



**THE ELECTION PETITION RULES 1996**



MICHAEL HARDIE BOYS, Governor-General

**ORDER IN COUNCIL**

At Wellington this 5th day of August 1996

Present:

THE RIGHT HON. J. B. BOLGER PRESIDING IN COUNCIL

PURSUANT to section 234 of the Electoral Act 1993, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least two of the other members of the Rules Committee (of whom at least one was a Judge of the High Court), hereby makes the following rules.

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**RULES**

**1. Title and commencement**—(1) These rules may be cited as the Election Petition Rules 1996.

(2) These rules shall come into force on the 28th day after the date of their notification in the *Gazette*.

**2. Expiry**—These rules shall expire with the close of the 30th day of November 1997.

**3. Interpretation**—(1) In these rules, unless the context otherwise requires,—

“The Act” means the Electoral Act 1993:

“Address for service”, in relation to any party, means the address of a place in New Zealand at which any document may be left for, or sent to, that party in accordance with these rules:

“Chief Electoral Officer” has the meaning given to it by section 3 (1) of the Act:

“Constituency petition” means an election petition presented under section 229 (3) of the Act:

“Court” means the High Court of New Zealand or, as the case may be, the Court of Appeal of New Zealand:

“Judge” means,—

(a) In relation to a constituency petition,—

(i) A Judge of the High Court who has for the time being been named as a Judge before whom the trial of the petition shall take place, or to act in the place of any Judge so named; or

(ii) If no Judge has been so named, any Judge of the High Court:

(b) In relation to a list petition,—

(i) A Judge of the Court of Appeal who has for the time being been named as a Judge before whom the trial of the petition shall take place, or to act in the place of any Judge so named; or

(ii) If no Judge of the Court of Appeal has been so named, any Judge of the Court of Appeal:

“List petition” means an election petition presented under section 258 of the Act:

“Petition” means, as the case may require, a constituency petition or a list petition:

“Registrar of Electors” means a Registrar of Electors appointed under the Act for any electoral district:

“Registrar of the Court” means, as the case may require, a Registrar of the High Court or a Registrar of the Court of Appeal; and includes in each case a Deputy Registrar.

(2) Expressions defined in the Act shall, unless the context otherwise requires, have in these rules the meanings so defined.

(3) In these rules, a reference to a numbered form is a reference to the form so numbered in the Schedule to these rules.

Cf. S.R. 1957/265, r. 2

**4. Intituling**—All documents to be lodged or filed in the proceedings upon an election petition and all orders made in such proceedings under the authority of these rules shall be intituled in the manner set out in form 1.

Cf. S.R. 1957/265, r. 3

#### *Contents and Form of Petition*

**5. Contents of petition**—Every petition shall state—

(a) The holding and result of the election:

(b) The nature of the right by virtue of which the petitioner is entitled to present the petition:

(c) Briefly, the facts relied on to sustain the prayer of the petition:

(d) The specific grounds upon which the complaint is founded.

Cf. S.R. 1957/265, r. 4

**6. Division into paragraphs**—(1) Every petition shall be divided into paragraphs, each of which shall, as nearly as may be practicable, be confined to a distinct portion of the subject.

(2) The paragraphs shall be numbered consecutively.

Cf. S.R. 1957/265, r. 5

**7. Prayer**—Every petition shall conclude with a prayer setting out particulars of the relief sought.

Cf. S.R. 1957/265, r. 6

**8. Form of petition**—(1) A constituency petition shall be sufficient if it is in form 2 or to the like effect.

(2) A list petition shall be sufficient if it is in form 3 or to the like effect.

Cf. S.R. 1957/265, r. 7

**9. Respondents**—(1) If in a constituency petition the petitioner complains of the conduct of the Returning Officer or Registrar of Electors, the petitioner—

(a) Shall insert in the petition a statement to that effect; and

(b) Shall set out in the petition the name of the Returning Officer or Registrar of Electors who, by operation of section 230 (2) of the Act, is a respondent to the petition.

(2) If in a list petition the petitioner complains of the conduct of the Chief Electoral Officer, the petitioner—

(a) Shall insert in the petition a statement to that effect; and

(b) Shall set out in the petition the name of the Chief Electoral Officer who, by operation of section 258 (3) of the Act, is a respondent to the petition.

Cf. S.R. 1957/265, r. 8

#### *Counsel*

**10. Representation by counsel**—A party to any proceedings under these rules may appear and be represented by a barrister not being a member of Parliament.

Cf. S.R. 1957/265, r. 9

#### *Solicitors and Addresses for Service*

**11. Employment of solicitor**—(1) A solicitor employed by any party shall forthwith deliver to the Registrar of the Court written notice of the solicitor's appointment setting out an address for service in accordance with rule 12 (d) and (e) of these rules.

