THE CONSTITUTION (AMENDMENT) BILL
(No. XVI of 2026)

Explanatory Memorandum

The object of this Bill is to amend the Constitution in order to make provision for the appointment, independence and security of tenure of the Director-General of the National Crime Agency.

2. In addition, the Bill provides for the setting up of the Independent Advisory Panel which will be responsible to evaluate and report on the functioning of the National Crime Agency.

DR. N. RAMGOOLAM, G.C.S.K., F.R.C.P.
Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister of Finance, Minister for Rodrigues and Outer Islands

16 October 2026

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Section 71 of Constitution amended
3. New section 71A inserted in Constitution
4. Chapter VIIIA inserted in Constitution

A BILL

To amend the Constitution to give security of tenure to the Director-General of the National Crime Agency and for the setting up of the Independent Advisory Panel

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Constitution (Amendment) Act 2026.

2. Section 71 of Constitution amended

Section 71 of the Constitution is amended, in subsection (4), by deleting the words "subsection (3)" and replacing them by the words "subsection (3) and section 71A(4)".

3. New section 71A inserted in Constitution

The Constitution is amended by inserting, after section 71, the following new section –

71A. Director-General of National Crime Agency

(1) There shall be a Director-General of the National Crime Agency.

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

(3) Nothing in this section shall be construed as precluding the assignment to a Minister of ministerial accountability under section 62 for the organisation, maintenance and administration of the National Crime

Agency, but the Director-General shall be responsible for determining the use and controlling the administration and operations of the Agency and the Director-General shall not, in the exercise of his responsibilities and powers with respect to the use and the administrative and operational control of the Agency, be subject to the direction or control of any person or authority.

(4) The Director-General may refer an investigation to, take over an investigation from, or conduct a joint investigation with, the Commissioner of Police in such manner, and with regard to such crimes, as may be prescribed.

(5) The Director-General may be removed from office only for inability to discharge the functions of his office whether arising from infirmity of body or mind, inadequate performance of his functions and responsibilities that is having a detrimental effect on the performance of the National Crime Agency, or for misbehaviour and shall not be removed except in accordance with subsections (6) to (8).

(6) The Director-General shall be removed from office by the President where the question of his removal from that office has been referred to a Tribunal appointed under subsection (7) and the Tribunal has recommended to the President that he ought to be removed from office for any reasons specified in subsection (5).

(7) Where the President, acting in accordance with the advice of the Independent Advisory Panel, considers that the question of removing the Director-General ought to be investigated –

(a) the President shall appoint a Tribunal which shall consist of a Chairperson and not less than 2 other members, being persons who hold or have held office as a Judge of a Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a Court having jurisdiction in appeals from such a Court; and

(b) that Tribunal shall enquire into the matter and report on the facts to the President and recommend to the President whether the Director-General ought to be removed under this section.

(8) Where the question of removing the Director-General has been referred to a Tribunal under subsection (7), the President, acting in accordance with the advice of the Independent Advisory Panel, may suspend the Director-General from performing the functions of his office and any such suspension may at any time be revoked by the President,

acting in accordance with the advice of the Independent Advisory Panel, and shall in any case cease to have effect where the Tribunal recommends to the President that the Director-General should not be removed.

(9) A Bill for an Act of Parliament to amend or repeal any provisions of any Act of Parliament prescribing the office, functions and powers of the Director-General shall not be passed by the Assembly unless it is supported at the final voting in the Assembly by the votes of not less than two-thirds of all the members of the Assembly.

4. Chapter VIIIA inserted in Constitution

The Constitution is amended by inserting, after Chapter VIII, the following new Chapter –

CHAPTER VIIIA – INDEPENDENT ADVISORY PANEL

95A. Independent Advisory Panel

(1) There shall be an Independent Advisory Panel which shall consist of –

(a) a person who holds or has held office as a Judge of a Court having unlimited jurisdiction in civil or criminal matters in another jurisdiction or over a Court having jurisdiction in appeals from such a Court, or over an international Court or Tribunal, as Chairperson;

(b) 2 persons having outstanding senior experience and achievement in another jurisdiction in the field of investigation and combating financial crime, complex crime, serious crime or organised crime, including fraud, corruption or money laundering, or having outstanding senior experience and achievement in the inspection of major law enforcement bodies in another jurisdiction; and

(c) 2 persons of recognised integrity and distinction.

