

## **ITEM FOR FINANCE COMMITTEE**

### **CAPITAL WORKS RESERVE FUND**

#### **HEAD 701 - LAND ACQUISITION**

#### **Ex-gratia allowances for mariculturists affected by marine works projects in Hong Kong waters**

Members are invited to approve –

- (a) a new eligibility criterion so that mariculturists will qualify for ex-gratia allowances wherever the shortest water distance between the designated boundary of a sand dredging or mud disposal operation and the gazetted zone boundary of a fish culture zone is five kilometres or less; and
- (b) various revisions to the ex-gratia allowances package for mariculturists set out in paragraphs 9 to 17 below.

### **PROBLEM**

Finance Committee (FC) last approved in November 1991 (vide FCC(91-92)6) an ex-gratia allowance (EGA) package for mariculturists affected by clearance, including an allowance for extinguishment of business. FC also approved in July 1993 (vide FCR(93-94)72) a package of EGAs for mariculturists affected by dredging or dumping projects, in circumstances other than extinguishment. We need to review elements of both EGA packages as well as the existing eligibility criteria for dredging or dumping projects.

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**PROPOSAL**

2. We propose to –
- (a) introduce a **new eligibility criterion** so that mariculturists will qualify for EGAs wherever the shortest water distance between the designated boundary of a sand dredging or mud disposal operation and the gazetted boundary of a fish culture zone (FCZ) is five kilometres or less;
  - (b) improve the basis for calculating “**notional loss of income**” for all mariculturists eligible for EGAs, so that –
    - (i) “gross income” will be derived from fish production and fish price data over a five-year rather than the existing one-year period;
    - (ii) the “operating expenses” to be netted off from “gross income” to derive the “notional loss” will no longer include the operator’s own labour cost and depreciation of rafts and cages; and
    - (iii) fuel expenses for farm equipment will be included;
  - (c) improve the EGA package for mariculturists opting to cease operations permanently so that it covers not only two years of “notional loss of income ” (as newly defined), but also a “**loss of capital investment**” (redefined to take account of the residual value of essential equipment, on top of the residual value of rafts and cages), and a new element for “**loss of working capital**”;
  - (d) improve the EGA package for mariculturists opting to suspend operations for two years so that it covers not only two years of “notional loss of income” (newly defined) but also a new element for “loss of working capital”; and
  - (e) remove the “**domestic removal allowance**” component which has become obsolete.
3. All other elements of the EGA package for mariculturists approved by Finance Committee in November 1991 and July 1993 will remain unchanged. [A comparison of the existing and proposed new arrangements is at the Enclosure.]

Encl.

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## JUSTIFICATION

### (A) ELIGIBILITY CRITERIA

#### Suspended solids tests

4. At present, EGAs for mariculturists affected by dredging or dumping projects are payable when the concentration of suspended solids in a FCZ reaches the following prescribed levels –

- (a) 100% more than the highest level recorded at the zone during the five years before commencement of works in the vicinity; or
- (b) 50 milligrams per litre.

5. Before any payment of EGAs is made, eligible mariculturists are required to make an irrevocable option to -

- (a) **continue** mariculture operations in the same place at their own risk, in which case they would be eligible for an EGA equivalent to 50% of the notional loss of income for a normal two-year fish culture cycle; or
- (b) **suspend** mariculture operations for two years, in which case they would be eligible for an EGA equivalent to the notional loss of income for a normal two-year fish culture cycle; or
- (c) **cease** mariculture operations permanently, in which case they would receive an EGA payable for extinguishment, which contains elements for the notional loss of income for two years and the loss of capital investment in rafts and cages.

#### Proposed proximity test

6. Based on experience, we believe that the water in FCZs located close to sand dredging and mud disposal operations may experience an increase in the suspended solids level and the growth of fish may be affected. We therefore propose to introduce a new criterion for FCZs located close to such operations. We propose that mariculturists would automatically be eligible for a one-off payment of EGA for the first two years of a project, if the shortest water distance between the designated boundary of a sand dredging or mud disposal operation and the gazetted zone boundary of a FCZ is five kilometres or less. The current restrictions relating to suspended solids will not apply in such cases and eligible mariculturists may receive EGA in advance of the commencement of the works. For sand dredging or mud disposal operations carried out more than

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five kilometres away and for other types of marine works (e.g. reclamations), the existing criteria based on the concentration of suspended solids will continue to apply. The five kilometres yardstick is derived from general experience and data relating to marine works projects carried out since the introduction of the existing suspended solids criteria.

