

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 2011–12..... **\$17.1m**

Establishment ceiling 2011–12 (notional annual mid-point salary value) representing an estimated 19 non-directorate posts as at 31 March 2011 and as at 31 March 2012..... **\$7.3m**

In addition, there will be an estimated one directorate post as at 31 March 2011 and as at 31 March 2012.

Controlling Officer's Report

Programme

Compliance with Interception and Surveillance Legislation

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

Detail

	2009–10 (Actual)	2010–11 (Original)	2010–11 (Revised)	2011–12 (Estimate)
Financial provision (\$m)	10.8	13.9	13.7 (–1.4%)	17.1 (+24.8%)
				(or +23.0% on 2010–11 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 (Cap. 589) (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 2010, the Secretariat met its targets and objectives. The annual report of the Commissioner for 2009 was submitted to the CE in June 2010.

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6 The key performance measures are:

Targets

	Target	2009 (Actual)	2010 (Actual)	2011 (Plan)
Commissioner's Annual Report to the CE... standard response time for answering enquiries	1	1	1	1
immediately for enquiries by telephone or in person (%).....	100	100	100	100
within ten days for enquiries in writing (%).....	100	100	100	100

Indicators

	2009 (Actual)	2010 (Actual)	2011 (Estimate)
enquiries received	62	69	65
applications for examination			
received.....	23	23	23
not pursued.....	5	3	—Ω
not entertained#.....	1	4	—Ω
weekly reports from			
LEAs	208	208	208
PJO	52	52	52
no. of visits to LEAs for checking purpose	32	33	32

Ω Not possible to estimate.

New indicator as from 2010. Applications may not be entertained for various reasons, for example, they do not raise matters within the ambit of the Commissioner or fail to follow proper application procedures.

Matters Requiring Special Attention in 2011–12

7 In 2011–12, 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

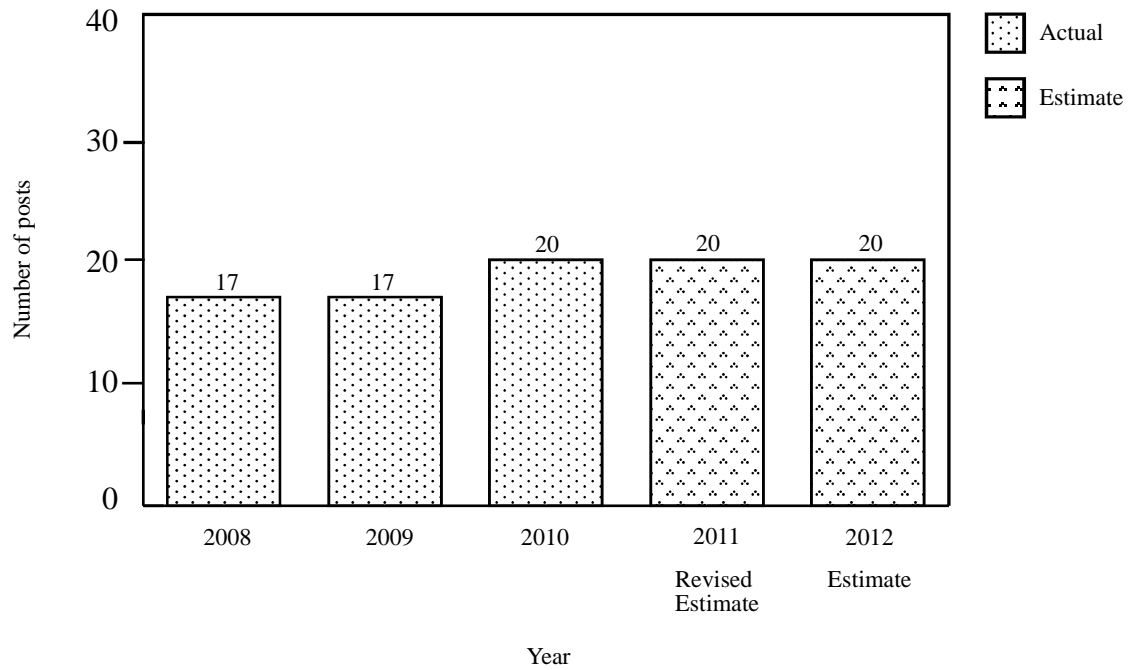
Programme	2009–10 (Actual) (\$m)	2010–11 (Original) (\$m)	2010–11 (Revised) (\$m)	2011–12 (Estimate) (\$m)
Compliance with Interception and Surveillance Legislation	10.8	13.9	13.7 (-1.4%)	17.1 (+24.8%)
				(or +23.0% on 2010–11 Original)

Analysis of Financial and Staffing Provision

Provision for 2011–12 is \$3.4 million (24.8%) higher than the revised estimate for 2010–11. This is mainly due to the need to provide for replacements for two officers on pre-retirement leave, salary increments for staff, full-year effect of payment of remuneration of the Commissioner and increased operating expenses for office expansion.

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



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Sub-head (Code)	Actual expenditure 2009-10	Approved estimate 2010-11	Revised estimate 2010-11	Estimate 2011-12	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses.....	10,762	13,932	13,737	17,079
	Total, Recurrent	10,762	13,932	13,737	17,079
	Total, Operating Account.....	10,762	13,932	13,737	17,079
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	Total Expenditure	10,762	13,932	13,737	17,079

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Details of Expenditure by Subhead

The estimate of the amount required in 2011–12 for the salaries and expenses of the Secretariat, Commissioner on Interception of Communications and Surveillance is \$17,079,000. This represents an increase of \$3,342,000 over the revised estimate for 2010–11 and of \$6,317,000 over actual expenditure in 2009–10.

Operating Account

Recurrent

2 Provision of \$17,079,000 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 \$3,342,000 (24.3%) over the revised estimate for 2010–11 is mainly due to the need to provide for replacements for two officers on pre-retirement leave, salary increments for staff, full-year effect of payment of remuneration of the Commissioner on Interception of Communications and Surveillance and increased operating expenses for office expansion.

3 The establishment as at 31 March 2011 will be 20 permanent posts. No change in establishment is expected in 2011–12. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2011–12, but the notional annual mid-point salary value of all such posts must not exceed \$7,250,000.

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

	2009–10 (Actual) (\$'000)	2010–11 (Original) (\$'000)	2010–11 (Revised) (\$'000)	2011–12 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	7,994	8,865	8,738	9,070
- Allowances	134	188	127	174
- Job-related allowances.....	—	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution	4	12	23	25
Departmental Expenses				
- General departmental expenses.....	2,630	4,866	4,848	7,809
	10,762	13,932	13,737	17,079