

立法會
Legislative Council

LC Paper No. LS50/03-04

**Paper for the House Committee Meeting
on 5 March 2004**

**Legal Service Division Report on
Proposed Resolution under section 7(1) of the
Public Finance Ordinance (Cap. 2)**

The Secretary for Financial Services and the Treasury has given notice that he will move this year's Vote on Account Motion at the Legislative Council meeting on 17 March 2004.

2. The purpose of the motion is to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 2004 and the enactment of the Appropriate Ordinance. This procedure has been established under section 7(1) of the Public Finance Ordinance (Cap. 2). The motion is normally moved at the Legislative Council meeting next following the Financial Secretary's Budget Speech, when the Appropriation Bill is introduced into the Legislative Council (which will take place this year on 10 March 2004).

3. According to paragraph 1 of the motion, the aggregate total sum sought under all heads is fixed at \$83,602,440,000 this year (the sum sought last year was \$114,691,186,000) and cannot be exceeded without the approval of the Legislative Council.

4. Similar to the practice in past years, the funds on account sought under each subhead are calculated in percentage terms by reference to the provision shown in the draft Estimates of Expenditure 2004-2005. The percentages are determined in accordance with paragraph 4 of the motion. The effect of paragraph 4 is that except where there is a different percentage prescribed in the Schedule to the motion, the maximum percentage in respect of an Operating Account Recurrent subhead is 20% and in respect of an Operating Account Non-Recurrent subhead or Capital Account subhead, 100%.

5. In the past years, save as provided otherwise, the maximum percentages provided in the Vote on Account Motion were as follows -

Recurrent Account subhead of expenditure - 20%

Capital Account subhead of expenditure - 100%

6. For the financial year commencing on 1 April 2004, the grouping/classification of accounts as provided in paragraph 4 of the motion is changed to the following -

Operating Account Recurrent subhead of expenditure - 20%
Operating Account Non-Recurrent subhead of expenditure or
Capital Account subhead of expenditure - 100%

7. The Legal Service Division has written to the Administration to seek explanation as to the proposed changes in the group/classification of accounts in the motion and the Administration's reply is attached for Members' reference (Appendix). The Administration has confirmed that the proposed changes are presentational and the maximum percentages, save as provided otherwise in the schedule to the resolution, for calculating the funds on account to be sought under each subhead for the year 2004-05 remain the same as those of last year, i.e. recurrent subheads of 20% and all other subheads of 100%.

8. Under paragraph 4 of the motion, the Financial Secretary is empowered to vary the fund on account in respect of any subhead, provided that the varied amount does not exceed the provision shown in respect of that subhead in the draft Estimates. Paragraph 3 of the motion prescribes that, in respect of any head, the expenditure shall not exceed the aggregate of the amounts specified for each subhead in that head.

9. Upon the Appropriation Ordinance coming into operation, expenditure charged on the general revenue pursuant to this resolution shall be set off against the amounts respectively provided in that Ordinance.

10. The legal and drafting aspects of the draft resolution are in order.

Encl

Prepared by

Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
2 March 2004

LS/R/10/03-04
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Ms Rhoda Chan
PAS (Tsy) (H Division)
Financial Services and the Treasury Bureau
4/F, Main Wing
Central Government Offices
Hong Kong

By Fax (2525 9221) and By Post

1 March 2004

Dear Ms Chan,

**Proposed Resolution under section 7(1)
of the Public Finance Ordinance (Cap. 2)**

I refer to the motion to be moved by the Secretary for Financial Services and the Treasury on 17 March 2004.

Similar to the practice in past years, the funds on account sought under each subhead this year are calculated in percentage terms by reference to the provision in the draft Estimates of Expenditure for the year. The percentages are determined in accordance with paragraph 4 of the motion.

