THE CRIMINAL JUSTICE (OFFENDERS ASSISTING INVESTIGATIONS AND PROSECUTIONS) BILL
(No. XXIV of 2026)

Explanatory Memorandum

The object of this Bill is to provide immunity from prosecution and reduced sentences in certain circumstances, and for matters incidental and connected thereto.

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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A BILL

To provide immunity from prosecution and for reduced sentences in certain circumstances, and for matters incidental and connected thereto

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Criminal Justice (Offenders Assisting Investigations and Prosecutions) Act 2026.

2. Interpretation

In this Act –

"Immunity Notice" means a written notice issued under section 4;

"Restricted-use Undertaking" means a written undertaking issued under section 5;

"Sentencing Reduction Agreement" means a written agreement issued under section 6.

3. Declaration of certain existing rights

(1) Nothing in this Act shall affect the right of an accused to plead guilty to a charge without entering into any undertaking under this Act.

(2) Save as expressly agreed otherwise by the Director of Public Prosecutions, nothing in this Act shall affect the powers conferred upon him under section 72 of the Constitution.

PART II – IMMUNITY FROM PROSECUTION AND REDUCED SENTENCES

4. Immunity from prosecution

(1) Where the Director of Public Prosecutions is of the opinion that, for the purpose of an investigation or a prosecution for an offence, it is appropriate to offer a person full immunity from prosecution for the offence, the Director of Public Prosecutions may, in exceptional circumstances and in the public interest, issue the person with an Immunity Notice.

(2) Where a person is issued with an Immunity Notice, no proceedings for an offence of a description specified in the notice may be brought against that person except in circumstances specified in the notice.

(3) An Immunity Notice shall –

(a) be in writing and signed by the Director of Public Prosecutions or a law officer, not below the rank of Assistant Director of Public Prosecutions, duly authorised by him;

(b) specify the offences to which immunity applies;

(c) state the nature of the assistance to be provided; and

(d) contain conditions with which the person should comply.

(4) An Immunity Notice shall cease to have effect in relation to the person to whom it is issued where the person –

(a) fails to comply with any condition specified in the notice;

(b) fails to provide truthful and complete assistance;

(c) breaches the conditions of the notice; or

(d) commits a further serious offence.

5. Restricted-use Undertaking

(1) Subject to section 13, where the Director of Public Prosecutions is of the opinion that, for the purpose of an investigation or a prosecution for an offence, it is appropriate to offer a person an undertaking that information of any description shall not be used against the person in any proceedings to which this section applies, the Director of Public Prosecutions may issue the person with a Restricted-use Undertaking.

(2) This section applies to –

(a) criminal proceedings; and

(b) ancillary proceedings, including those under Sub-part III of Part II of the Asset Recovery and Unexplained Wealth Act 2026.

(3) Subject to section 13, where a person is issued with a Restricted-use Undertaking, the information described in the undertaking shall not be used against that person in any proceedings to which this section applies and which are brought in Mauritius, except in the circumstances specified in the undertaking.

(4) A Restricted-use Undertaking shall not prevent the use of information –

(a) in proceedings for perjury, giving false information or breach of the undertaking; or

(b) where the information is otherwise lawfully obtained from an independent source.

(5) A Restricted-use Undertaking shall cease to have effect in relation to the person to whom it is issued where the person –

(a) fails to comply with any condition specified in the undertaking.

(b) fails to provide truthful and complete assistance;

(c) breaches any condition of the undertaking; or

(d) commits a further serious offence.

6. Sentencing Reduction Agreement

(1) This section applies where an accused –

(a) has pleaded guilty; and

(b) has, pursuant to a Sentencing Reduction Agreement, assisted or offered to assist the investigator or prosecutor in relation to any other offence or criminal proceedings.

(2) A Court, in determining what sentence to pass on an accused, shall take into account the extent and nature of the assistance given by the accused.

(3) For the purpose of subsection (2), the Court shall determine the extent of reduction, considering –

(a) the significance and usefulness of the assistance;

(b) the risk to the accused; and

(c) the timeliness of the cooperation.

(4) Where a Court passes a sentence which is less than it would have passed but for the assistance given, it shall state in open Court –

(a) that it has passed a lesser sentence than it would otherwise have passed; and

(b) what the greater sentence would have been.

(5) Subsection (4) shall not apply where the Court is of the opinion that it would not be in the public interest to disclose that the sentence has been discounted, and in such a case, the Court must give written notice of the matters specified in subsection (4)(a) and (b) to both the prosecutor and the accused.