(2) Service of notices and proceedings upon the solicitor at that address shall be sufficient for all purposes, and any notice to be given by a party under these rules shall be sufficient if given by the party's solicitor on the party's behalf.

Cf. S.R. 1957/265, r. 10

**12. Address for service**—There shall be endorsed upon or appended to every petition a memorandum stating—

(a) That the petition is filed by the petitioner in person, or by the petitioner's solicitor, as the case may be; and

(b) Where the petition is filed by a solicitor,—

(i) The name of the solicitor; and

(ii) If the solicitor is a member of a firm or practises under a firm name, the name of the firm; and

(c) Where the petition is filed by a solicitor who has another solicitor acting as the solicitor's agent in the proceeding,—

(i) The name of the agent or of the agent's firm (if any); and

(ii) The postal address of the petitioner's solicitor; and

(d) An address for service; and

- (e) Where the petition is filed by a solicitor, any Post Office box address, document exchange box number, or facsimile number by which the solicitor will accept service of documents in the course of the proceeding.

Cf. S.R. 1957/265, r. 11

**13. More than one petitioner**—Where there are more petitioners than one, each petitioner may have a different solicitor or they may jointly appoint one solicitor to act for them.

Cf. S.R. 1957/265, r. 12

**14. Representation of respondent (being person declared elected for an electoral district)**—Any person returned or declared elected as a member for an electoral district may, at any time after the person is returned or declared elected, deliver to the Registrar of the Court, at the office of the Court nearest the place where the election was held, a notice—

- (a) Signed by the person or on his or her behalf; and  
 (b) Either—  
     (i) Appointing a solicitor to act for the person in case there should be a petition against the person; or  
     (ii) Stating that the person intends to act for himself or herself in case there should be a petition against the person; and  
 (c) In either case, giving, as if the person were a party to proceedings, an address for service in accordance with rule 12 (d) and (e) of these rules.

Cf. S.R. 1957/265, r. 14

**15. Representation of respondent (being political party)**—Any Secretary of a political party whose party was listed on the part of the ballot paper that relates to the party vote may, at any time after the Chief Electoral Officer has declared candidates to be elected pursuant to section 193 (5) of the Act, deliver to the Registrar of the Court a notice—

- (a) Signed by the Secretary or on the Secretary's behalf; and  
 (b) Either—  
     (i) Appointing a solicitor to act for the political party the Secretary represents in case the political party should become, under section 258 (3) of the Act, a respondent to a list petition; or  
     (ii) Stating that the Secretary intends to act for the political party himself or herself in case the political party should become, under section 258 (3) of the Act, a respondent to a list petition; and  
 (c) In either case, giving, as if the political party were a party to proceedings, an address for service in accordance with rule 12 (d) and (e) of these rules.

**16. Representation of respondents**—Every respondent to a petition who has not complied with rule 14 or rule 15 of these rules, shall, within 7 days after the day on which a copy of the petition is served on the respondent, deliver to the Registrar of the Court, at the office of the Court in which the petition is filed, a notice—

- (a) Signed by or on behalf of the respondent; and  
 (b) Either—  
     (i) Appointing a solicitor to act for the respondent; or

- (ii) Stating that the respondent intends to act for himself or herself or, where the respondent is a political party, that the Secretary of the political party intends to act for the political party; and
- (c) In either case, giving an address for service in accordance with rule 12 (d) and (e) of these rules.

Cf. S.R. 1957/265, r. 15

#### *Advertisements of Petitions*

**17. Advertisement of constituency petition**—Within 7 days after the date of filing of a constituency petition, the petitioner shall at his or her own expense cause the petition to be published in a newspaper circulating in the district to which the petition relates, unless publication is excused by the Court or a Judge.

Cf. S.R. 1957/265, r. 18

**18. Advertisement of list petition**—Within 7 days after the date of filing of a list petition, the petitioner shall at his or her own expense cause the petition to be published in sufficient newspapers to ensure that the petition is circulated in every electoral district, unless publication is excused by the Court or a Judge.

#### *Service of Petition*

**19. Time for service**—Subject to rule 22 of these rules, every petition shall be served not later than 7 days after the date of filing.

Cf. S.R. 1957/265, r. 19

**20. Petition served on every respondent**—(1) The petition shall be served on every respondent.

(2) Where a Returning Officer or the Chief Electoral Officer is a respondent, the sending of the petition to the Returning Officer under section 230 (4) of the Act or to the Chief Electoral Officer under section 258 (5) of the Act shall not excuse service on either the Returning Officer or Chief Electoral Officer, as the case may require, under this rule.

