

Legislative Council Panel on Financial Affairs

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

PURPOSE

This paper seeks Members' views on the proposed arrangements for resolutions under section 7(1) (Vote on Account Resolution) of the Public Finance Ordinance (Cap 2).

RECOMMENDATIONS

2. We recommend to make the following changes to the current arrangements :

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

BACKGROUND

3. Under section 7(1) of the Public Finance Ordinance, 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 the Ordinance and subject to such limitations and conditions as may be specified in the resolution. Pursuant to this arrangement, the Administration normally

gives notice around February each year to move a motion seeking the passage of a resolution that would authorize the Government to incur expenditure during the interim period from the start of the financial year on 1 April to the enactment of the Appropriation Ordinance. This resolution is commonly known as the VOA resolution.

4. Earlier this year the Legislative Council formed a subcommittee to study the VOA resolution for the 2008-09 financial year, a copy of which is at Annex A. While raising no objection to the resolution, the Subcommittee made a number of observations for the purpose of future VOA resolutions (LC Paper No. CB(1)981/07-08). The Administration undertook to consider the following suggestions and report to the relevant LegCo panel when ready:

- (a) examine ways to improve the arrangements for giving notice to move the resolution;
- (b) in respect of non-recurrent expenditure subheads, consider seeking funds on account for urgent or essential items only and to examine whether a funding proportion of lower than 100% should be adopted; and
- (c) provide more detailed information on the background, purpose and effect of the last part of the proposed resolution relating to FS's power to vary the funds on account in respect of any subhead, and to consider the need or otherwise to include the clause in future.

CONSIDERATIONS

Arrangements for giving notice to move the resolution

5. The Subcommittee was concerned that Members were only given seven days after the gazettal of the Appropriation Bill (through which the Estimates of Expenditure for the coming financial year are laid before Legislative Council) to scrutinize the VOA resolution. In this regard, the Administration was asked to review the timing.

6. Any approach to be adopted in seeking funds on account has to fulfill the following needs:

- (a) to ensure that provisional funding is secured before the commencement of a new financial year. This means that the motion should normally be moved not later than the last but one Legislative Council meeting before the close of the current financial year so that there is a fallback (to the last meeting) in case

the resolution cannot be passed at the second last meeting for any reasons;

- (b) to give at least 20 calendar days' notice¹ for a proposed motion; and
- (c) to maintain the confidentiality of the Appropriation Bill which reflects the spending initiatives to be announced in the Budget. This means that details on the amount of funding sought for each head/subhead of expenditure under the VOA resolution, which is expressed as a percentage of the provision for that head/subhead as appeared in the Estimates of Expenditure, can only be made known on the Budget Day.

7. Meeting all the requirements in paragraph 6 above would mean that the Budget Day has to be set at the fifth last meeting before the close of the financial year if we also give notice to move the motion for funds on account after the Estimates for Expenditure has been laid before LegCo. Should the fifth last meeting fall during any Lunar New Year break for LegCo, the Budget Day would have to be set at an even earlier date. Using the 2008-09 Budget as an example, the following scenario would have arisen :

2008-09 Budget

Second last LegCo meeting before end of current financial year	5 March 2008
Date of giving notice to move the VOA resolution (assumed to be 20 days before the second last LegCo meeting in March)	13 February 2008
LegCo's Lunar New Year Break	4-17 February 2008
Budget Day (being the day of last LegCo meeting before the Lunar New Year break)	30 January 2008 (compared with the actual Budget Day of 27 February 2008 for the year)

¹ Although only a 12-clear day notice is required under Rule 29(1) of the LegCo Rules of Procedures, the Government has a general agreement with the LegCo that at least 20 calendar days' notice should be given for a proposed motion so that LegCo's legal advisor will have more time to study the motion.

8. Setting the Budget Day at the end of January would mean that the Budget has to be finalised in early to mid January. At such a timing the Administration will not be able to take into account the most recent developments in preparing the Budget for the coming financial year beginning 1 April. This is very undesirable. Although we may not be able to advance the Budget Day to the same day on which we give notice of the proposed VOA resolution, we propose to improve the arrangements by making our best endeavours to allow a time gap of at least 14 days between the Budget Day and the actual day of moving the VOA resolution. This would allow more time for Members to scrutinize the resolution with reference to the Estimates of Expenditure released on the Budget Day. In other words, we will endeavour to restore the previous practice, during 1976 to 2003, of allowing an interval of 12 – 14 days (instead of a 7-day interval in the past few years) between the release of the Estimates of Expenditure and the passage of the VOA resolution.

