

立法會
Legislative Council

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Paper for the House Committee

**Report of the Subcommittee on
Proposed Resolution under Section 7(1) of the
Public Finance Ordinance (Cap.2)**

Purpose

This paper reports on the deliberations of the Subcommittee on Proposed Resolutions under Section 7(1) of the Public Finance Ordinance (Cap. 2) (PFO).

Background

2. Under section 7(1) of PFO, the Legislative Council (LegCo) may, in advance of an Appropriation Ordinance, by resolution authorize expenditure for the services of the Government in respect of a financial year to be charged on the general revenue, in accordance with PFO and subject to such limitations and conditions as may be specified in the resolution. The resolution is commonly known as the Vote on Account (VOA) resolution. Pursuant to this arrangement, the Secretary for Financial Services and the Treasury gave notice on 18 February 2009 to move a motion seeking funds on account for the 2009-2010 financial year at the Council meeting on 11 March 2009.

The proposed resolution

3. 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.

4. According to paragraph 1 of the proposed resolution, the aggregate total sum sought under all heads is \$61,075,637,000. Such aggregate total sum cannot be exceeded without the approval of the LegCo.

5. As set out in paragraph 4 of the proposed resolution, funds on account sought under each subhead are determined by reference to the provision shown in the

Estimates of Expenditure 2009-2010 (the Estimates) laid before the Council on 25 February 2009. The effect of paragraph 4 is that the funds on account in respect of an Operating Account Recurrent subhead is 20% of the provision shown in the Estimates for that subhead (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 a Capital Account subhead, 100% (except where there is an amount stipulated in Schedule 2 to the proposed resolution).

6. 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 vary the funds on account in respect of any subhead to any amount not exceeding the provision shown in respect of that subhead in the Estimates, and subject to the total funds on account not being exceeded.

7. Under section 7(3) of the Ordinance, upon the Appropriation Ordinance coming into operation, expenditure charged on the general revenue pursuant to the VOA resolution shall be set off against the amounts respectively provided in the Appropriation Ordinance 2009. Section 7 of PFO is at **Appendix I**.

The Subcommittee

8. At the House Committee meeting held on 27 February 2009, Members decided to form a subcommittee to study the proposed resolution. Members also agreed that the Administration should be requested to withdraw the motion for moving the proposed resolution at the Council meeting on 11 March 2009, to allow time for the Subcommittee to consider the proposed resolution and report its views. Pursuant to Members' request, the Administration has withdrawn the motion and given notice afresh for moving the proposed resolution at the Council meeting on 18 March 2009. The membership list of the Subcommittee is at **Appendix II**. Under the chairmanship of Hon Emily LAU, the Subcommittee has held one meeting with the Administration.

Deliberations of the Subcommittee

9. The Subcommittee has no objection in principle to providing funds on account to enable the Government to carry on existing services prior to the enactment of the Appropriation Ordinance 2009. As regards the issues related to the arrangements for seeking funds on account raised by the previous subcommittee formed to scrutinize the VOA resolution for the 2008-2009 financial year, the Subcommittee has sought further information from the Administration. The Subcommittee has also made reference to the Administration's proposed arrangements for VOA resolutions as presented to the Panel on Financial Affairs on 1 December 2008.

Scrutiny period

10. The Subcommittee notes that the previous subcommittee has raised concern about the extremely tight timeframe for LegCo to study the VOA resolution. The Administration has advised that it will improve the arrangement by making its best endeavours to schedule the VOA resolution day at least two weeks after the Budget Day. In other words, the Administration will endeavour to restore the previous practice, during 1976 to 2003, of allowing an interval of 12 to 14 days (instead of the 7-day interval in the past few years) between the release of the Estimates and the passage of the VOA resolution. In this year, the Administration has originally proposed to move the motion on the VOA resolution on 11 March 2009¹, i.e. two weeks after the Budget Day on 25 February 2009. The Subcommittee does not raise query on the improved arrangement.

Computation of the funds on account required

11. The Subcommittee notes that, having regard to the suggestions of the previous subcommittee, the Administration has reviewed the formula for seeking funds on account. The Administration has proposed that for non-recurrent subheads under the Operating Account which set out the funding requirements for approved commitments, the Administration would continue seeking 100% of the provision during the VOA period as the payment patterns for commitments under these subheads are often lumpy and irregular².

12. The Administration has also proposed that, in respect of non-recurrent Subhead 789 Additional Commitments which provides for funding for initiatives under planning and any unavoidable expenditure that may arise during the year in excess of the amounts provided under other heads and subheads, the Administration will assess the funds required during the VOA period and recommend the provision of an absolute amount on a need basis.

13. The Subcommittee notes that for this year's VOA resolution, the Administration is seeking \$1,000,000,000 in respect of Subhead 789 Additional Commitments (i.e. about 12.4% of the full-year provision of \$8,087,762,000 under this subhead). According to the Administration, the amount of \$1,000,000,000 sought under Subhead 789 is for expected contribution to the Mandatory Provident Fund accounts in accordance with a non-recurrent commitment approved by the Finance Committee (FC) and for contingency.

