

**Subcommittee on subsidiary legislation relating to
District Council election gazetted on 16 May 2003**

**Electoral Affairs Commission (Electoral Procedure)
(District Councils) (Amendment) Regulation 2003**

Drafting of Section 56A(5)

Introduction

This paper addresses Members' query, raised at the meeting on 2 June 2003, on whether the drafting of section 56A(5) of the EAC (Electoral Procedure) (District Councils) (Amendment) Regulation 2003 (the Amendment Regulation) reflects the policy intent.

Section 56A(5)

2. Section 56A of the Amendment Regulation seeks to provide for the procedures to follow in situations where an elector, after being issued with a ballot paper, has to leave the polling station. It enables the elector to return to the polling station afterwards to cast his vote, subject to certain requirements.
3. Under section 56A(1), an elector must, before leaving the polling station,
 - a) have made a request to the Presiding Officer (PrO) for permission to return to the polling station to cast the vote before the close of poll;
 - b) informed the PrO of his reason for leaving the polling station;
 - c) returned the ballot paper, unmarked, to the PrO; and
 - d) obtained the PrO's permission.

4. However, there may be cases in which an elector, after being issued with a ballot paper but before marking his choice on it, suddenly becomes incapacitated due to physical illness and must leave the polling station. Under such an emergency scenario, the elector may not be able to fulfill the requirements in section 56A(1) (see paragraph 3 above), for example, because he has lost consciousness. To ensure that the elector will still have an opportunity to vote, the new section 56A(5) provides that the elector may return to the polling station to cast his vote, so long as he has returned the unmarked ballot paper to the PrO or left the unmarked ballot paper behind in the polling station without putting it into the ballot box before leaving the polling station.

5. Thus, section 56A(5) is intended to apply to a very rare scenario where an elector is suddenly incapacitated. The possibility of this provision being abused is very remote, since it is very difficult to fake incapacity. In any case, there is little incentive for an elector to do so: under section 56A(1), a PrO must grant permission for an elector to leave the polling station and return later unless he is of the opinion that the request is a manifest abuse of the facilities provided.

Constitutional Affairs Bureau
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