

PROPOSED AMENDMENTS TO THE NATIONAL CRIME (INTERIM) AGENCY BILL 2026

Volume II - Clause-by-Clause Comparative Text and Legislative Rationale

PHASE V — NATIONAL CRIME (INTERIM) AGENCY BILL 2026 — CLAUSES 1 TO 20

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Purpose	Technical submission for parliamentary scrutiny and consideration
Source text	The National Crime (Interim) Agency Bill 2026 as circulated
Date	27 September 2026

This Phase V follows completion of the clause-by-clause proposed amendments to all 85 clauses of the principal National Crime Agency Bill 2026. It addresses all 20 clauses of the National Crime (Interim) Agency Bill 2026 and focuses on the temporary machinery proposed to prepare the permanent Agency. The central drafting objective is to permit necessary transition work while preventing the Interim Agency from acquiring investigative, surveillance, intelligence or coercive powers before the permanent statutory safeguards and governance structures are in force.

Drafting Key and Method

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 independence, accountability, due process, privacy, proportionality, continuity or drafting considerations.

Legal and cross-Bill reference points

This Phase should be read together with the proposed amendments to the principal National Crime Agency Bill 2026, in particular the provisions concerning appointment of the permanent Director-General, staffing, the National Flagging Database, operational collaboration, annual reporting, audit, transfer of Interim Agency staff, savings and transitional provisions, and commencement. External reference points include the Data Protection Act 2017, including the necessity and proportionality requirement for exceptions, and sections 4B and 7 of the Statutory Bodies (Accounts and Audit) Act concerning annual estimates and reporting and audit.

Cross-Bill consistency is essential. The Interim Bill should not create an appointment, staffing, database or transition route that bypasses the safeguards proposed for the permanent NCA. In particular, appointment as Interim Director-General should not create an automatic entitlement to become the first permanent Director-General, and preparatory recruitment or system design should not predetermine the permanent governance arrangements.

Clauses 1-20: Amendment Matrix

Cl.	Subject	Status	Principal issue
1	Short title	RETAIN	Short title is adequate.
2	Interpretation	AMEND	Define the boundary between preparatory work and investigation; add personal-data safeguards.
3	Establishment and mandate	REWRITE	Make the Interim Agency strictly transitional; prohibit coercive, investigative and live intelligence functions.
4	Interim Director-General	REWRITE	Independent appointment, qualifications, removal, acting arrangements and no automatic path to permanent DG.
5	Powers of Director-General	REWRITE	Allow transition planning without access to or interference with live FCC investigations.
6	Officers of Interim Agency	AMEND	Protect staff rights, chains of command and role-based access to operational information.
7	Recruitment for NCA	REWRITE	Merit-based preparatory recruitment; no bypass of permanent NCA appointment safeguards.
8	Experts and consultants	AMEND	Written scope, conflicts, security and express bar on coercive powers for experts/foreign investigators.
9	Organisational structure	REWRITE	Interim DG may propose structure but cannot finally establish operational NCA architecture.
10	Guidelines and Codes	REWRITE	Draft codes only; no new powers, offences, surveillance or binding operational effect before lawful adoption.
11	National Flagging Database	REWRITE	No live Flagging Database or real-person markers during interim period;

Cl.	Subject	Status	Principal issue
			synthetic/anonymised testing only.
12	Operational Protocol	REWRITE	Protocol must preserve institutional independence, ongoing cases, evidence and statutory powers.
13	Surveillance and Interception Code	REWRITE	Comprehensive rights safeguards; preparation of Code must not authorise surveillance or interception.
14	Interim Agency Fund	AMEND	Ring-fence Interim Fund to lawful preparatory expenditure with full audit trail.
15	Estimates	REWRITE	Align estimates with Statutory Bodies Act and disclose major transition workstreams.
16	Annual report	AMEND	Specific annual reporting on recruitment, procurement, systems, spending and data/security governance.
17	Audit report	AMEND	Remove first-year reporting exemption and correct the NCA/Interim Agency inconsistency.
18	Confidentiality	REWRITE	Protect confidentiality while preserving Courts, DPP, audit, DPO, oversight and protected disclosures.
19	Consequential amendment	RETAIN	Necessary consequential inclusion in the Statutory Bodies Act Schedule.
20	Commencement and sunset	REWRITE	Add a genuine sunset, limited parliamentary extension and lawful data/records transition.

CLAUSE 1 - SHORT TITLE

STATUS	RETAIN	Short title is adequate.
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Government text

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

Proposed amendment**1. Short title**

This Act may be cited as the National Crime (Interim) Agency Act 2026.

Rationale

The short title is clear and may be retained unchanged. The substantive safeguards needed for a temporary transition body arise in the later clauses rather than in the citation provision.

