

**Administration's Response to Concerns raised on 5 January 2000
by Members of the Bills Committee
on Elections (Corrupt and Illegal Conduct) Bill**

Clause 7

C1: To reconsider the drafting of clause 7 and other clauses to include the reference to “corruptly induces” along the line of section 107 of the UK Representation of the People Act 1983; or qualifiers such as “without reasonable excuse”.

A1: To address the Committee's concern, we propose to add “corruptly” after “A person engages in corrupt conduct at an election if the person” in clause 7(1). We do not consider it necessary to make similar amendment to other clauses.

Clause 8

C2: To consider introducing in this clause a new offence element of using or threatening to use force or duress against a candidate to induce the candidate not to use his best endeavours in election campaigning.

A2: The purpose of clause 8 is to prohibit the use of force or duress to affect a person's candidature. As we have explained at earlier meetings, the term “duress” is defined as including causing financial loss. Although there are clear examples of what will be or will not be caught by this term, there can also be grey areas of duress of a financial nature which will in practice be rather difficult to prove.

As we have pointed out earlier during the discussion of clause 7, the element of “not using one's best endeavours” is also rather difficult to prove in practice. By adding such an element to clause 8 will result in an offence which will be virtually impossible to prove. Moreover, this will cause doubts in the minds of candidates and others, and can be exploited by opponents making accusations. Hence, we do not consider it desirable to add such an element to clause 8.

Clauses 2, 18 and 19

- C3:** To consider whether the drafting of the new definition of “election donation” as well as clauses 18 and 19(2) and (3) as proposed in the revised CSAs could be simplified, having regard to the meaning of “election expenses” which by definition covers “the value of election donations consisting of goods and services” used for promoting or prejudicing the election of a candidate or candidates.
- A3: In consultation with the legal adviser of the Bills Committee, it is considered necessary to amend clause 18 in the manner we have proposed in order to avoid any doubt that this clause may not be applicable to an election donation consisting of goods or services.

Constitutional Affairs Bureau
12 January 2000