Cf. S.R. 1957/265, r. 20

**21. Mode of service**—Service upon a respondent shall be effected by serving a copy of the petition—

- (a) At any address for service given by or on behalf of the respondent in accordance with these rules; or
- (b) In the manner required by the High Court Rules for the service of a statement of claim and notice of proceeding.

Cf. S.R. 1957/265, r. 22

**22. Substituted service**—Where the Court or a Judge, on application made not more than 10 days after the date of the filing of a petition, is satisfied, on affidavit showing what has been done, that every reasonable effort has been made to effect service in accordance with rule 21 of these rules, and to cause the matter to come to the knowledge of the respondent, the Court or a Judge may order that what has been done shall be considered sufficient service, subject to such conditions as the Court or the Judge thinks reasonable.

Cf. S.R. 1957/265, r. 23

*Security by Deposit*

**23. Security by deposit**—Security given by a deposit of money shall be given by the deposit thereof to the credit of the High Court Trust Account or, as the case may be, the Court of Appeal Trust Account of the Registrar of the Court.

Cf. S.R. 1957/265, r. 25

**24. Withdrawal of sum by Registrar**—The Registrar of the Court may from time to time withdraw from the High Court Trust Account or, as the case may be, the Court of Appeal Trust Account the amount of the deposit or any part thereof in pursuance of—

- (a) Any order made by the Court for payment thereof of costs, charges, or expenses; or
- (b) Any order made by the Court for the return or other disposal of any deposit or the residue of any part thereof or otherwise for the purposes of the Act; or
- (c) Any agreement for the return or other disposal of any deposit or the residue of any part thereof or otherwise for the purposes of the Act signed by all parties to the petition and filed in the Court.

Cf. S.R. 1957/265, r. 27

*Security by Bond*

**25. Security by bond**—Security given by bond shall be given in form 4 or to the like effect stating the name and usual place of abode of each surety with such sufficient description as shall enable such surety to be found or ascertained.

Cf. S.R. 1957/265, r. 28

**26. One or more bonds**—There may be one bond executed by all the sureties or separate bonds executed by one or more, as may be convenient.

Cf. S.R. 1957/265, r. 29

**27. Sufficiency of bond**—(1) The bond shall be given to the approval and satisfaction of the Registrar of the Court.

(2) If the Registrar of the Court has cause to believe that any surety is insufficient or that the bond is in any respect defective or inadequate, the Registrar of the Court may require an affidavit of justification to be lodged with the bond or impose such other requirement as the Registrar of the Court thinks necessary.

Cf. S.R. 1957/265, r. 30

*Particulars*

**28. Power of Court or Judge to order particulars**—Evidence need not be stated in the petition, but the Court or a 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.

Cf. S.R. 1957/265, r. 31

**29. Lists of votes objected to**—(1) Where, in a constituency petition, the petitioner claims the seat for an unsuccessful candidate and alleges that that candidate had a majority of lawful votes, each party to the

petition who intends to object to any vote shall, not less than 6 days before the day appointed for trial, deliver,—

(a) To the Registrar of the Court; and

(b) To any other party to the proceeding at that party's address for service,—

a list of the votes that that party will object to, and of the heads of objection to each vote.

(2) Each party shall provide to the Registrar of the Court sufficient copies of the list referred to in subclause (1) of this rule to enable the Registrar to supply the copies required to be supplied under rule 32 of these rules.

Cf. S.R. 1957/265, r. 32

**30. Objections of respondent to constituency petition**—(1) Where a respondent to a constituency petition, being a petition in which the petitioner complains of an unlawful election or return and claims the seat for some person, intends to give evidence, under section 236 (8) of the Act, to prove that that person was not duly elected, the respondent shall, not later than 6 days before the day appointed for the trial, deliver,—

(a) To the Registrar of the Court; and

(b) To any other party to the proceeding at that party's address for service,—

a list setting out the specific grounds upon which the respondent claims that that person was not duly elected and, in relation to each of those grounds, particulars of the facts upon which the respondent intends to rely.

(2) The respondent shall provide to the Registrar of the Court sufficient copies of the list referred to in subclause (1) of this rule to enable the Registrar to supply the copies required to be supplied under rule 32 of these rules.