CLAUSE 2 - INTERPRETATION

STATUS	AMEND	Define the boundary between preparatory work and investigation; add personal-data safeguards.
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Government text**2. Interpretation**

In this Act -

~~“Director” means a Director of a Division of the NCA;~~

~~“Director-General” means the Director-General of the Interim Agency;~~

~~“Director-General of FCC” includes, where the office of the Director-General of the FCC is vacant, the person acting as Director-General of the FCC;~~

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

~~“Interim Agency” means the National Crime (Interim) Agency established under section 3;~~

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

~~“Minister” means the Minister to whom responsibility for the National Crime (Interim) Agency is assigned;~~

~~“NCA” means the National Crime Agency to be established under the National Crime Agency Act 2026.~~

Proposed amendment**2. Interpretation**

In this Act -

“Director” means a Director of a Division of the NCA;

“Director-General” means the Director-General of the Interim Agency;

“Director-General of FCC” includes, where the office of Director-General of the FCC is vacant, the person lawfully acting in that office;

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

“Interim Agency” means the National Crime (Interim) Agency established under section 3;

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

“Minister” means the Minister to whom responsibility for the Interim Agency is assigned;

“NCA” means the National Crime Agency to be established under the National Crime Agency Act 2026;

“personal data” has the same meaning as in the Data Protection Act;

“preparatory function” means an administrative, organisational, recruitment, procurement, systems-design, policy-development or transition-planning function necessary to prepare for the lawful commencement of the NCA, but does not include the investigation of an offence, the gathering of intelligence about an identifiable person for operational purposes, the exercise of a coercive power, or the direction or control of an ongoing investigation.

Rationale

The circulated definitions do not distinguish a legitimate preparatory function from an investigative or operational function. That boundary is central to this Bill. The proposed definitions make clear that the Interim Agency exists to prepare an institution, not to investigate people, gather operational intelligence or exercise coercive powers before the permanent statutory framework is in force.

CLAUSE 3 - ESTABLISHMENT AND LIMITED TRANSITIONAL PURPOSE

STATUS	REWRITE	
		Make the Interim Agency strictly transitional; prohibit coercive, investigative and live intelligence functions.

Government text

~~3. Establishment of National Crime (Interim) Agency~~

~~(1) There is established, for the purposes of this Act, the National Crime (Interim) Agency.~~

~~(2) The Interim Agency shall discharge such functions and exercise such powers as may be necessary or desirable to enable and facilitate the coming into operation of the National Crime Agency Act 2026 on its commencement.~~

~~(3) The Interim Agency shall be a body corporate.~~

Proposed amendment

3. Establishment and limited transitional purpose of National Crime (Interim) Agency

(1) There is established, for the purposes of this Act, the National Crime (Interim) Agency.

(2) The Interim Agency shall be a strictly transitional and preparatory body and may discharge only such preparatory functions as are expressly authorised by this Act.

(3) The Interim Agency shall not -

(a) investigate or determine any criminal allegation;

(b) exercise any power of arrest, detention, search, seizure, production, interception, surveillance, asset recovery or compulsory disclosure;

(c) direct, supervise or influence an investigation or prosecution conducted by the FCC, the Police, the Director of Public Prosecutions or any other body; or

(d) operate a live intelligence, surveillance or flagging system concerning identifiable persons except as expressly permitted by an enactment in force.

(4) Any preparatory processing of information or personal data shall be limited to what is necessary and proportionate for the specific transition purpose, with appropriate security, access controls, logging and retention limits.

(5) The Interim Agency shall be a body corporate.

(6) The Interim Agency shall cease to exist in accordance with section 20.

Rationale

The object of the Interim Bill is to facilitate the future NCA, but the circulated clause uses the broad phrase “such functions and powers as may be necessary or desirable”. A transitional body should not acquire implied operational powers through open-ended language. The rewrite makes the mandate expressly preparatory, prohibits coercive and investigative action, and introduces a clear data-protection boundary.

CLAUSE 4 - DIRECTOR-GENERAL OF INTERIM AGENCY

STATUS	REWRITE	Independent appointment, qualifications, removal, acting arrangements and no automatic path to permanent DG.
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Government text

~~4. Director-General of Interim Agency~~

- ~~(1) There shall be a Director-General of the Interim Agency, who shall be responsible for the administration of the Interim Agency.~~
- ~~(2) The Director-General shall be appointed by the President acting in accordance with the advice of the Prime Minister after consultation with the Leader of the Opposition.~~
- ~~(3) The Director-General shall be appointed on such terms and conditions as the Prime Minister may determine.~~
- ~~(4) Notwithstanding section 21 of the Finance and Audit Act, the Director-General shall be the accounting officer of the Interim Agency 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 Interim Agency.~~
- ~~(5) The Director-General shall not be subject to the direction or control of any person or authority.~~

