

PROPOSED AMENDMENTS TO THE NATIONAL CRIME AGENCY BILL 2026

Volume I — Clause-by-Clause Comparative Text and Legislative Rationale

PHASE II — CLAUSES 1 TO 30

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Purpose	Phase II technical submission for parliamentary scrutiny and consideration
Source text	The National Crime Agency Bill 2026 as circulated
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Submitted to	Leader of the Opposition
Copy to	Opposition Whip
Scope	Clauses 1–30: institutional architecture, leadership, appointments, staffing and governance

This Phase II follows the Covering Letter and Executive Legislative Brief transmitted as Phase I. It sets out the detailed clause-by-clause proposed amendments to clauses 1–30. Subsequent phases will address clauses 31–85 and the National Crime (Interim) Agency Bill 2026.

Drafting Key and Method

The document uses the **Government Bill as the baseline**. Clauses are classified as **RETAIN**, **AMEND** or **REWRITE / INSERT**. The purpose is not to alter provisions unnecessarily, but to identify where additional safeguards, precision or institutional separation may be warranted.

BLACK	Government text retained or reproduced for comparison.
RED STRIKETHROUGH	Government wording proposed for deletion or replacement.
BLUE BOLD	New or replacement legislative wording proposed.
BLUE SHADED RATIONALE	Reason for the amendment, including constitutional, data-protection, governance or drafting considerations.

Legal reference points used in this Part: Constitution of Mauritius, especially sections 9 and 10; Data Protection Act 2017, including its high-risk processing/DPIA framework and section 44 exceptions; Cybersecurity and Cybercrime Act 2021; Financial Crimes Commission Act 2023; and the wording of the circulated NCA Bill itself.

Clauses 1–17: Amendment Matrix

Cl.	Subject	Status	Principal issue
1	Short title	RETAIN	No change required.
2	Interpretation	AMEND	Add data/privacy safeguards and narrow open-ended definitions.
3	Establishment of NCA	AMEND	Express operational independence from political direction while preserving lawful judicial/DPP oversight.
4	Core values and principles	AMEND	Add legality, necessity, proportionality, privacy, privilege and rights safeguards.
5	Functions and powers	AMEND	Constrain directives, foreign data exchange and implied powers.
6	Divisions of NCA	AMEND	Prevent internal restructuring from creating new coercive powers or defeating review.
7	AML & Anti-Corruption Division	AMEND	Tie asset tracing/recovery to statutory safeguards and court orders.

8	Cybercrime Division	AMEND	Expressly subordinate access/search/interception to Part V and judicial authorisation.
9	Complex, Serious & Organised Crime Division	RETAIN	Substantive safeguards are better placed in clauses 37–59.
10	Asset Recovery & Unexplained Wealth	AMEND	Protect third-party rights and separate investigation from asset administration.
11	Intelligence Division	REWRITE	Narrow “any other crime”; add retention, access control, audit and DPIA requirements.
12	Legal and Advisory Division	AMEND	Strengthen legality/privilege gatekeeping and escalation of serious legal concerns.
13	Education and Preventive Division	REWRITE	Remove supervisory/policy powers that may exceed an education/prevention function.
14	Management & Human Resources	AMEND	Correct conflict in Internal Audit Unit and strengthen merit/procurement safeguards.
15	Internal Affairs Division	REWRITE	Create genuine internal-integrity oversight beyond asset declarations and protect functional independence.
16	Digital Forensic Laboratory	AMEND	Accreditation, chain of custody, auditability, data minimisation and forensic independence.
17	NCA Secretariat	AMEND	Secure records and preserve separation between secretariat support and operational decision-making.

CLAUSE 1 — SHORT TITLE

STATUS	RETAIN	Citation of the Act
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Government text

1. Short title This Act may be cited as the National Crime Agency Act 2026.

Proposed amendment

No textual amendment proposed.

Rationale

The short title is clear and does not itself confer powers or affect rights. Retaining uncontroversial provisions also keeps the amendment package focused on substantive safeguards.
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CLAUSE 2 — INTERPRETATION

STATUS	AMEND	Definitions governing the scope of the Act
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Government text

2. Interpretation

In this Act –

“access” means gaining entry to a program or computer data stored in a computer system;

“bank” – (a) has the same meaning as in the Banking Act; and (b) includes – (i) a non-bank deposit taking institution licensed under the Banking Act; and (ii) a licensee under the National Payment Systems Act;

“cash dealer” has the same meaning as in the Banking Act;

“complex, serious and organised crime” means a crime that is considered to be complex, serious and organised pursuant to section 37;

“computer data” means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;

“computer system” means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;

“content data” – (a) means – (i) the communication content of the communication; (ii) the meaning or purport of the communication; or (iii) the message or information being conveyed by the communication; and (b) includes everything transmitted as part of communication that is not traffic data;

“cybercrime” – (a) means an offence as described under Part III of the Cybersecurity and Cybercrime Act 2021; and (b) includes such other offence connected, or ancillary, to cybercrime;

“data” includes computer data, content data and traffic data;

“Deputy Director-General” means the Deputy Director-General of the NCA; “Director” means a Director of a Division; “Director-General” means the Director-General of the NCA;

“disclosure of impropriety” means information published, revealed, notified, divulged or otherwise disclosed in relation to – (a) financial crime, cybercrime or other complex, serious and organised crime having been, being, or likely to be, committed; (b) a person having in his possession properties which are suspected to be proceeds, instrumentalities or terrorist properties; or (c) a person having acquired unexplained wealth;

“Division” means a Division of the NCA;

“FCC” means the Financial Crimes Commission established under the repealed Financial Crimes Commission Act 2023;

“financial crime” – (a) has the same meaning as in the Financial Crime Act 2026; and (b) includes an offence under the Declaration of Assets Act;

“financial institution” has the meaning set out in the Bill, including specified licensed or registered institutions, credit unions, banks and cash dealers;

“Governance Advisory Board” means the Governance Advisory Board set up under section 27; “Head” means the Head of a Unit; “Independent Advisory Panel” means the Independent Advisory Panel established under the Constitution;

“instrumentality” – (a) means any property used or intended to be used in any manner in connection with a crime or unlawful activity; and (b) includes a benefit;

“Inter-Agency Coordination Board” means the Inter-Agency Coordination Board set up under section 65;

“intercept”, in relation to a function of a computer, includes to monitor, or record a function of a computer, or acquire the substance, its meaning or purport of such function;

“Interim Agency” means the National Crime (Interim) Agency established under the National Crime (Interim) Agency Act 2026;

“investigative body” means the Mauritius Police Force, the Financial Services Commission, the Gambling Regulatory Authority, the Mauritius Revenue Authority or such other investigative body as may be prescribed;

“material evidence” means any book, document, record, data, disk or other information, whether stored in a computer, a disc, a cassette, a microfilm or any mechanical, digital or electronic device;

“Minister” means the Minister to whom responsibility for the National Crime Agency is assigned; “NCA” means the National Crime Agency established under section 3;

“NCA Code” means the Code of Conduct, Ethics and Propriety issued by the Governance Advisory Board;

“NCA officer” has the meaning set out in the Bill and includes the Director-General, Deputy Director-General, Directors and Heads of Units;

“NCA investigative officer” means an NCA officer who is duly authorised by the Director-General to investigate into financial crime, cybercrime and other complex, serious and organised crime;

“Operational Protocol” means the Protocol established between the NCA and the Police and other investigative bodies, governing their respective responsibilities and mechanisms for operational collaboration;

“politically exposed person”, “proceeds”, “Senior Leadership Board”, “service provider”, “supervising authorities”, “terrorist property”, “traffic data”, “Unit” and “whistleblower” have the meanings set out in the Bill;

“Surveillance and Interception Code of Practice” means the Surveillance and Interception Code of Practice issued by the Governance Advisory Board.

Proposed amendment

Insert: “data protection legislation” means the Data Protection Act 2017 and any regulations, lawful codes or binding requirements made under it;

Insert: “personal data” and “special categories of personal data” have the same meanings as in the Data Protection Act 2017;

Insert: “private information” means information relating to the private or family life, communications, movements, associations, property, financial affairs or other personal affairs of an identified or identifiable person, whether or not the information constitutes personal data;

~~“... or such other investigative body as may be prescribed”;~~

“... or such other statutory investigative body as may be prescribed by regulations which shall not come into operation unless approved by resolution of the Assembly”;

Insert: “judicial authorisation” means an order or warrant issued by a Judge in Chambers or other court of competent jurisdiction in accordance with this Act;

Insert at the end of section 2: A reference in this Act to the “public interest” shall not, by itself, dispense with any requirement for reasonable grounds, necessity, proportionality, judicial authorisation, legal professional privilege, data-protection compliance or any other safeguard expressly required by this Act or any other enactment.

Rationale

The Bill creates extensive powers involving intelligence, personal data and coercive investigation. Definitions should therefore prevent scope expansion through open-ended prescription and should connect the NCA expressly to the existing data-protection framework. The proposed “public interest” rule is intended to prevent that phrase from becoming an alternative to safeguards elsewhere in the Act.

Reference points: Data Protection Act 2017; Constitution, s.9; circulated Bill, clauses 46, 52 and 54.

CLAUSE 3 — ESTABLISHMENT OF NCA

STATUS	AMEND	Legal status and institutional independence
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Government text

3. Establishment of NCA

- (1) There is established, for the purposes of this Act, the National Crime Agency which shall be the lead investigative agency to investigate into financial crime, cybercrime and other complex, serious and organised crime.
- (2) The NCA shall not be subject to the direction or control of any person or authority but shall be subject to the administrative and operational control of the Director-General.
- (3) The NCA shall be a body corporate.

