

MONTSERRAT
STATUTORY RULES AND ORDERS
S.R.O. 14 OF 2014

LEGISLATIVE ASSEMBLY (ELECTION PETITION) RULES

ARRANGEMENT OF RULES

1.	Citation and commencement	2
2.	Interpretation	2
3.	The petition	3
4.	Evidence not to be stated.....	3
5.	Petitioner to give address for service	4
6.	Presentation of Petition	4
7.	Publication of Notice of the petition	4
8.	Service of petition	5
9.	Security for costs.....	5
10.	Removal of objection where security declared insufficient	7
11.	When petition at issue	7
12.	Amendment of petition	7
13.	Withdrawal of petition	7
14.	Substitution of a new petitioner	8
15.	Abatement of petition.....	9
16.	Addition or substitution of respondent	10
17.	Notice of intention not to oppose petition	10
18.	Respondent not opposing not to appear as party	10
19.	Several petitions as to the same election	10
20.	Notice of recrimination when petition complains of undue return and claims seat	11
21.	Returning officer if complained of to be respondent.....	11
22.	Petition complaining of no return.....	11
23.	Mode of trial of petitions.....	11
24.	Power to reserve question of law for Court of Appeal	12
25.	Evidence of corrupt practice receivable before proof of agency	12
26.	Witnesses	13
27.	General costs of petition.....	13
28.	Application of Eastern Caribbean Supreme Court Civil Procedure Rules 2000.....	15
29.	Forms	15

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

MONTSERRAT
STATUTORY RULES AND ORDERS
S.R.O. 14 OF 2014

LEGISLATIVE ASSEMBLY (ELECTION PETITION)
RULES 2014

RULES TO REGULATE THE PRACTICE AND PROCEDURE FOR ELECTION PETITIONS IN MONTSERRAT MADE BY THE CHIEF JUSTICE UNDER SECTION 53(2) OF THE ELECTIONS ACT (CAP. 1.04).

1. Citation and commencement

- (1) These Rules may be cited as the Legislative Assembly (Election Petition) Rules 2014.
- (2) These Rules come into force on the 1st March, 2014.

2. Interpretation

In these Rules—

“**the Act**” means the Elections Act (Cap. 1.04);

“**corrupt practice**” means bribery, treating, undue influence, personation or any other offence defined or recognised as a corrupt practice by the law of Montserrat;

“**Court**” means the High Court of the Eastern Caribbean Supreme Court established by the Supreme Court Order 1967;

“**Court of Appeal**” means the Court of Appeal of the Eastern Caribbean Supreme Court established by the Supreme Court Order 1967;

“**court office**” means the Registry of the High Court;

“**election petition**” or “**petition**” means an election petition or petition complaining of an undue return or undue election of a member of the Legislative Assembly

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

presented to the High Court under the Elections Act
and of these Rules;

“**judge**” means a judge of the Court and includes the Chief Justice, any Puisne judge and any acting Chief Justice or acting puisne judge;

“**petitioner**” means a person who presents a petition to the High Court under these Rules;

“**Registrar**” means the Registrar of the High Court;

“**respondent**” means a person against whom a petition is presented to the High Court;

“**returning officer**” means the returning officer for the electoral district to which the petition relates; and

“**writ**” means the writ for an election.

3. The petition

A petition shall be set out as in Form 1 of the Schedule and shall—

- (a) be signed by the petitioner or by all the petitioners if more than one;
- (b) state the right of the petitioner to petition within section 52 of the Act;
- (c) state the date and result of the election to which the petition relates;
- (d) state the grounds on which relief is sought, setting out with sufficient particularity the facts relied on to sustain the prayer, but not the evidence by which they are to be proved;
- (e) be divided into consecutively numbered paragraphs, each of which, as much as possible, shall be confined to a distinct portion of the subject; and
- (f) conclude with a prayer, setting out particulars of the relief sought, for instance, that a specified person should be declared duly returned or elected, or that the election should be declared void, or that a return may be enforced.