Proposed amendment

4. Director-General of Interim Agency

- (1) There shall be a Director-General of the Interim Agency who shall be responsible for its administration and for ensuring that it remains within the transitional mandate conferred by this Act.
- (2) The Director-General shall be appointed by the President acting in accordance with the advice of the Independent Advisory Panel established under the Constitution, after consultation with the Prime Minister and the Leader of the Opposition.
- (3) No appointment under subsection (2) shall be made before the Independent Advisory Panel is duly constituted.
- (4) The Director-General shall be a person of integrity with substantial senior-level experience relevant to criminal justice, financial crime, complex or organised crime, cybercrime, public administration, regulation or institutional leadership and with proven ability to operate under public scrutiny.
- (5) The terms and conditions of appointment shall be determined by the President acting in accordance with the advice of the Independent Advisory Panel and shall not be altered to the disadvantage of the Director-General during the appointment.
- (6) The appointment shall terminate when the Interim Agency ceases to exist and shall not, of itself, confer any right, preference, expectation or automatic entitlement to appointment as Director-General, Deputy Director-General, Director or officer of the NCA.
- (7) The Director-General may be removed from office only for inability to perform the functions of office, serious misconduct, serious breach of this Act or loss of the qualifications required by subsection (4), following a fair procedure and on the advice of the Independent Advisory Panel.
- (8) Where the office is vacant or the Director-General is unable to act, the President may, acting in accordance with the advice of the Independent Advisory Panel, appoint a suitably qualified person to act for a period not exceeding 3 months at a time.
- (9) Notwithstanding section 21 of the Finance and Audit Act, the Director-General shall be the accounting officer of the Interim Agency.
- (10) Subject to this Act and the law, the Director-General shall not be subject to the direction or control of any person or authority in the discharge of the functions of office.

Rationale

The circulated Bill places appointment on the Prime Minister's advice and allows the Prime Minister to determine the terms and conditions, while the principal NCA Bill proposes a different appointment mechanism for the permanent office. It also proposes that the Interim DG automatically becomes the first permanent DG. The rewrite aligns the interim appointment with independent advice, provides qualifications, removal and acting-vacancy rules, and expressly prevents the interim office from becoming a route around the safeguards for the permanent appointment. This amendment should be read with the

corresponding amendment to section 19(3) of the principal NCA Bill.

CLAUSE 5 - POWERS AND LIMITS OF DIRECTOR-GENERAL

STATUS	REWRITE	Allow transition planning without access to or interference with live FCC investigations.
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Government text

~~5. Powers of Director-General~~

~~(1) Subject to subsection (2), the Director-General may, for the purposes of this Act and for the National Crime Agency Act 2026—~~

- ~~(a) evaluate, or inquire, into the administrative and operational functions of the FCC; and~~
- ~~(b) request any information and assistance from the FCC and the Director-General of the FCC shall furnish such information and provide such assistance.~~

~~(2) Nothing in this Act shall be construed as empowering the Director-General to—~~

- ~~(a) direct on administrative and operational matters of the FCC or an investigative body; or~~
- ~~(b) inquire into, or otherwise engage with, an investigation of the FCC or an investigative body or any other related matter, including any other criminal investigation.~~

Proposed amendment

5. Powers and limits of Director-General

(1) The Director-General may, only for the purpose of preparing for the lawful commencement of the NCA -

(a) prepare administrative, staffing, budgetary, premises, procurement, information-security and systems transition plans;

(b) map the statutory and administrative functions that are to transfer to the NCA;

(c) prepare secure arrangements for the transfer of records, assets, contracts and systems; and

(d) request from the FCC such administrative, financial, human-resource, statistical or systems information as is reasonably necessary for those purposes.

(2) The Director-General of the FCC shall provide reasonable assistance under subsection (1)(d), but may withhold, defer or limit information where disclosure would -

(a) prejudice an ongoing investigation, prosecution or asset-recovery proceeding;

(b) reveal a protected source, legally privileged material or covert operational method;

(c) contravene an Order of a Court or a statutory duty of confidentiality; or

(d) involve personal data beyond what is necessary and proportionate for the transition purpose.

(3) Any decision under subsection (2) to withhold, defer or limit information shall be recorded with reasons and shall not be treated as a failure to cooperate under this Act.

(4) The Director-General shall not access case files, evidence, source identities, privileged material or covert-operation records except where access is strictly necessary for secure technical migration, is authorised in writing by the Director-General of the FCC, is limited to the minimum information necessary, and is fully logged.

(5) Nothing in this Act shall empower the Director-General to direct, influence, reopen, close, reassign or otherwise interfere with any investigation, prosecution, appeal, judicial proceeding or operational decision of the FCC, Police, Director of Public Prosecutions or any other competent authority.

(6) A preparatory act under this section shall not affect the legal validity, ownership, custody, admissibility or continuity of any investigation, proceeding, evidence, order, asset or right.

Rationale

The ability to “evaluate” operational functions and compel information from the FCC can create an avoidable interface with live investigations. The rewrite gives the Interim DG the information genuinely needed for transition planning while protecting

ongoing cases, sources, privilege, Court orders, personal data and the independent authority of the FCC, Police and DPP.

