

NATIONAL CRIME INTELLIGENCE AGENCY (AMENDMENT) BILL, 2024

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**NATIONAL CRIME INTELLIGENCE AGENCY
(AMENDMENT) BILL, 2024**

**A BILL FOR AN ACT TO AMEND THE NATIONAL CRIME
INTELLIGENCE AGENCY ACT TO PROVIDE FOR THE
ESTABLISHMENT OF THE NATIONAL CRIME
INTELLIGENCE AGENCY COMMISSION, ITS
CONSTITUTION, FUNCTIONS, AND PROCEDURES AND
FOR MATTERS CONNECTED THEREWITH**

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Bill, which amends the National Crime Intelligence Agency Act, 2019 (*No. 22 of 2019*), may be cited as the National Crime Intelligence Agency (Amendment) Bill, 2024.
- (2) This Act shall come into operation on such date as the Minister may appoint by notice published in the *Gazette*.

2. Amendment of short title of the principal Act.

The short title of the principal Act is amended by the deletion of the word “Crime”.

3. Amendment of long title of the principal Act.

The long title of the principal Act is amended by the deletion of the word “Crime”.

4. Amendment of section 1 of the principal Act.

Subsection (1) of section 1 of the principal Act is amended by the deletion of the word “Crime”.

5. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended —

- (a) in the definition of “**Director**”, by the deletion of the words “National Crime Intelligence” and the substitution of the words “the National Intelligence Agency”;
- (b) by the insertion in the appropriate alphabetical order, of the following definitions —

“**agent**” means a person responsible for the collection of information and intelligence related activities suspected of constituting a threat to the security of The Bahamas;

“**Commission**” means the National Intelligence Agency Commission established under section 3A; and

“**peace officer**” means a person lawfully authorized to discharge the duties of a police officer;”.

6. Insertion of new Part IA into the principal Act.

The principal Act is amended by the insertion, immediately after section 3, of the following new Part —

“PART IA - NATIONAL INTELLIGENCE AGENCY COMMISSION

3A. Establishment of the National Intelligence Agency Commission.

- (1) For the purposes of this Act, there is established a National Intelligence Agency Commission.
- (2) The provisions of Part I of the *Fifth Schedule* shall have effect as to the constitution of the Commission and otherwise in relation thereto.

3B. Functions of Commission.

The functions of the Commission are —

- (a) the appointment, promotion and discipline of the following agents—
 - (i) Deputy Director
 - (ii) Assistant Director
 - (iii) Senior Manager Special Agent

- (iv) Manager Special Agent
- (b) to hear appeals from disciplinary action of the Director taken against the following—
 - (i) Senior Agent Supervisor;
 - (ii) Special Agent 1;
 - (iii) Special Agent 2;
 - (iv) Special Agent 3;
 - (v) Special Agent 4;
 - (vi) Trainee Agent;
 - (vii) any other employee;
- (c) to consider and determine any matter submitted to it from any agent appointed by it under paragraph (a);
- (d) to consider and determine any matter submitted to it by the Director from any agent or employee appointed by the Director;
- (e) to perform any other function conferred or imposed on it, by this or any other Act.

3C. Appeals from the Commission.

Any agent aggrieved by a decision of the Commission relating to the discipline of persons referred to in section 3B(a) may appeal to the Court of Appeal and in relation to the appeal, section 9 of the Court of Appeal Act (Ch. 52) shall apply.”

7. Amendment of Part II heading of the principal Act.

The Part II heading of the principal Act is amended by the deletion of the word “Crime”.

8. Amendment of section 4 of the principal Act.

Section 4 of the principal Act is amended—

- (a) in the headnote by the deletion of the word “Crime”;
- (b) in subsection (1) by the deletion of the word “Crime”; and
- (c) by the deletion of subsection (3) and the substitution of the following—
 - “(3) The Agency shall consist of the Director, agents in the ranks specified in the *Sixth Schedule* and other employees who are not agents.”.

9. Amendment of section 7 of the principal Act.

Subsections (1) and (3) of section 7 are amended by the deletion of the words “National Crime Intelligence” and the substitution of the words “ the National Intelligence Agency”.

10. Amendment of section 8 of the principal Act.

Section 8 of the principal Act is amended in subsection (1) by the insertion immediately after paragraph (b) of the following paragraph—

- “(c) be responsible for the appointment, promotion and discipline of the following —
- (i) Senior Agent Supervisor;
 - (ii) Special Agent 1;
 - (iii) Special Agent 2;
 - (iv) Special Agent 3;
 - (v) Special Agent 4; and
 - (vi) Trainee Agent;
 - (vii) persons who are not agents.”.