4. Evidence not to be stated

- (1) Evidence shall not be stated in the petition, but the judge may, on application, order such particulars as may be necessary to prevent surprise and unnecessary expense and to ensure a fair and

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

effectual trial, in the same way as in ordinary proceedings in the Court, and on terms as to costs and otherwise as may be ordered.

- (2) Where an allegation is made against a person for the commission of an election offence under the Act, the particulars which may be requested shall include—
 - (a) the name of the person in the petition against whom the alleged election offence was committed;
 - (b) the name, address, telephone number and occupation on the register of the person who is alleged to have committed the election offence; and
 - (c) the time when and the place where each offence is alleged to have been committed and the amount and nature.
- (3) In any case in which the judge orders that particulars of any allegation made in a petition be delivered to the respondent, he or she may fix the time within which the particulars shall be delivered and may also order that the petitioner, at the trial of the petition, may be precluded from going into any case in respect of which the particulars have not been duly delivered, unless it is otherwise ordered.

5. Petitioner to give address for service

The petitioner shall in his or her petition give the name and address of a legal practitioner whom he or she authorises to act on his behalf, or state that he or she acts for himself, and in either case give an address for service within three miles of the office of the Registrar.

6. Presentation of Petition

- (1) A petition shall be presented in accordance with the Act.
- (2) The petitioner shall file the petition along with three copies of it at the court office and the Registrar or his or her deputy or clerk shall give a receipt for it, if required to do so.

7. Publication of Notice of the petition

- (1) On presentation of the petition, the Registrar shall immediately cause a Notice of the petition to be published in the *Gazette* and in a newspaper of general circulation in Montserrat.
- (2) The costs of publication of the Notice of the petition and of any other matter required to be published by the Registrar under these

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

Rules shall be paid to the Registrar before the publication by the petitioner or other person moving the matter in the first instance and shall form part of the general cost of the petition.

8. Service of petition

- (1) The petitioner shall serve a petition on the respondent by delivering a notice of the presentation of the petition together with a copy of the petition to the respondent personally within ten days after the presentation of the petition.
- (2) Notwithstanding subrule (1), a judge may, on the application of the petitioner, no later than fourteen days after the petition is presented and supported by affidavit showing what has been done, and on being satisfied that all reasonable effort has been made to effect personal service and cause the matter to come to the knowledge of the respondent, order that what has been done shall be considered sufficient service, subject to any conditions which he may think fit to impose.
- (3) Where a respondent is evading service, the petitioner may apply to the judge for an order deeming the posting of—
 - (a) a Notice in the office of the Registrar; or
 - (b) a Notice published in a newspaper of general circulation in Montserrat,
stating that the petition has been presented, the name of the petitioner, the prayer and the nature of the proposed security as personal service on the respondent.
- (4) The application under subrule (3) shall be supported by evidence on affidavit.
- (5) A respondent shall, within ten days after service on him or her of the Notice of the petition, lodge with the Registrar and serve on the petitioner a statement of particulars of an address for service similar to those required by rule 5 to be stated by a petitioner in the petition, and he or she shall state the said particulars in any application made by him or her for the purpose of objecting to the security given by the petitioner or otherwise.

9. Security for costs

- (1) At the time of the presentation of the petition, or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the petitioner—

