of such application and praying that a day be fixed for the hearing thereof, and the Registrar shall send by registered post a copy of such notice to every party to the petition and to the Chief Election Officer, to-

Notice of application for substitution or admission as respondent.

gether with notice of the time and place appointed for hearing the application.

Dated this 11th day of December, 1968.

EDWARD V. LUCKHOO,
Acting Chancellor.

H. B. S. BOLLERS,
Chief Justice.

V. E. CRANE,
Justice of Appeal.

K. M. GEORGE,
Puisne Judge.

M. SHAHABUDDEEN,
Solicitor-General.

KENNETH W. BARNWELL,
Registrar.

J. O. F. HAYNES,
M. E. CLARKE,
Members of the Rule Making Authority.

APPENDIX

FORM 1

Rule 5

PETITION QUESTIONING AN ELECTION TO THE NATIONAL ASSEMBLY THE VALIDITY OF ELECTION REGULATIONS, 1964

Election holden on the day of19....

*The petition of A of whose name is subscribed.

- 1. Your petitioner A is a person who was an elector (or candidate) at the above election.
2. And your petitioner states that the Elections Commission has on the day of 19.... caused to be published a notification of the results of the above election.
3. And your petitioner says that (here state facts and grounds on which the petitioner relies).

Wherefore your petitioner prays that the Court may —

(1) determine that

*If there is more than one petitioner, the petition should be the petition of all their names entered as for A.

(2) grant such redress in conformity with the Validity of Election Regulations, 1964, as may be just.

(Sgd.)

(Petitioner)

1 The address for service of the petitioner is

1 The solicitor for the petitioner is

whose address for service is

FORM 2

Rule 11(1)

RECOGNIZANCES AS SECURITY FOR COSTS

Be it remembered that on theday of in the year of Our Lord 19... before me (name and description) came A.B. of (name and description) and acknowledged himself (or severally acknowledged themselves) to owe to our Sovereign Lady the Queen the sum of one thousand dollars (or the following sums) (that is to say) the said C.D., the sum of \$....

....., the said E.F., the sum of \$..... the said G.H., the sum of \$..... and the said J.K., the sum of \$..... to be levied on his (or their respective) goods and chattels, lands and tenement, to the use of our Sovereign Lady the Queen, her heirs and successors.

The condition of this recognizance is that if (here insert the names of all the petitioners, 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), in relation to which shall become payable by the said petitioner (or petitioners, or any of them) under the Validity of Election Regulations, 1964, to any person or persons, then this recognizance to be void, otherwise to stand in full force.

(Sgd.)

(Signature of Sureties)

Taken and acknowledged by the above-named (names of surities) on the..... day ofatbefore me. Registrar.

FORM 3

Rule 16.

AFFIDAVIT FOR JUSTIFICATION OF SURETIES

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE. THE VALIDITY OF ELECTION REGULATIONS, 1964.

I, A.B. of (name and description), make oath and say that I am worth more than the sum of \$..... after the payment of all my debts. Sworn, etc.

1 Omit whichever is inapplicable.

Form 4

Rule 17

NOTICE OF APPLICATION FOR DISMISSAL OF AN ELECTION PETITION

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE. THE VALIDITY OF ELECTION REGULATIONS, 1964.

Notice is hereby given that the above respondent intends to apply for an order directing that the petition be dismissed on the ground that

(here state ground for application).

And that the said application be heard at

on day of , 19 .

And Take Notice that on the hearing of the application any person who might have been a petitioner in respect of the matter to which the petition relates may apply to the judge to be substituted as a petitioner for the above petitioner under regulation 11 of the said Regulations.

(Signed)

Registrar.

TITLE FOR PROCEDURE

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE.
THE VALIDITY OF ELECTION REGULATIONS, 1964.

Election holden on theday of 19...

Between Petitioner (name and address)

and Respondent (name and address)

FORM 6

APPLICATION FOR LEAVE TO WITHDRAW

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE.
THE VALIDITY OF ELECTION REGULATIONS, 1964.

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

Dated thisday of

(Signed)

FORM 7

NOTICE IN PUBLICATION OF FORM 6

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE.
THE VALIDITY OF ELECTION REGULATIONS, 1964.

Notice is hereby given that the petition of the above petitioner has on theday oflodged at the registry notice of an application to withdraw the petition, of which notice the following is a copy — (set it out)

And take notice that by a rule of court made pursuant to the above Regulations any person who might have been a petitioner in respect of the said election may, within five days after the publication of this notice, give writing of his intention on the hearing to apply for leave to be substituted as a petitioner.

(Signed)

Registrar.

FORM 8

Rule 24(1)

**NOTICE OF ABATEMENT OF ELECTION PETITION
IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE.
THE VALIDITY OF ELECTION REGULATIONS, 1964.**

Notice is hereby given that the petition of the above petitioner has abated by reason of the death of (here set out particulars)

And Take Notice that any person who might have been a petitioner in respect of the above election may, within one calendar month after the publication of this notice or within such further time as upon consideration of any special circumstances a judge may allow, apply to the Court to be substituted as a petitioner under paragraph (3) of regulation 26 of the said Regulations.

(Signed)

Registrar.

FORM 9

Rule 25

**NOTICE OF WITHDRAWAL OR DEATH OF RESPONDENT
IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE
THE VALIDITY OF ELECTION REGULATIONS, 1964.**

Notice is hereby given that on theday of

19... the said respondent A.B. died (or gave notice of his intention not to oppose the petition, as the case may be).

And Take Notice that any person who might have been a petitioner in respect of the above election may, within ten days after publication of this notice or such further time as a judge may allow, apply to the Court to be admitted as a respondent under sub-paragraph (i) of paragraph (1) of regulation 27.

(Signed)

Registrar.