

Head 169 — SECRETARIAT, COMMISSIONER ON INTERCEPTION OF COMMUNICATIONS AND SURVEILLANCE

Controlling officer: the Secretary, Secretariat, Commissioner on Interception of Communications and Surveillance will account for expenditure under this Head.

Estimate 2009–10 **\$12.8m**

Establishment ceiling 2009–10 (notional annual mid-point salary value) representing an estimated 16 non-directorate posts as at 31 March 2009 rising by three posts to 19 posts as at 31 March 2010 ... **\$7.3m**

In addition, there will be an estimated one directorate post as at 31 March 2009 and as at 31 March 2010.

Controlling Officer's Report

Programme

Compliance with Interception and Surveillance Legislation

This programme contributes to Policy Area 9: Internal Security (Secretary for Security).

Detail

	2007–08 (Actual)	2008–09 (Original)	2008–09 (Revised)	2009–10 (Estimate)
Financial provision (\$m)	8.7	11.5	11.1 (–3.5%)	12.8 (+15.3%)
				(or +11.3% on 2008–09 Original)

Aim

2 The aim of the Secretariat, Commissioner on Interception of Communications and Surveillance (the Secretariat) is to provide support to the Commissioner on Interception of Communications and Surveillance (the Commissioner) in overseeing the compliance by law enforcement agencies (LEAs) and their officers with the relevant requirements under the Interception of Communications and Surveillance Ordinance (the Ordinance).

Brief Description

3 The Commissioner is appointed by the Chief Executive (CE) as an independent oversight authority to discharge the following functions under the Ordinance:

- conducting reviews on compliance by LEAs and their officers with the relevant requirements under the Ordinance;
- carrying out examinations upon applications from persons who suspect that they are subjects of interception or covert surveillance carried out by LEAs;
- submitting annual reports to the CE which will be tabled at the Legislative Council, and any further reports on matters relating to the performance of his functions under the Ordinance; and
- making recommendations to the Secretary for Security on the code of practice and to heads of LEAs on changes to any arrangements made by the respective LEAs to better carry out the objects of the Ordinance or the provisions of the code of practice.

4 The Secretariat assists the Commissioner in developing and implementing the procedures for overseeing the compliance by LEAs with the relevant requirements under the Ordinance, and in co-ordinating with the Security Bureau, LEAs and the Panel Judges' Office (PJO) in order to ensure the smooth functioning of the regime under the Ordinance. It also provides support to the Commissioner in processing applications for examination and in performing the review function which includes vetting the weekly reports, checking device registers, conducting inspection visits, and investigating cases of non-compliance. The Secretariat also assists the Commissioner in the compilation of the annual report to the CE and in the formulation of recommendations to the Secretary for Security and the heads of LEAs to improve the arrangements in place for the better operation of the Ordinance.

5 In 2008, the Secretariat met its targets and objectives. The annual report of the Commissioner for 2007 was submitted to the CE in June 2008.

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6 The key performance measures are:

Targets

	Target	2007 (Actual)	2008 (Actual)	2009 (Plan)
Commissioner's Annual Report to the CE..	1	1	1	1
standard response time for answering enquiries				
immediately for enquiries by telephone or in person (%)	100	100	100	100
within ten days for enquiries in writing (%)	100	100	100	100

Indicators

	2007 (Actual)	2008 (Actual)	2009 (Estimate)
enquiries received	66	41	55
applications for examination			
received	27	16	22
not pursued	1	5	—Ω
weekly reports from			
LEAs	208	208	208
PJO	52	52	52
no. of visits to LEAs for checking purpose	33	31	32

Ω Not possible to estimate.

Matters Requiring Special Attention in 2009–10

7 In 2009–10, the Secretariat will continue to assist the Commissioner in carrying out the functions conferred on him under the Ordinance to monitor LEAs' compliance with the relevant requirements under the Ordinance.

