

Seychelles

Elections Act

Presidential Election and National Assembly Election (Election Petition) Rules, 1998

Statutory Instrument 10 of 1998

Legislation as at 1 December 2014

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Presidential Election and National Assembly Election (Election Petition) Rules, 1998
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Seychelles

Elections Act

Presidential Election and National Assembly Election (Election Petition) Rules, 1998 Statutory Instrument 10 of 1998

Commenced on 24 March 1998

[This is the version of this document at 1 December 2014.]

[Repealed by [Presidential Election and National Assembly Election \(Election Petition\) Rules, 2016 \(Statutory Instrument 57 of 2016\)](#) on 6 September 2016]

[SI 10 of 1998]

In exercise of the powers conferred by section 95(1) of the Elections Act, the Chief Justice hereby makes the following Rules—

1.

These Rules may be cited as the Presidential Election and National Assembly Election (Election Petition) Rules, 1998.

2.

In these Rules—

"**Court**" means the Constitutional Court constituted under Article 129 of the Constitution.

"**Election Petition**" means a petition presented to the Court for the determination of the question as to whether a person has been validly elected to the office of President or as a directly elected member of the National Assembly, as the case may be;

"**Registrar**" means the registrar of the Supreme Court.

3.

- (1) These Rules provide for the practice and procedure of the Court in relation to an election petition.
- (2) Where any matter is not provided for in these Rules, the provisions of the Seychelles Code of Civil Procedure shall apply to the practice and procedure to be observed in connection with the presentation and hearing of an election petition as they apply to civil proceedings before the Supreme Court.

4.

- (1) The jurisdiction and powers of the Court in respect of an election petition shall, subject to subrule (2), be exercised by two judges of the Supreme Court sitting together.
- (2) The Chief Justice may determine that the jurisdiction and power of the Court in relation to any matter referred to in subrule (1) be exercised by more than two Judges of the Supreme Court sitting together.

5.

- (1) Except where an election petition is presented by the Attorney-General, a petitioner shall furnish security in a sum of R50,000 for costs, charges and expenses that may become payable by the petitioner.
- (2) The security shall be furnished at the time the petition is presented to Court.

6.

- (1) The provisions of the Court Fees (Supreme Court) and Costs Act shall apply in relation to the fees and taxation of costs of an election petition as they apply to proceedings in the Supreme Court in respect of civil proceedings before the Supreme Court.
- (2) For the purpose of subrule (1), the value of the subject matter of an election petition shall be deemed to be R50,000.

7.

- (1) An election petition shall contain a concise statement of the material facts on which the petitioner relies and the relief which the petitioner claims.
- (2) Where the petitioner alleges that an illegal practice has been committed in relation to the election, the petition shall contain the name and particulars of the person alleged to have committed the illegal practice and the date and place of the commission of the illegal practice.
- (3) The Court shall not permit an amendment of an election petition which seeks to include any new matter not pleaded in the petition.
- (4) Where the petitioner is not the Attorney-General, the Attorney-General shall be made a respondent to the petition.
- (5) The petitioner shall file in the registry as many copies of the petition as there are respondents.

8.

- (1) Where an election petition has not been presented within the time specified in section 44 (3) and (4) of the Elections Act or where the petitioner has failed to comply with the provisions of the Elections Act, 1995 or these Rules, the registrar shall submit the petition for an order of Court.
- (2) The Court shall hear the petitioner before making an order under subrule (1).

9.

Where an election petition has been presented within the time referred to in rule 8 and the petitioner has complied with the Elections Act 1995 and these Rules, the registrar shall issue notice on the respondents fixing the date and time for their appearance.

10.

The respondent may before filing a defence to an election petition raise any preliminary objection to the election petition and the Court shall hear the parties before making an order on the objection.

11.

- (1) A petitioner shall not withdraw an election petition without leave of the Court, on special application made to the Court.

- (2) Where there are more petitioners than one, the application for withdrawal shall not be made except with the consent of all the petitioners.

12.

- (1) Before leave for withdrawal of an election petition presented by any person other than the Attorney-General is granted, there shall be produced affidavits by all the parties to the election petition but the Court may on cause shown dispense with the affidavit of any particular person if it seems to the Court upon special ground, to be just so to do.
- (2) Each affidavit shall state to the best of the deponent's knowledge and belief that no agreement or terms of any kind whatsoever has or have been made, and that no undertaking has been entered into, in relation to the withdrawal of the election petition, but if any lawful agreement has been made with respect to the withdrawal of the election petition, the affidavits shall set forth that agreement and shall make the foregoing statement subject to what appears from the affidavit.
- (3) The affidavit of the petitioner shall further state the ground on which the election petition is sought to be withdrawn.
- (4) Where the deponent of an affidavit is a registered political party, the affidavit shall be made by the leader of that party.
- (5) Copies of the affidavits shall be delivered to the Attorney-General at a reasonable time before the hearing of the application for withdrawal, and the Court may hear the Attorney-General in opposition to the allowance of the withdrawal of the election petition, and shall have power to receive evidence on oath of any person whose evidence the Attorney-General considers material.
- (6) For the purposes of these Rules an agreement made with respect to the withdrawal of an election petition shall be deemed to be unlawful, if such agreement is made or entered into for the withdrawal of the election petition in consideration of any payment of any sum to any person, or in consideration of the withdrawal or non-presentation of any other election petition.

13.

Where the Court is of opinion that it would be for its convenience and that of all the parties concerned that two or more election petitions be consolidated, the Court may, of its own motion or on application of any party, direct that the petitions be consolidated and treated as one petition.

14.

The hearing of an election petition on any day shall take priority over other business of the Court listed for hearing on that day.

15.

- (1) The Court may declare an election void if the Court is satisfied—
 - (a) that there was a non-compliance with the provisions of law relating to the election and the non-compliance affected the result of the election; or
 - (b) that an illegal practice was committed in connection with the election by or with the knowledge and consent or approval of a candidate at the election or of any of the agents of the candidate; or
 - (c) that the candidate at the time of the election was not a person qualified to be elected as President or a directly elected member of the National Assembly, as the case may be.
- (2) The Court may order a recount of ballot papers where the Court is satisfied that there was an irregularity in the counting of ballot papers that affected the result of the election.