

THE FINANCIAL CRIMES COMMISSION (MISCELLANEOUS PROVISIONS) BILL
(No. I of 2025)

Explanatory Memorandum

The object of this Bill is to restore the prosecutorial powers of the Director of Public Prosecutions under the Financial Crimes Commission Act 2023.

- 2.** Accordingly, no prosecution for an offence under the Financial Crimes Commission Act 2023 or the Declaration of Assets Act shall be instituted except by, or with the consent of, the Director of Public Prosecutions.
- 3.** In addition, any offence to be compounded under the Financial Crimes Commission Act 2023 and the Declaration of Assets Act shall henceforth be made with the consent of the Director of Public Prosecutions.
- 4.** Consequently, related amendments are being brought to the Courts Act, the Criminal Appeal Act and the District and Intermediate Courts (Criminal Jurisdiction) Act.

G. P. C. GLOVER, S.C.
Attorney-General

31 January 2025

THE FINANCIAL CRIMES COMMISSION (MISCELLANEOUS PROVISIONS) BILL

(No. I of 2025)

ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Courts Act amended
3. Criminal Appeal Act amended
4. District and Intermediate Courts (Criminal Jurisdiction) Act amended
5. Financial Crimes Commission Act 2023 amended

A BILL

To restore the prosecutorial powers of the Director of Public Prosecutions under the Financial Crimes Commission Act 2023 and other related legislation

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Financial Crimes Commission (Miscellaneous Provisions) Act 2025.

2. Courts Act amended

The Courts Act is amended –

- (a) in section 2, by deleting the definition of “Commission”;
- (b) in section 41A –
 - (i) in subsection (2), by deleting the words “Subject to the provisions of the Financial Crimes Commission Act 2023, where a person” and replacing them by the words “Where a person”;
 - (ii) by repealing subsection (3A);
 - (iii) in subsection (5), by deleting the definition of “financial crime”;

- (c) in section 80D –
 - (i) in subsection (2), by deleting the words “Subject to the provisions of the Financial Crimes Commission Act 2023, where a person” and replacing them by the words “Where a person”;
 - (ii) by repealing subsection (3A);
 - (iii) in subsection (5), by deleting the definition of “financial crime”;
- (d) in section 112 –
 - (i) in subsection (1), by deleting the words “Subject to subsection (2), the Intermediate Court” and replacing them by the words “The Intermediate Court”;
 - (ii) by repealing subsection (2).

3. Criminal Appeal Act amended

The Criminal Appeal Act is amended –

- (a) in section 2 –
 - (i) in the definition of “appellant”, by deleting the words “or the Director-General,”;
 - (ii) by deleting the definitions “Commission” and “Director-General”;
- (b) in section 5 –
 - (i) in subsection (2), by deleting the words “Subject to subsection (2A), the Director of Public Prosecutions” and replacing them by the words “The Director of Public Prosecutions”;
 - (ii) by repealing subsection (2A);
- (c) in section 9, by deleting the words “or the Director-General”;

- (d) in section 14 –
 - (i) by deleting the heading and replacing it by the following heading –

14. Duties of Director of Public Prosecutions

- (ii) in subsection (1), by deleting the words “Subject to subsection (1A), the Director of Public Prosecutions” and replacing them by the words “The Director of Public Prosecutions”;
- (iii) by repealing subsection (1A);
- (iv) in subsection (2), by deleting the words “or Director-General”.

4. District and Intermediate Courts (Criminal Jurisdiction) Act amended

The District and Intermediate Courts (Criminal Jurisdiction) Act is amended –

- (a) in section 2, by deleting the definition of “Director-General”;
- (b) in section 92 –
 - (i) in subsection (1), by deleting the words “Subject to subsection (2), where any person” and replacing them by the words “Where any person”;
 - (ii) by deleting subsections (2) and (3);
- (c) in section 94, in subsection (1)(b), by deleting the words “or the Director-General”.

5. Financial Crimes Commission Act 2023 amended

The Financial Crimes Commission Act 2023 is amended –

- (a) in section 57, by inserting, after subsection (3), the following new subsection –
 - (3A) (a) Where the Commission determines that an investigation shall be discontinued, it shall send a report to the Director of Public Prosecutions setting out its reasons.

(b) Where the Director of Public Prosecutions is dissatisfied with the reasons for discontinuing an investigation, he may request the Commission to proceed with a further investigation in accordance with section 58(1).

(b) in section 58 –

(i) in subsection (1), by inserting, after the words “section 57(3)(a)”, the words “or (3A)(b)”;

(ii) by repealing subsections (7) and (8) and replacing them by the following subsections –

(7) After conclusion of an investigation under this section, the Director-General shall submit the matter to the Commission for its opinion.

(8) After receipt of the opinion of the Commission, the Director-General shall submit a report to the Director of Public Prosecutions which shall include –

(a) all the material, information, statements and other documents obtained in the course of the investigation;

(b) a description of the articles of evidence which have remained in the custody of the Commission; and

(c) the recommendations of the Commission.

(iii) by adding the following new subsection –

(9) After consideration of the report submitted under subsection (8), the Director of Public Prosecutions may, where he does not advise prosecution or any other action, require the Commission to conduct such further inquiries as the Director of Public Prosecutions considers fit to advise.

(c) in section 59, in subsection (5), by inserting, after the words “where the Director-General”, the words “, with the consent of the Director of Public Prosecutions,”;

- (d) in section 142, by repealing subsection (1) and replacing it by the following subsection –

(1) No prosecution for an offence under this Act or the Declaration of Assets Act shall be instituted except by, or with the consent of, the Director of Public Prosecutions.

- (e) in section 150 –

(i) in subsection (1), by inserting, after the words “The Commission may”, the words “, with the consent of the Director of Public Prosecutions,”;

(ii) by repealing subsection (3) and replacing it by the following subsection –

(3) Where the Director of Public Prosecutions does not give his consent to compound the offence or a person does not agree to compound the offence, the Commission may, with the consent of the Director of Public Prosecutions, prosecute that person for the offence committed.