Cf. S.R. 1957/265, r. 33

**31. Objections of respondent to list petition**—(1) Where a respondent to a list petition intends to give evidence, under section 236 (8) of the Act, that there has been any error or invalidity in relation to—

(a) The procedures and methods used to allocate seats to political parties under sections 191 to 193 of the Act; or

(b) The return of members of Parliament consequential upon the allocation of seats to political parties under sections 191 to 193 of the Act,—

the respondent shall, not later than 6 days before the day appointed for the trial, deliver,—

(c) To the Registrar of the Court; and

(d) To any other party to the proceeding at that party's address for service,—

a list setting out the specific grounds upon which the respondent claims that there has been any error or invalidity in relation to any of the matters specified in paragraphs (a) and (b) of this subclause and, in relation to each of those grounds, particulars of the facts upon which the respondent intends to rely.

(2) The respondent shall provide to the Registrar of the Court sufficient copies of the list referred to in subclause (1) of this rule to enable the Registrar to supply the copies required to be supplied under rule 32 of these rules.



**32. Inspection of lists of objections**—The Registrar of the Court shall allow any person to inspect office copies of the lists provided for in rules 29, 30, and 31 of these rules and shall, upon request, supply office copies of those lists.

Cf. S.R. 1957/265, r. 34 (1)

**33. Evidence**—No evidence shall be given against the validity of any vote or of any procedures or methods or return or upon any head of objection not specified in any list provided under rule 29 or rule 30 or rule 31 of these rules, except by leave of the Court or a Judge, and upon such terms as to amendments of the list, postponement of the trial, and payment of costs, as may be ordered.

Cf. S.R. 1957/265, r. 34 (2)

### *Trial*

**34. Names of Judges to be *Gazetted***—When the Chief Justice has, under section 235 (1) of the Act, named the Judges before whom the petition is to be tried, the Chief Justice shall cause a notification thereof to be published in the *Gazette*.

Cf. S.R. 1957/265, r. 35

**35. Time and place of trial**—The time at which a petition will be tried shall be fixed by the Court and the place at which a petition will be tried shall also, in accordance with section 235 (3) of the Act, be fixed by the Court.

Cf. S.R. 1957/265, r. 36

**36. Notice of time and place**—(1) The notice of the time and place at which a petition will be tried shall be given by the Registrar of the Court in form 5, or to the like effect, by affixing it on some conspicuous place in the office of the Court.

(2) The notice given under subclause (1) of this rule shall be the notice required to be given by section 236 (1) of the Act.

Cf. S.R. 1957/265, r. 37

**37. Notice to parties**—(1) A copy of the notice affixed under rule 36 (1) of these rules shall be sent by the Registrar of the Court—

- (a) To the petitioner at the petitioner's address for service; and
- (b) To each respondent at the respondent's address for service (if any).

(2) Notwithstanding subclause (1) of this rule, no failure to send, or miscarriage of, any copy required to be sent in accordance with that subclause shall vitiate a notice given as prescribed by rule 36 (1) of these rules.

Cf. S.R. 1957/265, r. 38

**38. Power to postpone trial**—(1) The Court or a Judge may from time to time by order made upon the application of a party to the petition, or by notice to be given in such form as the Court or Judge may direct, postpone the beginning of the trial to such day as the Court or Judge may appoint.

(2) Where an order is made under subclause (1) of this rule or a notice under that subclause is received by the Registrar of the Court, the Registrar of the Court—

- (a) Shall affix on some conspicuous place in the office of the Court notice of the postponement and of the time and place at which the petition will be tried; and
  - (b) Shall send a copy of the notice affixed under paragraph (a) of this subclause—
    - (i) To the petitioner at the petitioner's address for service; and
    - (ii) To each respondent at the respondent's address for service (if any).
- (3) Notwithstanding paragraph (b) of subclause (2) of this rule, no failure to send, or miscarriage of, any copy required to be sent in accordance with that paragraph shall vitiate a notice given as prescribed by paragraph (a) of that subclause.

Cf. S.R. 1957/265, r. 39

#### *Witnesses*

**39. Attendance of witness**—Where the Court or a Judge thinks fit to compel the attendance of a witness by order under section 247 (2) of the Act, the order may be in form 6 or to the like effect.

Cf. S.R. 1957/265, r. 42

#### *Withdrawal and Abatement of Petition*

**40. Notice of application for leave to withdraw constituency petition**—(1) Where a petitioner intends to make application to the High Court for leave to withdraw a constituency petition, the notice of that intention (which is required by section 252 (2) of the Act) shall be in form 7 or to the like effect.

(2) The petitioner shall, at least 7 days before the application is heard by the Court,—

- (a) Serve a copy of the notice on every respondent to the petition; and
- (b) Publish a copy of the notice at least once in a newspaper circulating in the district to which the petition relates.

Cf. S.R. 1957/265, r. 44

**41. Time and place for hearing of application to withdraw petition**—(1) The time and place for hearing an application under section 252 of the Act to withdraw a petition shall be fixed by the Court or a Judge.

