

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 2021–22 **\$27.4m**

Establishment ceiling 2021–22 (notional annual mid-point salary value) representing an estimated 22 non-directorate posts as at 31 March 2021 and as at 31 March 2022 **\$13.8m**

In addition, there will be an estimated one directorate post as at 31 March 2021 and as at 31 March 2022.

Controlling Officer's Report

Programme

Compliance with Interception and Surveillance Legislation

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

Detail

	2019–20 (Actual)	2020–21 (Original)	2020–21 (Revised)	2021–22 (Estimate)
Financial provision (\$m)	22.1	24.4	23.6 (–3.3%)	27.4 (+16.1%)
				(or +12.3% on 2020–21 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 the 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 and their officers 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 visits for checking purpose, 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 2020, the Secretariat met its targets and objectives. The annual report of the Commissioner for 2019 was submitted to the CE in June 2020.

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6 The key performance measures are:

Targets

	Target	2019 (Actual)	2020 (Actual)	2021 (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

	2019 (Actual)	2020 (Actual)	2021 (Estimate)
enquiries received#.....	70	77	74
applications for examination			
received	17	5	11
not pursued	6§	1φ	—Ω
not entertained.....	1	0	—Ω
weekly reports from			
LEAs	208	208	208
PJO	52	52	52
no. of visits to LEAs for checking purpose.....	85	64	68

The number of enquiries received hinges on public needs and may vary from year to year.

§ The figure includes one application that was received in 2018 and classified as not pursued in 2019.

φ The figure includes one application that was received in 2019 and classified as not pursued in 2020.

Ω Not possible to estimate.

Matters Requiring Special Attention in 2021–22

7 In 2021–22, the Secretariat will continue to assist the Commissioner in carrying out the functions conferred on him under the Ordinance to monitor the compliance by LEAs and their officers with the relevant requirements under the Ordinance.

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ANALYSIS OF FINANCIAL PROVISION

	2019–20 (Actual) (\$m)	2020–21 (Original) (\$m)	2020–21 (Revised) (\$m)	2021–22 (Estimate) (\$m)
Programme				
Compliance with Interception and Surveillance Legislation	22.1	24.4	23.6 (-3.3%)	27.4 (+16.1%)
				(or +12.3% on 2020–21 Original)

Analysis of Financial and Staffing Provision

Provision for 2021–22 is \$3.8 million (16.1%) higher than the revised estimate for 2020–21. This is mainly due to increased requirements for salary provision and 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 2019–20	Approved estimate 2020–21	Revised estimate 2020–21	Estimate 2021–22	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	22,146	24,395	23,573	27,414
	Total, Recurrent.....	22,146	24,395	23,573	27,414
	Total, Operating Account	22,146	24,395	23,573	27,414
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	Total Expenditure	22,146	24,395	23,573	27,414
		<u>22,146</u>	<u>24,395</u>	<u>23,573</u>	<u>27,414</u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2021–22 for the salaries and expenses of the Secretariat, Commissioner on Interception of Communications and Surveillance is \$27,414,000. This represents an increase of \$3,841,000 over the revised estimate for 2020–21 and \$5,268,000 over the actual expenditure in 2019–20.

Operating Account

Recurrent

2 Provision of \$27,414,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Secretariat, Commissioner on Interception of Communications and Surveillance. This represents an increase of \$3,841,000 (16.1%) over the revised estimate for 2020–21. This is mainly due to increased requirements for salary provision and operating expenses.

3 The establishment as at 31 March 2021 will be 23 posts. No change in establishment is expected in 2021–22. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2021–22, but the notional annual mid-point salary value of all such posts must not exceed \$13,780,000.

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

	2019–20 (Actual) (\$'000)	2020–21 (Original) (\$'000)	2020–21 (Revised) (\$'000)	2021–22 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	14,595	15,598	16,005	16,231
- Allowances	407	396	208	159
- Job-related allowances.....	2	1	—	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution	18	4	4	—
- Civil Service Provident Fund contribution	1,032	1,260	1,220	1,289
Departmental Expenses				
- General departmental expenses	6,092	7,136	6,136	9,734
	22,146	24,395	23,573	27,414