Proposed amendment

~~(2) The NCA shall not be subject to the direction or control of any person or authority but shall be subject to the administrative and operational control of the Director-General.~~

(2) Subject to the Constitution and this Act, the NCA shall be independent in the initiation, conduct and discontinuance of investigations and shall not be subject to the direction or control of any Minister, public office holder, political office holder, person or authority in relation to any particular investigation. It shall remain subject to lawful orders of a court, the constitutional and statutory functions of the Director of Public Prosecutions, and the oversight mechanisms expressly provided by law.

(2A) No person shall direct or attempt to direct the NCA, the Director-General or an NCA officer as to the identity of a person to be investigated, the manner in which evidence is to be assessed, whether coercive powers are to be sought or exercised, or the outcome of an investigation, except as expressly authorised by law.

(2B) The Director-General shall have administrative and operational control of the NCA subject to this Act and to the functional independence expressly conferred on the Internal Affairs Division, the Legal and Advisory Division and any other office by this Act.

Rationale

The existing clause declares independence but places all administrative and operational control in one office. The amendment makes the intended independence more concrete by prohibiting case-specific political direction while preserving lawful judicial control, the DPP's functions and internal safeguards. It also anticipates functions that should not be controlled by the subject of their oversight.

CLAUSE 4 — CORE VALUES AND PRINCIPLES OF NCA

STATUS	AMEND	Standards governing all NCA powers
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Government text

4. Core values and principles of NCA

With a view to achieving high international standards of skill, capacity and performance in its operations, NCA officers shall –

- (a) not allow any political or societal pressure or influence or private consideration to influence their conduct;
- (b) act reasonably, independently, effectively, proportionately and expeditiously;
- (c) act with the highest standards of integrity and professionalism;
- (d) be accountable for their actions and decisions;
- (e) ensure that they operate within the parameters of the law;
- (f) deliver their core missions to inspire and maintain public trust and confidence; and
- (g) at all times, uphold the values and principles of the NCA.

Proposed amendment

Insert after paragraph (b): (ba) exercise coercive, surveillance, interception, data-access and intelligence powers only where lawful, necessary and proportionate to a legitimate investigative purpose;

Insert after paragraph (d): (da) respect the constitutional rights of every person, including privacy of home and property, liberty, fair process, legal professional privilege and the presumption of innocence;

Insert after paragraph (e): (ea) process personal data in accordance with the Data Protection Act 2017, including purpose limitation, data minimisation, security, retention and accountability requirements, subject only to lawful exceptions;

Insert after paragraph (f): (fa) keep sufficient written and electronic records to permit effective audit and review of the exercise of coercive and intrusive powers;

Rationale

These principles would operate as interpretive safeguards across the Act. The Constitution protects against unjustifiable searches of person, property and premises, while the Data Protection Act permits criminal-investigation exceptions only within its statutory framework. Express principles improve consistency when later clauses confer broad powers.

Reference points: Constitution, ss.9–10; Data Protection Act 2017, including s.44.

CLAUSE 5 — COMBATING FINANCIAL CRIME, CYBERCRIME AND OTHER COMPLEX, SERIOUS AND ORGANISED CRIME

STATUS	AMEND	Functions, cooperation and ancillary powers
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Government text

5. Combating financial crime, cybercrime and other complex, serious and organised crime

(1) The duties of the NCA shall be to take all reasonable measures for – (a) combating, detecting and investigating into financial crime, cybercrime and other complex, serious and organised crime; (b) gathering, processing and evaluating intelligence relating to such crime, and exchanging such intelligence with national and international investigative bodies; (c) recovering and managing assets; (d) apprehending persons reasonably suspected of such crime; and (e) disrupting and dismantling financial networks supporting drug trafficking and distribution.

(2) In carrying out those duties the NCA may collaborate locally and internationally, conduct joint investigations, trace proceeds, coordinate parallel investigations, promote public-private cooperation, enter arrangements with foreign competent authorities for information exchange, and take such other measures and issue such directives as may be necessary.

(3) The NCA shall, subject to section 15(4), discharge such functions and exercise such powers as may be necessary under this Act, the Asset Recovery and Unexplained Wealth Act 2026, the Declaration of Assets Act, the Financial Crime Act 2026 and any other relevant enactment.

Proposed amendment

Add to subsection (1)(b): “... provided that the gathering, processing, retention, disclosure and exchange of intelligence shall be lawful, necessary for an identified purpose, proportionate, secure and auditable.”

~~(2)(f) enter into such arrangement as may be necessary with any foreign competent authority for the purpose of exchanging information within or outside Mauritius;~~

(2)(f) enter into lawful arrangements with foreign competent authorities for the exchange of information, subject to applicable law on confidentiality, personal-data transfer, purpose limitation, onward disclosure and the protection of privileged or protected material;

~~(2)(g) take such other measures, and issue such directives, as may be necessary to combat such crime.~~

(2)(g) take such other lawful administrative or operational measures, and issue internal directives, as may be reasonably necessary to combat such crime, provided that no directive shall create a coercive power, offence, duty or restriction not otherwise authorised by an enactment.

(4) Nothing in this section shall authorise the NCA to dispense with any warrant, judicial order, statutory threshold, privilege, data-protection safeguard or other condition applicable to the exercise of a power under this Act or any other enactment.

Rationale

The Bill should distinguish broad institutional functions from coercive legal powers. Cooperation and intelligence exchange are necessary, but should not become independent sources of authority to compel persons, obtain data or bypass safeguards that Parliament places in later clauses.

CLAUSE 6 — DIVISIONS OF NCA

STATUS	AMEND	Internal structure and allocation of functions
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Government text

6. Divisions of NCA

(1) The Bill establishes nine Divisions: Anti-Money Laundering and Anti-Corruption; Cybercrime; Complex, Serious and Organised Crime; Asset Recovery and Unexplained Wealth; Intelligence; Legal and Advisory; Education and Preventive; Management and Human Resources; and Internal Affairs.

(2) The Director-General may set up such other Division or Unit within a Division which shall have such functions and powers as the Director-General may direct.

(3) The Director-General may direct a Division, other than the Internal Affairs Division, or Unit to discharge such functions and exercise such powers as may have been assigned to another Division or Unit.

(4) No act done by a Division or Unit shall be void or impeachable by reason that a matter should have been dealt with by another Division or Unit.

Proposed amendment

~~(2) The Director-General may set up such other Division or Unit within a Division which shall have such functions and powers as the Director-General may direct.~~

(2) The Director-General may, with the approval of the Governance Advisory Board, establish such additional Division or Unit as is reasonably necessary for the administration of functions conferred by law, and shall publish its name and general functions; but no internal restructuring shall create or enlarge a coercive, investigative, interception, surveillance, arrest, search, seizure or data-access power beyond that expressly conferred by an enactment.

~~(3) The Director-General may direct a Division, other than the Internal Affairs Division, or Unit to discharge such functions and exercise such powers as may have been assigned to another Division or Unit.~~

(3) Subject to subsection (3A), the Director-General may, for operational efficiency, assign to a Division or Unit functions lawfully conferred on the NCA, provided that the officer exercising any statutory power is independently authorised and qualified to exercise that power.

(3A) No direction under subsection (3) shall compromise the functional independence of the Internal Affairs Division, the Legal and Advisory Division, the Internal Audit Unit or any office to which this Act confers an independent reporting responsibility.

~~(4) No act done by a Division or Unit shall be void or impeachable by reason that a matter should have been dealt with by another Division or Unit.~~

(4) A mere internal allocation irregularity shall not invalidate an act where the officer concerned otherwise had lawful authority to perform it; but nothing in this subsection shall restrict judicial review, the exclusion of unlawfully obtained evidence, civil liability, disciplinary accountability or any other remedy arising from an unlawful exercise of power.

Rationale

Internal flexibility should not permit the executive structure of the NCA to become a source of legal powers. The revised savings language protects practical administration without immunising unlawful acts from judicial scrutiny.

CLAUSE 7 — ANTI-MONEY LAUNDERING AND ANTI-CORRUPTION DIVISION

STATUS	AMEND	Financial-crime investigation, analysis and asset tracing
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Government text

7. Anti-Money Laundering and Anti-Corruption Division

The Anti-Money Laundering and Anti-Corruption Division shall be responsible for detecting and investigating into financial crime and may perform such other duties as may be necessary for the efficient conduct of an investigation into such crime, including the carrying out of forensic and financial analysis, asset tracing and recovery.

Proposed amendment

Add at the end: “Any asset tracing, restraint, seizure, recovery or management measure shall be undertaken only in accordance with this Act, the Asset Recovery and Unexplained Wealth Act 2026, any applicable court order and the rights of bona fide third parties.”

Rationale

The clause appropriately identifies the Division’s core role, but asset recovery can affect property rights before final determination. Cross-reference to the governing statutory and judicial safeguards reduces the risk that a functional description is treated as a free-standing coercive power.

CLAUSE 8 — CYBERCRIME DIVISION

STATUS	AMEND	Cybercrime investigation and digital evidence
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Government text

8. Cybercrime Division

The Cybercrime Division shall be responsible for detecting and investigating into cybercrime and may perform such other duties as may be necessary for the efficient conduct of an investigation into such crime, including the access, search and seizure of data, and the collection and recording of traffic and content data.