(2) The Registrar of the Court shall, in such manner as the Court or a Judge directs, give notice of the time and place so appointed—

- (a) To every respondent; and
- (b) In the case of an application to withdraw a constituency petition, to every person who has given notice to the Registrar of the Court of an intention to apply to be substituted as a petitioner.

Cf. S.R. 1957/265, r. 45

**42. Application for leave to withdraw constituency petition**—(1) Every application to the High Court for leave to withdraw a constituency petition shall be made by motion.

(2) The notice of motion may be in form 8 or to the like effect.

(3) No further notice of the motion shall be required other than the notices prescribed by rules 40 and 41 of these rules.

Cf. S.R. 1957/265, r. 46

**43. Application for leave to withdraw list petition**—(1) Every application to the Court of Appeal for leave to withdraw a list petition shall be made by motion.

(2) The notice of motion may be in form 8 or to the like effect.

(3) The petitioner shall, at least 7 days before the application is heard by the Court, serve a copy of the notice of motion on every respondent to the petition.

**44. Notice of application to be substituted for petitioner**—(1) In the case of a constituency petition, any person who might in the first instance have presented the petition may, within 7 days after the notice prescribed by rule 40 of these rules is published by the petitioner, give notice in writing to the Registrar of the Court of that person's intention to apply, at the hearing of the application for leave to withdraw the petition, to be substituted for the petitioner.

(2) Any such person as aforesaid may, at the hearing, apply to be substituted for the petitioner, notwithstanding that that person may not have given the notice referred to in subclause (1) of this rule.

Cf. S.R. 1957/265, r. 47

**45. Notice of abatement of constituency petition**—Where a constituency petition is abated by the death of a sole petitioner or of the survivor of several petitioners,—

(a) The notice of the abatement that is required by section 255 (3) of the Act shall be in form 9 or to the like effect; and

(b) The Registrar of the Court shall, on becoming aware of the death of the petitioner or of the survivor of the petitioners,—

(i) Cause a copy of the notice of abatement to be served on every respondent to the petition; and

(ii) Cause a copy of the notice of abatement to be published at least once in a newspaper circulating in the district to which the petition relates.

Cf. S.R. 1957/265, r. 48

**46. Notice of application to be substituted upon abatement**—Every application made to the Court by any qualified person under section 255 (3) of the Act to be substituted as a petitioner when a constituency petition has abated shall be made by notice given to the Registrar of the Court.

Cf. S.R. 1957/265, r. 49

**47. Notice of respondent's death or loss of seat before trial of constituency petition**—If, before the trial of a constituency petition, a respondent (other than the Returning Officer or the Registrar of Electors) dies or loses his or her seat by reason of the House of Representatives resolving that it is vacant, the Registrar of the Court shall, on becoming aware of the death of the respondent or of the loss by the respondent of his or her seat, give notice of the death or loss—

(a) By causing the notice to be published at least once in a newspaper circulating in the district to which the petition relates; and

(b) By leaving a copy of the notice signed by him or her or on his or her behalf with the Returning Officer and by serving a like copy on the petitioner.

Cf. S.R. 1957/265, r. 50

**48. Notice of intention not to oppose constituency petition—**(1) Where a respondent to a constituency petition does not intend to oppose the petition, the respondent shall give the notice required under section 256 (1) (b) of the Act by leaving notice thereof in writing at the office of the Registrar of the Court at least 10 days before the day appointed for trial.

(2) The respondent shall forthwith cause—

- (a) A copy of the notice to be published at least once in a newspaper circulating in the district to which the petition relates; and
- (b) A copy of the notice to be left with the Returning Officer; and
- (c) A copy of the notice to be served on the petitioner.

Cf. S.R. 1957/265, r. 51

**49. Notice of application to be admitted as respondent to oppose constituency petition—**Every application made to the Court by any qualified person under section 256 (1) of the Act to be admitted as a respondent to oppose a constituency petition shall be made by notice given to the Registrar of the Court.

#### *Costs*

**50. Payment of costs from Trust Account—**When the amount of any costs has been fixed by the Registrar of the Court or agreed upon by the parties, the Court or a Judge may order that the amount, or the amount of any costs, charges, or expenses which has been fixed by the Court, shall be payable from the High Court Trust Account or, as the case may be, the Court of Appeal Trust Account referred to in rule 23 of these rules to the extent of the money therein available for the purpose.

Cf. S.R. 1957/265, r. 52

**51. Effect of order for costs—**Any order of the Court declaring the amount of costs, charges, or expenses payable by any party shall for purposes of execution have the effect of a judgment for costs given in the Court.