(2) A member of the Independent Advisory Panel shall be appointed by the President for a period of 5 years and shall not be eligible for reappointment.

(3) No person shall be appointed under subsection (1)(c) where –

(a) at any time during the 5 years preceding such proposed appointment, he was a member of the Assembly or a local authority;

(b) at any time during the 5 years preceding such proposed appointment, he was an office bearer of a political party or other political organisation;

(c) at any time during the 10 years preceding such proposed appointment, he was engaged in politics on behalf of any political party in Mauritius or elsewhere;

(d) he is a public officer, a local government officer or an employee of a statutory body; or

(e) he is a person who receives, or is entitled to receive, fees or allowances specified in section 112(3).

(4) The appointment of a member of the Independent Advisory Panel shall terminate –

(a) where any circumstances arise that, if he did not hold that office, would cause him to be disqualified for appointment;

(b) at the expiration of the period of his appointment;

(c) if he resigns from office by writing under his hand addressed to the President; or

(d) if he is removed from office by the President in accordance with section 95B.

(5) Where an appointment is terminated under subsection (4)(a), no compensation shall become payable to the holder for loss of office by reason of the lapse of his appointment.

(6) Where the office of Chairperson of the Independent Advisory Panel is vacant or the Chairperson is for any reason unable to perform the functions of his office, those functions shall be performed by such one of the members of the Panel as the President may appoint.

(7) Where at any time there are less than 2 members of the Independent Advisory Panel besides the Chairperson or where any such member is acting as Chairperson or is for any reason unable to perform the functions of his office, the President may appoint a person qualified for appointment as a member of the Panel to act as a member, and any

person so appointed shall continue to act until his appointment is revoked by the President or for a term not exceeding 12 months, whichever is sooner, and shall not be eligible for reappointment.

(8) The functions of the President under this section shall be exercised by him acting in his own deliberate judgment, except under subsections (6) and (7) where such functions shall be exercised by him after consultation with the members of the Independent Advisory Panel.

95B. Removal of members of Independent Advisory Panel

(1) A member of the Independent Advisory Panel may be removed from office only for inability to discharge the functions of his office whether arising from infirmity of body or mind, or for any other cause, or for misbehaviour and shall not be removed except in accordance with this section.

(2) A member of the Independent Advisory Panel shall be removed from office by the President where the question of his removal from that office has been referred to a Tribunal appointed under subsection (3) and the Tribunal has recommended to the President that he ought to be removed from office for any of the reasons specified in subsection (1).

(3) Where the President, acting in his own deliberate judgment, considers that the question of removing a member of the Independent Advisory Panel ought to be investigated –

(a) the President shall appoint a Tribunal which shall consist of a Chairperson and not less than 2 other members, being persons who hold or have held office as a Judge of a Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a Court having jurisdiction in appeals from such a Court; and

(b) that Tribunal shall enquire into the matter and report on the facts to the President and recommend to the President whether the member of the Independent Advisory Panel ought to be removed under this section.

(4) Where the question of removing a member of the Independent Advisory Panel has been referred to a Tribunal under subsection (3), the President, acting in his own deliberate judgment, may suspend the member from performing the functions of his office and any such suspension may at any time be revoked by the President, acting in his own deliberate judgment, and shall in any case cease to have effect where the

Tribunal recommends to the President that the member should not be removed.

95C. Appointment of Director-General of National Crime Agency

(1) Subject to subsection (2), the power to appoint a person to hold the office of Director-General of the National Crime Agency, to exercise disciplinary control over the person holding such office and to remove such person from office shall vest in 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) Notwithstanding subsection (1), the first person to hold the office of Director-General of the National Crime Agency shall be appointed in such manner as may be prescribed.

95D. Evaluation of National Crime Agency

The Independent Advisory Panel shall, in addition to its functions under section 95C, evaluate and report on the functioning of the National Crime Agency to the President and the Prime Minister at such intervals as may be prescribed.