

# 立法會

## *Legislative Council*

LC Paper No. LS46/19-20

### **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") resolution at the Legislative Council ("LegCo") meeting of 18 March 2020.

2. The purpose of the proposed resolution, to be moved pursuant to the procedure established under section 7(1) of the Public Finance Ordinance (Cap. 2), 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 2020 and the time when the Appropriation Ordinance 2020 comes into operation. According to paragraph 3 of SFST's draft speech, the Administration does not expect that the Appropriation Ordinance 2020 would come into operation before 29 April 2020.

3. According to paragraph 1 of the proposed resolution, the aggregate total sum sought under all heads is fixed at a sum not exceeding \$215,865,713,000 for the financial year commencing on 1 April 2020 (the sum sought and approved for the last financial year was \$131,081,699,000). According to paragraph 4 of SFST's draft speech, the aggregate total sum represents around 34% of the total appropriation of \$627,233,901,000 under the Appropriation Bill 2020. The aggregate total sum cannot be exceeded without the approval of LegCo.

4. Paragraph 3 of the proposed resolution stipulates that expenditure in respect of any head must not exceed the aggregate of the amounts authorized by paragraph 4 of the proposed resolution to be expended in respect of the subheads in that head. Similar to the practice in the past years, the funds on account sought under each subhead are calculated in percentage terms by reference to the provisions shown in the Estimates of Expenditure 2020-2021 ("Estimates") laid before LegCo on 26 February 2020. The percentages are determined in accordance with paragraph 4 of the proposed resolution. The effect of paragraph 4 is that expenditure in respect of an Operating Account Recurrent subhead must not exceed 20% of the relevant provision (except where a higher percentage is specified in Schedule 1 to the proposed resolution), and that in respect of an Operating Account Non-Recurrent subhead or a Capital Account subhead must not exceed 100% of the relevant provision (except where a different amount is specified in Schedule 2 to the same).

5. Under paragraph 4 of the proposed resolution, the Financial Secretary ("FS") is empowered to vary the funds 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 Estimates. According to paragraph 5 of SFST's draft speech, the Administration will report to the Finance Committee in case FS exercises the power to vary the funds on account in respect of any subhead to meet necessary requirements.

6. Upon our enquiry, the Administration has confirmed that, in respect of Subhead 689 and Subhead 789 (Additional commitments) under Head 106 set out in Schedule 2 to the proposed resolution, the Administration will continue the arrangement of seeking funds on account only on a need basis.<sup>1</sup> The Administration anticipates that there will be no funding requirement under Subhead 689 during the VoA period and that the \$1,000,000,000 sought under Subhead 789 is to cater for contingency during that period. In respect of Subhead 991 (Payment to the Civil Service Pension Reserve Fund) specified in Schedule 2, the Administration also expects that there will be no funding requirement under the Subhead during the VoA period. In respect of Subhead 987 (Payment to the Capital Investment Fund) and Subhead 988 (Payment to the Loan Fund) which appeared in Schedule 2 to the VoA resolution for the last financial year but not in the proposed resolution, the Administration has explained that there will be no funding requirement under those Subheads during the VoA period and no provision is made for those Subheads in the Estimates.

7. Under section 7(3) of Cap. 2, expenditure charged on the general revenue pursuant to a resolution under section 7(1) shall be set off against the amounts respectively provided in the relevant Appropriation Ordinance upon its coming into operation.

8. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on the proposed resolution.

Prepared by

Joyce CHAN  
Assistant Legal Adviser  
Legislative Council Secretariat  
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<sup>1</sup> The arrangement of seeking funds on account on a need basis in respect of Subhead 689 and Subhead 789 (Additional commitments) has been implemented since the 2009-2010 financial year. Details of the arrangement are set out in LC Paper No. CB(1)275/08-09(05).