

**Administration's Response to Concerns raised on 6 January 2000
by Members of the Bills Committee
on Elections (Corrupt and Illegal Conduct) Bill**

C1: To clarify whether proceeds from selling raffle tickets or other articles (e.g. in "charity" sale) to the public for the purpose of fund-raising for a party or candidate(s) would be regarded as "election donation".

A1: According to the definition of election donations, a donation will be caught if it is given to a particular candidate or candidates for the purpose of promoting or prejudicing the election of a candidates or candidates. Donation to an organisation will not be covered by this definition.

Under the Gambling Ordinance, an organisation has to apply for a licence from the Commissioner for Television and Entertainment Licensing for selling raffle tickets. The law further requires that a lottery may only be promoted for the purposes of a club, association or other body of persons. Hence, the proceeds from the sale of raffle tickets will not be regarded as election donation unless the benefiting organization gives the proceeds to a candidate/candidates for a purpose which falls within the definition of election donation.

According to the Summary Offences Ordinance, any organisation or person has to apply for a permit from the Secretary for Home Affairs for organising non-charitable fund-raising activities in a public place irrespective of whether they involve the sale of any article. In the application for such a permit, an applicant must state clearly the intended use of the money collected and the organisation or persons who will be benefited. Hence, whether the proceeds from the fund-raising activities will be regarded as election donation will depend on the intended use of money collected and whether it is to benefit an organisation or candidate/candidates and other circumstances relating to the fund-raising activities.

C2: In consultation with the legal adviser to the Bills Committee, to reconsider the drafting of proposed new sections 47 and 48. Members point out that proposed section 47 appears to be a replacement for section 36 of Cap. 1, while proposed section 48 merely incorporates part of section 23 of Cap. 1.

A2: In consultation with the legal adviser to the Bills Committee, we propose to delete “without derogating from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1)” in clause 48 to make it consistent with clause 47.

Constitutional Affairs Bureau
12 January 2000