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

- (a) to any person summoned as a witness on his or her behalf;
or
- (b) to the member whose election or return is complained of; or
- (c) to any other person named as a respondent in the petition,
shall be given by the petitioner.
- (2) The security shall be \$1,200 and shall be given by one or more recognizance to be entered into by any number of sureties approved by the Registrar, not exceeding four or by deposit of money in the Court, or partly in one way and partly in the other to the satisfaction of the Registrar.
- (3) The recognizance shall contain the name and usual place of abode of each surety with sufficient description as shall enable him or her to be found or ascertained.
- (4) Within three days after the giving of security as required by this Rule, notice of the nature of the security given shall be served by the petitioner on the respondent.
- (5) When the security is given wholly or partly by recognizance, it is lawful for the respondent within ten days from the date of service on him or her of the notice to object to the recognizance on the ground that—
- (a) one or more of the sureties is insufficient;
- (b) a surety is dead;
- (c) a surety cannot be found or ascertained for want of sufficient description in the recognizance; or
- (d) a person named in the recognizance has not duly acknowledged the same.
- (6) An objection to the security shall be made by application before a judge supported by affidavit of the facts relied on, but the judge may require the person giving evidence on affidavit to attend for personal examination.
- (7) The application shall be made on not less than four days notice to the petitioner and the costs of the application shall be in the discretion of the judge who may decide which party shall pay them.
- (8) The costs of hearing and deciding an objection on the ground of insufficiency of a surety shall be paid by the petitioner, unless at the time of leaving the recognizance with the Registrar the petitioner also left with the Registrar an affidavit sworn by each

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

surety before a justice of the peace, or other person duly authorised to administer oaths, that he or she is possessed of immovable property of the value of double the amount for which he or she is bound by the recognizance, after satisfying all other debts and liabilities due to other persons.

10. Removal of objection where security declared insufficient

- (1) If by order made on the application the security is declared insufficient and the objection is allowed, it is lawful for the petitioner, within a time not exceeding ten days as may be ordered by the judge before whom the application is heard, to remove the objection by depositing with the Court a sum of money as the judge may direct for the purpose of making the security sufficient.
- (2) If the petitioner does not remove the objection by deposit of the sum of money so directed to be deposited within the period fixed by the order of the judge, no further proceedings shall be taken on the petition and the application stands dismissed.

11. When petition at issue

If by order made on the application the security is declared sufficient, or if no objection is made to the sufficiency of the security within the time limited by these Rules for making the objection, the petition shall be at issue.

12. Amendment of petition

- (1) A petition which has been presented questioning a return or election other than on an allegation of a corrupt practice may, for the purpose of questioning the return or election on an allegation of a corrupt practice, be amended with the leave of the Court.
- (2) An application for leave to amend must be made to the Court in accordance with the Act.

13. Withdrawal of petition

- (1) A petition may be withdrawn with the leave of the Court made on notice of application in Form 10.
- (2) No application under subrule (1) shall be made for the withdrawal of a petition until the petitioner has given notice of his or her intention to the Registrar and the respondent, and the Registrar shall immediately cause the same to be published in the *Gazette* and in a newspaper of general circulation in Montserrat.

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

- (3) Where there is more than one petitioner, no application to withdraw a petition shall be made except with the consent of all the petitioners.
- (4) Before leave for the withdrawal of a petition is granted—
- (a) a party to the petition and his or her legal practitioner; and
 - (b) the election agents of the parties who were candidates at the election
- shall produce affidavits to the effect stated in subrule (5), but the Court may, on cause shown, dispense with the affidavit of a particular person if on special grounds it appears to the Court just to do so.
- (5) Each affidavit shall state that, to the best of the deponent's knowledge and belief,—
- (a) no agreement or terms of any kind whatsoever has, or have been made; and
 - (b) no undertaking has been entered into,
- in relation to the withdrawal of the petition, but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set out that agreement and shall make the foregoing statement subject to what appears from the affidavits.
- (6) The affidavits of the applicant and his or her legal practitioner shall further state the ground on which the petition is sought to be withdrawn.
- (7) No person shall make any agreement or terms, or enter into any undertaking, in relation to or for the withdrawal of a petition in consideration—
- (a) of any payment;
 - (b) that the seat shall at any time be vacated; or
 - (c) of the withdrawal of any other petition.
- (8) A person who contravenes this subrule commits an offence and is liable to a fine of \$500.

14. Substitution of a new petitioner

- (1) A person who might have been a petitioner in respect of the election to which the petition relates may, within five days after the publication by the Registrar in the *Gazette* of a copy of the notice of application for leave to withdraw the petition, apply to

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

the Court to be substituted as a petitioner for the petitioner who desires to withdraw the petition, and the judge may at the hearing of the application, if he or she thinks fit, substitute the applicant as a petitioner.