CLAUSE 6 - OFFICERS OF INTERIM AGENCY

STATUS	AMEND	Protect staff rights, chains of command and role-based access to operational information.
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Government text

~~6. Officers of Interim Agency~~

~~The Interim Agency may, for the purpose of exercising its powers under this Act—~~

~~(a) employ such officers as may be necessary or desirable; and~~

~~(b) make use of the services of such public officers, or officers of the FCC, as the Secretary to Cabinet and Head of the Civil Service or the Director-General of the FCC, as the case may be, may designate.~~

Proposed amendment

6. Officers of Interim Agency

(1) The Interim Agency may employ only such officers as are reasonably necessary for its temporary preparatory and administrative functions.

(2) The Interim Agency may make use of the services of public officers or officers of the FCC in accordance with applicable law and on terms that preserve their accrued rights and existing conditions of service.

(3) The designation or secondment of an FCC officer to assist the Interim Agency shall not place that officer, in relation to an ongoing FCC investigation or operational matter, under the direction or control of the Director-General of the Interim Agency.

(4) Every officer of the Interim Agency shall be subject to appropriate conflict-of-interest, confidentiality, information-security and access-control requirements.

(5) No officer shall obtain access to operational or personal data merely by reason of employment or secondment; access shall be role-based, necessary for a lawful function and auditable.

Rationale

A temporary body needs staff, but secondment or designation should not blur operational chains of command or create unnecessary access to case information. The amendment preserves employment rights, role-based access and the operational independence of officers who continue to work on FCC matters.

CLAUSE 7 - PREPARATORY RECRUITMENT FOR NCA

STATUS	REWRITE	Merit-based preparatory recruitment; no bypass of permanent NCA appointment safeguards.
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Government text

~~7. Recruitment of Directors and officers of Secretariat of NCA~~

~~(1) The Director-General shall be responsible for a selection exercise to recruit the Directors and the officers of the Secretariat of the NCA.~~

~~(2) The Director-General shall—
(a) establish and review the pay structures and conditions of service of NCA officers; and
(b) establish and review the grading structures of NCA officers.~~

Proposed amendment

7. Preparatory recruitment for NCA

- (1) The Director-General may make preparations for the recruitment of Directors and officers of the Secretariat of the NCA, subject to this section and the National Crime Agency Act 2026.
- (2) Every selection exercise shall be based on published or recorded merit criteria, objective assessment, conflict-of-interest declarations and a documented selection process.
- (3) For senior appointments, the Director-General shall act through a selection panel whose composition includes independent participation approved by the Independent Advisory Panel.
- (4) No recruitment exercise conducted under this Act shall disapply, replace or circumvent the appointment safeguards contained in the National Crime Agency Act 2026.
- (5) An offer made before the commencement of the National Crime Agency Act 2026 shall be expressly conditional and shall not confer an automatic right to permanent appointment, confirmation, seniority or office in the NCA.
- (6) The Director-General may prepare proposed grading structures, pay structures and conditions of service for consideration by the competent governance body of the NCA after its establishment, but shall not finally determine those matters under this Act.

Rationale

The circulated clause gives the Interim DG substantial power to recruit the future NCA leadership and determine grades and conditions before the permanent governance arrangements exist. The rewrite permits preparatory recruitment work but requires merit, independent participation and documented criteria, and prevents interim recruitment from creating automatic permanent appointments. It should operate consistently with the amended permanent NCA staff-transfer and appointment provisions.

CLAUSE 8 - EXPERTS AND CONSULTANTS

STATUS	AMEND	Written scope, conflicts, security and express bar on coercive powers for experts/foreign investigators.
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Government text

~~8. Experts of NCA
The Director-General may retain the services of any expert, consultant or specialised body from Mauritius or abroad, including foreign investigators, for the NCA.~~

Proposed amendment

8. Experts and consultants

- (1) The Director-General may, where reasonably necessary for a specified preparatory function, retain the services of an expert, consultant or specialised body from Mauritius or abroad.
- (2) Every engagement shall be in writing and shall specify the purpose, duration, remuneration, deliverables, confidentiality obligations, conflict-of-interest requirements, security requirements and permitted access to information or systems.
- (3) A foreign investigator or other expert retained under this section shall not, by reason only of that engagement, exercise any power of investigation, arrest, search, seizure, surveillance, interception, compulsory disclosure or other coercive power in Mauritius.
- (4) Access by an expert to personal, operational or classified information shall be limited to what is strictly necessary

for the contracted purpose, subject to applicable law, appropriate vetting, access logging and return or secure destruction at the end of the engagement.

Rationale

External expertise can be useful in cyber, financial, forensic and organisational work, but the circulated clause does not specify scope, conflicts, security or the legal position of foreign investigators. The amendment requires written terms and makes explicit that an expert does not acquire coercive powers merely by being retained.