Proposed amendment

~~“...including the access, search and seizure of data, and the collection and recording of traffic and content data.”~~

“... including, subject to Part V and any other applicable enactment, the lawful access, search and seizure of data and the collection or recording of traffic or content data, provided that judicial authorisation shall be obtained wherever required and that integrity, chain of custody, confidentiality and data-protection safeguards are maintained.”

Rationale

The present wording lists access, search, seizure and collection of traffic/content data as ordinary divisional functions. The amendment makes explicit that those activities derive from the detailed powers and thresholds in Part V, not from clause 8 itself.

Reference points: Constitution, s.9; Cybersecurity and Cybercrime Act 2021; Data Protection Act 2017.

CLAUSE 9 — COMPLEX, SERIOUS AND ORGANISED CRIME DIVISION

STATUS	RETAIN	Investigation of complex, serious and organised crime
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Government text

9. Complex, Serious and Organised Crime Division

The Complex, Serious and Organised Crime Division shall be responsible for detecting and investigating into complex, serious and organised crime and may perform such other duties as may be necessary for the efficient conduct of an investigation into such crime.

Proposed amendment

No textual amendment proposed at this clause.

Rationale

The principal concern is not the existence of this Division but the breadth of the definition and jurisdictional gateway in clauses 37–39, and the powers in clauses 40–59. Those provisions should carry the substantive safeguards rather than duplicating them here.

CLAUSE 10 — ASSET RECOVERY AND UNEXPLAINED WEALTH DIVISION

STATUS	AMEND	
		Recovery, management, declarations and unexplained wealth

Government text

10. Asset Recovery and Unexplained Wealth Division

(1) The Division comprises: (a) an Asset Recovery Unit responsible for asset-recovery investigations, recovery and management of proceeds, instrumentalities and terrorist property, and management of assets under UN sanctions orders; (b) a Declaration of Assets Unit receiving, verifying and monitoring declarations and complaints; and (c) an Unexplained Wealth Unit responsible, subject to section 15(4), for investigating unexplained wealth.

(2) The clause defines “declarant” for these purposes.

Proposed amendment

Insert subsection (3): “In exercising functions under this section, the Division and its Units shall comply with any applicable judicial order, privilege, confidentiality requirement and data-protection obligation, and shall have due regard to the rights of bona fide third parties.”

Insert subsection (4): “So far as practicable, the officer responsible for authorising or conducting an investigation that may result in recovery action shall not be the sole officer responsible for the subsequent management or disposal of the recovered property.”

Insert subsection (5): “A complete audit trail shall be maintained for every restrained, seized, recovered or managed asset, including valuation, custody, movement, expenditure, disposal and distribution.”

Rationale

Asset recovery combines investigation, control of property and financial administration. Separation of functions and audit trails reduce conflicts of interest and support later court scrutiny, third-party claims and public accountability.

CLAUSE 11 — INTELLIGENCE DIVISION

STATUS	REWRITE	Collection, analysis and special investigative techniques
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Government text

11. Intelligence Division

(1) The Intelligence Division shall be responsible for receiving, requesting, gathering, analysing and disseminating intelligence and any other information concerning financial crime, cybercrime and other complex, serious and organised crime, and where possible, any other crime.

(2) It shall assist investigations through information gathering (including informants, surveillance, lawful electronic interception, public records and other investigative bodies), intelligence analysis, risk assessment, investigative support and proactive monitoring of trends and threats.

(3) There shall be a Special Investigative Techniques Unit headed by a Special Investigative Technique Data Controller. The Data Controller shall keep records of covert human intelligence, intrusive surveillance and interception operations; safeguard dissemination, copying, storage and destruction of private information; and ensure officer training in the Surveillance and Interception Code of Practice.

Proposed amendment

~~“... and where possible, any other crime.”~~

“... and any other offence only where information relating to that offence is lawfully obtained in the course of an NCA investigation or is lawfully referred to the NCA under this Act, and only to the extent necessary for the discharge of the NCA’s statutory functions.”

Add to subsection (2)(a): “All information gathering, surveillance and interception shall be undertaken only under lawful authority, with the authorisation, warrant or judicial order required by this Act.”

Insert subsection (3)(f): “The Special Investigative Technique Data Controller shall maintain immutable access and activity logs for sensitive intelligence systems and shall ensure role-based access, encryption or equivalent safeguards, defined retention periods and documented deletion or anonymisation when information is no longer lawfully required.”

Insert subsection (3)(g): “Before any new high-risk intelligence-processing system, bulk dataset, biometric capability, large-scale monitoring capability or materially new surveillance technology becomes operational, the NCA shall carry out any data protection impact assessment required by the Data Protection Act 2017 and shall retain the assessment for inspection by the competent oversight authority.”

Insert subsection (3)(h): “The use, retention and dissemination of information obtained through intrusive techniques shall be subject to periodic compliance audit, including sample review of authorisations, access logs, retention and destruction decisions.”

Rationale

The phrase “any other crime” would permit significant intelligence activity outside the principal statutory remit without a clear nexus. The redraft preserves incidental intelligence while requiring a lawful connection. The additional controls reflect the inherently high-risk character of covert surveillance and large-scale personal-data processing.

Reference points: Data Protection Office guidance states that high-risk processing requires a DPIA under the Data Protection Act 2017; DPA s.44 permits investigation-related exceptions only within the statutory necessity/proportionality framework.

CLAUSE 12 — LEGAL AND ADVISORY DIVISION

STATUS	AMEND	Legal advice, legality and privilege safeguards
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Government text

12. Legal and Advisory Division

The Legal and Advisory Division shall be responsible for advising the NCA and shall discharge such functions and exercise such powers as may be necessary under this Act, the Asset Recovery and Unexplained Wealth Act 2026, the Declaration of Assets Act, the Financial Crime Act 2026 and any other relevant enactment.

Proposed amendment

Add: “The Division shall, in particular – (a) advise on the legality and proportionality of proposed coercive and intrusive measures; (b) advise on legal professional privilege, confidentiality, disclosure and admissibility issues; (c) maintain written legal guidance on recurring powers under this Act; and (d) where the Director of the Division reasonably believes that a proposed or continuing course of action would constitute a serious or systemic breach of law and the matter is not remedied after advice to the Director-General, report that legal concern to the Independent Advisory Panel without disclosing more operational information than is reasonably necessary.”

Add: “Nothing in this section shall confer on the Legal and Advisory Division any power to determine whether a prosecution should be instituted where that function belongs to the Director of Public Prosecutions.”

Rationale

A powerful investigative agency benefits from an internal legal function that is more than advisory in name. The amendment creates a documented legality gate for intrusive measures while preserving the DPP’s independent prosecution role.

CLAUSE 13 — EDUCATION AND PREVENTIVE DIVISION

STATUS	REWRITE	Public education, prevention and integrity promotion
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Government text

13. Education and Preventive Division

(1) The Division shall be responsible for educating and preventing the public against financial crime, cybercrime and other complex, serious and organised crime.

(2) It may conduct public campaigns; examine and review practices of any public body and issue guidelines; liaise with private-sector organisations and trade unions; organise workshops; assist with school curricula; exercise vigilance and superintendence over integrity systems of public bodies and issue guidelines; develop strategic vision and national policy; and run good-governance and integrity-reporting campaigns.

Proposed amendment

~~(2)(b) “... examine and review practices and procedures of any public body ... and may, for that purpose, issue such guidelines as may be necessary”;~~

(2)(b) “on request, or pursuant to a lawful general prevention programme, review publicly available or voluntarily supplied practices and procedures of a public body and make non-binding recommendations for improving prevention and detection, provided that the Division shall not interfere with an active investigation, adjudicative process or the constitutional independence of another institution;”

~~(2)(f) “exercise vigilance and superintendence over integrity systems of public bodies and issue such guidelines where necessary”;~~

(2)(f) “promote, study and make non-binding recommendations on integrity systems of public bodies, without assuming supervisory or disciplinary authority over those bodies unless another enactment expressly provides otherwise;”

~~(2)(g) “develop a strategic vision and national policy regarding the fight against such crime”;~~

(2)(g) “conduct research and submit recommendations for a strategic vision and national policy regarding the prevention of such crime to the Governance Advisory Board and the Minister;”

Insert subsection (3): “No guideline, recommendation, campaign or educational material issued under this section shall create a legal duty, offence, investigative power or binding obligation unless authorised by another enactment.”

Rationale

Education and prevention are compatible with the NCA’s mission. “Superintendence” over public bodies and power to develop national policy, however, could blur institutional boundaries. The redraft keeps prevention, research and recommendation functions while avoiding supervisory authority that is not otherwise defined.

CLAUSE 14 — MANAGEMENT AND HUMAN RESOURCES

DIVISION

STATUS	AMEND	Administration, recruitment, IT, procurement and internal audit
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Government text

14. Management and Human Resources Division

(1) The Division supports operational directorates and ensures staff are equipped, trained and capable.

(2) Its support services include administration and HR; recruitment and retention; international collaboration on career progression; information technology and secure systems; and transparent and competitive procurement.

(3) The Division shall comprise an Internal Audit Unit which shall – (a) be responsible for the financial management of the NCA, by managing financial resources transparently and ensuring value for money and strategic alignment; (b) evaluate internal controls; (c) identify risks and mitigation; and (d) advise and report to the Governance Advisory Board on management and operational efficiency.

Proposed amendment

Add to subsection (2)(b): “Recruitment and retention shall be based on published objective criteria, merit, integrity, appropriate vetting and declared conflicts of interest, subject to section 25.”

