

**Administration's Response to Concerns raised on 7 December 1999
by Members of the Bills Committee
on Elections (Corrupt and Illegal Conduct) Bill**

- C1:** To consider redrafting para (b) of the definition of “election donation” to read “any goods given to or in respect of the candidate or group for the purpose of promoting or prejudicing the election of the candidate or group, and includes any goods given incidental to the provision of voluntary service;”.
- A1: We will amend the definition to address the Committee’s concern.
- C2:** To consider redrafting para (c) of the definition of “election donation” to read “any service provided free of charge to or in respect of the candidate or group for the purpose of promoting or prejudicing the election of the candidate or group, but does not include voluntary service.
- A2: We will amend the definition to address the Committee’s concern.
- C3:** To consider whether it is necessary to introduce consequential amendments to clauses 18 and 19 to take into account the elements of “goods” and “service” in the definition of “election donation”.
- A3: We will review the clauses and amend them as a result of the changes to the definition of election donation.

C4: In relation to the newly proposed definition of voluntary service, to consider members' view to amend the reference to "at the person's own free time" to "at the person's own time".

A4: We will amend the definition to "in the person's own time".

C5: To reconsider the policy that the offering of any voluntary service will not constitute corrupt conduct under clause 11. Under the revised CSA for voluntary service, voluntary service is excluded from the definition of "advantage".

A5: It should be noted that not all voluntary services are excluded from the definition of "advantage". In accordance with the revised definition of "advantage" and "voluntary service", only voluntary service provided for the purpose of promoting the election of a candidate or group of candidates or prejudicing the election of another candidate or group of candidates will not be considered as an advantage. Other voluntary services will still be regarded as an advantage for the purpose of clause 11. Therefore, we consider that clause 11 can address the Committee's concern.

C6: To explain the rationale for treating an act of inducing someone to stand as a candidate at an election as a corrupt conduct under clause 7(1).

A6: According to our records, the existing S8A(1A) of the Corrupt and Illegal Practices Ordinance was added in 1984 as suggested by an interdepartmental Working Group after reviewing the arrangements for the 1982 District Board elections and 1983 Urban Council elections. The Working Group considered that as there were provisions aimed at preventing any person from bribing or intimidating any elector to vote or not to vote for a particular candidate only, additional provisions should be made to prevent any person from bribing or intimidating any other person to stand as a candidate or to withdraw his candidature as well.

We believe the object of clause 7(1) is to prevent any persons or organisations from offering an advantage to candidates at an election so that, once elected, they will protect or promote the interests of these persons or organisations. We consider that the clause is necessary to maintain clean and honest elections in Hong Kong.

It should be noted that the clause does not prohibit a candidate from accepting financial assistance in the form of an election donation, provided that he uses it for the purpose of the election only, declares it in his election return, and gives all unused donation to a charitable institution.

We have previously explained to the Committee that clause 7 does not prevent the hiring of those who want to participate in politics. Nor does it prohibit offering a job to such a person in the knowledge that he has a general desire to seek elected office. Thus, a bona fide offer of employment by a political organisation to a person where he is required to carry out genuine and specified duties and be paid the market rate would not be prohibited.

Constitutional Affairs Bureau
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