CLAUSE 9 - PROPOSED ORGANISATIONAL STRUCTURE OF NCA

STATUS	REWRITE	
		Interim DG may propose structure but cannot finally establish operational NCA architecture.

Government text

~~9. Organisational structure of NCA~~
~~The Director-General shall establish the organisational structure of the NCA.~~

Proposed amendment

9. Proposed organisational structure of NCA

- (1) The Director-General may prepare a proposed organisational structure for the NCA for submission to the governance body competent under the National Crime Agency Act 2026.
- (2) The proposed structure shall identify functions, reporting lines, separation of operational, legal, audit, internal-affairs and data-governance responsibilities, and safeguards against conflicts of interest.
- (3) No organisational structure prepared under this section shall, before the commencement of the National Crime Agency Act 2026, create an operational division, confer investigative authority or authorise the exercise of a coercive power.
- (4) The proposed structure shall have no binding effect after the commencement of the National Crime Agency Act 2026 unless adopted or confirmed in accordance with that Act.

Rationale

The Interim DG should be able to design a proposed structure, but the permanent NCA governance body should decide whether to adopt it. The amendment prevents the temporary office from pre-empting the governance arrangements and from creating operational divisions before the permanent Act is in force.

CLAUSE 10 - DRAFT GUIDELINES, STANDING ORDERS, DIRECTIVES AND CODES

STATUS	REWRITE	
		Draft codes only; no new powers, offences, surveillance or binding operational effect before lawful adoption.

Government text

~~10. Guidelines, standing orders, directives and Codes~~

~~The Director-General shall prepare such guidelines, standing orders, directives and Codes as may be necessary which will govern the general manner in which NCA officers should discharge their functions and exercise their powers under the National Crime Agency Act 2026 and under any other relevant enactment.~~

Proposed amendment

10. Draft guidelines, standing orders, directives and Codes

(1) The Director-General may prepare drafts of such guidelines, standing orders, directives and Codes as may reasonably be required for consideration under the National Crime Agency Act 2026.

(2) A draft prepared under subsection (1) shall -

- (a) be consistent with the Constitution, the Data Protection Act and every applicable enactment;
- (b) distinguish clearly between legal powers conferred by Parliament and internal administrative procedure;
- (c) include safeguards for legality, necessity, proportionality, record-keeping, conflicts of interest, protected information and accountability; and
- (d) where appropriate, be subject to consultation with relevant independent or specialist authorities.

(3) No draft guideline, standing order, directive or Code prepared under this Act shall -

- (a) create or enlarge an investigative or coercive power;
 - (b) create a criminal offence or penalty;
 - (c) authorise surveillance, interception or access to private data; or
 - (d) have binding operational effect before it is lawfully adopted under the National Crime Agency Act 2026.
- (4) Non-sensitive final drafts shall be made available to the competent governance body of the NCA and, where appropriate, to the public upon commencement of that Act.

Rationale

The Interim Agency may sensibly prepare draft operational instruments, but internal codes cannot substitute for primary legislation or become an indirect source of surveillance, interception or coercive power. The proposed clause treats them as drafts pending lawful adoption under the permanent Act and requires consistency with constitutional and data-protection safeguards.

CLAUSE 11 - PREPARATORY WORK FOR NATIONAL FLAGGING DATABASE

STATUS	REWRITE	No live Flagging Database or real-person markers during interim period; synthetic/anonymised testing only.
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Government text

~~11. National Flagging Database~~

~~The Director-General shall put in place the National Flagging Database and, for that purpose, consult such person or authority as may be necessary for its implementation.~~

Proposed amendment

11. Preparatory work for National Flagging Database

(1) The Director-General may design, procure and technically test the architecture proposed for the National Flagging Database, subject to this section.

(2) Before the National Crime Agency Act 2026 and the safeguards governing the Database are in force, the Interim Agency shall not -

- (a) create a live register of entities of interest;
- (b) place an overt or covert marker against an identifiable person, organisation, property, premises, vehicle or other entity;
- (c) import live investigation, intelligence or personal data into the Database; or

- (d) use the Database to monitor, profile, score or make an operational decision about an identifiable person.
- (3) Testing before commencement of the NCA may use only synthetic data or data that have been effectively anonymised so that no individual is identifiable.
- (4) Before live operation, the system shall be subject to documented data-protection and information-security assessments, access-control testing, audit-logging verification, retention and deletion rules, and such independent technical assurance as may be reasonably required.
- (5) Nothing in this section authorises the processing or disclosure of personal data contrary to the Data Protection Act or any other enactment.

Rationale

This is one of the most important interim safeguards. The circulated clause directs the Interim DG to “put in place” the National Flagging Database before the permanent NCA is operating. Because the permanent Bill envisages overt and covert markers concerning persons and other entities, live population of the system should not begin before the statutory safeguards, access rules, retention rules and oversight framework are legally in force. The amendment allows architecture and testing, but only with synthetic or effectively anonymised data.