11. Repeal and replacement of section 10 of the principal Act.

Section 10 of the principal Act is repealed and replaced as follows—

“10. Employment of agents and employees.

- (1) The Agency may appoint by written contracts —
 - (a) agents; and
 - (b) employees who are not agents.
- (2) The Director shall on behalf of the Agency appoint—
 - (a) persons as agents to the rank of —
 - (i) Senior Agent Supervisor;
 - (ii) Special Agent 1;
 - (iii) Special Agent 2;
 - (iv) Special Agent 3;
 - (v) Special Agent 4; and
 - (vi) Trainee Agent;
 - (b) employees who are not agents on a permanent or temporary basis.
- (3) The Commission on the recommendation of the Director shall appoint agents the rank of —
 - (a) Deputy Director;

- (b) Assistant Director;
 - (c) Senior Manager Special Agent; and
 - (d) Manager Special Agent Supervisor.
- (4) The Director or the Commission shall not appoint a person as an agent except in an office the designation and salary or salary range, terms and condition of employment which have been determined by the Minister after consultation with the Minister of Finance.”.

12. Amendment of section 12 of the principal Act.

Section 12 of the principal Act is amended by deletion of subsection (2) and the substitution of the following—

- “(2) The terms and conditions of an agent or a employee who is not an agent other than Director shall be administered by the Director or the Commission as the case may be and shall be similar to those applicable to public service officers save as otherwise provided by the terms of their employment.”.

13. Amendment of section 36 of the principal Act.

Subsection (1) of section 36 of the principal Act is amended by —

- (a) the deletion of the words “Upon the commencement of this Act, where” and the substitution of the word “Where”; and
- (b) the deletion of the words “period of one year” and the substitution of the words “period of three years”.

14. Amendment of section 37 of the principal Act.

Section 37 of the principal Act is amended —

- (a) in subsection (1), by the deletion of the words “period of one year” and the substitution of the words “period of three years”;
- (b) in subsection (3), by the deletion of the words “one year period” and the substitution of the words “three year period”.

15. Amendment of section 38 of the principal Act.

Subsection (1) of section 38 of the principal Act is amended by the deletion of the words “officer and servants” and the substitution of the words “agents and employees who are not agents”.

16. Amendment of section 41 of the principal Act.

Subsection (2) of section 41 of the principal Act is amended —

- (a) by the substitution of the full stop at the end of paragraph (b) with a semicolon; and
- (b) by the insertion immediately after paragraph (b) of the new paragraph —
 - “(c) governing the procedures that are to be followed by the Commission when hearing any disciplinary appeals.”.

17. Amendment of the Third Schedule of the principal Act.

The Third Schedule of the principal Act is amended in paragraphs 4(a)(i) and 5(3)(a) by the deletion of the word “Crime”.

18. Amendment of the Fourth Schedule of the principal Act.

The Fourth Schedule of the principal Act is amended by the deletion of the word “Crime”.

19. Insertion of new Fifth Schedule and Sixth Schedule into the principal Act.

The principal Act is amended by the insertion, immediately after the Fourth Schedule, of the following new Schedules —

“FIFTH SCHEDULE
(section 3A)

PART I

CONSTITUTION AND PROCEDURES OF THE NATIONAL INTELLIGENCE
AGENCY COMMISSION

1. Constitution of the National Intelligence Agency Commission.

- (1) The National Intelligence Agency Commission shall consist of —
 - (a) a Chairman;
 - (b) a Deputy chairman;
 - (c) a counsel and attorney-at-law with six to ten years or more standing at the Bar; and
 - (d) two other members,appointed by the Prime Minister, after consultation with the Leader of the Opposition.
- (2) Any person who is appointed as a member of the Commission in accordance with subparagraph (1) —

- (a) shall be a person of high integrity who is able to exercise competence, diligence and sound judgment in fulfilling his responsibilities under this Act;
- (b) may include any other person as the Prime Minister considers qualified to be appointed, having knowledge and experience in at least one of the following areas —
 - (i) public administration;
 - (ii) economics or financial matters; or
 - (iii) crime and fraud investigation.

2. Disqualification from appointment.

A person shall not be qualified to be appointed as a member of the Commission if that person —

- (a) is a Member of Parliament;
- (b) an engaged law enforcement officer;
- (c) has, at any time during the three years preceding the appointment, been a public officer; or
- (d) has, at any time during the five years preceding the appointment, held office in a political party.