Add to subsection (2)(d): “Information systems supporting investigations, intelligence, interception, evidence or the National Flagging Database shall be designed with role-based access, strong authentication, audit logging, resilience and data-protection safeguards.”

Add to subsection (2)(e): “Procurement shall comply with applicable procurement law, conflict-of-interest controls and documented competitive procedures, subject only to lawful security exceptions.”

~~(3)(a) “be responsible for the financial management of the NCA, by managing financial resources transparently and ensuring value for money and strategic alignment”;~~

(3)(a) “independently review and audit the financial management of the NCA, including whether financial resources are managed transparently and with due regard to value for money and strategic alignment;”

Insert subsection (4): “The Internal Audit Unit shall not perform or assume day-to-day financial-management functions that it is required to audit, and the Head of the Unit shall have direct access to the Governance Advisory Board and, in relation to a serious unresolved governance risk, to the Independent Advisory Panel.”

Rationale

The current clause gives the Internal Audit Unit responsibility both to manage finances and to audit controls. Those functions should be separated. The proposed wording preserves management responsibility within the Division while keeping internal audit functionally independent enough to test it.

CLAUSE 15 — INTERNAL AFFAIRS DIVISION

STATUS	REWRITE	Integrity, misconduct and internal accountability
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Government text

15. Internal Affairs Division

- (1) The Division receives and verifies asset declarations of NCA officers (other than its own officers), monitors those assets, deals with complaints about those assets and investigates unexplained wealth of NCA officers.
- (2) For those purposes it may require an NCA officer or relevant authority to furnish information and produce books, documents, bank statements, records or articles.
- (3) It shall ensure NCA officers are trained in the NCA Code.
- (4) Its Director may exercise powers under this Act, the Asset Recovery and Unexplained Wealth Act 2026 and other relevant enactments and may retain the services of the Solicitor-General.
- (5) Where a complaint concerns the DG, DDG or acting DG in relation to assets/liabilities or unexplained wealth, the Director of Internal Affairs is under the operational control of and reports to the Independent Advisory Panel.

Proposed amendment

Replace subsection (1) with: “(1) The Internal Affairs Division shall be responsible for internal integrity and accountability within the NCA and shall – (a) receive, process and verify the declarations of assets and liabilities required by this Act; (b) receive and assess complaints of serious misconduct, abuse of authority, corruption, conflict of interest, unauthorised disclosure, unlawful access to data, unlawful surveillance or interception, retaliation against a whistleblower, fabrication or suppression of evidence, or other serious breach of the NCA Code by an NCA officer; (c) investigate such matters where lawfully within its competence; and (d) refer suspected criminal conduct or matters requiring independent investigation to the competent authority, the Police, the Director of Public Prosecutions or the Independent Advisory Panel, as appropriate.”

~~(2)(a) “... may require any NCA officer or any relevant authority to furnish it with any information ...”;~~

(2)(a) “may require any NCA officer to furnish information and produce records reasonably required for an internal investigation and may request information from a relevant authority in accordance with the law applicable to that authority;”

Insert subsection (2A): “A requirement under subsection (2) shall not override legal professional privilege, a judicial order, or any statutory restriction on disclosure except to the extent expressly authorised by law.”

Insert subsection (4A): “In relation to a specific internal investigation, the Director of the Internal Affairs Division shall not be subject to a direction by the Director-General or the Senior Leadership Board as to whether an investigation is initiated, the person investigated, the evidence pursued, the findings reached or any referral made.”

~~(5) existing senior officer trigger limited to assets/liabilities and unexplained wealth.~~

(5) “Where a complaint, allegation or internal investigation concerns the Director-General, Deputy Director-General, a person acting as Director-General, a Director, or conduct in which any of them may reasonably have a material conflict of interest, the Director of the Internal Affairs Division shall, for that matter, be under the operational control of and report directly to the Independent Advisory Panel.”

Insert subsection (6): “No person who is the subject of an Internal Affairs investigation shall have access to the investigative file, the identity of a confidential complainant or witness, or the deliberations of the Division except to the extent required by law, procedural fairness or a court.”

Insert subsection (7): “The Internal Affairs Division shall submit to the Independent Advisory Panel at least annually an anonymised statistical report on complaints, investigations, referrals, outcomes and systemic recommendations, without prejudicing ongoing investigations or protected information.”

Rationale

As drafted, “Internal Affairs” is largely an asset-declaration function. A national investigative agency with surveillance, search, arrest and intelligence powers requires an internal-integrity mechanism capable of addressing misuse of those powers. The redraft also protects the Internal Affairs investigation from control by a person whose conduct is under scrutiny.

CLAUSE 16 — DIGITAL FORENSIC LABORATORY

STATUS	AMEND	Forensic examination and digital evidence
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Government text

16. Digital Forensic Laboratory

There shall be a Digital Forensic Laboratory responsible for – (a) examining and extracting data from digital devices secured during investigations; (b) providing technical assistance for identification, collection and preservation of digital evidence, and ensuring integrity and admissibility in Court; and (c) performing other duties necessary to retrieve evidence linking suspects to relevant crimes, reconstruct events and support prosecution.

Proposed amendment

Add paragraph (d): “maintain documented chain-of-custody procedures, forensic imaging and hashing or equivalent integrity verification, access logs and secure evidence storage;”

Add paragraph (e): “operate in accordance with recognised digital-forensic quality standards and maintain such accreditation, proficiency testing and validation of forensic tools and methods as may be reasonably practicable;”

Add paragraph (f): “ensure that forensic examination is limited to the scope lawfully authorised and that data outside that scope is not used or disseminated except where lawfully authorised;”

Add paragraph (g): “preserve the independence and objectivity of forensic findings and ensure that an examiner shall not alter, omit or tailor a forensic conclusion to meet an investigative or prosecutorial preference.”

~~In paragraph (c), the words “and in relation to any other crime” without qualification.~~

In paragraph (c), replace with “and, in relation to another offence, only where the NCA is lawfully authorised to investigate or the matter is lawfully referred under this Act.”

Rationale

Digital evidence is unusually susceptible to over-collection, contamination and disputes about authenticity. Express chain-of-custody, scope and forensic-independence requirements improve admissibility and protect both investigations and affected persons.

CLAUSE 17 — NCA SECRETARIAT

STATUS	AMEND	Support to governance and operational boards
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Government text

17. NCA Secretariat

There shall be an NCA Secretariat responsible to service and support the Governance Advisory Board, the Senior Leadership Board and the Inter-Agency Coordination Board in its operational duties, and it shall organise meetings; prepare agendas and papers; take and distribute minutes; translate policy decisions into actionable plans; monitor action items; and perform other duties conferred by the respective Board.

Proposed amendment

Add subsection (2): “The Secretariat shall maintain separate, secure records for each Board and shall apply access controls appropriate to the sensitivity of strategic, operational, personal and intelligence information.”

Add subsection (3): “The Secretariat shall not alter, suppress or materially summarise a decision, dissent, legal concern or action item in a manner that changes its substance, and minutes shall identify any formal dissent where a member requires it to be recorded.”

Add subsection (4): “Nothing in this section shall confer on the Secretariat any power to initiate, direct, discontinue or otherwise influence an investigation or the exercise of a coercive power.”

Rationale

The Secretariat will hold records from bodies dealing with strategy and live operations. Secure segregation, accurate minutes and a clear non-operational role reduce the risk of information leakage or informal influence over investigations.

Source and Legal Reference Notes

Reference	Relevance
The National Crime Agency Bill 2026	Source text for all Government clauses reproduced or summarised in this Part. Clauses 1–17 correspond to Part I and Part II, Sub-Parts A–C of the circulated Bill.
Constitution of Mauritius, section 9	Protects against search of the person or property and entry on premises, subject to constitutionally permitted and reasonably justifiable restrictions.
Constitution of Mauritius, section 10	Secures protection of the law and fair-hearing guarantees in criminal proceedings.
Data Protection Act 2017	Provides the statutory framework for processing personal data, high-risk processing and data-protection impact assessment, security/accountability requirements and statutory exceptions.
Data Protection Act 2017, section 44	The Data Protection Office states that exceptions for prevention, investigation, detection or prosecution of offences must constitute necessary and proportionate measures in a democratic society.
Cybersecurity and Cybercrime Act 2021	Existing cybercrime framework referenced by the NCA Bill’s definition of “cybercrime”.
Financial Crimes Commission Act 2023	Existing financial-crime institutional framework being replaced by the proposed NCA package; useful as a continuity and comparison reference.

Official online sources checked for this working draft: Mauritius National Assembly Constitution page; Data Protection Office / Data Protection Act 2017 materials; Government Cybersecurity and Cybercrime Act 2021; Attorney-General’s Laws of Mauritius portal. The proposed wording remains a policy/legislative drafting proposal for parliamentary consideration, not an official Parliamentary Counsel text.