- (2) Where in the opinion of the judge, the proposed withdrawal of a petition is induced by any corrupt bargain or consideration or is the result of any agreement, terms or undertaking prohibited by these Rules, he or she may, by order, direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner.
- (3) If no order under subrule (2) is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of an original petitioner and subject to like conditions, shall be given on behalf of the substituted petitioner within five days after the order of substitution and before he or she takes any step in the proceedings.
- (4) Subject to this rule, a substituted petitioner shall stand in the same position, as nearly as may be, and be subject to the same liabilities, as the original petitioner.
- (5) If a petition is withdrawn, the petitioner is liable to pay the costs of the respondent.

15. Abatement of petition

- (1) A petition shall be abated by the death of a sole petitioner or the survivor of several petitioners.
- (2) The abatement of a petition shall not affect the liability of the petitioner's legal personal representative to pay the costs previously incurred.
- (3) On the abatement of a petition, a party or person interested in the petition shall give to the Registrar notice of the abatement and the Registrar shall immediately cause the notice to be inserted in the *Gazette* and in a newspaper of general circulation in Montserrat.
- (4) Within one month after publication of the notice in the *Gazette* a person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court to be substituted as a petitioner.
- (5) The judge may, if he or she thinks fit, substitute as a petitioner the applicant on whose behalf security to the same amount as is required in the case of an original petition is given and the

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

security shall be subject to the same objection as the security given in an original petition.

16. Addition or substitution of respondent

- (1) If, before the trial of a petition—
 - (a) the respondent dies, then a person entitled to be a petitioner in respect of the election to which the petition relates may give notice of the death of the respondent by publication in the *Gazette* and in a newspaper of general circulation in Montserrat; or
 - (b) the respondent gives notice to the Registrar and to the petitioner that he or she does not intend to oppose the petition, the Registrar shall give notice of the intention of the respondent by publication in the *Gazette* and in a newspaper of general circulation in Montserrat.
- (2) Within twenty-one days after publication of the notice under subrule (1) in the *Gazette*, a person may apply to the Court to be admitted as a respondent to oppose the petition, and the person shall be admitted accordingly either with the respondent, if there is a respondent, or in place of the respondent.
- (3) Any number of persons not exceeding three may be admitted.

17. Notice of intention not to oppose petition

A respondent who does not intend to oppose the petition shall, not less than seven days before the day fixed for the trial, serve notice to that effect on the petitioner and all other parties.

18. Respondent not opposing not to appear as party

A respondent who has given the prescribed notice that he or she does not intend to oppose the petition shall not appear or act as a party against the petition in any proceedings on the petition.

19. Several petitions as to the same election

Where more than one petition relating to the same election or return is presented, all the petitions shall be dealt with as one petition, in the manner and on the terms, as the judge directs.

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

20. Notice of recrimination when petition complains of undue return and claims seat

- (1) When a petition complains of an undue return and claims the seat for some person other than the person returned, the respondent may, within ten days after the service of the notice of the petition, give notice in writing to the petitioner that he intends to give evidence to prove that the person on whose behalf the seat is claimed was not duly elected.
- (2) The grounds on which a respondent intends to complain that a person on whose behalf the seat is claimed was not duly elected shall be set out in the notice and the Rules applicable to a petition and the particulars of charges made in the petition shall apply to every notice.

21. Returning officer if complained of to be respondent

Where a petition complains of the conduct of a returning officer, the returning officer shall for the purposes of these Rules, except the substitution of respondents in his or her place, be deemed to be a respondent.

22. Petition complaining of no return

A petition complaining of no return may be presented to the Court, and is deemed to be an election petition, and the judge may—

- (a) make an order on the petition as he or she thinks expedient for compelling a return to be made; or
- (b) allow the petition to be heard in manner provided with regard to petitions.

