

立法會
Legislative Council

LC Paper No. LS43/08-09

**Paper for the House Committee Meeting
on 27 February 2009**

**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 (SFST) has given notice that he will move this year's Vote on Account (VOA) at the Legislative Council meeting on 11 March 2009.

2. The purpose of the proposed resolution is to seek funds on account to enable the Government to carry on its services between the start of the financial year on 1 April 2009 and the enactment of the Appropriation Ordinance 2009. The procedure is established under section 7(1) of the Public Finance Ordinance (Cap. 2) (the Ordinance).

3. According to paragraph 1 of the proposed resolution, the aggregate total sum sought under all heads is fixed at \$61,075,637,000 this year (the sum sought last year was \$90,989,010,000). Such aggregate total sum cannot be exceeded without the approval of the Legislative Council.

4. The funds on account sought under each subhead are calculated in percentage terms by reference to the provision shown in the Estimates of Expenditure 2009-10 (the Estimates) to be laid before the Council on 25 February 2009. The percentages are determined in accordance with paragraph 4 of the proposed resolution. The effect of paragraph 4 is that the maximum percentage in respect of an Operating Account Recurrent subhead is 20% (except where there is a different percentage stipulated in Schedule 1 to the proposed resolution), and in respect of an Operating Account Non-Recurrent subhead or Capital Account subhead, 100% (except where there is an amount stipulated in Schedule 2 to the proposed resolution).

5. Paragraph 3 of the proposed resolution stipulates that, in respect of any head, the expenditure shall not exceed the aggregate of the amounts authorized by paragraph 4 to be expended in respect of the subheads in that head. Under paragraph 4 of the proposed resolution, the Financial Secretary (FS) is empowered to approve the fund on account in respect of any subhead in the amount mentioned in the proposed

resolution or such other amount which does not exceed the provision shown in respect of that subhead in the Estimates.

6. Under section 7(3) of the Ordinance, upon the Appropriation Ordinance 2009 coming into operation, expenditure charged on the general revenue pursuant to this resolution shall be set off against the amounts respectively provided in the Appropriation Ordinance 2009.

7. At the meeting on 1 December 2008, the Administration briefed the Panel on Financial Affairs on the proposed arrangements for VOA resolutions (LC Paper No. CB(1)680/08-09). The proposed arrangements were put forward after the Administration had considered suggestions of the Subcommittee on Proposed Resolution under section 7(1) of the Ordinance formed in February 2008 to study last year's VOA resolution (the 2008 Resolution) for the 2008-2009 financial year. Members may wish to refer to the report of the Subcommittee (LC Paper No. CB(1)981/07-08) for further information. The Administration proposed the following changes to the arrangements made under previous VOAs -

- (a) the Administration would make its best endeavours to schedule the VOA resolution day at least two weeks after the Budget Day;
- (b) in respect of Subhead 689 and Subhead 789 Additional Commitments, the Administration would seek funds on a need basis under the VOA resolution; and
- (c) while retaining the FS's power to vary the funds approved for individual subheads under the VOA resolution, the Administration would submit reports to the Finance Committee (FC) on any variations so approved by FS.

Members noted the proposed changes. A member called on the Administration to honour its undertaking of scheduling the VOA resolution day at least two weeks after the Budget Day, while stating that two weeks would still be too short for scrutiny of the resolution. While the Administration would submit reports to FC on variations to funds on account approved by FS, there was concern that FC would not be consulted prior to the approval given by FS and what Members could do if they disagreed with the variations made. Members noted the Administration's advice that FS had only invoked the power to vary the funds on account 13 times over the past 25 years, and only small sums of variations had been involved. The Administration assured members that it would endeavour to report to FC any variations approved by FS as soon as practicable. The reporting arrangement could be reviewed if FC members considered that the arrangement would merit further consideration in the light of the approved variations.

8. According to the draft speech by the SFST, the following changes to the arrangements for the proposed resolution have been made in response to Members' comments on the 2008 Resolution -

- (a) the motion of the proposed resolution has been scheduled to be moved two weeks after the announcement of the Budget (i.e. on 25 February 2009), in order to allow more time for Members to examine the proposed resolution; and
- (b) in respect of Subhead 689 and Subhead 789 Additional Commitments, the Administration is seeking funds on account only on a need basis, instead of on the basis of the full-year provisions for the two subheads.

To increase transparency, the Administration has also undertaken to submit reports to FC in case the FS exercises the authority to approve the funds on account in respect of any subhead. In light of the change mentioned in (b) above, the Administration is seeking HK\$1,000,000,000 in respect of Subhead 789 Additional Commitments (which provides for any unavoidable expenditure that may arise during the year in excess of the amounts provided under other heads and subheads, including but not limited to provisions for non-recurrent initiatives under planning) and is not seeking any funds in respect of Subhead 689 Additional Commitments (which mainly caters for capital account projects pending approval) under the proposed resolution. According to the Administration, the amount of HK\$1,000,000,000 sought under Subhead 789 is for expected contribution to MPF accounts and for contingency.

9. Apart from the briefing by the Administration to the Panel on Financial Affairs on the proposed arrangements for VOA resolutions at the meeting on 1 December 2008 mentioned in paragraph 7 above, the Panel on Financial Affairs has not been consulted on the proposed resolution.

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