Clauses 18–30: Amendment Matrix

Cl.	Subject	Status	Principal issue
18	Director-General	AMEND	Objective qualifications, conflicts, full-time status and lawful oversight.
19	Appointment of Director-General	REWRITE	Same permanent process for first DG; no automatic interim conversion; tenure safeguards.
20	Vacancy in office of Director-General	AMEND	Acting-period cap, eligibility/conflict safeguards and caretaker limits.
21	Deputy Director-General	AMEND	Time-limited FCC continuity pending merit selection; no automatic permanent appointment.
22	Director of Division	AMEND	Operational control subject to express functional independence.
23	Legal officers of NCA	AMEND	Independent legal advice, privilege and escalation of serious legality concerns.
24	Head of Unit	AMEND	Lawful directives only; protected route for concerns.
25	Appointment of NCA staff	REWRITE	Merit panels; reduce concentration of recruitment power; protect integrity functions.
26	Experts of NCA	AMEND	Limits on foreign experts/secondees, coercive powers, confidentiality and data access.
27	Governance Advisory Board	REWRITE	Independent external majority; governance without case-direction powers.
28	Proceedings of Governance Advisory Board	REWRITE	Majority voting, conflict rules, quorum safeguards and recorded dissent.
29	Senior Leadership Board	REWRITE	Separate operational coordination from gatekeeping over individual cases.
30	Proceedings of Senior Leadership Board	REWRITE	Recorded, reasoned decisions; conflicts managed; casting vote limited.

CLAUSE 18 — DIRECTOR-GENERAL

STATUS	AMEND	Leadership, qualifications and independence
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Government text

18. Director-General

(1) There shall be a Director-General of the NCA, who shall be responsible for the administration and operational control of the NCA.

(2) The Director-General shall be a person with outstanding experience at senior level in some part of the Commonwealth in the field of, including but not limited to, criminal investigations or combating financial, complex, serious or organised crime, fraud or corruption and with proven competence in strategic leadership and ability to operate under public scrutiny.

(3) Notwithstanding section 21 of the Finance and Audit Act, the Director-General shall be the accounting officer of the NCA and he shall be charged with the duty of controlling expenditure on any service in respect of which public funds have been appropriated for the NCA.

(4) The Director-General shall not be subject to the direction or control of any person or authority.

Proposed amendment

(1) There shall be a Director-General of the NCA, who shall be responsible for the administration and operational control of the NCA.

~~(2) The Director-General shall be a person with outstanding experience at senior level in some part of the Commonwealth in the field of, including but not limited to, criminal investigations or combating financial, complex, serious or organised crime, fraud or corruption and with proven competence in strategic leadership and ability to operate under public scrutiny.~~ **(2) The Director-General shall be appointed on merit and shall have substantial senior-level professional experience in one or more of criminal investigation, prosecution, financial crime, cybercrime, intelligence, asset recovery, anti-corruption, law enforcement, judicial or legal service, together with proven competence in strategic leadership, integrity, independence and accountability under public scrutiny.**

(3) Notwithstanding section 21 of the Finance and Audit Act, the Director-General shall be the accounting officer of the NCA and he shall be charged with the duty of controlling expenditure on any service in respect of which public funds have been appropriated for the NCA.

~~(4) The Director-General shall not be subject to the direction or control of any person or authority.~~ **(4) Subject to the Constitution and this Act, the Director-General shall not be subject to the direction or control of any person or authority in relation to the lawful initiation, conduct or discontinuance of an investigation, but shall remain subject to judicial supervision, the powers of the Director of Public Prosecutions, statutory audit and the governance and accountability mechanisms expressly provided by law.**

(5) The Director-General shall hold office on a full-time basis, shall not engage in any paid occupation or business inconsistent with the office, and shall disclose and appropriately manage any actual, potential or perceived conflict of interest in accordance with the NCA Code.

(6) A person shall not, while holding office as Director-General, hold elected public office or an office in a political party.

Rationale

The present qualification is broad and partly subjective. Replacing “outstanding experience” with an objective merit standard would make the statutory test easier to apply and review while preserving flexibility to recruit expertise from investigation, prosecution, cybercrime, financial crime, intelligence and related fields.

Subsection (4) is retained in substance but clarified. Institutional independence does not remove the NCA from the Constitution, judicial review, court orders, DPP functions, audit or statutory oversight. The additional conflict and incompatibility provisions are intended to protect both actual independence and public confidence without prescribing a political outcome.

CLAUSE 19 — APPOINTMENT OF DIRECTOR-GENERAL

STATUS	REWRITE	Appointment, first office-holder and security of tenure
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Government text

19. Appointment of Director-General

- (1) The Director-General shall, subject to subsection (3), be appointed by the President acting in accordance with the advice of the Independent Advisory Panel after consultation with the Prime Minister and the Leader of the Opposition.
- (2) The term of office of the Director-General shall be for a period of 4 years and a person appointed as Director-General may not serve for more than 2 terms of office.
- (3) The Director-General of the Interim Agency shall, on the commencement of this Act, be the first person to hold the office of the Director-General of the NCA, on the same terms and conditions of his appointment as the Director-General of the Interim Agency.

Proposed amendment

- ~~(1) The Director-General shall, subject to subsection (3), be appointed by the President acting in accordance with the advice of the Independent Advisory Panel after consultation with the Prime Minister and the Leader of the Opposition.~~ **(1) The Director-General shall be appointed by the President acting in accordance with the advice of the Independent Advisory Panel after consultation with the Prime Minister and the Leader of the Opposition, following an open, transparent and merit-based selection process conducted against published eligibility and selection criteria.**
- (2) The term of office of the Director-General shall be for a period of 4 years and a person appointed as Director-General may not serve for more than 2 terms of office.
- ~~(3) The Director-General of the Interim Agency shall, on the commencement of this Act, be the first person to hold the office of the Director-General of the NCA, on the same terms and conditions of his appointment as the Director-General of the Interim Agency.~~
- (3) The first appointment to the office of Director-General of the NCA shall be made in accordance with subsection (1). The person serving as Director-General of the Interim Agency may apply for and be considered for appointment on the same basis as any other eligible candidate, but shall not by reason only of holding the interim office be deemed to have been appointed to the permanent office.**
- (4) Pending the first appointment under subsection (1), the Director-General of the Interim Agency may, if otherwise eligible, act as Director-General of the NCA for a period not exceeding 90 days from the commencement of this Act, unless an earlier appointment is made.**
- (5) Subject to the Constitution, the Director-General may be removed from office only for inability to discharge the functions of office or for serious misconduct, and only after a fair and independent procedure prescribed by this section.**
- (6) Where the Independent Advisory Panel considers that the question of removal ought to be investigated, the President shall appoint a tribunal consisting of a chairperson and not less than 2 other members who hold or have held judicial office in a court of unlimited jurisdiction in civil and criminal matters in a Commonwealth jurisdiction, or a court having jurisdiction in appeals from such a court.**
- (7) The tribunal shall inquire into the matter, afford the Director-General a reasonable opportunity to be heard, and report its findings and recommendation to the President. The Director-General shall be removed only where the tribunal recommends removal.**
- (8) After a matter has been referred to a tribunal, the President may, on the advice of the Independent Advisory Panel, suspend the Director-General pending the tribunal's report; any suspension shall cease if the tribunal does not recommend removal.**

Rationale

The circulated Bill uses the Independent Advisory Panel for ordinary permanent appointments but then exempts the first office-holder from that process by automatically converting the Interim Director-General into the first permanent Director-General. The proposed text applies one permanent appointment standard to every office-holder while allowing the interim incumbent to compete and, for continuity, to act temporarily.

The Bill also specifies tenure but contains no express removal procedure in clauses 18–20. By comparison, the Financial Crimes Commission Act 2023 contains both a maximum period for acting appointments and a specific termination process for the FCC Director-General. Section 93 of the Constitution also uses an independent tribunal procedure for the removal of specified constitutional officers. The proposed subsections adopt a statutory tribunal safeguard, expressly subject to whatever final constitutional framework Parliament enacts for the NCA and Independent Advisory Panel.

Consequential amendment required: the National Crime (Interim) Agency Bill should not be used to bypass the permanent appointment process.

CLAUSE 20 — VACANCY IN OFFICE OF DIRECTOR-GENERAL

STATUS	AMEND	Acting appointment and continuity
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Government text

20. Vacancy in office of Director-General

(1) Where –

(a) the office of the Director-General is vacant; or

(b) the Director-General is absent from duty or is, for any other reason, unable to perform the duties of his office, the Deputy Director-General shall act as the Director-General.

(2) Where the Deputy Director-General cannot act as the Director-General pursuant to subsection (1), the Independent Advisory Panel may appoint the Director of any Division to act as the Director-General.

(3) Where the Deputy Director-General or a Director is appointed to act as the Director-General, he shall discharge such functions, and exercise such powers, as are conferred to the Director-General under this Act or any other enactment.

Proposed amendment

(1) Where the office of the Director-General is vacant, or the Director-General is absent from duty or otherwise unable to perform the duties of office, the Deputy Director-General shall act as Director-General.

~~(2) Where the Deputy Director-General cannot act as the Director-General pursuant to subsection (1), the Independent Advisory Panel may appoint the Director of any Division to act as the Director-General.~~ **(2) Where the Deputy Director-General cannot act under subsection (1), the Independent Advisory Panel may appoint a Director who satisfies the essential eligibility requirements of section 18(2) and has no material conflict of interest to act as Director-General.**

(3) A person acting as Director-General shall discharge the functions and exercise the powers conferred on the Director-General by this Act or any other enactment.

(4) No person shall act as Director-General by reason of a vacancy for more than 9 consecutive months, and the process for a substantive appointment under section 19 shall be commenced as soon as reasonably practicable.

(5) During a vacancy, an acting Director-General shall not make a material alteration to the organisational structure of the NCA or make a substantive appointment to the office of Deputy Director-General or Director unless the Governance Advisory Board determines, for recorded reasons, that the step is necessary for continuity or urgent operational requirements.