In the past years, save as provided otherwise, the maximum percentages provided in the motion were as follows -

Recurrent Account subhead of expenditure - 20%
Capital Account subhead of expenditure - 100%

For the financial year commencing on 1 April 2004, the grouping/classification of accounts as provided in paragraph 4 of the motion is changed to the following -

Operating Account Recurrent subhead of expenditure - 20%
Operating Account Non-Recurrent subhead of expenditure or
Capital Account subhead of expenditure - 100%

Could the Administration explain the nature of the proposed change and the reason for this? I would be grateful if you let me have a reply in bilingual form on or before 2 March 2004.

Yours sincerely,

Kitty Cheng
Assistant Legal Adviser

c.c. LA

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**FINANCIAL SERVICES AND THE
TREASURY BUREAU
(The Treasury Branch)**

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來函檔號 Your Ref. :

3 March 2004

Miss Kitty Cheng
Assistant Legal Adviser
LegCo Secretariat
LegCo Building
8 Jackson Road
Central
Hong Kong

Dear Miss Cheng,

**Proposed Resolution under section 7(1)
of the Public Finance Ordinance (Cap. 2)**

I refer to your letter dated 1 March 2004 enquiring the change in the classification/grouping of accounts as provided in paragraph 4 of the motion.

For the 2004-05 Estimates of Expenditure, we will change the presentation of the page showing estimates by subhead as set out below –

2003-04 Estimates		2004-05 Estimates	
Recurrent Account	X	Operating Account	
		Recurrent	X
		Non-Recurrent	X
		(re-titled from the previous Other Non-Recurrent expenditure)	
Total, Recurrent Account	X	Total, Operating Account	X

Capital Account		Capital Account	
Plant, Equipment and Works	X	Plant, Equipment and Works	X
Other Non-Recurrent	X	Subventions	X
Subventions	X		
Total, Capital Account	X	Total, Capital Account	X
Total, GRA Expenditure	X	Total, GRA Expenditure	X

A proforma for the 2004-05 draft Estimates is attached for reference.

Since many “Other Non-Recurrent” subheads do not involve the acquisition/construction of equipment or physical assets, we feel it more appropriate to formally re-classify and group them, together with the existing Recurrent Account subheads, under the “Operating account” in the 2004-05 Estimates. The change is also to bring the expenditure classification of the Estimates in line with the Medium Range Forecast of the Government, which all along classify “Other Non-recurrent” subheads under Operating vs Capital Account.

In spite of the presentational changes, the maximum percentages, save as provided otherwise in the schedule to the resolution, for calculating the funds on account to be sought under each subhead for the year 2004-05 remain the same as those of last year, i.e. recurrent subheads of 20% and all other subheads of 100%.

I hope the aforementioned clarify your enquiries.

Yours faithfully,

(Ms Rhoda Chan)
for Secretary for Financial Services
and the Treasury

Encl.

Head XX – XXX DEPARTMENT

Sub-head (Code)	Actual expenditure 2002–03	Approved estimate 2003–04	Revised estimate 2003–04	Estimate 2004–05	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	—	1,536,090	1,488,630	1,451,594
	Salaries	946,954	—	—	—
	Allowances	19,424	—	—	—
	Job-related allowances	12	—	—	—
	Light and power	3,459	—	—	—
	Hire of services and professional fees.....	15,768	—	—	—
	Workshop services.....	20,505	—	—	—
	General departmental expenses.....	42,336	—	—	—
	Total, Recurrent.....	1,048,458	1,536,090	1,488,630	1,451,594
Non-Recurrent					
700	General non-recurrent	—	—	2,200	1,200
	Total, Non-Recurrent.....	—	—	2,200	1,200
	Total, Operating Account	1,048,458	1,536,090	1,490,830	1,452,794
Capital Account					
Plant, Equipment and Works					
661	Minor plant, vehicles and equipment (block vote)	—	—	500	580
	Total, Plant, Equipment and Works.....	—	—	500	580
	Total, Capital Account.....	—	—	500	580
	Total Expenditure	1,048,458	1,536,090	1,491,330	1,453,374