

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE ELECTIONS LAW (2004
REVISION) TO FURTHER REFINE THE ELECTION LEGISLATIVE
SCHEME OF THE ISLANDS; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

THE ELECTIONS (AMENDMENT) BILL, 2008

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Elections Law (2004 Revision) to further refine the election legislative scheme of the Cayman Islands.

Clause 1 of the Bill provides the short title of the legislation.

Clause 2 amends section 2 of the principal Law to define the term “mobile station” for the purposes of the legislation.

Clause 3 inserts into the principal Law new sections 49A and 49B to make provision for certain electors (for example, a person who is in hospital) to vote at a mobile polling station.

Clause 4 repeals and replaces sections 50 and 51 of the principal Law, as a consequence of the new provisions relating to mobile polling stations. The new section 50 would provide that postal voting can be carried out only in a case where an elector is unable, or likely to be unable, to go in person to the polling station due to his absence outside the Islands. By virtue of the new section 51, an application to be treated as an absent elector would relate to a particular election only, thereby removing the right to make a general application to be treated as an absent elector based on the general nature of the applicant’s occupation.

Clause 5 amends section 107 of the principal Law to enable the Governor in Cabinet, acting on the recommendation of the Supervisor of Elections, to make rules relating to the taking of votes at a mobile polling station.

Clause 6 amends the Third Schedule to provide for the insertion into the principal Law of an application form for use by a person seeking to be treated as an absent elector voting at a mobile polling station.

THE ELECTIONS (AMENDMENT) BILL, 2008

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Elections Law (2004 Revision) - definitions and interpretation
3. Insertion of sections 49A and 49B - mobile polling stations; provision of mobile station ballot boxes
4. Repeal and substitution of sections 50 and 51 - arrangement for postal voting; determination of right to be treated as an absent elector
5. Amendment of section 107 - power to make rules
6. Amendment of Third Schedule – Elections Rules (2004 Revision)

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Elections (Amendment) Law, 2008. Short title
2. The Elections Law (2004 Revision), in this Law referred to as the “principal Law”, is amended in section 2(1) by inserting the following definition in the appropriate alphabetical sequence - Amendment of section 2
of the Elections Law
(2004 Revision) -
definitions and
interpretation

“ “mobile station” means a mobile polling station established pursuant to section 49A(2)(a);”.
3. The principal Law is amended by inserting after section 49 the following sections - Insertion of sections
49A and 49B - mobile
polling stations;
provision of mobile
station ballot boxes

“Mobile polling stations 49A. (1) Subject to this section, where -

(a) an elector is unable or likely to be unable -

(i) to go in person to the polling station
because he is or is likely to be in a
hospital, rest home or other similar

institution, or because he is a geriatric at home; or

- (ii) by reason either of blindness or any other physical incapacity to go in person to the polling station or, if able to go, to vote unaided; and

- (b) that elector is not entitled under section 50 to vote as an absent elector,

that elector is entitled to have his vote taken at a mobile station if, in the prescribed manner and within the prescribed time, he applies to be treated as an absent elector voting at a mobile station and if his application is allowed by the registering officer under section 51.

(2) The Supervisor, subject to the approval of the Governor in Cabinet, may -

- (a) establish mobile polling stations for the purposes of this section;
- (b) appoint persons to be members of a mobile polling team; and
- (c) in respect of each team, appoint a person to be team leader.

(3) The Supervisor may, by notice published in the Gazette, specify -

- (a) the places that will be visited by the mobile polling teams; and
- (b) the date and time of the visit to each such place.

(4) Each mobile station, when it is in place for the purpose of taking votes at an election, shall have ballot boxes, ballot papers and such things as are necessary for the votes of electors to be taken.

(5) Every elector listed to vote at the mobile station is entitled to have his vote taken.

(6) An agent shall be entitled to be present at the taking of the poll at a mobile station.

(7) The following provisions shall, with the necessary changes being made, apply to the taking of a poll at a mobile station -

- (a) sections 47, 48, 49 and 51;
- (b) any provision of this Law relating to voting by post; and
- (c) any provision of the Election Rules (2004 Revision).

