

INTERCEPTION OF COMMUNICATIONS ACTS 1988 AND 2001

To: His Excellency Vice-Admiral Sir Paul Haddacks, KCB, Lieutenant
Governor of the Isle of Man in Council

REPORT OF THE COMMISSIONER
for the year ended 31st December 2009

Commissioner: His Honour Deemster J.M. Kerruish QC

1. Pursuant to section 9(6) of the Interception of Communications Act 1988 (as amended) [the Act], I have the honour to submit this report.
2. As at 31st December 2008 there were 2 Warrants remaining in force. As reported in my 2008 report, an audit subsequent to 31st December 2008 revealed that such Warrants had been cancelled within the 'relevant period' as defined by the Act.
3. During the year ended 31st December 2009, in total 46 Warrants were issued by either the Chief Minister or, in his absence, the Minister for Home Affairs. 45 Warrants were issued under the provisions of the Act, and 1 Warrant under the Theft Act 1981.
4. All Warrants were issued for the purpose of preventing or detecting serious crime. 45 Warrants were issued under the interception of communications by means of a public telecommunications system.
5. I have reviewed the 46 Warrants and supporting documentation. I have also carried out a random audit. On the evidence produced I am satisfied that the Chief Minister or, in his absence, the Minister for Home Affairs, duly carried out the functions conferred by sections 2 to 5 of the Act.
6. As at 31st December 2009, there were 6 Warrants outstanding. An audit subsequent to the year end revealed that such Warrants had been cancelled.
7. In my report for the year ended 31st December 2007, I stated that I was then awaiting notification of the outcome of a review by the Chief Minister with the assistance of H.M. Attorney General and the Isle of Man Constabulary on the security arrangements

relevant to intercepted material. At the request of the Chief Minister and upon the advice of H.M. Attorney General, on 27th May 2009 one of the providers of telecommunications services entered into a Memorandum of Understanding. The Chief Minister has confirmed in writing that all parties to the Memorandum of Understanding and H.M. Attorney General and the Chief Constable of the Isle of Man Constabulary are satisfied as to the adequacy of arrangements for the purposes of section 6 of the Act.

8. During the course of 2009, I corresponded and had discussions with H.M. Attorney General and corresponded with the Chief Constable. During March 2009 I was informed by the latter that there had been a breach of the Isle of Man Constabulary's Policy and Standard Operating Procedures for the Interception of Communications. The breach involved a failure by the Constabulary to carry out a periodic review of a particular Warrant. Such periodic reviews, which are frequent, are not required under the Act but may be viewed as best practice. The breach of the periodic internal review was identified and rectified. Consequent to such breach, changes were effected by the Isle of Man Constabulary. I am satisfied that such breach was not material.
9. On the evidence and information produced, I am content as to the adequacy of arrangements for the purposes of section 6 of the Act.
10. During the year 2009 I received no request for assistance from the Tribunal appointed under section 8 of the Act.

This 11th day of May 2010



COMMISSIONER