(6) The power of a Court to act under subsection (2) shall not be affected by anything in any enactment which –

(a) requires that a minimum sentence is passed in respect of any offence or by reference to the circumstances of any accused (whether or not the enactment also permits the Court to pass a lesser sentence in particular circumstances); or

(b) in the case of a sentence which is fixed by law, requires the Court to take into account certain matters for the purpose of making an order which determines or has the effect of determining the minimum period of imprisonment which the

accused shoud serve (whether or not the enactment also permits the Court to fix a lesser period in particular circumstances).

(7) Where, in determining what sentence to pass on the accused, the Court takes into account the extent and nature of the assistance given or offered as specified in subsection (2), it does not prevent the Court from also taking account of any other matter, which it is entitled by virtue of any other enactment, to take account of for the purpose of determining –

(a) the sentence; or

(b) in the case of a sentence which is fixed by law, any minimum period of imprisonment which an accused shall serve.

(8) In this section, a reference to a sentence includes –

(a) in the case of a sentence which is fixed by law, a reference to the minimum period an accused is required to serve, and a reference to a lesser sentence shall be construed accordingly; or

(b) any other custodial sentence.

7. Assistance by accused – review of sentence

(1) This section shall apply where –

(a) the Court has passed a sentence on a person in respect of an offence; and

(b) the person –

(i) receives a discounted sentence in consequence of that person having given, in pursuance of a written agreement, assistance to the prosecution or investigation of an offence and, having given the assistance in accordance with the agreement, in pursuance of another written agreement, gives further assistance; or

(ii) receives a sentence which is not discounted but in pursuance of a written agreement the person subsequently gives assistance to the prosecution or investigation of an offence.

(2) The Director of Public Prosecutions may, at any time, refer the case back to the Court by which the sentence was passed where –

(a) the person is still serving his sentence; and

(b) the Director of Public Prosecutions is of the opinion that it is in the interests of justice to do so.

(3) A case referred under subsection (2) shall, as far as possible, be heard by the Judge or Magistrate who passed the sentence to which the referral relates.

(4) Where the Court is satisfied that a person who falls within subsection (1)(b)(i) knowingly failed to give the assistance, it may substitute for the sentence to which the referral relates, such greater sentence, not exceeding that which it would have passed but for the agreement to give assistance, as it thinks appropriate.

(5) In a case of a person who falls within subsection (1)(b)(i) or (ii), the Court may –

(a) take into account the extent and nature of the assistance given or offered; and

(b) substitute for the sentence to which the referral relates, such lesser sentence as it thinks appropriate.

(6) Any part of the sentence to which the referral relates which the person has already served shall be taken into account in determining when a greater or lesser sentence imposed under subsection (4) or (5) has been served.

(7) A person in respect of whom a reference is made under this section, or the Director of Public Prosecutions, may appeal against any sentence imposed in the circumstances set out in this section or section 6.

(8) A discounted sentence shall be a sentence passed pursuant to section 6 or subsection (5).

(9) References to a written agreement shall be an agreement made in writing with the Director of Public Prosecutions.

(10) A person does not fall within subsection (1) where –

(a) the person was convicted of an offence for which the sentence is fixed by law; and

(b) the person did not plead guilty to the offence for which the person was sentenced.

(11) Section 6(3) to (7) shall apply for the purpose of this section as they apply for the purpose of section 6, and any reference in those subsections to subsection (2) of section 6 shall be construed in the same manner as a reference to subsection (5) of this section.

8. Proceedings under section 7 – exclusion of public

(1) This section shall apply to –

(a) any proceedings relating to a reference made under section 7(2); and

(b) any other proceedings arising in consequence of such proceedings.

(2) The Court in which the proceedings are being, or will be, heard may make such order as it thinks appropriate –

(a) to exclude from the proceedings any person who does not fall within subsection (4); and

(b) to give such directions as it thinks appropriate prohibiting the publication of any matter relating to the proceedings, including the fact that the reference has been made.

(3) An order under subsection (2) may be made only to the extent that the Court thinks that it is –

(a) necessary to do so to protect the safety of any person; and

(b) in the interests of justice.

(4) The following persons fall within this subsection –

(a) an officer of the Court;

(b) a party to the proceedings;

(c) a law practitioner for a party to the proceedings; and

(d) a person otherwise directly concerned with the proceedings.

(5) This section shall not affect any other power which the Court has by virtue of any other enactment –

(a) to exclude any person from proceedings; or

(b) to restrict the publication of any matter relating to proceedings.

