

立法會
Legislative Council

LC Paper No. LS93/02-03

**Paper for the House Committee Meeting
on 11 April 2003**

**Legal Service Division Report on
Motion under section 29 of the Public Finance Ordinance (Cap. 2)**

The Secretary for Financial Services and the Treasury has given notice to move a motion at the Council meeting on 30 April 2003. The motion proposes to amend the resolution establishing the Land Fund by adding, as paragraph 8 to the resolution establishing the Fund, provisions authorizing the Financial Secretary, from time to time, to transfer from the Land Fund to the general revenue any balance held in the Fund which is not in his opinion reasonably required for the purposes of the Land Fund.

2. The Land Fund was set up under section 29 of the Public Finance Ordinance (Cap. 2) by a resolution of the Provisional Legislative Council passed on 23 July 1997. The resolution does not authorize any payment out of the Land Fund other than meeting the expenses relating to its administration and management. There is no provision for the Fund to receiving funds other than returns from investments made.

3. According to the LegCo Brief, the Administration anticipates that there will be considerable shortfall in the balance of the General Revenue Account (GRA), the Capital Works Reserve Fund (CWRP) and the Capital Investment Fund (CIF). Such shortfall needs to be covered by funds to be transferred from the fiscal reserve of the Hong Kong SAR. Since the Land Fund has adequate amount of funds and does not have particular restrictions on its use, it is decided to utilise its funds for such purposes. It was estimated that at the end of March 2003, the amount of Land Fund would be \$259 billion, and \$120 billion would need to be transferred from it to GRA during the fiscal year 2003-04. Members may refer to the LegCo Brief (Ref: FIN CR 8/2321/02 Pt. 2) issued on 8 April 2003 by the Financial Services and the Treasury Bureau for further information.

4. The Panel on Financial Affairs was briefed on the proposed motion at its meeting on 7 April 2003. Members expressed the following concerns —

- (a) whether any mechanism would be put in place to govern the timing and circumstances under which the Fund balance would be transferred to the General Revenue Account (GRA) as and when needed; and

- (b) the reasons for the Administration not abolishing the Land Fund once and for all so that the Land Fund could be freely utilise by the Financial Secretary as funds in the fiscal reserves.

5. The Administration explained that according to the Government's medium range forecast, the proposed \$120 billion to be transferred to the GRA was sufficient to cover the cash flow requirement for the projection period up to 2007-08. The estimated amount of funds to be transferred would be incorporated into the annual Estimates and subject to LegCo's scrutiny and approval. At present, there were no plans for the Administration to undertake a proactive consultation exercise on the long term use of the Fund. However, the Administration would welcome suggestions on the issue.

6. On the reasons for the Administration not abolishing the Land Fund, the Administration explained that it believed that the Fund could still be used for a designated purpose in future.

7. The amendment to be effected by the proposed motion will give the Financial Secretary a general power to transfer funds out of the Land Fund to the general revenue. Members may wish to set up a sub-committee to study the motion in the light of members' concerns and any other issue that may arise from the scope or exercise of the power.

Prepared by

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