CLAUSE 12 - DRAFT OPERATIONAL PROTOCOL

STATUS	REWRITE	
		Protocol must preserve institutional independence, ongoing cases, evidence and statutory powers.

Government text

~~12. Operational Protocol~~

~~The Director-General shall, with the assistance of the Commissioner of Police, prepare the Operational Protocol governing the effective exercise of the responsibilities of the NCA and the Police, and establishing mechanisms for operational collaboration between them under the National Crime Agency Act 2026 and under any other relevant enactment.~~

Proposed amendment

12. Draft Operational Protocol

- (1) The Director-General shall, with the assistance of the Commissioner of Police and after consultation with other affected investigative bodies, prepare a draft Operational Protocol for consideration under the National Crime Agency Act 2026.
- (2) The draft Protocol shall address case referral, joint and parallel investigations, information-sharing, evidence and exhibit custody, data security, dispute resolution, resource support and orderly handover.
- (3) The draft Protocol shall not -
 - (a) confer a power not granted by an enactment;
 - (b) alter the constitutional or statutory independence, command or decision-making authority of the Commissioner of Police, the Director of Public Prosecutions or another competent authority;
 - (c) authorise the Interim Agency to direct or participate in an ongoing investigation; or
 - (d) prejudice an existing investigation, proceeding, appeal, court order, evidential chain of custody or legal privilege.
- (4) The Protocol shall have no binding operational effect until the NCA is established and it is adopted in accordance with the National Crime Agency Act 2026.

Rationale

The Operational Protocol is useful for avoiding duplication and confusion between agencies, but a transition document should not transfer powers or alter constitutional and statutory responsibilities. The rewrite preserves the authority of the Commissioner of Police, DPP and other institutions, protects existing cases and evidence, and makes the protocol effective

only after lawful adoption by the permanent NCA.

CLAUSE 13 - DRAFT SURVEILLANCE AND INTERCEPTION CODE OF PRACTICE

STATUS	REWRITE	Comprehensive rights safeguards; preparation of Code must not authorise surveillance or interception.
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Government text

~~13. Surveillance and Interception Code of Practice~~

~~The Director-General shall, with the assistance of the Commissioner of Police, prepare the Surveillance and Interception Code of Practice which will govern the manner by which NCA investigative officers and police officers should safeguard the dissemination, copying, storage and destruction of private information obtained through covert intelligence human source, intrusive and interception of data.~~

Proposed amendment

13. Draft Surveillance and Interception Code of Practice

(1) The Director-General shall, with the assistance of the Commissioner of Police and following consultation with the Data Protection Commissioner, the Director of Public Prosecutions and such other relevant authorities as may be appropriate, prepare a draft Surveillance and Interception Code of Practice for consideration under the National Crime Agency Act 2026.

(2) The draft Code shall address, at a minimum -

- (a) prior judicial authorisation where required by law;
- (b) necessity, proportionality, scope and duration;
- (c) minimisation of collateral collection;
- (d) legal professional privilege and other protected material;
- (e) handling of covert human intelligence sources;
- (f) access controls, audit logs, storage, disclosure, retention and secure destruction;
- (g) reporting of misuse, unauthorised access and security incidents; and
- (h) independent oversight, complaints and remedies.

(3) Nothing in this section authorises the Interim Agency or its officers to conduct surveillance, interception, equipment interference, covert intelligence activity or any other investigative technique.

(4) The draft Code shall have no binding operational effect until lawfully adopted under the National Crime Agency Act 2026.

Rationale

The circulated clause is limited mainly to safeguarding dissemination, copying, storage and destruction of information after surveillance. A modern interception code should also address authorisation, necessity, proportionality, privileged material, minimisation, duration, audit and remedies. Most importantly, preparation of a code must not itself authorise the Interim Agency to conduct surveillance or interception.

CLAUSE 14 - INTERIM AGENCY FUND

STATUS	AMEND	Ring-fence Interim Fund to lawful preparatory expenditure with full audit
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Government text~~14. Interim Agency Fund~~~~There shall be an Interim Agency Fund—~~~~(a) into which shall be paid all sums received from the Consolidated Fund; and~~~~(b) out of which all payments required to be made by the Interim Agency and all charges on the Interim Agency shall be effected.~~**Proposed amendment****14. Interim Agency Fund****(1) There shall be an Interim Agency Fund -****(a) into which shall be paid all sums lawfully appropriated or otherwise received for the Interim Agency; and****(b) out of which shall be paid only expenditure reasonably required for the lawful preparatory functions of the Interim Agency.****(2) No payment shall be made from the Fund for the conduct of an investigation, covert operation, interception, surveillance activity, reward, asset-recovery operation or other operational function that this Act does not confer on the Interim Agency.****(3) All expenditure shall be subject to applicable public-finance, procurement, accounting and audit requirements and shall be supported by an adequate audit trail.****(4) On the cessation of the Interim Agency, the balance, assets, liabilities and records of the Fund shall be dealt with in accordance with the National Crime Agency Act 2026 or any other applicable enactment.****Rationale**

Public funds for the Interim Agency should be ring-fenced to the temporary preparatory mandate. The amendment excludes operational investigative or covert expenditure that the Interim Bill does not lawfully confer and strengthens the audit trail for transition spending.

