

**STATUTORY INSTRUMENTS SUPPLEMENT**  
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**S T A T U T O R Y   I N S T R U M E N T S**

**2005 No. 64.**

**THE REFERENDUM (PETITION) RULES, 2005.**

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**SCHEDULE**

# STATUTORY INSTRUMENTS

2005 No. 64.

## The Referendum (Petition) Rules, 2005.

*(Under subsection (22) of section 24 of the Referendum and Other Provisions Act, 2005, Act No.1,2005).*

IN EXERCISE of the powers conferred on the Chief Justice by subsection (22) of section 24 of the Referendum and Other Provisions Act, 2005, and in consultation with the Attorney-General, these Rules are made this 18th day of July, 2005.

1. These Rules may be cited as the Referendum (Petition) Rules, 2005. Title

2. These Rules shall apply to the conduct of petitions under Part VI of the Act. Application

3. In these Rules unless the context otherwise requires— Inter-pretation

“Act” means the Referendum and Other Provisions Act, 2005;

“Commission” means the Electoral Commission established by article 60 of the Constitution;

“petition” means a petition under section 24 of the Act;

“High Court Registry” means the Registry of the High Court established at any place in Uganda;

“Registrar” means a registrar of the High Court;

“respondent” means the Commission or a side or other person in respect of whose conduct a petition is lodged under section 24 of the Act;

“side” means the supporter of an affirmative answer to a question in a referendum or the supporter of a negative answer to a question in a referendum, as the case may be, and sides shall be taken to mean both the supporters of an affirmative answer and the supporters of a negative answer to a question in a referendum.

Form of  
petition.

4. (1) Every petition shall—

(a) state the right of the petitioner to present the petition in accordance with section 24 of the Act, namely, that the petitioner is a registered voter, and that the petition is supported by the signatures of not less than two percent of the total number of registered voters in Uganda; or

(b) where the referendum is in respect of a particular part of Uganda, state that the petitioner is a voter registered in that part, and that the petition is supported by the signatures of not less than two percent of the total number of registered voters from that part of Uganda; and

(c) set out a brief statement relied upon by the petitioner of the non-compliance with the provisions of the Act or where applicable the Parliamentary Elections Act, 2001 affecting the result of the referendum in a substantial manner.

(2) A petition shall be substantially in Form A in the Schedule to these Rules and shall be divided into paragraphs numbered consecutively, each of which shall be confined as nearly as possible to a distinct non-compliance complained of.

(3) The petition shall conclude with a prayer requesting the High Court—

- (a) to declare the results published by the Commission to be incorrect and to declare instead the correct results;
- (b) to order a recount of the votes cast;
- (c) to declare the referendum annulled, and to order the Commission to hold a new referendum within 90 days after the date of the annulment;
- (d) to order the Commission to repeat the polling in any place or places; or
- (e) to order or declare any other relief or remedy that the High Court considers appropriate.

(4) The petition shall state—

- (a) the address of the place where personal service can be effected on the petitioner or on any side apart from the Commission;
- (b) the name of the petitioner's advocate or whether the petitioner acts for himself or herself.

(5) In accordance with section 24(11) of the Act, the petition shall be lodged in the High Court registry within thirty days after the referendum results are published in the *Gazette*.

5. (1) The petition shall be accompanied by an affidavit setting out—

Items to accompany petition.

- (a) the facts of non-compliance complained of;
- (b) any orders given and measures taken by any authority from which a complaint was made to the Commission;
- (c) whether the Commission has confirmed or rejected the existence of non-compliance and what remedial measures if any, were taken by the Commission, and what the effect of those measures was if relevant to the petition.

(2) The petition shall also be accompanied by—

(a) a copy of the petitioner's voter registration document referred to in rule 4(1);

(b) a list of any documents on which the petitioner intends to rely;

(c) the list of signatures referred to in rule 4(1).

Mode of  
presentation.

6. (1) Presentation of a petition shall be made by the petitioner by leaving it in person, or by or through his or her advocate, at the office of the Registrar within thirty days after the referendum results are published in the *Gazette*.

(2) With the petition shall be delivered four copies of the petition for use by the High Court and for service by the Registrar on the Attorney General.

(3) The petitioner or his or her advocate shall, at the time of presenting the petition—

(a) pay a fee of twenty currency points; and

(b) make a deposit of one hundred currency points as security for costs.

(4) If subrule (3) is not complied with, the petition shall not be received by the Registrar.

(5) Immediately upon presentation of the petition, the petitioner shall serve a copy of the petition on the Commission and on any other respondent.

Service.

7. (1) Upon presentation of the petition and compliance by the petitioner or his or her advocate with the requirements of rule 6(3), the Registrar shall send a copy of the petition to the Attorney-General.

(2) Service of documents referred to in these Rules upon a respondent, shall be personal except as provided in subrule (3).

(3) Where a respondent cannot be found within three days for effecting personal service on him or her, the petitioner or his or her advocate shall immediately make an application to the High Court supported by affidavit, stating that all reasonable efforts have been made to effect personal service on the respondent but without success.