3. Tenure of office.

- (1) Every member of the Commission shall be appointed by instrument in writing and shall, subject to the provisions of this Schedule, hold office for an initial term of three years and thereafter, shall be eligible for re-appointment for one further term of a period of three years or less.
- (2) A Member shall not be eligible for reappointment, if, by reason of consecutive appointments to the Commission, he has been a Member for a continuous period of six years.

4. Appointment of Chairman.

The Prime Minister, acting in his discretion, shall appoint one of the members of the Commission to be the Chairman.

5. Appointment of Secretary and other Commission staff.

The Prime Minister shall appoint a Secretary, and such other staff members of the Commission as he thinks necessary from time to time.

6. Acting appointments.

If any member of the Commission is absent or unable to act, the Prime Minister may, after consultation with the Leader of the Opposition, appoint a person to act in the place of such absent member for a specified period of time and such appointment shall be made in the same manner as would be required in the case of the substantive appointment.

7. Meetings.

- (1) The Chairman shall preside at all meetings of the Commission at which he is present, and if for any reason, the Chairman is unable to attend any meeting thereof, the Deputy Chairman shall assume the functions of the Chairman.
- (2) A quorum for any meeting of the Commission shall consist of three members of the Commission including the Chairman or the Deputy Chairman.
- (3) Any motion to be raised and voted upon, and any decision to be made, at any meeting of the Commission, shall be determined by a majority of the votes of the members thereof who are present.
- (4) If a vote is to be cast at any meeting specified in subparagraph (3) relative to the members of the Commission making any decision, such vote shall be equally divided, with the Chairman being empowered to make a casting vote.
- (5) A record shall be kept by the Secretary of the Commission of every member of the Commission who attends any meeting thereof and of any business which is transacted at every meeting.
- (6) Any member of the Commission who is present at any meeting thereof when a decision is made, shall be entitled to dissent and have his dissent and reasons therefor, set out on the record of such meeting.

8. Vacancy in the membership of the Commission.

- (1) The office of any member of the Commission shall become vacant —
 - (a) at the expiration of the term specified in any member's instrument of appointment;
 - (b) where the member notifies the Prime Minister, by writing under his hand, of his intention to resign his office, such resignation shall take effect when the letter of resignation is received by the Prime Minister; or
 - (c) on the death or retirement of such member.

- (2) Any member of the Commission may be removed from office by the Prime Minister for inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause, or for misbehaviour and shall not be removed except in accordance with the provisions of this paragraph.
- (3) Any member of the Commission shall be removed from office by the Prime Minister if the Tribunal established under subparagraph (4), has recommended to the Prime Minister that such member ought to be removed for the inability to discharge the functions of his office for misbehaviour.
- (4) Where the Prime Minister, acting after consultation with the Leader of the Opposition, considers that the question of removing any member of the Commission ought to be investigated, the Prime Minister shall appoint a Tribunal which shall consist of three persons, of whom —
 - (a) one shall be a justice of the Supreme Court or the Court of Appeal; and
 - (b) one shall be a person who is a counsel and attorney-at-law of at least ten years standing,to enquire into the matter and report on the facts thereof to the Prime Minister and recommend to him whether any member of the Commission ought to be removed under this paragraph.
- (5) The Tribunal appointed under subparagraph (4), shall give the member of the Commission an opportunity to show cause as to why he should not be removed from office.
- (6) Where the question of removing any member of the Commission has been referred to a Tribunal established under subparagraph (4), the Prime Minister may suspend such member of the Commission from continuing to exercise the functions of his office.
- (7) A suspension may at any time be revoked by the Prime Minister and shall in any case cease to have effect, if the Tribunal recommends to the Prime Minister that the member of the Commission should not be removed from office.
- (8) Pursuant to this paragraph, if any vacancy occurs in the membership of the Commission, that vacancy shall be filled by the appointment of another person from the categories of persons in subparagraph (2) of paragraph 1.

- (9) For the purpose of this paragraph, misbehaviour includes being absent for three consecutive meetings of the Commission by any member, without the approval of the Prime Minister.

9. Remuneration.

Every member of the Commission shall be paid such remuneration and allowances as the Prime Minister shall determine, after consultation with the Leader of the Opposition.

10. Interest in matter or proceedings before the Commission.

- (1) Where the Chairman or any other member of the Commission is interested in any matter before the Commission or any person who is a party to any proceedings before the Commission, the Chairman or other member so interested shall disclose the nature of his interest to the Commission and shall not participate in its sittings in relation to the said matter or person.
- (2) Where, in the opinion of the Prime Minister or the Commission, the Chairman or any other member of the Commission is interested in any matter before the Commission or any person who is party to any proceedings before the Commission, the Prime Minister or the Commission, as the case may be, shall direct the Chairman or other member of the Commission not to participate in the sittings of the Commission in relation to the said matter or person.