7. Eligible mariculturists under the proposed criteria described above will be required to make an irrevocable decision to either continue, or suspend, or cease, their mariculture operations so that the basis for paying EGA can be established. Within the two years covered by the EGA paid to affected mariculturists, no further additional EGA would be granted in relation to any other works in the affected FCZ even if the concentration of suspended solids exceeds the existing criteria. However, EGA may be granted again upon the expiry of the first two-year period should the water in the FCZ meet the concentration of suspended solids set out in paragraph 4 above.

## **(B) COMPONENTS OF THE EGA PACKAGE**

### **Existing components**

8. Some components of the existing package of EGA as approved by Members (vide FCC(89-90)4 dated 19 July 1989, FCC(91-92)6 dated 8 November 1991 and FCR(93-94)72 dated 23 July 1993) no longer reflect the nature of mariculture operations on the ground. These components are -

- (a) **an extinguishment allowance**, based on “notional loss of income” and “loss of capital investment in rafts and cages”, to help mariculturists affected by dredging or dumping projects or clearance; who decide to close down their business;
- (b) **the ex-gratia allowance** based on “notional loss of income” and “loss of capital investment in rafts and cages”, to mariculturists affected by dredging and dumping projects as measured by the suspended solids test (referred to in paragraph 4 above); and
- (c) **the domestic removal allowance** to assist mariculturists who would become homeless as a result of mariculture rafts with dwelling structures being cleared.

### **Proposed changes**

9. In the light of a recent review, we propose to amend the basis for calculating “notional loss of income” and “loss of capital investment in rafts and cages”.

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10. **“Notional loss of income”** is the difference between “gross income” and “operational expenses”. Currently, the calculation of “gross income” is based on a one-year’s survey of fish production and fish prices. We now intend to base the calculation on a five-year average to minimise the effect of short-term fluctuations.

11. At present, “operational expenses” includes the operator’s own labour cost. However, mariculturists are in general ageing and alternative employment is not a realistic option in most cases. We believe it is no longer appropriate to deduct such labour costs to reflect the opportunity cost of mariculturists working elsewhere.

12. Currently, the calculation of operational expenses includes an element for annual depreciation of rafts and cages. In the case of mariculturists who choose to cease operations permanently, the new allowance will include an element which will take account of the residual value of the rafts and cages as well as other equipment at the time of cessation of operations. Given this, we intend to discontinue the practice of charging annual depreciation as an operating expense.

13. In addition, the use of mechanised farm equipment has become more common in FCZs, so we propose to include fuel expenses for such equipment in the formula.

14. As in the case of the “gross income” calculation, we intend to base the cost of fish fry on a five-year rather than one-year average.

15. **“Loss of capital investment”** currently takes into account the residual value of rafts and cages. We propose to include in the calculation the residual value of other essential farm equipment recently introduced by mariculturists to improve their farming technique.

16. No component for **“loss of working capital”** is provided for in the existing EGA package. We propose to include such a component to reflect the fact that mariculturists generally have two stocks of fish (an older stock and a younger stock) at the same time, but that the younger fish stock (reared for less than one year) has little market value when it has to be disposed of as result of works operations. We therefore propose that the EGA package should include a component for the loss of working capital in respect of the younger fish stock. This will be paid to farmers who opt to suspend or cease operations permanently.

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17. In addition, we propose to delete the existing **domestic removal allowance** from the EGA package for mariculturists. Since 1989-91, all domestic structures on rafts have been cleared and it is unlawful to construct new ones. Hence, the domestic removal allowance has become obsolete.

### **EFFECTIVE DATE**

18. If approved, the proposals set out in paragraph 2 above will be introduced with effect from 15 March 2000.

### **CONSULTATION**

19. Representatives of mariculturists' associations were briefed on the new EGA proposals. They consider them largely acceptable. The Legislative Council Panel on Health Services was briefed on 13 November 2000 and did not raise any objection to the proposals.

### **FINANCIAL IMPLICATIONS**

20. Based on known public works projects, we estimate that EGAs payable to mariculturists in the coming three years would amount to a total of some \$134.8 million under the proposed package as compared with an estimate of \$92.1 million under the original package, assuming all the mariculturists in the affected FCZs opt to cease operations permanently.

### **BACKGROUND INFORMATION**

21. Large-scale sand dredging or mud disposal operations carried out in the vicinity of FCZs may lead to an increase in the concentration of suspended solids in the water. This may affect the growth of fish in FCZs in the vicinity. Affected mariculturists may as a result suffer economic losses. Under the existing arrangements, they may be granted EGA only if the concentration of suspended solids in the water has reached certain prescribed levels.