Cf. S.R. 1957/265, r. 53

#### *Miscellaneous Provisions*

**52. Court holidays—**All days set apart or declared to be holidays of the Court under the rules of that Court in its ordinary jurisdiction shall be deemed to be holidays for the purposes of these rules.

Cf. S.R. 1957/265, r. 55

**53. Computing of time—**In computing time for the doing of any act or the taking of any proceeding under these rules, time shall be reckoned in the manner prescribed by the rules or practice of the Court.

Cf. S.R. 1957/265, r. 56

**54. Rules of practice and procedure to be followed—**In any matter not provided for by these rules, the rules of practice and procedure of the Court shall, as far as practicable, be followed.

Cf. S.R. 1957/265, r. 57

**55. Revocation—**The Election Petition Rules 1957\* are hereby revoked.

SCHEDULE

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FORMS

Rule 4

Form 1

TITLE OF PROCEEDINGS

In the High Court of New Zealand (or In the Court of Appeal of New Zealand)

No. ....

..... Registry.

In the matter of an Election Petition relating to the [Name of electoral district] Electoral District or In the matter of an Election Petition relating to the allocation of seats under sections 191 to 193 of the Electoral Act 1993 for the [Year] General Election.

Between

A.B. [and others], Petitioner(s), and  
C.D. [and others], Respondent(s)

—

Rule 8 (1)

Form 2

CONSTITUENCY PETITION

(Title)

To the High Court of New Zealand

THE petition of A.B., of ....., (and C.D., of ....., as the case may be), whose name is (or names are) subscribed hereto, shows,—

- 1. An election for a member of Parliament for the ..... Electoral District was held.
- 2. The polling day appointed for that election was the ..... day of ..... 19....
- 3. At that election L.M. and P.Q. were candidates, and the Returning Officer has returned L.M. as being duly elected [or as the case may be].
- 4. Your petitioner, A.B., is a person who voted at that election, or is a person who had a right to vote at that election, or was entitled to be returned at that election, or was entitled to be elected at that election, or was a constituency candidate at that election [as the case may be].
- 5. Your petitioner, C.D. [Here state in like manner the right of each petitioner].
- 6. Your petitioner(s) say(s) that [Here state in numbered subparagraphs the facts on which the petitioner relies].
- 7. The specific grounds on which your petitioner('s)(s') complaint is founded are as follows: [Here state the grounds either expressly or by reference to numbered subparagraphs of paragraph 6].

SCHEDULE—continued

Form 2—continued

CONSTITUENCY PETITION—continued

8. [If the case so requires] Your petitioner(s) complains (or complain) of the conduct of [Name], the Returning Officer (or Registrar of Electors), who, by operation of section 230 (2) of the Electoral Act 1993, is a respondent to this petition.

The petitioner(s) pray(s) that it may be determined that the said L.M. was not duly elected (or returned) and that the election was void (or that the said N.O. was duly elected and ought to have been returned, or as the case may be).

Dated this ..... day of ..... 19....

Signature(s) of Petitioner(s) .....

This petition is filed by the above-named petitioner in person. The address for service of the above-named petitioner is

or

This petition is filed by A.B., solicitor for the above-named petitioner, of the firm of X.Y.Z.

The address for service of the above-named petitioner is

Documents for service on the above-named petitioner may be left at that address for service or may be—

- (a) Posted to the solicitor at [Insert Post Office box address]; or
- (b) Left for the solicitor at a document exchange for direction to [Insert document exchange box number]; or
- (c) Transmitted to the solicitor by facsimile to [Insert facsimile number].

or

This petition is filed by A.B., solicitor for the above-named petitioner, of the firm of X.Y.Z., whose postal address is

The solicitor’s agent in the proceeding is

The address for service of the above-named petitioner is

Documents for service on the above-named petitioner may be left at that address for service or may be—

- (a) Posted to the solicitor at [Insert Post Office box address]; or
- (b) Left for the solicitor at a document exchange for direction to [Insert document exchange box number]; or
- (c) Transmitted to the solicitor by facsimile to [Insert facsimile number].



SCHEDULE—*continued*

Rule 8 (2)

## Form 3

## LIST PETITION

*(Title)*

To the Court of Appeal of New Zealand

THE petition of A.B., the Secretary of the [*State name of registered political party for which the petitioner is party secretary*] (and C.D., the Secretary of the [*State name of registered political party for which the petitioner is party secretary*]), whose name is (*or names are*) subscribed hereto, shows—

1. An election for members of Parliament from lists submitted pursuant to section 127 of the Electoral Act 1993 was held on the ..... day of ..... 19....