23. Mode of trial of petitions

The following provisions apply to the trial of a petition—

- (a) the trial shall take place in open court at a time as a judge may appoint, not being less than seven days after notice of trial has been given to the parties and published in the *Gazette* and in a newspaper of general circulation in Montserrat;
- (b) the judge may adjourn the trial from time to time, but the trial of every petition so far as practicable, consistently with the interests of justice in respect of the trial, shall be

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

continued from day to day on lawful days until its conclusion;

- (c) the judge may make a special report to the Governor upon any matter arising in the course of the trial, an account of which in his or her judgment ought to be submitted;
- (d) where it appears to the judge, on application by either party or without the application, that the case raised by the petition can be conveniently stated as a special case, he or she may direct the same to be stated by the petitioner and the respondent accordingly, and any special case shall, as far as may be, be heard before the Court, and the decision of the Court shall be the decision on the petition;
- (e) in case the petitioner and the respondent differ on the stating of the special case, the Court may refer the same to be settled by a legal practitioner conferred with the rank of Queen's Counsel or Senior Counsel;
- (f) a copy of the case stated as settled shall be sent to the parties within seven days of settlement of the case stated;
- (g) the court office shall give the parties at least fourteen days notice of the date, time and hearing of the special case;
- (h) the judge shall certify to the Governor his or her determination in reference to a special case.

24. Power to reserve question of law for Court of Appeal

- (1) If it appears to the judge, on the hearing of any election petition or any special case, that any question of law requires further consideration by the Court of Appeal, he or she may postpone the hearing, or the granting of any certificate to the Governor, until the determination of the question by the Court of Appeal and for this purpose may reserve any question of law for the determination of the Court of Appeal.
- (2) A reference to the Court of Appeal under subrule 24(1) shall be by way of a special case stated under rule 23.

25. Evidence of corrupt practice receivable before proof of agency

On the trial of a petition, unless the judge otherwise directs, any charge of a corrupt practice may be gone into, and evidence in relation to the charge received, before any proof has been given of agency on the part of any candidate in respect of the corrupt practice.

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

26. Witnesses

- (1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in a civil trial.
- (2) At the trial, the Court may, by order under the hand of the judge, require a person who appears to him or her to have been concerned in the election to attend as a witness, and a person willfully refusing to obey the order shall be guilty of contempt of court.
- (3) A witness may, after his or her examination by the Court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.
- (4) A person called as a witness respecting an election before the Court shall not be excused from answering any question relating to any offence at or connected with the election, on the ground of privilege:
- (5) Notwithstanding subrule (4)—
 - (a) a witness who answers truly all questions which he or she is required by the Court to answer shall in the discretion of the Court be eligible to receive a certificate of indemnity under the hand of the judge stating that the witness has so answered; and
 - (b) an answer by a person to a question put by or before the Court is not admissible in evidence against that person in civil or criminal proceedings, except in the case of any criminal proceeding for perjury in respect of the evidence.
- (6) The reasonable expenses incurred by a person in appearing to give evidence at the trial of a petition, if allowed to the person by order of the judge, is payable in the first instance by the party who calls him or her as a witness and the amount payable shall be ascertained and certified by the Registrar.
- (7) The expenses under subrule (6) may be included in the costs of the petition and shall be paid by the party directed to pay those costs.
- (8) The expenses of a witness called and examined by the judge are deemed to be costs of the petition and shall be paid as directed by the order of the judge.

27. General costs of petition

- (1) Except where specifically provided for in these Rules, all costs, charges and expenses of and incidental to the presentation of a

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

petition, or of any consequent proceedings shall be in the discretion of the Court and shall be defrayed by the parties to the petition in a manner and in proportions as the Court may determine.

- (2) The Court may disallow any costs, charges or expenses which may, in its opinion, have been caused by—

- (a) vexatious conduct,
- (b) unfounded allegations; or
- (c) unfounded objections

on the part of either the petitioner or the respondent, and shall have regard to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether or not the parties are on the whole successful.