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ANALYSIS OF FINANCIAL PROVISION

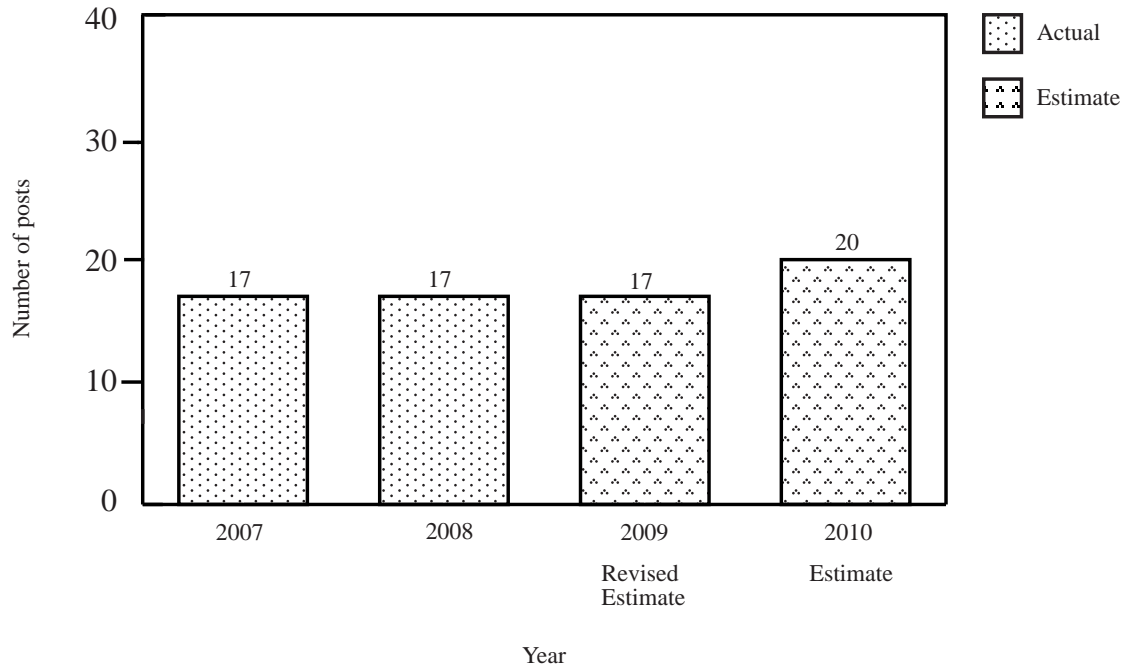
Programme	2007-08 (Actual) (\$m)	2008-09 (Original) (\$m)	2008-09 (Revised) (\$m)	2009-10 (Estimate) (\$m)
Compliance with Interception and Surveillance Legislation.....	8.7	11.5	11.1 (-3.5%)	12.8 (+15.3%)
				(or +11.3% on 2008-09 Original)

Analysis of Financial and Staffing Provision

Provision for 2009-10 is \$1.7 million (15.3%) higher than the revised estimate for 2008-09. This is mainly due to the creation of three posts for strengthening the support to the Commissioner in monitoring and overseeing the compliance by LEAs with the relevant requirements of the Ordinance and increased requirement for operating expenses.

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*Changes in the size of the establishment
(as at 31 March)*



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Sub-head (Code)	Actual expenditure 2007-08	Approved estimate 2008-09	Revised estimate 2008-09	Estimate 2009-10	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	8,653	11,524	11,123	12,843
	Total, Recurrent	8,653	11,524	11,123	12,843
	Total, Operating Account	8,653	11,524	11,123	12,843
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	Total Expenditure	<u>8,653</u>	<u>11,524</u>	<u>11,123</u>	<u>12,843</u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2009–10 for the salaries and expenses of the Secretariat, Commissioner on Interception of Communications and Surveillance is \$12,843,000. This represents an increase of \$1,720,000 over the revised estimate for 2008–09 and of \$4,190,000 over actual expenditure in 2007–08.

Operating Account

Recurrent

2 Provision of \$12,843,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Secretariat, Commissioner on Interception of Communications and Surveillance. The increase of \$1,720,000 (15.5%) over the revised estimate for 2008–09 is mainly due to the creation of three posts for strengthening the support to the Commissioner in monitoring and overseeing the compliance by LEAs with the relevant requirements of the Ordinance and increased requirement for operating expenses.

3 The establishment as at 31 March 2009 will be 17 permanent posts. It is expected that three permanent posts will be created in 2009–10. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2009–10, but the notional annual mid-point salary value of all such posts must not exceed \$7,310,000.

4 An analysis of the financial provision under *Subhead 000 Operational expenses* is as follows:

	2007–08 (Actual) (\$'000)	2008–09 (Original) (\$'000)	2008–09 (Revised) (\$'000)	2009–10 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	5,809	6,790	7,354	8,330
- Allowances	303	370	200	210
- Job-related allowances	1	2	1	1
Personnel Related Expenses				
- Civil Service Provident Fund contribution	5	—	—	—
Departmental Expenses				
- General departmental expenses	2,535	4,362	3,568	4,302
	8,653	11,524	11,123	12,843