CLAUSE 15 - ESTIMATES OF INCOME AND EXPENDITURE**STATUS****REWRITE**

Align estimates with Statutory Bodies Act and disclose major transition workstreams.

Government text~~15. Estimate of income and expenditure~~~~(1) The Interim Agency shall submit to the Minister, not later than 31 March in every year, an estimate of its income and expenditure in respect of the following financial year for his approval:~~~~(2) The Minister may—~~~~(a) give his approval under subsection (1); or~~~~(b) approve only part of the estimate and direct the Interim Agency to amend the estimate.~~**Proposed amendment****15. Estimates of income and expenditure****(1) The Interim Agency shall prepare and submit its estimates of income and expenditure in accordance with section 4B of the Statutory Bodies (Accounts and Audit) Act and any other applicable public-finance requirement.****(2) Any approval, amendment or direction by the Minister in relation to the estimates shall concern financial administration and shall not be construed as authorising direction or control over an investigation, prosecution or**

operational function of the FCC, the Police or another independent authority.

(3) The estimates shall separately identify expenditure for recruitment, premises, information systems, consultancy, security, training and other material transition workstreams.

Rationale

The circulated deadline of 31 March should be reconciled with section 4B of the Statutory Bodies (Accounts and Audit) Act, which currently requires annual estimates by 28 February. A direct cross-reference avoids conflicting statutory timetables. The amendment also requires visibility of the principal transition workstreams.

CLAUSE 16 - ANNUAL REPORT

STATUS	AMEND	Specific annual reporting on recruitment, procurement, systems, spending and data/security governance.
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Government text

~~16. Annual report~~

~~(1) The Interim Agency shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, prepare an annual report and submit it to the Minister, together with an audited statement of accounts on the operations of the Interim Agency, in respect of every financial year.~~

~~(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and the audited statement of accounts of the Interim Agency before the Assembly.~~

Proposed amendment

16. Annual report

(1) The Interim Agency shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, prepare an annual report and audited statement of accounts in respect of every financial year.

(2) The annual report shall include, to the extent compatible with lawful confidentiality -

(a) progress against the transition plan;

(b) appointments, recruitment exercises and use of consultants or experts;

(c) procurement and material contracts;

(d) expenditure against approved estimates;

(e) development or testing of information systems, including the National Flagging Database;

(f) data-protection and information-security governance, including aggregate reporting of material incidents; and

(g) any matter required by the Director of Audit or another competent oversight authority.

(3) Information whose publication would unlawfully disclose protected operational, personal or security information may be omitted from the public report, but shall not thereby be withheld from a Court, the Director of Audit, the Independent Advisory Panel, the Data Protection Commissioner or another authority lawfully entitled to receive it.

(4) The Minister shall cause the annual report and audited statement of accounts to be laid before the Assembly without unreasonable delay and in accordance with the Statutory Bodies (Accounts and Audit) Act.

Rationale

The annual report should allow Parliament to see what the temporary agency actually built, recruited and spent before the permanent NCA begins. The proposed minimum content focuses on transition activity, procurement, staffing, systems and data-security governance while preserving lawful confidentiality and independent access to non-public information.

CLAUSE 17 - AUDIT REPORT

STATUS	AMEND	Remove first-year reporting exemption and correct the NCA/Interim Agency inconsistency.
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Government text

~~17. Audit report~~

~~(1) The auditor of the Interim Agency shall be the Director of Audit.~~

~~(2) For the purpose of this section, the first financial year of the Interim Agency shall be the period starting on the commencement of this Act and ending on 30 June of the following year.~~

~~(3) Section 7(1) of the Statutory Bodies (Accounts and Audit) Act shall not apply in relation to the first financial year of the NCA.~~

Proposed amendment

17. Audit report

(1) The auditor of the Interim Agency shall be the Director of Audit.

(2) For the purpose of this section, the first financial year of the Interim Agency shall be the period starting on the commencement of this Act and ending on 30 June of the following year.

(3) The reporting, accounting and audit obligations of the Statutory Bodies (Accounts and Audit) Act shall apply to the Interim Agency, including in respect of its first financial year, subject only to any express transitional provision contained in that Act.

Rationale

The circulated subsection (3) both creates a first-year exemption and refers to the “first financial year of the NCA” although the clause concerns the Interim Agency. The rewrite removes the blanket exemption and applies the ordinary statutory audit framework, preserving the Director of Audit as auditor.