Rationale

A time limit avoids an acting arrangement becoming a de facto permanent appointment. The nine-month ceiling reflects the type of safeguard already used in the Financial Crimes Commission Act 2023 for an acting FCC Director-General. The caretaker limitation preserves continuity while reserving major structural or senior staffing decisions for the permanent governance framework.

CLAUSE 21 — DEPUTY DIRECTOR-GENERAL

STATUS	AMEND	Deputy leadership and transition from FCC
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Government text

21. Deputy Director-General

(1) There shall be a Deputy Director-General of the NCA, who shall –

(a) assist and support the Director-General in the discharge of his functions and exercise of his powers under this Act, the Asset Recovery and Unexplained Wealth Act 2026, the Declaration of Assets Act, the Financial Crime Act 2026 and any other relevant enactment; and

(b) discharge such functions and exercise such powers as may be delegated to him by the Director-General.

(2) The Deputy Director-General shall be subject to the administrative and operational control of the Director-General.

(3) Notwithstanding section 25(2), the Director-General of the FCC shall, on the commencement of this Act, be appointed as the Deputy Director-General of the NCA.

Proposed amendment

(1) There shall be a Deputy Director-General of the NCA who shall assist the Director-General and discharge functions and exercise powers lawfully delegated to him.

~~(2) The Deputy Director-General shall be subject to the administrative and operational control of the Director-General.~~ (2) The Deputy Director-General shall be subject to the lawful administrative and operational control of the Director-General, subject to this Act and to any function which the Act expressly requires to be exercised independently.

~~(3) Notwithstanding section 25(2), the Director-General of the FCC shall, on the commencement of this Act, be appointed as the Deputy Director-General of the NCA.~~ (3) For continuity during transition, the person holding office as Director-General of the FCC immediately before commencement may, with that person's consent, serve as acting Deputy Director-General of the NCA for a period not exceeding 6 months, pending a substantive appointment under section 25(2).

(4) Service under subsection (3) shall not confer an automatic entitlement to substantive appointment but shall not prejudice any accrued contractual, pension or employment rights preserved by this Act or any other enactment.

Rationale

This amendment separates operational continuity from permanent appointment. A time-limited acting arrangement allows institutional knowledge to be preserved while the permanent Deputy Director-General is selected under the same merit framework applicable to other senior appointments. It also avoids treating transitional office-holding as an automatic substantive appointment.

CLAUSE 22 — DIRECTOR OF DIVISION

STATUS	AMEND	Operational control and functional independence
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Government text

22. Director of Division

(1) There shall be a Director of every Division.

(2) The Director of every Division shall be under the administrative and operational control of the Director-General.

Proposed amendment

(1) There shall be a Director of every Division.

~~(2) The Director of every Division shall be under the administrative and operational control of the Director-General.~~ (2) Subject to this Act, every Director shall be under the lawful administrative and operational control of the Director-General.

(3) Subsection (2) shall not authorise the Director-General to interfere with any functional independence expressly conferred by this Act, including the independent handling of internal integrity matters, professional legal advice, internal audit findings or any other function for which independence is required by law.

(4) A direction affecting a specific investigation shall be lawful, relevant to the proper discharge of the NCA's functions and free from political, personal or other improper consideration; where the direction materially affects the initiation, scope, suspension or discontinuance of an investigation, it shall be recorded in accordance with the NCA Code, subject to operational-security safeguards.

Rationale

The clause is retained in substance but made expressly subject to the functional safeguards created elsewhere in the Bill. This avoids a general “operational control” provision overriding specific independence provisions for Internal Affairs, legal advice or audit. Recording material case-direction decisions supports later accountability without giving a governance body power to run individual investigations.

CLAUSE 23 — LEGAL OFFICERS OF NCA

STATUS	AMEND	Professional independence of legal advice
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Government text

23. Legal officers of NCA

(1) There shall be a Director of the Legal and Advisory Division, who shall be the Chief Legal Adviser of the NCA.

(2) The Director of the Legal and Advisory Division shall be a barrister of at least 10 years' standing.

(3) Every barrister or attorney of the Legal and Advisory Division shall have and enjoy all the rights and privileges of a barrister or an attorney, as the case may be, entitled to practise in Mauritius.

(4) The Director of the Legal and Advisory Division, including every other barrister or attorney of the Legal Division, shall be under the administrative and operational control of the Director-General.

Proposed amendment

(1) There shall be a Director of the Legal and Advisory Division, who shall be the Chief Legal Adviser of the NCA.

(2) The Director of the Legal and Advisory Division shall be a barrister of at least 10 years' standing.

(3) Every barrister or attorney of the Legal and Advisory Division shall have and enjoy all the rights and privileges of a barrister or attorney, as the case may be, entitled to practise in Mauritius.

~~(4) The Director of the Legal and Advisory Division, including every other barrister or attorney of the Legal Division, shall be under the administrative and operational control of the Director-General.~~ (4) The Director and every legal officer shall be subject to the administrative control of the Director-General but shall exercise independent professional judgment when giving legal advice, interpreting the law, protecting legal professional privilege or discharging professional duties owed under the law governing legal practitioners.

(5) No person shall direct a legal officer to alter, suppress or withhold a legal opinion for an improper purpose or to present as lawful a course of action which the legal officer reasonably considers unlawful.

(6) Where the Chief Legal Adviser reasonably considers that a proposed or continuing course of action presents a serious and unresolved risk of illegality and the matter is not resolved internally, the Chief Legal Adviser may record the concern and,

where necessary for governance oversight, report the existence and nature of the concern to the Governance Advisory Board or Independent Advisory Panel without unnecessarily disclosing privileged or operationally sensitive material.

Rationale

The Bill recognises legal officers as practising barristers or attorneys, but subsection (4) places the entire Legal Division under both administrative and operational control of the Director-General. The amendment distinguishes management control from independent professional legal judgment. It also creates a controlled escalation mechanism for serious legality concerns while preserving privilege and operational confidentiality.

CLAUSE 24 — HEAD OF UNIT

STATUS	AMEND	Lawful directives and protected escalation
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Government text

24. Head of Unit
- (1) There shall be a Head of every Unit.
- (2) Every Head shall report to the respective Director of the Division and shall comply with any directive issued by his Director.

Proposed amendment

- (1) There shall be a Head of every Unit.
- ~~(2) Every Head shall report to the respective Director of the Division and shall comply with any directive issued by his Director.~~ (2) Every Head shall report to the respective Director and shall comply with every lawful directive issued within the Director's authority.
- (3) Where a Head reasonably believes that a directive is unlawful, would materially breach the NCA Code, would improperly interfere with an investigation, or would require concealment, destruction or falsification of a record, the Head may seek written clarification and refer the concern to the Legal and Advisory Division, Internal Affairs Division or other body authorised by this Act, without retaliation for doing so in good faith.
- (4) A material operational directive given orally in circumstances of urgency shall, where reasonably practicable, be reduced to writing or otherwise securely recorded as soon as practicable.

Rationale

The word “any” in the circulated text could be read too broadly. The amendment makes clear that obedience is owed to lawful directions within authority, not to an instruction that would itself breach the Act or another legal duty. The record-and-escalation mechanism supports traceability while allowing urgent operational directions to be given when necessary.

CLAUSE 25 — APPOINTMENT OF NCA STAFF

STATUS	REWRITE	Merit recruitment and safeguards against concentration of appointment power
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Government text

25. Appointment of NCA staff

- (1) The NCA shall employ such other NCA officers as may be necessary to enable it to discharge its functions and exercise its powers under this Act.
- (2) The Deputy Director-General and every Director shall, following a selection exercise to be conducted by the Director-General, be appointed by the NCA on such terms and conditions as the Director-General may determine.
- (3) Every other NCA officer shall, following a selection exercise to be conducted by the Governance Advisory Board, be appointed by the NCA on such terms and conditions as the Governance Advisory Board may determine.
- (4) For any selection exercise to be conducted pursuant to subsection (2) or (3), the Governance Advisory Board may set up such committee as may be necessary.
- (5) An NCA officer appointed to the Internal Affairs Division shall not be transferable to any other Division of the NCA, and any other NCA officer appointed to any Division, other than the Internal Affairs Division, shall not be transferable to the Internal Affairs Division.
- (6) Every NCA officer shall be subject to the administrative and operational control of the Director-General.