2. At that election the [*Here state names of the parties listed in the part of the ballot paper for the election that relates to the party vote*] were the parties listed in the part of the ballot paper for that election that relates to the party vote, and the list of candidates submitted by each party pursuant to section 127 of the Electoral Act 1993 is set out in the First Schedule to this petition [*In the First Schedule list under the heading of each party the list of candidates submitted by it pursuant to section 127 of the Electoral Act 1993*].

3. The Chief Electoral Officer has, pursuant to section 193 (5) of the Electoral Act 1993, declared elected the candidates set out in the Second Schedule to this petition [*In the Second Schedule list under the heading of each party the candidates of each party declared elected by the Chief Electoral Officer*].

4. Your petitioner, A.B., is the Secretary of [*Here state name of party*], a political party registered under Part IV of the Electoral Act 1993 that was listed in the part of the ballot paper for the general Parliamentary election held on the ..... day of ..... 19.... that relates to the party vote.

5. Your petitioner, C.D. [*Here state in like manner the right of each petitioner*].

6. Your petitioner(s) say(s) that [*Here state in numbered subparagraphs the facts on which the petitioner relies*].

7. The specific grounds on which your petitioner(s)'(s)' complaint is founded are as follows: [*Here state the grounds either expressly or by reference to numbered subparagraphs of paragraph 6*].

8. [*If the case so requires*] Your petitioner(s) complains (*or complain*) of the conduct of [*Name*], the Chief Electoral Officer, who, by operation of section 258 (3) of the Electoral Act 1993, is a respondent to this petition.

The petitioner(s) pray(s) that it may be determined that the declaration of election made pursuant to section 193 (5) of the Electoral Act 1993, so far as it relates to [*State the name(s) of the candidate(s) whose election is challenged*], is invalid and the election of that (those) candidate(s) void (*or that* [*State the name(s) of the candidate(s) whose election is sought*], not named in the declaration of election made pursuant to section 193 (5) of the Electoral Act 1993, is (are) elected as a member(s) of Parliament *or as the case may be*).

SCHEDULE—*continued*

Form 3—*continued*

LIST PETITION—*continued*

Dated this ..... day of ..... 19....

*Signature(s) of Petitioner(s)* .....

This petition is filed by the above-named petitioner in person. The address for service of the above-named petitioner is

*or*

This petition is filed by A.B., solicitor for the above-named petitioner, of the firm of X.Y.Z.

The address for service of the above-named petitioner is

Documents for service on the above-named petitioner may be left at that address for service or may be—

- (a) Posted to the solicitor at [*Insert Post Office box address*]; or
- (b) Left for the solicitor at a document exchange for direction to [*Insert document exchange box number*]; or
- (c) Transmitted to the solicitor by facsimile to [*Insert facsimile number*].

*or*

This petition is filed by A.B., solicitor for the above-named petitioner, of the firm of X.Y.Z., whose postal address is

The solicitor’s agent in the proceeding is

The address for service of the above-named petitioner is

Documents for service on the above-named petitioner may be left at that address for service or may be—

- (a) Posted to the solicitor at [*Insert Post Office box address*]; or
- (b) Left for the solicitor at a document exchange for direction to [*Insert document exchange box number*]; or
- (c) Transmitted to the solicitor by facsimile to [*Insert facsimile number*].





SCHEDULE—continued

Rule 25

Form 4

BOND FOR SECURITY

KNOW all persons by these presents that we (or I), [Names of sureties or surety in full, adding residences and occupations] (hereinafter called the sureties or surety), are jointly and severally (or am) bound unto Her Majesty the Queen in the sum of \$..... for payment of which unto Her Majesty, Her heirs and successors, we bind ourselves, jointly and each of us severally, and the executors and administrators of us and each of us (or I bind myself, my executors and administrators), firmly by these presents.

Dated this ..... day of ..... 19.... .

Whereas ..... has (or have) presented a petition to the High Court under the provisions of the Electoral Act 1993 in respect of an election for the ..... Electoral District held on the ..... of ..... (or to the Court of Appeal under the provisions of the Electoral Act 1993 in respect of the allocation of seats under sections 191 to 193 of the Electoral Act 1993 for the general Parliamentary election held on the ..... day of ..... 19....):

And whereas it is required that a bond should be entered into on behalf of the said petitioner(s) in accordance with the provisions of the Electoral Act 1993 for the purposes hereinafter mentioned:

And whereas the Registrar of the High Court at ..... (or Court of Appeal) has approved of the said sureties (or surety) for that purpose:

Now the condition of this obligation is such that if the said petitioner(s) (or any of them) shall well and truly pay all costs, charges, and expenses in respect of the election petition signed by him (or her, or them, as the case may be) relating to the said election which shall become payable by him (or her, or them, or any of them) under or by virtue of the Electoral Act 1993, or any rules made thereunder, to any person or persons, then this obligation shall be void, but otherwise shall remain in force.