9. Legal representation

The Director of Public Prosecutions shall, before commencing negotiations with any person for an Immunity Notice, a Sentencing Reduction Agreement or a Restricted-use Undertaking –

(a) inform the person, where the person is not legally represented –

(i) of the person's right to legal representation if the person so desires;

(ii) of the person's right to apply for legal aid in respect of such negotiations if the person cannot afford legal representation;

(iii) of the person's right to protection against self-incrimination;

(iv) of the person's right to be presumed innocent;

(v) of the person's right to seek a sentence indication from the Court of the maximum sentence that the Court may impose if the person pleads guilty to an offence; and

(vi) that the person may elect to have a third party of the person's choice present during negotiations;

(b) be notified by the person in writing that, having been advised by the Director of Public Prosecutions of the matters set out in paragraph (a), that the person desires –

(i) to enter into discussions relating to immunity, a reduced sentence or a Restricted-use Undertaking; and

(ii) to represent himself in the negotiations; and

(c) ensure that the Court –

(i) has been informed of the matters set out in paragraphs (a) and (b);

(ii) is satisfied that the person is competent to enter into negotiations for immunity, a reduced sentence or a Restricted-use Undertaking; and

(iii) approves of the initiation of the negotiations.

10. Sealing of records of negotiations

A Judge or Magistrate may, upon application or in the discretion of the Judge or Magistrate, order that the records of negotiations or an agreement be sealed, where the Judge or Magistrate is satisfied that the sealing of those records is in the interests of the effective administration of justice.

11. Obligation for secrecy

(1) Every person who is acting in the administration of this Act shall regard and deal with, as secret and confidential, all information relating to an agreement under this Act before it is presented to the Court or consequent upon the records of the agreement being sealed by the Court.

(2) Every person referred to in subsection (1), who has possession of, or control over, any document, record or other information, and at any time communicates or attempts to communicate anything contained in such documents or records to any person except –

(a) where to do so is in accordance with subsection (1);

(b) pursuant to a Court Order; or

(c) in the case of the Director of Public Prosecutions, where the Director of Public Prosecutions is required to do so fulfil his continuing duties of disclosure or other statutory obligations,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding one year.

(3) Any person to whom documents, records or other information are communicated in accordance with this Act shall regard and deal with such documents, records or other information as secret and confidential.

(4) A person referred to in subsection (3) who, at any time, communicates or attempts to communicate any information or give any document or record referred to in that subsection to any person otherwise than for the purposes of this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding one year.

12. Victim to be informed of notice, agreement and other negotiations

(1) Subject to section 10 –

(a) prior to an Immunity Notice or a Restricted-use Undertaking being issued, or prior to an agreement being reached to reduce the sentence of any accused, the Director of Public Prosecutions may permit a victim of the offence to make representations to the Director of Public Prosecutions in writing and may take such representations into consideration in concluding an agreement; and

(b) where an Immunity Notice or a Restricted-use Undertaking is issued, or an agreement to reduce the sentence of any accused is concluded, the Director of Public Prosecutions shall, unless otherwise required by compelling reasons in the interest of justice, as soon as is reasonably practicable, communicate with the victim in respect of –

(i) the substance of and reasons for the immunity, the Restricted-use Undertaking or the Sentencing Reduction Agreement; and

(ii) the entitlement of the victim to be present when the Court considers any of the above.

(2) Where the victim has died or is incapacitated, the Director of Public Prosecutions shall communicate with a member of the victim's immediate family in respect of the matters set out under subsection (1).

(3) Where the victim is a child –

(a) under the age of 16, representations may be made by one of the child's parents or guardian, or where the parents or guardian cannot be located, a guardian ad litem; or

(b) who is 16 years of age or older, representations may be made –

(i) by the child and one of the child's parents or guardian; or

(ii) where the parents or guardian cannot be located, a guardian ad litem.

13. Court not bound by Immunity Notice, Restricted-use Undertaking or Sentencing Reduction Agreement

A Court shall not be bound to accept an Immunity Notice, a Restricted-use Undertaking or an agreement for a reduced sentence.

14. Witness protection

(1) An offender may be admitted to the Witness Protection Programme where his safety is at risk.

(2) Measures under the Witness Protection Programme may include relocation, anonymity, or protective custody, consistent with international best practice.

PART III – MISCELLANEOUS PROVISIONS

15. Annual report

(1) The Director of Public Prosecutions shall, as soon as possible after the expiration of the year and in any event not later than the 31st day of March in any year, submit to the Attorney-General an annual report on the application of this Act, setting out –

(a) the number of Immunity Notices issued;

(b) the number of Restricted-use Undertakings;

(c) the number of sentencing reductions or reviews; and

(d) statistical outcomes, without disclosing identities.

(2) The Attorney-General shall cause the report to be laid before the National Assembly.

16. Regulations

The Attorney-General may, after consultation with the Director of Public Prosecutions, make such regulations as he thinks fit for the purposes of this Act.

17. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

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