Proposed amendment

- (1) The NCA shall employ such officers as may be necessary to discharge its functions and exercise its powers under this Act.
- ~~(2) The Deputy Director-General and every Director shall, following a selection exercise to be conducted by the Director-General, be appointed by the NCA on such terms and conditions as the Director-General may determine.~~ **(2) The Deputy Director-General and every Director shall be appointed by the NCA following an open, competitive and merit-based selection exercise conducted by a Senior Appointments Committee established by the Governance Advisory Board.**
- (2A) The Senior Appointments Committee shall comprise an independent member of the Governance Advisory Board as chairperson, the Director-General, and an independent person with relevant professional experience nominated by the Independent Advisory Panel. A member with an actual or apparent conflict of interest in relation to a candidate shall disclose the conflict and take no part in the assessment of that candidate.**
- (2B) The selection criteria, essential qualifications and evaluation method for a senior appointment shall be approved before applications are considered, and the Committee shall maintain a written record sufficient to demonstrate that the appointment was made on merit and without political or other improper consideration.**
- ~~(3) Every other NCA officer shall, following a selection exercise to be conducted by the Governance Advisory Board, be appointed by the NCA on such terms and conditions as the Governance Advisory Board may determine.~~ **(3) Other NCA officers shall be appointed following a fair and merit-based selection process conducted under a recruitment scheme approved by the Governance Advisory Board, with procedures proportionate to the grade and sensitivity of the post.**
- ~~(4) For any selection exercise to be conducted pursuant to subsection (2) or (3), the Governance Advisory Board may set up such committee as may be necessary.~~ **(4) The Governance Advisory Board may establish recruitment committees and shall prescribe safeguards relating to conflicts of interest, confidentiality, equal opportunity, integrity screening, security vetting where justified by the post, record-keeping and review of recruitment decisions.**
- ~~(5) An NCA officer appointed to the Internal Affairs Division shall not be transferable to any other Division of the NCA, and any other NCA officer appointed to any Division, other than the Internal Affairs Division, shall not be transferable to the Internal Affairs Division.~~ **(5) A transfer into or out of the Internal Affairs Division shall not be used as a disciplinary, retaliatory or protective measure against an officer. Such a transfer shall require the officer's consent, except where lawfully required for disciplinary or integrity reasons, and shall be approved by an independent member of the Governance Advisory Board on recorded reasons.**
- ~~(6) Every NCA officer shall be subject to the administrative and operational control of the Director-General.~~ **(6) Subject to this Act, every NCA officer shall be subject to the lawful administrative and operational control of the Director-General; provided that this subsection shall not override the functional independence of Internal Affairs, Internal Audit or professional legal functions expressly protected by this Act.**
- (7) No appointment, promotion, transfer or disciplinary decision shall be made on the ground of political affiliation, political activity lawfully undertaken outside the restrictions applicable to the post, or any other consideration unrelated to merit, integrity, performance or the lawful requirements of the office.**

Rationale

The circulated clause concentrates senior recruitment, terms and conditions in the Director-General while assigning recruitment of all other staff to a Board which the Director-General chairs. The proposed structure retains management input but inserts an independent element into senior appointments and requires pre-set criteria, conflict declarations and records.

The transfer prohibition for Internal Affairs is also recast. A complete lifetime barrier may protect against retaliation, but it may also unnecessarily restrict career mobility. A consent-and-independent-approval model targets the underlying integrity concern more directly. The amendment is not intended to disturb employment protections elsewhere in the Bill.

CLAUSE 26 — EXPERTS OF NCA

STATUS	AMEND	Foreign experts, consultants and police secondees
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Government text

26. Experts of NCA

(1) The NCA may retain the services of any expert, consultant or specialised body from Mauritius or abroad, including foreign investigators, for such specific purpose as it may determine.

(2) The NCA may, where it considers it expedient to do so, make use of the services of a police officer designated for that purpose by the Commissioner of Police.

Proposed amendment

~~(1) The NCA may retain the services of any expert, consultant or specialised body from Mauritius or abroad, including foreign investigators, for such specific purpose as it may determine.~~ **(1) The NCA may, for a defined and lawful purpose, retain an expert, consultant or specialised body from Mauritius or abroad, including a foreign investigator, subject to appropriate vetting, conflict-of-interest, confidentiality, security and data-protection requirements.**

(1A) A person retained under subsection (1) shall not, by reason only of that retainer, exercise a power of arrest, search, seizure, compulsory production, interception, intrusive surveillance or any other coercive statutory power, and shall not be treated as an NCA investigative officer unless lawfully appointed or authorised under this Act.

(1B) Access by an external expert to personal data, intelligence or evidential material shall be limited to what is reasonably necessary for the assigned purpose and shall be subject to access logging, confidentiality and return or secure destruction requirements.

~~(2) The NCA may, where it considers it expedient to do so, make use of the services of a police officer designated for that purpose by the Commissioner of Police.~~ **(2) The NCA may make use of the services of a police officer designated by the Commissioner of Police, in accordance with the Operational Protocol and without prejudice to the Commissioner's constitutional and statutory disciplinary responsibilities for that officer.**

Rationale

The power to retain foreign investigators is useful for specialist expertise but the circulated text does not state whether a retained person may exercise coercive powers or obtain unrestricted access to sensitive NCA information. The amendment draws a clear line between technical assistance and statutory coercive authority and requires purpose-limited access to sensitive material.

CLAUSE 27 — SETTING UP OF GOVERNANCE ADVISORY BOARD

STATUS	REWRITE	Composition and strategic governance
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Government text

27. Setting up of Governance Advisory Board

(1) There shall be a Governance Advisory Board, comprising –

- (a) the Director-General, as chairperson;
- (b) the Deputy Director-General, as vice-chairperson;
- (c) the Director of the Management and Human Resources Division;
- (d) the Head of the Internal Audit Unit; and
- (e) 2 other members, to be appointed by the President acting in accordance with the advice of the Prime Minister after consultation with the Leader of the Opposition.

(2) The Governance Advisory Board shall be responsible for assisting the Director-General to set and oversee the NCA's strategic direction, policies and priorities with a view to ensuring that the NCA meets its goals and objectives.

(3) In overseeing NCA's strategic direction, policies and priorities, the Governance Advisory Board shall assist the Director-General to –

- (a) maintain and protect the independence and integrity of the NCA free from any political or societal pressures or influences, or private consideration;
- (b) define priorities and establish frameworks to allocate resources and set performance expectations;
- (c) scrutinise all non-pay expenditure over 25 million rupees, whether as a single item, over the life of a single contract or the total cost of a project;
- (d) establish and review the organisational structure of the NCA;
- (e) establish and review the grading structures, pay structures and conditions of service of NCA officers;
- (f) issue such guidelines, standing orders, directives and the NCA Code which will govern the manner by which NCA officers should discharge their functions and exercise their powers;
- (g) issue the Surveillance and Interception Code of Practice which will govern the manner by which NCA investigative officers should safeguard the dissemination, copying, storage and destruction of private information obtained through covert intelligence human source, intrusive surveillance and interception of data;
- (h) make recommendations to the Minister for legislative, regulatory and policy reforms for the purpose of combating financial crime, cybercrime and other complex, serious and organised crime; and
- (i) perform such other duties as may be necessary for the proper strategic management and administration of the NCA.

(4) Any guidelines, standing orders and directives, and the NCA Code, issued by the Governance Advisory Board shall be published on the website of the NCA.

(5) Nothing in this section shall be construed as empowering the Governance Advisory Board to –

- (a) engage with, evaluate or otherwise enquire into, the day to day operational matters of the NCA; or
- (b) enquire into, or otherwise engage with, an investigation of the NCA or any other related matter, including any other criminal investigation.

Proposed amendment

~~(1) There shall be a Governance Advisory Board comprising the Director-General as chairperson, the Deputy Director-General as vice-chairperson, the Director of Management and Human Resources, the Head of Internal Audit and 2 other members appointed on the advice of the Prime Minister after consultation with the Leader of the Opposition.~~ **(1) There shall be a Governance Advisory Board comprising – (a) an independent chairperson appointed by the President acting in accordance with the advice of the Independent Advisory Panel after consultation with the Prime Minister and the Leader of the Opposition; (b) the Director-General; (c) the Deputy Director-General; (d) the Head of the Internal Audit Unit; and (e) 3 independent members appointed by the President acting in accordance with the advice of the Independent Advisory Panel after consultation with the Prime Minister and the Leader of the Opposition.**

(1A) The independent members shall collectively provide substantial experience in at least the following areas: governance and public administration; law, human rights or data protection; audit, finance or risk; and criminal investigation, financial crime, cybercrime or intelligence oversight.

(1B) An independent member shall not, while serving on the Board, be an NCA officer, hold elected public office or hold office in a political party, and shall disclose any actual, potential or perceived conflict of interest.

~~(2) The Governance Advisory Board shall be responsible for assisting the Director-General to set and oversee the NCA's strategic direction, policies and priorities with a view to ensuring that the NCA meets its goals and objectives.~~ **(2) The Governance Advisory Board shall be responsible for the strategic governance and non-operational oversight of the NCA, including oversight of institutional independence, integrity, financial stewardship, risk management, internal controls, staffing frameworks and compliance with this Act.**

(3)(a) maintain and protect the independence and integrity of the NCA and monitor safeguards against political, societal, personal or private influence;

(3)(b) approve strategic priorities and resource-allocation frameworks without selecting investigative targets or directing the outcome of an individual investigation;

~~(3)(c) scrutinise all non-pay expenditure over 25 million rupees, whether as a single item, over the life of a single contract or the total cost of a project;~~ **(3)(c) scrutinise all non-pay expenditure exceeding 25 million rupees, calculated by aggregating related contracts, phases and commitments over the life of the procurement or project, and review any lower-value procurement identified by Internal Audit as presenting material risk;**

(3)(f) issue governance guidelines, standing orders, directives and the NCA Code, provided that no such instrument may create a coercive power, lower a statutory threshold or displace a safeguard enacted by Parliament;

~~(3)(g) issue the Surveillance and Interception Code of Practice ...;~~ **(3)(g) issue and periodically review the Surveillance and Interception Code of Practice; a public version shall be published, while any narrowly tailored operational detail withheld on legitimate security grounds shall remain available for inspection by the Independent Advisory Panel and any court exercising jurisdiction over the relevant power;**

(3)(j) receive regular reports from Internal Audit, Internal Affairs, the Legal and Advisory Division and the Data Controller on systemic compliance risks, in a form that does not permit the Board to direct an individual investigation;

(4) Guidelines, standing orders, directives and the NCA Code shall be published on the website of the NCA, subject to the limited treatment of sensitive operational material expressly provided in this Act.