Signature of surety .....

Signed by the above-named [Full name of surety] in the presence of—  
Witness—

Usual Signature: .....

Place of Abode: .....

Calling or Description: .....



SCHEDULE—continued

Form 5

Rule 36

NOTICE OF TIME AND PLACE OF TRIAL

(Title)

TAKE notice that the above petition will be tried at ..... on the ..... day of ....., 19...., at .....a.m. (or p.m.), or as soon thereafter as the parties may be heard.

Dated this ..... day of ..... 19.... .

Signature: .....  
Registrar of the High Court at .....  
(or Court of Appeal)



Form 6

Rule 39

ORDER FOR ATTENDANCE OF WITNESS

(Title)

To .....

PURSUANT to an order of the Court (or a Judge), you are hereby required to attend before the High Court at ..... (or Court of Appeal) on the ..... day of ..... 19...., at .....a.m. (or p.m.) (or forthwith, as the case may be) to be examined as a witness in the matter of the above-mentioned petition, and to attend the said Court until your examination shall have been completed.

Dated this ..... day of ..... 19.... .

Signature: .....  
Registrar of the High Court at .....  
(or Court of Appeal)



SCHEDULE—continued

Rule 40

Form 7

NOTICE OF INTENTION TO APPLY FOR LEAVE TO WITHDRAW A CONSTITUENCY PETITION

(Title)

NOTICE is hereby given that the above-named petitioner will at such time and place as may be fixed for that purpose, being at least 7 days after the ..... day of ....., 19...., apply to the High Court for leave to withdraw the above-named petition upon the following grounds, namely, .....

And notice is likewise given that any person who might in the first instance have presented the petition in respect of the election to which the petition relates may give notice in writing to the Registrar of the High Court at ..... of his (or her) intention, on the hearing of the application for leave to withdraw the petition, to apply for leave to be substituted as a petitioner.

Dated this ..... day of ..... 19.... .

Signature: .....

\_\_\_\_\_

Rules 42, 43

Form 8

NOTICE OF MOTION FOR LEAVE TO WITHDRAW A PETITION

(Title)

TAKE notice that the above-named petitioner will on the ..... day of ..... 19...., at ..... (being the time and place appointed by the Court in that behalf), apply to the Court for leave to withdraw the above-mentioned petition upon the following grounds—namely .....

\*—and upon the further grounds that the prescribed notice of the petitioner's intention to make this application has been duly served and published.

Dated this ..... day of ..... 19 ....

Signature: .....

\*Delete if the application is being made to the Court of Appeal under rule 43.

\_\_\_\_\_

SCHEDULE—continued

Form 9

Rule 45

NOTICE OF ABATEMENT OF CONSTITUENCY PETITION  
(Title)

TAKE notice that by reason of the death of the above-named petitioner (or the survivor of the above-named petitioners) the above-mentioned petition has abated:

And, further take notice, that any person who might in the first instance have presented the petition may apply to the High Court, by notice given to the Registrar of the High Court at ..... within 28 days from the date of publication of this notice, to be substituted as a petitioner.

Dated this ..... day of ..... 19....

Signature: .....

Registrar of the High Court at .....

MARIE SHROFF,  
Clerk of the Executive Council.

EXPLANATORY NOTE

*This note is not part of the rules, but is intended to indicate their general effect.*

These rules replace the Election Petition Rules 1957. The main changes in the rules result from the need to adapt the rules to the provisions of the Electoral Act 1993. In particular, the rules now prescribe the procedure in relation to the election petitions that may be presented to the Court of Appeal under section 258 of the Electoral Act 1993.

These rules are intended to be interim rules. These rules and their predecessor, the Election Petition Rules 1957, are based on rules first made in New Zealand in 1881. Those rules had, in their turn, been based on rules first made in the United Kingdom in 1868. It is the intention of the Rules Committee that the provisions relating to constituency petitions (which are presented to the High Court) should be incorporated into the High Court Rules and that the provisions relating to list petitions (which are presented to the Court of Appeal) should be incorporated into revised Court of Appeal Rules. However, the proper integration of these long-standing rules into the High Court Rules and revised Court of Appeal Rules is an exercise that requires some care.

It is intended that the necessary work will be carried out before 30 November 1997. The Election Petition Rules 1996 are accordingly expressed to expire with the close of 30 November 1997.

Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 8 August 1996.  
These rules are administered in the Ministry of Justice.