11. Oath.

Any member of the Commission shall, before assuming the functions of his office, make and subscribe the oath of office and the oath of secrecy in the form set out in Part II of this Schedule.

12. Gazetting of membership.

The appointment, resignation, revocation of appointment or death of any member of the Commission shall be published in the *Gazette*.

13. Seal and execution of documents.

- (1) The seal of the Commission shall be affixed to instruments pursuant to a resolution of the Commission.
- (2) The seal of the Commission shall be authenticated by the signature of the Chairman and one other member thereof.

PART II

NATIONAL INTELLIGENCE AGENCY COMMISSION OATH OF SECRECY

I,, being appointed Chairman/Commissioner/Secretary of the National Intelligence Agency Commission, do swear that I will not on any account or at any time disclose any opinion, advice or privileged information of the National Intelligence Agency Commission and that I will not, except with the authority of the Supreme Court or the National Intelligence Agency Commission and to such extent as may be required for the good management of the affairs of the Commission, directly or indirectly, reveal the business or the proceedings of the National Intelligence Agency Commission or the nature or any content of any document.

SIXTH SCHEDULE

(section 4)

Agents

The Agency may comprise of the following Agents:

- (i) Director
- (ii) Deputy Director
- (iii) Assistant Director
- (iv) Senior Manager Special Agent
- (v) Manager Special Agent Supervisor
- (vi) Senior Agent Supervisor
- (vii) Special Agent 1
- (viii) Special Agent 2
- (ix) Special Agent 3
- (x) Special Agent 4
- (xi) Trainee Agent”.

OBJECTS AND REASONS

The National Crime Intelligence Agency (Amendment) Bill 2024 (“the Bill”), seeks to amend the National Crime Intelligence Agency Act, 2019 (*No. 22 of 2019*), in order to make provision, *inter alia*, for the continuation of of a body to be known as The National Intelligence Agency Commission, its constitution, functions and procedures and for matters connected therewith.

Clause 1 of the Bill provides for the Short Title and appointed day notice provision to reflect the date on which the Bill when enacted as law, will come into operation.

Clauses 2, 3 and 4 of the Bill provide for the deletion of the word “Crime” from the short title, long title and section 1(1) respectively.

Clause 5 of the Bill provides for several amendments to section 2 of the principal Act, namely, the amendment of the definition of the term “Director” and by the insertion of certain new terms, namely, “agent, Commission, employee, and peace officer” along with the corresponding definitions thereof.

Clause 6 of the Bill provides for the insertion of a new Part into the principal Act and for new sections 3A – Establishment of the National Intelligence Agency Commission, 3B – Functions of the Commission and 3C Appeals from the Commission.

Clause 7 of the Bill provides for the deletion of the word “Crime” from the Part II heading.

Clause 8 of the Bill provides for the amendment of section 4 of the Act to clarify the category of persons of which the Agency shall consist of.

Clause 9 of the Bill provides for the deletion of the word “Crime” from subsections (1) and (3) of section 7.

Clause 10 of the Bill provides for the amendment of section 8 to clarify the Director would be responsible for appointment, promotion and discipline of the agents listed and other persons who are not agents.

Clause 11 of the Bill provides for the repeal and replacement of section 10 of the principal Act, to clarify which agents the Commission would be responsible for hiring and which agents the Director would be responsible for hiring.

Clause 12 of the Bill provides for the repeal and replacement of subsection (2) of section 10 of the principal Act, to stipulate that the terms and conditions of an agent

or a person who is not an agent shall be similar to those applicable to public service officers.

Clauses 13 and 14 of the Bill seeks to amend subsection (1) of sections 36 and subsections (1) and (3) of section 37 of the principal Act to extend the duration of time from one year to three years, where a public officer may be transferred from the Public Service under the Government to the service of the Agency.

Clause 15 of the Bill seeks to amend section 38 to ensure consistency in the terms used throughout the Bill.

Clause 16 of the Bill amends section 41(2) of the principal Act to provide for the insertion immediately after paragraph (b), of a new paragraph (c) to specifically provide for the making of regulations for governing the procedures that are to be followed by the Commission when hearing any disciplinary appeals.

Clauses 17 and 18 of the Bill provide for the deletion of the word “Crime” from the Third Schedule and the Fourth Schedule.

Clause 19 of the Bill makes provision for the insertion, immediately after the Fourth Schedule, of a new Fifth Schedule which provides for the procedures of the National Intelligence Agency Commission, and the form of the oath of office and secrecy of such Commission and a new and Sixth Schedule which specifies the ranks Agents and positions of the National Intelligence Agency.