9. The above proposal deals with a matter of timing. In the following sections we shall address two suggestions regarding the contents of the resolution.

Amount of funds being sought for non-recurrent subheads

10. Members have suggested the Administration to review the amount of funds on account being sought for non-recurrent expenditure subheads. Non-recurrent subheads under the Operating Account can be broadly grouped into the following –

- (a) Subheads each setting out the funding requirements for approved commitments under the same subhead; and
- (b) Subhead 789 Additional Commitments under Head 106 ‘Miscellaneous Services’.

11. With regard to a subhead falling under the category in paragraph 10(a) above, the provision entered into the Estimates of Expenditure is the total cash flow requirements for commitments placed under the subhead. These commitments have either been approved by the Finance Committee or by the Administration under authority delegated by the Finance Committee. One such example is extracted at Annex B². As the payment patterns for

² An example is Subhead 700 ‘General non-recurrent’ under Department of Health set out in Page 171 of Volume 1A of the Estimates for the year ending 31 March 2009. The amount of \$33.5 million in 2008-09 provides for the cash flow requirements in that year for the eight commitments listed in page 174 under the subhead (e.g. item 481 ‘Antiviral stockpile for Influenza Pandemic’).

commitments under these subheads are often lumpy and irregular³, we propose to continue seeking 100% of the provision for the relevant subheads during the VOA period.

12. Subhead 789 Additional Commitments 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. The provision under this subhead, when needed, will be transferred to other heads and/or subheads of expenditure, subject to the approval of the Finance Committee or the approval of the Administration under authority delegated by the Finance Committee. Given the nature of this subhead, we agree with Members that our existing practice of seeking 100% of the provision for this subhead in the VOA resolution may be over cautious. Starting from the 2009-10 Budget, we shall assess the funds to be required for this particular subhead during the VOA period with reference to the likelihood of any specific initiatives under planning being implemented in the early months of the new financial year and the need to provide for contingency during the short period, and will recommend the provision of a definitive amount on a need basis. In proposing a definitive sum, we note that the amount of non-recurrent funds required during the VOA period for supporting non-recurrent initiatives and unexpected circumstances, such as the earthquake in Sichuan⁴ earlier this year, may not follow any regular spending pattern and hence may not be readily expressed as a percentage out of the provision for the subhead, as in the case of recurrent subheads under the VOA resolution.

13. There is also an Additional Commitments subhead under the Capital Account (Subhead 689) whereby 100% of the provision is currently sought under the VOA resolution. The provision mainly caters for capital account projects pending approval. Since the nature of this Capital Account subhead is similar to Subhead 789 under the Operating Account, we propose to apply the same arrangement proposed in paragraph 12 above when recommending the provision to be included in the VOA resolution for this subhead.

³ In the year 2007-08, expenditure for the 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.

⁴ The additional allocation to the Disaster Relief Fund approved by the Finance Committee on 14 May 2008 was \$0.35 billion. Offsetting savings come from Subhead 789.

Need for power to vary the funds on account

14. The power for the Financial Secretary to vary the funds on account has been laid down in the VOA resolution since 1983. The effect of the said power is that the Financial Secretary may increase (or decrease) the funds on account of any subhead to any amount not exceeding the provision shown in the Estimates in respect of that subhead, subject to the total appropriation specified in the VOA resolution not being exceeded. The aim behind requiring such power is to enable the Government to meet expeditiously any unforeseen or contingent expenditure prior to the enactment of the Appropriation Ordinance.

15. Over the past 25 years, the Financial Secretary has invoked this power 13 times. The variations ranged from a few hundreds dollars to some \$800,000, representing 0.01% to 80% of the provisions for the relevant subheads shown in the Estimates. Two most recent cases happened in 2003-04 and 2004-05. They were both related to the outbreak of SARS. In 2003, the Social Welfare Department had to make sudden payments to eligible persons under quarantine. In 2004, the same department had to pay for higher-than-expected claims from recovered SARS patients. For both years, the power was invoked to increase the amount that could be spent under the relevant subhead during the VOA period from the original 20% approved under the VOA resolution to 100%, with offsetting savings from other subheads under Social Welfare Department.