~~(5) Nothing in this section shall be construed as empowering the Governance Advisory Board to engage with day-to-day operational matters or enquire into an NCA investigation.~~ **(5) The Board shall not direct, approve, veto, suspend or discontinue an individual investigation, identify a person for investigation, or demand access to operational material merely for case-management purposes; however, this shall not prevent the Board from receiving anonymised or appropriately protected information necessary for systemic governance, audit, integrity, legality, risk or compliance oversight.**

Rationale

The circulated Board is chaired by the Director-General and has four internal members against two externally appointed members. It is therefore primarily an internal management body even though Part III is headed “Governance and Accountability.” The proposed composition creates an external independent majority while retaining the Director-General, Deputy Director-General and Head of Internal Audit.

The functions are also separated more clearly: the Board governs the institution, finances, risk, integrity and compliance, but does not choose investigative targets or direct outcomes. This distinction allows meaningful oversight without turning governance members into investigators. The procurement wording is tightened to prevent artificial contract-splitting around the statutory threshold.

CLAUSE 28 — PROCEEDINGS OF GOVERNANCE ADVISORY BOARD

STATUS	REWRITE	Voting, quorum, conflicts and minutes
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Government text

28. Proceedings of Governance Advisory Board

(1) Any decision of the Governance Advisory Board shall be taken collectively and where possible, by consensus, failing which the decision of the Director-General or the person chairing the meeting shall prevail.

(2) The minutes of proceedings of the Governance Advisory Board shall be made available for inspection by the Independent Advisory Panel.

Proposed amendment

~~(1) Any decision of the Governance Advisory Board shall be taken collectively and where possible, by consensus, failing which the decision of the Director-General or the person chairing the meeting shall prevail.~~ (1) The Board shall seek to decide matters by consensus and, where consensus is not reached, by a majority of the members present and voting. In the event of an equality of votes, the independent chairperson shall have a casting vote.

(1A) The quorum shall be 4 members and shall include the independent chairperson or another independent member presiding and at least one further independent member.

(1B) A member who has an actual, potential or perceived conflict of interest in relation to a matter shall disclose the conflict, and the Board shall determine whether that member should withdraw from the discussion or decision; the disclosure and decision shall be recorded in the minutes.

~~(2) The minutes of proceedings of the Governance Advisory Board shall be made available for inspection by the Independent Advisory Panel.~~ (2) The minutes shall record material decisions, reasons where appropriate, declared conflicts and any formal dissent requested by a member, and shall be securely maintained and made available for inspection by the Independent Advisory Panel.

(3) The Board shall publish, as part of or alongside the NCA annual report, a non-operational summary of its meetings, principal governance decisions and attendance, excluding information whose disclosure would prejudice a lawful investigation, personal-data rights, legal privilege or national security.

Rationale

Under the circulated clause, a failure to reach consensus gives the Director-General or chair the prevailing decision, even though the provision describes decisions as collective. Majority voting with an independent casting vote better matches the proposed governance structure and makes the result auditable. Conflict declarations and recorded dissent strengthen institutional accountability without exposing operational case material.

CLAUSE 29 — SETTING UP OF SENIOR LEADERSHIP BOARD

STATUS	REWRITE	Operational coordination without case gatekeeping
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Government text

29. Setting up of Senior Leadership Board

- (1) There shall be a Senior Leadership Board comprising –
- (a) the Director-General, as chairperson;
 - (b) the Deputy Director-General, as vice-chairperson; and
 - (c) such Director as the Director-General may, depending on the nature of the matter to be discussed, designate.
- (2) The Senior Leadership Board shall be responsible for the oversight and coordination of the day to day operations of the NCA, including –
- (a) decisions to initiate investigations;
 - (b) monitoring the progress of investigations and ensuring that they are conducted expeditiously and efficiently; and
 - (c) the planning, allocation and attribution of resources to the Divisions, Units and other requirements of the NCA.
- (3) The Director of a Division who has responsibility for investigations may initiate any appropriate investigative actions or measures without reference to the Director-General or the Senior Leadership Board, but he shall, at the next meeting of the Senior Leadership Board, unless the Director-General decides otherwise, ensure that the investigation or measure is brought to the attention of the Director-General or the Board.

Proposed amendment

(1) There shall be a Senior Leadership Board comprising the Director-General as chairperson, the Deputy Director-General as vice-chairperson and the relevant Directors designated according to the matter under consideration.

~~(2)(a) decisions to initiate investigations;~~ **(2)(a) coordination of operational priorities and resources, provided that the Board’s prior approval shall not be a condition for a duly authorised Director or investigative officer to initiate an investigation or urgent investigative measure where the statutory threshold is otherwise met;**

~~(2)(b) monitoring the progress of investigations and ensuring that they are conducted expeditiously and efficiently;~~ **(2)(b) monitoring aggregate workload, timeliness, inter-Division coordination and resource constraints, without directing the evidential conclusion or outcome of an individual investigation;**

(2)(c) planning, allocation and attribution of resources to the Divisions, Units and other requirements of the NCA.

(2A) A decision materially affecting the suspension or discontinuance of an investigation shall be taken only in accordance with law, on recorded reasons, after appropriate legal advice where required, and without political, personal or other improper consideration; nothing in this section shall affect the constitutional and statutory functions of the Director of Public Prosecutions.

~~(3) The Director of a Division who has responsibility for investigations may initiate any appropriate investigative actions or measures without reference to the Director-General or the Senior Leadership Board, but he shall, at the next meeting of the Senior Leadership Board, unless the Director-General decides otherwise, ensure that the investigation or measure is brought to the attention of the Director-General or the Board.~~ **(3) A Director responsible for investigations may initiate any lawful investigative action or measure within the Division’s mandate without prior reference to the Director-General or the Board and shall notify the Board within a reasonable period, unless delayed notification is objectively necessary to protect operational security, a source, evidence or a person. Any delay and its reason shall be securely recorded. The Director-General shall not dispense with the requirement to create that record.**

(4) A member of the Senior Leadership Board shall not participate in a discussion or decision concerning an investigation where that member has a personal, financial, familial, professional or other material conflict of interest, and the recusal shall be recorded.

Rationale

The circulated text gives the Senior Leadership Board responsibility for “decisions to initiate investigations” while subsection (3) simultaneously allows a Director to initiate action without prior reference. The amendment reconciles those provisions by making the Board an operational coordination body rather than a mandatory gatekeeper for the opening of every case.

Recorded reasons for suspension or discontinuance, conflict-based recusals and preserved DPP functions are safeguards against improper case influence while still allowing management to monitor timeliness and workload.

CLAUSE 30 — PROCEEDINGS OF SENIOR LEADERSHIP BOARD

STATUS	REWRITE	Decision-making and audit trail
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Government text

30. Proceedings of Senior Leadership Board

- (1) Any decision of the Senior Leadership Board shall be taken collectively and where possible, by consensus, failing which the decision of the Director-General or the person chairing the meeting shall prevail.
- (2) The minutes of proceedings of the Senior Leadership Board shall be made available for inspection by the Independent Advisory Panel.

Proposed amendment

~~(1) Any decision of the Senior Leadership Board shall be taken collectively and where possible, by consensus, failing which the decision of the Director-General or the person chairing the meeting shall prevail.~~ (1) The Senior Leadership Board shall seek to decide matters by consensus and, where consensus is not reached, by a majority of the members present and voting. The Director-General or person chairing may exercise a casting vote only in relation to administrative, resource or coordination matters and not to determine the evidential conclusion, guilt, prosecution decision or lawful independence of a specific investigation.

~~(2) The minutes of proceedings of the Senior Leadership Board shall be made available for inspection by the Independent Advisory Panel.~~ (2) The minutes shall record material operational-management decisions, any declared conflict or recusal, and reasons for a decision materially affecting the allocation of resources to, suspension of or discontinuance of a specific investigation, subject to the protection of sources, privileged material, personal data and operational security.

(3) The minutes and supporting decision records shall be securely maintained and made available for inspection by the Independent Advisory Panel for oversight purposes, but the Panel shall not by reason only of such inspection acquire power to direct the conduct or outcome of an individual investigation.

Rationale

The amendment removes the default rule under which the Director-General's view prevails whenever consensus fails. Majority decision-making is retained for management matters, while a limited casting vote recognises the Director-General's executive responsibility without allowing a tie-break mechanism to determine evidential or prosecutorial outcomes. A secure audit trail also enables later oversight of conflicts, resource decisions and case-management interventions.

Source and Legal Reference Notes

1. Circulated National Crime Agency Bill 2026 — Primary source for clauses 18–30 reproduced and amended in this Part.

2. Financial Crimes Commission Act 2023 — Used only as a comparator. The Act provides a nine-month maximum for an acting FCC Director-General and an express termination procedure for the substantive Director-General.

3. Constitution of Mauritius, section 93 — Used as a structural comparator for security of tenure. Section 93 presently applies to specified offices including the Electoral Commissioner, DPP, Commissioner of Police and Director of Audit; it does not automatically apply to the proposed NCA Director-General.

4. Mauritius National Assembly — Bills Circulated, September 2026 — Confirms that the NCA Bill, Interim Agency Bill, constitutional amendment and Independent Advisory Panel-related Bills form part of the wider circulated legislative package.

Drafting caution: references to the Independent Advisory Panel are necessarily subject to the final text of the constitutional and Panel legislation. Any final consolidated version should be cross-checked against those enactments before submission.

End of Phase II — Clauses 1–30. The next transmission will address clauses 31–59.