- (3) The rules and regulations of the Court with respect to costs to be allowed in actions, causes and matters in the Court shall, in principle and so far as practicable, apply to the costs of election petitions and connected proceedings and the amount of the costs may be fixed by the judge or may be directed to be assessed.

- (4) Where the petitioner is ordered to pay any costs and he or she fails to pay the costs within fourteen days from the date of the order of the Court,—

- (a) the Registrar shall pay the costs out of any money deposited with the Court as security under these Rules and execution may be issued against the petitioner and the sureties jointly and severally for any balance not covered by the deposit; or

- (b) where security has been given by recognizance, the Registrar shall, on an affidavit of the respondent stating—

- (i) the amount of the costs directed to be paid by the petitioner; and
- (ii) that neither the petitioner nor any of the sureties has paid them within fourteen days after the order to pay the same,

certify the recognizance to be forfeited.

- (5) Execution shall immediately issue out of the Court for the recovery of the amount of the costs ordered to be paid against the petitioner and the sureties jointly and severally to the extent of the amount for which they are bound by the recognizance, but the petitioner is always liable to pay the full amount of the costs.

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

- (6) If the security given by the petitioner is in the form of money deposited with the Court, the petitioner is entitled to a refund of a portion of the money exceeding the amount of the costs ordered to be paid by him or her.
- (7) If a respondent who is ordered to pay any costs to the petitioner fails to do so within fourteen days from the date of the order directing the payment, execution shall immediately be issued out of the Court for the recovery of the amount of costs.
- (8) Execution shall be levied in accordance with the law governing execution in civil actions in the Court.

28. Application of Eastern Caribbean Supreme Court Civil Procedure Rules 2000

In any matter not provided for by the Act or by these Rules, the practice and procedure set out in the Eastern Caribbean Supreme Court Civil Procedure Rules 2000, relating to the service of documents other than the election petition, and the conduct of a civil trial may be applied, if a judge so directs.

29. Forms

In proceedings regulated by these Rules, the forms contained in the Schedule, or forms to the like effect, shall be used as the documents described by the headings of the forms.

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

SCHEDULE

FORMS

FORM 1

[Rule 3]

Petition

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
MONTSERRAT

Election for (state the electoral district) held on the..... day of
....., 20.....

BETWEEN

A.B. Petitioner.

And

X.Y Respondent.

The petition of A.B. of(or of

A.B. of ... and C.D. of) (*as the case may be*) whose name is
subscribed.

1. Your petitioner A.B. 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 at the above election, or was a candidate at the above election*); and your petitioner C.D.
(here state in like manner the right of each petitioner).

MONTSERRAT

Legislative Assembly (Election Petition) Rules, 2014

S. R.O. 14 OF 2014

-
2. Your petitioner states that the election was held on the.....day of, 20 , when E.F., G.H. and I.J. were candidates, and the returning officer has returned E.F. as being duly elected.
 3. Your petitioner says that (here state in specific paragraphs the facts and grounds on which the petitioner relies).

WHEREFORE your petitioner prays that it may be determined and the said E.F. was not duly elected or returned, and that the election was void (or that the said G.H. was duly elected and ought to have been returned, or as the case may be).

Dated thisday of, 20

.....

Petitioner

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 2
[Rule 8]

Application For Substituted Service

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
MONTSERRAT
(Title as in the Case of the Petition)

Notice of Application

The Petitioner AB. (full names), of _____ (full address)

applies to the court for an order for substituted
service_____.

The grounds of the application are—

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 3
[Rule 9]

Recognizance Giving Security for Costs under Rule 9

(Title as in the Case of the Petition)

Be it remembered that on the day of, 20....., before me (name and description) came A.B. of (name and description as above) and acknowledged himself (*or severally acknowledged themselves*) to owe to Our Sovereign Lady the Queen the sum of (in words) dollars (*or the following sums*) (that is to say) the said C.D., the sum of (in words) dollars,

the said E.F., the sum of (in words) dollars, and the said G.H., the sum of(in words) dollars to be levied on his (*or their respective*) goods and chattels, lands and tenements to the use of Our said 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*) relating to (here insert the name of the electoral district) which shall become payable by the said petitioner under the Legislative Assembly (Election Petitions) Rules to any person, then this recognizance to be void, otherwise to stand in full force.