16. If the Financial Secretary's power to vary the funds on account is removed and Government has to spend over and above the amount approved for a particular subhead during the VOA period, it would have to move another motion seeking authority to charge to General Revenue the extra amount for the subhead concerned (in effect proposing another resolution under Section 7(1) of the Public Finance Ordinance), even though it may not be necessary to amend the total sum already voted on account under the original resolution and the extra amount required for the relevant subhead may be small. 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. The Administration has also been exercising prudence in making variations, as evidenced by the small sums involved. After all, the power is not without limit. Any variations should not cause an excess over the amount of provision entered for that subhead in the Estimates of Expenditure pending passage of Appropriation Bill. In addition, the total appropriation specified in the VOA resolution serves as the cap. On balance, we consider it appropriate to retain the flexibility for the Financial Secretary to vary the funds on account in a controlled manner. To increase transparency, we propose to report to the Finance Committee the details of all changes made should such power be invoked in future.

WAY FORWARD

17. We intend to apply the arrangements recommended in paragraph 2 above with effect from the VOA resolution to be proposed, in February 2009, for the next financial year beginning 1 April 2009.

Financial Services and the Treasury Bureau
November 2008

L.N. 54 of 2008**PUBLIC FINANCE ORDINANCE****RESOLUTION OF THE LEGISLATIVE COUNCIL**

Resolution made and passed by the Legislative Council under section 7(1) of the Public Finance Ordinance (Cap. 2) on 5 March 2008.

RESOLVED that—

1. Authority is hereby given for a sum not exceeding \$90,989,010,000 to be charged on the general revenue for expenditure on the services of the Government in respect of the financial year commencing on 1 April 2008.
2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure as shown in the Estimates of Expenditure 2008–09 laid before the Legislative Council on 27 February 2008 or, where the Estimates are changed under the provisions of the Public Finance Ordinance (Cap. 2) as applied by section 7(2) of that Ordinance, as shown in the Estimates as so changed.
3. Expenditure in respect of any head of expenditure shall not exceed the aggregate of the amounts authorized by paragraph 4 to be expended in respect of the subheads in that head of expenditure.
4. Expenditure in respect of each subhead in a head of expenditure shall not exceed—
 - (a) in the case of an Operating Account Recurrent subhead of expenditure, an amount equivalent to—
 - (i) except where the subhead is listed in the Schedule to this Resolution, 20% of the provision shown in the Estimates in respect of that subhead;
 - (ii) where the subhead is listed in the Schedule to this Resolution, the percentage of the provision shown in the Estimates in respect of that subhead that is specified in the Schedule in relation to that subhead; and
 - (b) in the case of an Operating Account Non-Recurrent subhead of expenditure or Capital Account subhead of expenditure, an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead,

or such other amount, not exceeding an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead, as may in any case be approved by the Financial Secretary.

		SCHEDULE		[para. 4]
	Head of Expenditure		Subhead	Percentage of provision shown in Estimates
46	General Expenses of the Civil Service	013	Personal allowances	40
59	Government Logistics Department	225	Traffic Accident Victims Assistance Scheme—levies	100
90	Labour Department	280	Contribution to the Occupational Safety and Health Council	30
		295	Contribution to the Occupational Deafness Compensation Board	30
106	Miscellaneous Services	284	Compensation	40
120	Pensions	021	Ex gratia pensions, awards and allowances	50
		026	Employees' compensation, injury, incapacity and death related payments and expenses	50
136	Public Service Commission	000	Operational expenses	25
152	Government Secretariat: Commerce and Economic Development Bureau (Commerce, Industry and Tourism Branch)	000	Operational expenses	25

	Head of Expenditure	Subhead	Percentage of provision shown in Estimates
155	Government Secretariat: Innovation and Technology Commission	000 Operational expenses	25
170	Social Welfare Department	157 Assistance for patients and their families	100
		176 Criminal and law enforcement injuries compensation	25
		177 Emergency relief	100
		179 Comprehensive social security assistance scheme	30
		180 Social security allowance scheme	45

Ricky FUNG Choi-cheung
Clerk to the Legislative Council

5 March 2008

Explanatory Note

This Resolution authorizes the expenditure of a sum not exceeding \$90,989,010,000 on the services of the Government prior to the enactment of an Appropriation Ordinance for the 2008–09 financial year.