CLAUSE 18 - CONFIDENTIALITY AND LAWFUL DISCLOSURE

STATUS	REWRITE	Protect confidentiality while preserving Courts, DPP, audit, DPO, oversight and protected disclosures.
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Government text

~~18. Confidentiality~~

~~Every officer of the Interim Agency shall maintain the confidentiality and secrecy of any matter, document, report and other information relating to the administration of this Act that becomes known to him, or comes in his possession or under his control.~~

Proposed amendment

18. Confidentiality and lawful disclosure

(1) Every officer of the Interim Agency shall protect information obtained by reason of office and shall not disclose it except -

(a) for the lawful discharge of a function under this Act or another enactment;

(b) pursuant to an Order or direction of a Court;

(c) to the Director of Public Prosecutions, Director of Audit, Independent Advisory Panel, Data Protection

Commissioner, Ombudsman, Police or another competent authority where the disclosure falls within that authority's lawful jurisdiction;

(d) for the purpose of obtaining legal advice or representation, subject to legal professional privilege and confidentiality;

(e) as a protected disclosure or report of suspected illegality, corruption, serious misconduct, abuse of power, unlawful access to data or serious risk to the public, made in good faith to an authority authorised by law to receive it; or

(f) as otherwise expressly authorised by law.

(2) The Interim Agency shall apply appropriate classification, access-control, record-keeping, retention and secure-destruction measures to confidential information.

(3) Nothing in this section shall be construed as preventing lawful parliamentary, judicial, audit, data-protection or other independent oversight.

Rationale

A confidentiality duty is necessary, but it should not become a barrier to Courts, the DPP, audit, data-protection supervision, protected reporting or other lawful oversight. The rewrite protects legitimate secrecy while expressly preserving lawful disclosure and accountability channels.

CLAUSE 19 - CONSEQUENTIAL AMENDMENT

STATUS	RETAIN	Necessary consequential inclusion in the Statutory Bodies Act Schedule.
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Government text

19. Consequential amendment

The Statutory Bodies (Accounts and Audit) Act is amended, in the Schedule, by inserting, in the appropriate alphabetical order, the following new item and its corresponding entry -

National Crime (Interim) Agency National Crime (Interim) Agency Act 2026

Proposed amendment

19. Consequential amendment

The Statutory Bodies (Accounts and Audit) Act is amended, in the Schedule, by inserting, in the appropriate alphabetical order, the following new item and its corresponding entry -

National Crime (Interim) Agency National Crime (Interim) Agency Act 2026

Rationale

The consequential amendment is necessary if the Interim Agency is to be treated as a statutory body for the purposes of the Statutory Bodies (Accounts and Audit) Act. The substance may be retained, subject to normal Parliamentary Counsel formatting and final cross-checking against the Schedule in force on enactment.

CLAUSE 20 - COMMENCEMENT, DURATION AND CESSATION

STATUS	REWRITE	Add a genuine sunset, limited parliamentary extension and lawful data/records transition.
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Government text

~~20. Commencement~~

~~This Act shall come into operation on a date to be fixed by Proclamation.~~

Proposed amendment

20. Commencement, duration and cessation

(1) This Act shall come into operation on a date to be fixed by Proclamation.

(2) Sections establishing safeguards concerning the appointment and limits of the Director-General shall come into operation no later than any provision enabling recruitment, information access, system development or other substantive preparatory activity.

(3) Subject to subsection (4), this Act and the Interim Agency shall cease to have effect on the earlier of -

(a) the commencement of section 3 of the National Crime Agency Act 2026; or

(b) the expiry of 12 months from the commencement of section 3 of this Act.

(4) Where the National Crime Agency Act 2026 has not commenced within the period specified in subsection (3)(b), the Assembly may, by resolution, extend the operation of this Act once for a period not exceeding 6 months.

(5) On cessation of the Interim Agency, its lawful rights, obligations, contracts, records, assets and liabilities shall transfer or be dealt with in accordance with the National Crime Agency Act 2026 or any other applicable enactment.

(6) No personal, operational or intelligence data shall be retained after cessation merely because it was held by the Interim Agency; retention or transfer shall require a continuing lawful purpose and shall comply with applicable data-protection, confidentiality and evidential requirements.

Rationale

An “interim” agency should have a defined life. The circulated Bill contains no sunset and could therefore remain in existence indefinitely if commencement of the permanent NCA were delayed. The amendment makes the temporary nature real, permits one limited parliamentary extension, sequences safeguards before substantive preparation, and regulates the final transfer or deletion of data and records.

Concluding transition principle

The Interim Agency should be powerful enough to complete the administrative work needed for an orderly launch of the NCA, but not powerful enough to investigate people, populate covert databases, conduct surveillance, interfere with existing FCC cases or predetermine permanent appointments before the permanent statutory safeguards are in force. The temporary law should therefore be narrow, transparent, auditable and subject to a genuine sunset.