.....
Petitioner and Sureties

Taken and acknowledged by the above named (names of petitioner and sureties) on the..... day of, 20....., before me.

.....
*A Justice of the Peace or
person authorised to administer oaths*

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 4
[Rule 9]

Notice of Presentation of Petition and of the Nature of the Security

(Title as in the Case of the Petition)

Take notice that a petition complaining of
(state the grounds of complaint briefly) and praying that
(state briefly the prayer of the petition) was presented to the Court on the
.....day of, 20....., and that security for
the costs, charges and expenses thereof has been given
(state the nature of the security given, i.e. whether by deposit of money or by
recognizance and the names and the description of the sureties and the
amounts for which each surety has bound himself).

Dated the day of, 20.....

To:

(Name of Respondent)

(Address)

.....
Petitioner

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 5
[Rule 9]

Application objecting to security

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
MONTSERRAT
(Title as in the Case of the Petition)

Notice of Application

The Petitioner AB. (full names), of (full address)

applies to the court for an order that the security given by the respondent be rejected.

The grounds of the application are—

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

Dated

Signed.....

[Legal Practitioner for the] Applicant

This application will be heard by [the Judge in Chambers] [Master xxxxx] on

the day of , at am/pm at

[xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —

NB This notice of application must be served as quickly as possible on the respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.] to except public holidays.

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 6
[Rule 10]

Order Upon an Application objecting to Security

(Title as in the Case of the Petition)

Before Mr./Mde. Justice

The day of, 20.....

Upon objection to the security given by the petitioner herein made by application on the..... day of, 20.....
And Upon reading the affidavit of dated the day of, 20....., and hearing the evidence of witnesses personally examined, (if such evidence was required) and counsel on behalf of the parties.

It is declared that the security given by the petitioner in the above-mentioned petition is insufficient and it is ordered that the objection be allowed but that the petitioner be at liberty to remove the objection thereto by depositing with the High Court the sum of (in words) dollars withindays from this day (the period is not to exceed ten days).

(In case the security is declared sufficient this order shall read—It is Declared that the security given by the petitioner in the above-mentioned petition is sufficient and it is ordered that the objection be disallowed and that the costs of this objection be paid by the petitioner (*or the respondent as the case may be*).

By the Judge

.....

Registrar

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 7
[Rule 4]
Application for Particulars

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

(Title as in the Case of the Petition)

Notice of Application

The Petitioner AB. (full names), of (full address)

applies to the court for an order that the petitioner deliver to the respondent or his legal practitioner particulars in writing of ...

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

MONTSERRAT
 Legislative Assembly (Election Petition) Rules, 2014
 S. R.O. 14 OF 2014

FORM 8
 [Rule 4]

Particulars Delivered

(Title as in the Case of the Petition)

The following are the particulars delivered by the petitioner to the respondent
 on the
 day of, 20

(This form may be adapted to suit other election offences under the Act.)

BRIBERY								
<i>No in particulars</i>	<i>Name of person bribed</i>	<i>Address</i>	<i>Register or occupation</i>	<i>Name of person bribing</i>	<i>Address</i>	<i>Time when bribed</i>	<i>Place where bribed</i>	<i>Amount and character of bribe</i>

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 9

[Rule 12]

Application to amend Petition

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

(Title as in the Case of the Petition)

Notice of Application

The Petitioner AB. (full names), of _____ (full address)

applies to the court for an order that the petition be amended.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

:

This application will be heard by [the Judge in Chambers] [Master xxxxx]

the day of , at a.m/p.m at

[xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —

NB This notice of application must be served as quickly as possible on the respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.] to except public holidays.