Head 37 — DEPARTMENT OF HEALTH

Sub-head (Code)		Actual expenditure 2006-07	Approved estimate 2007-08	Revised estimate 2007-08	Estimate 2008-09
	\$'000	\$'000	\$'000	\$'000	\$'000
Operating Account					
Recurrent					
000	Operational expenses	2,815,299	2,953,833	3,035,765	3,259,369
003	Recoverable salaries and allowances (General)	1,145,000			
	Deduct reimbursements	<i>Cr. 1,145,000</i>	—	—	—
	Total, Recurrent	<u>2,815,299</u>	<u>2,953,833</u>	<u>3,035,765</u>	<u>3,259,369</u>
Non-Recurrent					
700	General non-recurrent	130,488	82,684	50,594	33,497
	Total, Non-Recurrent	<u>130,488</u>	<u>82,684</u>	<u>50,594</u>	<u>33,497</u>
	Total, Operating Account	<u>2,945,787</u>	<u>3,036,517</u>	<u>3,086,359</u>	<u>3,292,866</u>
Capital Account					
Plant, Equipment and Works					
603	Plant, vehicles and equipment	746	16,130	4,744	14,510
661	Minor plant, vehicles and equipment (block vote)	15,772	24,302	15,865	34,791
	Total, Plant, Equipment and Works	<u>16,518</u>	<u>40,432</u>	<u>20,609</u>	<u>49,301</u>
Subventions					
974	Subvented institutions - maintenance, repairs, and minor improvements (block vote)	100	624	1,182	1,280
975	Subvented institutions - minor plant, vehicles and equipment (block vote)	450	—	—	764
	Total, Subventions	<u>550</u>	<u>624</u>	<u>1,182</u>	<u>2,044</u>
	Total, Capital Account	<u>17,068</u>	<u>41,056</u>	<u>21,791</u>	<u>51,345</u>
	Total Expenditure	<u><u>2,962,855</u></u>	<u><u>3,077,573</u></u>	<u><u>3,108,150</u></u>	<u><u>3,344,211</u></u>

Head 37 — DEPARTMENT OF HEALTH

		Commitments			
Sub-head (Code)	Item (Code) Ambit	Approved commitment	Accumulated expenditure to 31.3.2007	Revised estimated expenditure for 2007-08	Balance
		\$'000	\$'000	\$'000	\$'000
Operating Account					
700	<i>General non-recurrent</i>				
481	Antiviral Stockpile for Influenza Pandemic	254,000	200,620	36,830	16,550
717	Consultancy service to review and improve the Regulatory System on Drug Control	500	302	100	98
718	Conditioning of radioactive waste	9,800	8,896	400	504
725	Implementation of statutory requirements under the Chinese Medicine Ordinance	9,200	4,640	1,000	3,560
726	Conducting a population health survey	9,000	1,730	1,376	5,894
727	Setting up a Tobacco Control Office	5,000	3,373	1,000	627
728	Studies on Chinese medicinal herbs	46,600	27,652	6,586	12,362
731	Acquisition of data entry service and procurement of specimens of Chinese herbal medicines for regulation of Chinese medicines in Hong Kong	975	24	345	606
		335,075	247,237	47,637	40,201
Capital Account					
603	<i>Plant, vehicles and equipment</i>				
844	Acquisition of an Automated Haematology System	3,080	—	—	3,080
857	Replacement of Conventional X-ray Machine (General X-ray machine and Film Processors) with Digital X- ray, Digital Radiography, Computed Radiography, Picture Archiving and Communication and Radiology Information Systems at Tung Chung Chest X-ray Unit	5,000	—	—	5,000
858	Replacement of Immunoassay Analyser System at the Core Laboratory of Clinical Pathology Laboratory Centre at Lek Yuen Health Centre	2,380	—	—	2,380
879	Acquisition of one set of General Chemistry Analyser System for Clinical Pathology Laboratory Centre	8,050	—	—	8,050
		18,510	—	—	18,510
	Total	353,585	247,237	47,637	58,711