(4) If the High Court, on an application under subrule (3) is satisfied that all reasonable efforts have been made to effect personal service on any respondent but without success, the High Court may order that service be effected in any of the other ways prescribed by Order V of the Civil Procedure Rules.

(5) The Registrar shall, in any case, post on the High Court notice board, a copy of the petition.

8. (1) Where the Commission is served with a petition, it shall, within seven days after the service, lodge an affidavit with the Registrar stating—

Comm-  
ission's duty  
of service of  
petition.

(a) the answer of the Commission to the allegations made in the petition and

(e) a statement of any facts found by the Commission on investigating the allegations.

(2) The Commission shall file at least four copies of its affidavit with the Registrar and such further number of copies as the Registrar may direct, for service upon the petitioner and any other respondent and the Attorney General

(3) Any documents relied upon by the Commission shall be annexed to the affidavit.

9. (1) A respondent other than the Commission on whom a petition is served, shall, within three days after the service of the petition, furnish in writing to the Registrar the respondent's address for service or that of the respondent's advocate being the correct address at which any documents related to the proceedings of the petition and intended for the respondent, may be sent.

Answer of  
respondent.

(2) Where the Registrar has received the address of the respondent, the Registrar shall, immediately serve a copy of the Commission's affidavit upon the respondent.

(3) If the respondent fails to comply with subrule (1), the Registrar shall serve a copy of the Commission's affidavit upon the respondent at the address given by the petitioner at the foot of the petition; but the Registrar shall post up every document intended for the respondent on the High Court notice board, and the posting up shall be sufficient notice of it to the respondent.

(4) A respondent, other than the Commission, served with the petition, may answer the petition by an affidavit within two days after the service.

Directions  
for hearing.

**10.** (1) After the service of the petition and the affidavit of the Commission and the affidavit of any other respondent, the Registrar shall give two days notice to all parties to attend the High Court for directions concerning the hearing of the petition.

(2) The High Court shall, with the consent of the parties or at the Court's own motion—

(a) receive written notice of an intention not to oppose the petition if any;

(b) receive written notice that the petitioner wishes to withdraw the petition;

(c) record any fact or facts which have been agreed by the parties;

(d) settle the remaining issues if any, for trial;

(e) give directions as to further and better particulars which may be necessary to avoid surprise at the hearing;

(f) give directions as to the evidence to be called at the trial, whether witnesses should testify by affidavit evidence as to the examination in chief of a witness with oral cross examination and re examination, or by documentary proof, and whether the case will be heard ex-parte in the case of an unopposed petition, and give directions as to the nature of proceedings if the petition is sought to be withdrawn;

(g) assess the length of the trial and fix the date, time and place of the hearing of the petition.

11. (1) The trial of the petition shall be in open court and shall be heard from day to day and shall, as far as possible, but subject to sub rule(6) be completed within seven days.

Trial of  
petition.

(2) The trial shall be conducted by a single Judge of the High Court, but where a Judge is prevented by illness or any other cause from hearing or continuing the hearing of the petition, another Judge may take over and continue with the trial of the petition.

(3) The High Court shall, suspend any other matter pending before it and may sit on Sundays and on public holidays in order to complete the trial expeditiously.

(4) The High Court or the Principal Judge may order that the Registry shall remain open on Sundays and public holidays to facilitate the filing and service of documents connected with the hearing of the petition.

(5) The High Court shall declare its findings within thirty days after the petition is filed.

(6) The High Court may, of its own motion, examine any witness or call or recall any witness for examination if the court is of the opinion that the evidence of the witness is likely to assist the court in arriving at a just decision.

(7) A person summoned as a witness by the High Court may, with leave of the court, be cross-examined by the parties to the petition.

Adjourn-  
ment.

12. Subject to rule 11, the High Court may, only in exceptional circumstances, on the application of any party to the petition or on its own motion, adjourn the trial of the petition from time to time.

Procedure  
generally.

13. Subject to the provisions of these Rules, the practice and procedure in respect of a petition shall be regulated, as nearly as may be, in accordance with the provisions of the Civil Procedure Act and the Rules made under it relating to the trial of a suit in the High Court with such modifications as the Court may consider necessary in the interest of justice and expedition of the proceedings.

Consolid-  
ation of  
petitions.

14. Where more petitions than one are presented in relation to the same non compliance, the High Court may direct that some or all of those petitions be dealt with as one petition.

Irregular-  
ities.

15. No proceedings upon a petition shall be defeated by any formal objection or an irregularity in any notice or other document sent by the Registrar to any party to the petition.

Death of  
petitioner

16. (1) A petition shall be abated by the death of a sole petitioner or the survivor of several petitioners.

(2) The abatement shall not affect the liability of the petitioner or any other person, to the payment of costs previously incurred.

(3) If the High Court is satisfied as to the death of a sole petitioner or of the survivor of several petitioners, it shall cause a notice to be published on the High Court notice board, and shall serve a copy of the of the notice on the Commission, and the High Court shall note the abatement of the petition on the record.

17. If a respondent to a petition dies or ceases to exist, the petition shall not abate on that account only.

Death of respondent.