Provision of mobile station ballot boxes

49B. (1) The returning officer shall, at the proceedings on the original issue of mobile station ballot papers, provide a ballot box or ballot boxes for the reception of the ballots when returned by the electors whose votes have been taken at a mobile station.

(2) Every such ballot box shall be shown open and empty to the agents present and shall then be locked by the returning officer and sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seal in such manner as to prevent its being opened without breaking the seals.

(3) Every such ballot box shall be marked "Mobile Polling Station electors ballot box" and with the name of the electoral district for which the election is held.

(4) The returning officer shall make provision for the safe custody of every ballot box."

4. The principal Law is amended by repealing sections 50 and 51 and substituting the following sections -

"Arrangement for postal voting

50. (1) Subject to this section, where an elector is unable or likely to be unable to go in person to the polling station due to his absence for whatever reason outside the Islands, that elector may vote by post if, in the prescribed manner and within the prescribed time, he applies to be treated as an absent elector and furnishes an address in the Islands or overseas to which the ballot paper is to be sent for the purpose and if his application is allowed by the registering officer under section 51.

Repeal and substitution of sections 50 and 51 - arrangement for postal voting; determination of right to be treated as an absent elector

(2) At an election for which a person's application to be treated as an absent elector is allowed he shall not be entitled to vote in person under section 47 or 49A.

(3) Nothing in this section shall be taken as conferring a right to vote on a person not having the right apart from this section.

Determination of right to be treated as an absent elector

51. (1) An application to be treated as an absent elector shall be made to the registering officer and shall be allowed by him if he is satisfied that the applicant is, or will, if registered, be entitled under section 49A or 50 to vote as an absent elector.

(2) The application shall be for a particular election only.

(3) The registering officer shall keep a record of absent electors and of the addresses furnished by them as the addresses to which their ballot papers are to be sent.”.

Amendment of section 107 - power to make rules

5. The principal Law is amended in section 107 as follows -

- (a) in subsection (1) by inserting after the words “the Governor in Cabinet” the words “, acting on the recommendation of the Supervisor,”;
- (b) in subsection (1)(d) by inserting after the words “registration of electors” the words “or to the taking of a vote at a mobile station”; and
- (c) in subsection (1)(d)(iii) by inserting after the words “ballot papers for voting” the words “at a mobile station or”.

Amendment of Third Schedule - Elections Rules (2004 Revision)

6. The principal Law is amended in the Election Rules (2004 Revision), set out in the Third Schedule, as follows -

- (a) in rule 3(1) and (7) by inserting after the words “Form B” wherever they appear the words “or Form BA”; and

- (b) by inserting after Form B in the Appendix to the Rules the following form -

“FORM BA

(rule 3(1))

**APPLICATION TO BE TREATED AS AN ABSENT ELECTOR VOTING
AT A MOBILE STATION**

Name in full

Mr./Mrs./Miss _____

Street address

Electoral district for which registered as an elector

Reasons for application

Street address to be attended by mobile station

Declaration By Applicant

I, A.B.

of

do solemnly and sincerely declare that the information contained in the above form is correct to the best of my knowledge and belief.

Signature of applicant _____

Signature of witness _____

Full name of witness _____

Date _____, 20____.

Declaration By Person Who Assists An Applicant

(To be completed by a person who has assisted the applicant to complete the form or who has signed the form on behalf of the applicant, or both, where the applicant was not able, because of physical or other disability, to complete or sign the form.)

I, _____ of _____ do solemnly and sincerely declare that I assisted the applicant by filling out and/or signing the above form in the presence of the applicant and on behalf of the applicant, and that in doing so I did not influence the applicant in any way but accurately recorded therein the wishes, information and reasons stated by the applicant, and that the information contained in the above form is correct to the best of my knowledge and belief.

Signature of person making declaration _____

Signature of witness _____

Full name of witness _____

Date _____, 20__.”

Passed by the Legislative Assembly the _____ day of _____, 2008.

Speaker.

Clerk of the Legislative Assembly.