22. Mariculturists have suggested that the existing EGA package should be enhanced and some of them have questioned the adequacy of five kilometres range for the proximity test. In addition, mariculturists who opt for suspension or extinguishment of operations have requested a grace period for disposal of their immature fish stock. While we do not consider it appropriate to extend the

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“proximity” criterion beyond five kilometres, we are prepared to provide a 12-month grace period for disposal of the younger fish stocks. We believe that the new EGA proposals for mariculturists set out in paragraph 2 above represent a reasonable package.

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Environment and Food Bureau  
November 2000

**Ex-gratia Allowances (EGA) for Mariculturists**

	<b>(A)</b> <b>Existing arrangements</b>	<b>(B)</b> <b>Proposed new arrangements</b>
<p>1. Eligibility criteria</p>	<p><b>Suspended solids test</b></p> <p>EGA may be granted if the concentration of suspended solids in a fish culture zone –</p> <p>(a) reaches 100% more than the highest level recorded there in the previous 5 years; or</p> <p>(b) reaches 50 milligrams per litre.</p>	<p><b>New proximity test</b></p> <p>Mariculturists may opt to receive a one-off payment of EGA covering a normal 2-year fish culture cycle provided the shortest water distance between the designated boundary of a sand dredging or mud disposal operation and the gazetted zone boundary of a fish culture zone is 5 kilometres or less, irrespective of the concentration of suspended solids. Upon expiry of the first 2-year period, the mariculturist may be granted EGA again only if the existing suspended solids criteria are exceeded.</p> <p>For sand dredging or mud disposal operations more than 5 kilometres away and other types of works (e.g. reclamations), payment of EGA will continue to be subject to the existing suspended solids test.</p>

	<b>(A) Existing arrangements</b>	<b>(B) Proposed new arrangements</b>
2. Key options for mariculturists	<p>Mariculturists who have been deemed eligible for EGA may –</p> <ul style="list-style-type: none"><li>(a) continue their business at their own risk and receive EGA equivalent to 50% of the loss of income for a normal 2-year fish culture cycle; or</li><li>(b) suspend their business for 2 years and receive EGA equivalent to the loss of income for a normal 2-year fish culture cycle; or</li><li>(c) cease their business permanently and receive an extinguishment allowance to cover the loss of income for 2 years and the loss of capital investment in rafts and cages.</li></ul>	<ul style="list-style-type: none"><li>(a) No change.</li><li>(b) Calculation of the new EGA will include a new component “loss of working capital” on top of the existing package.</li><li>(c) The new EGA will include an element for “loss of working capital” (as above) as well as a component covering the “loss of capital investment for other equipment” in addition to the existing package.</li></ul>

	<b>(A)</b> <b>Existing arrangements</b>	<b>(B)</b> <b>Proposed new arrangements</b>
<p>3. Key components of EGA</p> <p>3.1 “Notional loss of income”</p> <p>(Difference between “gross income” and “operational expenses”)</p>	<p>(a) “Gross income” is based on 1-year’s survey of fish production and fish prices.</p> <p>(b) “Operational expenses” include among other things –</p> <p>(i) the operator’s own labour cost and a depreciation factor for rafts and cages; and</p> <p>(ii) the cost of fry, based on 1-year’s survey of prices.</p>	<p>(a) “Gross income” will be based on 5-years’ average of fish production and fish prices to minimise the effect of the short-term fluctuations.</p> <p>(b) (i) “Operational expenses” will no longer include the operator’s own labour cost and depreciation of rafts and cages.</p> <p>(ii) The cost of fry calculation will be based on a 5-year average to minimise the effect of the short-term fluctuations in prices.</p> <p>(iii) Fuel expenses for farm equipment will be included in the formulae as mechanised farm equipment has become more common.</p>

	<b>(A) Existing arrangements</b>	<b>(B) Proposed new arrangements</b>
3.2 “Loss of capital investment”	Takes into account the residual value of rafts and cages for extinguishment of operations.	To take into account the residual value of other essential farm equipment in addition to rafts and cages for extinguishment of operations.
3.3 “Loss of working capital”	Not taken into account under the current formulae.	“Loss of working capital” to be a new component for EGAs payable on suspension and extinguishment of operations.
3.4 “Domestic Removal Allowance”	This was included in the EGAs payable to mariculturists affected by the clearance operation in 1989-1991 when all structures related to domestic use were cleared from rafts.	To be deleted.