18. (1) If the Commission or a respondent upon whom a petition is served does not intend to oppose the petition, the Commission or the respondent shall file a written notice of that intention signed by the Commission, or the respondent, for use by the High Court at the time of giving directions, or at a later time by lodging the notice with the Registrar at least two days before the day appointed for the trial of the petition, exclusive of the day on which the notice is filed, or pay the costs of a later notice.

Unopposed petition.

(2) When the notice is brought to the attention of the High Court, directions shall be given concerning the further hearing of the petition.

(3) When a notice is lodged with the Registrar under this rule, the Registrar shall post a copy of the notice on the High Court notice board and serve a copy on the Commission and Attorney General.

(4) Notwithstanding that a petition is not opposed, it shall not abate on that account.

19. (1) A petition may be withdrawn as provided in rules 20, 21 and 22.

Withdrawal of petition.

(2) Subject to rules 20, 21 and 22, if a petition is withdrawn, the petitioner shall be liable to pay costs to the respondent.

20. (1) A petition may be withdrawn with leave of the High Court.

Withdrawal with leave of Court.

(2) An application for withdrawal of a petition under this rule shall be in Form B in the Schedule to these Rules.

(3) Where there is more than one petitioner, no application for leave to withdraw the petition shall be made except with the consent of the other petitioners.

(4) An application for leave to withdraw a petition shall be supported by an affidavit stating the reasons for the withdrawal.

(5) The petitioner shall, when filing the application for leave to withdraw, give to the Registrar a sufficient number of copies for use by the High Court and for service on the Attorney-General; and the petitioner shall serve a copy of the notice on the Commission and on each respondent if any.

(6) The Registrar shall, as soon as possible upon receipt of an application under this rule—

(a) serve a copy of the application on the respondents and on the Attorney-General;

(b) cause to be posted on the High Court notice board and published in the *Gazette*, a notice in Form C in the Schedule to these Rules.

Withdrawal  
without  
leave of  
Court.

21. (1) The petitioner may at any time before the delivery of the respondent's answer or after the receipt of the answer before the petition is called for hearing, by notice in writing, wholly discontinue the petition against all or any of the respondents or withdraw any part or parts of the alleged cause of petition; and thereupon he or she shall pay the respondent's costs of the petition, or if the petition is not wholly discontinued the costs occasioned by the matter so withdrawn.

(2) Upon the filing of the notice of discontinuance under subrule (1) the costs shall be taxed, but the discontinuance or withdrawal, as the case may be shall not be a defence to any subsequent petition.

(3) The petitioner shall, before or within three days after lodging the notice of withdrawal, serve copies of it on each respondent who has complied with the requirements of rule 9 and upon the Attorney General.

22. (1) If all parties to a petition consent to the withdrawal of the petition, the petitioner may lodge in the High Court registry the document or documents signifying the consent of the parties and the petition shall be struck out.

Withdrawal  
by consent.

(2) If not all the parties to the petition consent to the withdrawal of the petition, then—

(a) the petition shall stand dismissed with costs as against the parties who consent to the withdrawal;

(b) in the case of the parties who do not consent to the withdrawal the petition shall stand dismissed but without costs.

23. (1) A person aggrieved by the decision of the High Court may appeal to the Court of Appeal within fourteen days after the decision of the High Court.

Appeals to  
Court of  
Appeal.

(2) Subject to the Act, an appeal from the decision of the High Court under section 24 of the Act shall be conducted with necessary modifications, in accordance with the procedure for appeals to the Court of Appeal as prescribed by the Court of Appeal Rules, 1996, appearing in the Schedule to the Court of Appeal Rules Directions, 1996.

24. (1) A person aggrieved by the decision of the Court of Appeal may appeal to the Supreme Court within fourteen days after the decision of the Court of Appeal.

Appeals to  
Supreme  
Court.

(2) Subject to the Act, an appeal under subrule (1) from the decision of the Court of Appeal under section 27 of the Act shall be conducted with necessary modifications, in accordance

with the procedure for appeals to the Supreme Court as prescribed by the Supreme Court of Uganda Rules, 1996, appearing in the Schedule to the Supreme Court Rules Directions, 1996.

Time within which appeals to Court of Appeal and Supreme Court to be completed

25. In accordance with section 27(3) and (5) of the Act, appeals to the Court of Appeal and to the Supreme Court shall, except in each case where the court on exceptional grounds, extends the time, be completed within thirty days from the lodging of the record of appeal.

**SCHEDULE**

**FORM A**

**Rule 4**

**PETITION BY REGISTERED VOTER CHALLENGING THE  
RESULTS OF A REFERENDUM**

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT .....**

**IN THE MATTER OF THE REFERENDUM AND OTHER  
PROVISIONS ACT, 2005**

**REFERENDUM PETITION No.....OF 20 .....**

**(UNDER RULE .....OF THE REFERENDUM  
(PETITION) RULES, 2005)**

**BETWEEN**

1. .... }  
2. .... } **PETITIONER(S)**

**AND**

1. .... }  
2. .... } **RESPONDENT(S)**

Referendum held on the ..... day of .....20.....

The petition of (name) .....of.....(constituency)  
which is supported by the registered voters whose names and  
signatures are stated at the foot of this petition.