14. Hon Starry LEE has asked the Administration to elaborate on the funding for initiatives under planning as provided under Subhead 789 Additional Commitments. The Administration has advised that these include, inter alia, initiatives under

¹ The motion has subsequently been withdrawn pursuant to Members' request at the House Committee meeting on 27 February 2009. The Administration has given a fresh notice for moving the proposed resolution at the Council meeting on 18 March 2009.

² In the year 2007-2008, expenditure for commitment 'Antiviral Stockpile for Influenza Pandemic' was incurred in May and June only. The expenditure for the two months accounted for over 70% of the actual expenditure for the subhead in the year.

planning which have been announced but have not yet been submitted to FC for approval of the new commitments.

15. The Subcommittee also notes that, for the Additional Commitments subhead under the Capital Account (Subhead 689) with nature similar to Subhead 789, the Administration has proposed to apply the same arrangement in paragraph 12 above. The Administration is not seeking any funds in respect of Subhead 689 Additional Commitments under the proposed resolution for the 2009-2010 financial year.

Need for power to vary funds on account

16. Paragraph 4 of the VOA resolution provides that FS has the power to vary the funds on account in respect of any subhead. The Administration has explained that as illustrated by the precedent cases, it is indeed possible that the Administration has to deal with unexpected circumstances during the VOA period and to quickly authorize spending over and above the amount voted on account for individual subheads, subject to the full-year provision for the relevant subhead in the Estimates and the aggregate amount of funds on account not being exceeded. The Subcommittee notes that the Administration has been exercising prudence in making variations to the funds on account, as evidenced by the small sums involved in such variations. While retaining FS's power to vary the funds approved for individual subheads under the VOA resolution, the Administration would submit reports to FC on any variations so approved by FS, in order to increase transparency of variations made. The Administration has also assured that it will endeavour to report to FC any variation approved by FS as soon as possible, and the reporting arrangement may be reviewed if FC members consider that the arrangement would merit further consideration in the light of the approved variations.

Procedures for moving amendments to the Estimates of Expenditure in considering the Appropriation Bill

17. Pointing out that there are requests for increasing the provisions for initiatives to create job opportunities and other relief measures under the economic downturn, Hon Emily LAU seeks the Administration's advice on the procedures for moving amendments to increase the sum allotted to any head of expenditure or the total sum of the Estimates of Expenditure.

18. The Administration has advised that the Estimates have been prepared in a prudent manner having regard to the views and suggestions put forward during the Budget consultation. While the Administration will try its best to solicit support of LegCo for passage of the Appropriation Bill, any proposed amendments to the Estimates of Expenditure in Committee of the whole Council on the Appropriation Bill will follow the normal procedures for proposing Committee Stage amendments to bills in general. However, any amendment which would increase the sum allotted to any head of expenditure shall only be moved by a designated public officer. The Subcommittee also notes the Administration's advice that, in accordance with section 8 of PFO, changes to the approved Estimates of Expenditure may be made by the Administration under the delegated authority from FC or with the approval of FC

upon a proposal of the Administration. Members also note that irrespective of discussions on the Appropriation Bill, LegCo has to consider the Administration's current proposal to seek funds on account, so as 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.

19. The Subcommittee notes that Members may further discuss the Estimates at the special meetings of FC scheduled for 23 to 27 March 2009, and also at the Council meetings scheduled for 1 and 2 April 2009 during the Second Reading debate on the Appropriation Bill 2009.

Recommendation

20. The Subcommittee supports the moving of the motion on the proposed VOA resolution by the Secretary for Financial Services and the Treasury on 18 March 2009.

Advice sought

21. Members are invited to note the Subcommittee's recommendation in paragraph 20.

Council Business Division 1
Legislative Council Secretariat
10 March 2009

Section 7 of Public Finance Ordinance (Cap.2)



Chapter: 2	Title:	PUBLIC FINANCE ORDINANCE	Gazette Number:
Section: 7	Heading:	Authorization of expenditure in advance of appropriation	Version Date: 30/06/1997

(1) The Legislative Council may, in advance of an Appropriation Ordinance, by resolution authorize expenditure for the services of the Government in respect of a financial year to be charged on the general revenue, in accordance with this Ordinance and subject to such limitations and conditions as may be specified in the resolution.

(2) Expenditure charged on the general revenue pursuant to a resolution under this section shall be arranged in accordance with the heads and subheads shown in the estimates of expenditure laid under section 5 and the provisions of this Ordinance shall, for the purposes of this subsection and subject to such conditions and limitations as may be specified in the resolution, apply to such estimates as though they were the approved estimates of expenditure.

(3) Expenditure charged on the general revenue pursuant to a resolution under this section shall be set off against the amounts respectively provided in the Appropriation Ordinance upon the same coming into operation.

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

Membership list

Chairman Hon Emily LAU Wai-hing, JP

Members Hon Audrey EU Yuet-mee, SC, JP
Hon Ronny TONG Ka-wah, SC
Hon Starry LEE Wai-king

(Total : 4 Members)

Clerk Ms Rosalind MA

Legal Adviser Miss Winnie LO

Date 5 March 2009