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 10

[Rule 13]

*Notice to Registrar and Respondent of Application for Leave to Withdraw a
Petition*

(Title as in the Case of the Petition)

1. The petitioner proposes to apply to withdraw his petition upon the following grounds:

..... (Here state the grounds).

2. He accordingly prays that a day may be appointed for hearing the application.

Dated the day of, 20

.....
Petitioner

To:

The Registrar.

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 11
[Rule 13]

Notice to Public of Application for Leave to Withdraw Petition

(Title as in the Case of the Petition)

Notice is hereby given that the above petitioner has on the day of
....., 20, lodged at the High Court
Registry notice of an application to withdraw the petition of which notice
the following is a copy—

(Here set out a copy of the notice to Registrar and respondent)

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

Dated the day of, 20

.....

Registrar

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 12

[Rule 13]

Application for Leave to Withdraw Petition

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

(Title as in the Case of the Petition)

Notice of Application

The Petitioner AB. (full names), of _____ (full address)

applies to the court for an order that his or her petition be withdrawn.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 13
[Rule 15]

Notice of Abatement of Petition

(Title as in the Case of Petition)

Take notice that the petitioner (*or* the survivor of the several petitioners) in the above petition died on the day of, 20....., at
in the of
and that consequently the said petition was abated by such death.

Dated the day of

.....

*A party or person interested in
the petition*

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 14
[Rule 15]

Application for Substitution of a Petitioner in Place of a Deceased Petitioner

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
MONTSERRAT

(Title as in the Case of the Petition)

Notice of Application

The Petitioner AB. (full names), of _____ (full address)

applies to the court for an order substituting _____ as a petitioner in
place of the deceased petitioner _____.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 15
[Rule 16]

Notice to be Published of Death of the Respondent

(Title as in the Case of the Petition)

Take notice that the respondent
died on the day of, 20.....,
at in the of

.....
*A person entitled to be a petitioner
in respect of the election questioned*

FORM 16
[Rule 16]

Notice to be Published by Respondent of Intention not to Oppose the Petition

(Title as in the Case of the Petition)

Take notice that I the undersigned respondent do not intend to oppose the above
petition.

.....
Respondent

To:
The Registrar and the petitioner

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 17

[Rule 16]

Application to be Admitted a Respondent to Oppose the Petition

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

(Title as in the Case of the Petition)

Notice of Application

The Petitioner AB. (full names), of _____ (full address)

applies to the court for an order to be admitted as a respondent to oppose the
petition in place of _____ who died on the _____ day of _____, 20__.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 18
[Rule 20]

Notice of Recriminatory Grounds

(Title as in the Case of the Petition)

Take notice that I the respondent in the above-mentioned petition intend to complain of the election of the person on whose behalf the seat is claimed undue

and that the following are the grounds on which I intend to rely in support of that complaint—

.....

(Here set out the grounds which the respondent intends to complain of)

.....

Respondent or his Legal Practitioner

To:

The petitioner and his legal representative.

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 19
[Rule 23]

Notice of Trial

(Title as in the Case of the Petition)

Take notice that the above petition (or petitions) will be tried in the High Court in Brades on the day of , 20 , commencing ata.m./p.m. and on such other subsequent days as required.

.....
Registrar

To:

The petitioner and the respondent and their legal practitioner.

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

FORM 20
[Rule 23]

Application to turn Petition into Special Case

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
MONTSERRAT
(Title as in the Case of the Petition)

Notice of Application

The Petitioner AB. (full names), of (full address)

applies to the court for an order that the case raised by the petitioner be stated as a special case, and that in the event of the parties differing the same be referred to settle, and that the costs of this application be costs in the petition.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

MONTSERRAT
Legislative Assembly (Election Petition) Rules, 2014
S. R.O. 14 OF 2014

Made by the Chief Justice this 8th day of February, 2014.

(Sgd.) Dame Janice Pereira
Chief Justice

Published by exhibition by the Cabinet Secretary at the Office of the
Legislature, Farara Plaza, Brades, this 28th day of February, 2014.

(Sgd.) Angela Greenaway
CABINET SECRETARY