

**THE MAJOR ORGANISED CRIME AND
ANTI-CORRUPTION AGENCY (MOCA) ACT**

(Act of 2017)

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SCHEDULES.

**A BILL
ENTITLED**

AN ACT to Provide for the establishment of an Agency of Government to be known as the Major Organised Crime and Anti-Corruption Agency to investigate and prosecute serious crime and matters related thereto.

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:-

PART I. *Preliminary*

Short title and commencement.

1. This Act may be cited as the Major Organised Crime and Anti-Corruption Agency Act, 2017 and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Interpretation.

2. In this Act unless the context otherwise requires –

“act of corruption” means –

(a) an offence under the *Corruption (Prevention) Act*;

(b) an offence relating to the conduct of any person that constitutes an abuse or misuse of his office (whether or not within the public sector) for the purpose of conferring a benefit or an advantage to himself or another person being an offence arising under the common law or any enactment;

“Agency” means the Major Organised Crime and Anti-Corruption Agency established by section 5(1);

“appointed day” means the day on which this Act comes into operation;

“Committee” means the Major Organised Crime and Anti-Corruption Agency Oversight Committee established by section 32;

“complaint” means a complaint made under section 35;

“counter-terrorism function” means a function relating to the prevention or detection of terrorist activity or the investigation or prosecution of

terrorism offences;

“Director-General” means the Director-General of the Agency appointed under section 12;

“document” means in addition to a document in writing, any thing or manner in which information of any description is recorded or stored;

“existing Agency” means the Agency of Government in existence immediately before the appointed day and known as the Major Organised Crime and Anti-Corruption Agency;

“foreign intelligence department” means the body in a country, other than Jamaica, which performs in that country, functions similar to those of the Agency;

“functions” includes powers and duties;

“intelligence officer” means an officer who is involved in the collection, compilation, analysis, processing and dissemination of information relevant to activities to combat serious crime;

“law enforcement agency” means a person or authority with functions relating to the investigation and prosecution of criminal offences and includes a foreign intelligence department;

“officer” means an individual, employee, officer or agent of the Agency;

“plan” means the plan referred to in section 25;

“serious crime” means an offence which is specified or falls within a description specified in the First Schedule, which the Director-General, considers to be sufficiently serious for the Agency to conduct an investigation under this Act, after considering any of the following factors –

**First
Schedule.**

- (a) whether or not the crime is transnational in nature; or
- (b) whether or not the crime poses a significant threat to national security and public safety;

“strategic partners” means –

- (a) the Director of Public Prosecutions;
- (b) the Chief of Defence Staff;
- (c) the Commissioner of Police;
- (d) the Commissioner General of Tax Administration Jamaica;
- (e) the Commissioner of Customs;
- (f) the Chief Executive Officer of the Passport, Immigration and Citizenship Agency;
- (g) the Chief Technical Director of the Financial Investigations Division;
- (h) the Commissioner of the Revenue Protection Division;
- (i) the Contractor-General;
- (j) the Corruption Prevention Commission;
- (k) the Integrity Commission;
- (l) the Registrar General appointed under section (4) of the Registration of Births and Deaths Act; and
- (m) the Commissioner of Corrections;

“terrorism offence” has the meaning assigned to it in section 2 of the *Terrorism Prevention Act*;

“terrorist activity” has the meaning assigned to it in section 2 of the *Terrorism Prevention Act*.

**Principal
objects of
Act.**

3. The principal objects of this Act are to –
- (a) establish an Agency which will have sufficient operational independence and autonomy and be dedicated to combating serious crime, in collaboration with strategic partners and law enforcement agencies, whether in or outside Jamaica;
 - (b) promote and strengthen measures for the prevention, detection, investigation and prosecution of serious crime;

- (c) enhance public confidence so that perpetrators of serious crime will be brought to justice without undue delay; and
- (d) promote and protect public safety and national security.

Savings for mutual assistance.

4. Nothing in this Act shall affect the provision of assistance under the *Mutual Assistance (Criminal Matters) Act*.

PART II. Major Organised Crime and Anti-Corruption Agency

Establishment of the Agency.

5. – (1) There is established, for the purposes of this Act, an Agency to be known as the Major Organised Crime and Anti-Corruption Agency.

- (2) The Agency shall be a body corporate for the purposes of section 28 of the *Interpretation Act*.

Functions of the Agency.

6. Subject to the provisions of this Act, the functions of the Agency shall be to –

- (a) carry out efficient and effective activities to combat serious crime, whether by itself or in collaboration with strategic partners and law enforcement agencies, whether in or outside Jamaica;
- (b) implement measures for the prevention, detection, reduction and mitigation of the consequences of serious crime;
- (c) receive complaints in relation to alleged or suspected acts involving serious crime;
- (d) investigate alleged or suspected acts involving serious crime;
- (e) prosecute offences relating to serious crime;
- (f) gather, store, process, analyze and disseminate information that is relevant to activities to combat serious crime;
- (g) collaborate, co-operate, and co-ordinate intelligence and other activities, with any other person or authority, whether in or outside Jamaica, in order to prevent, detect, reduce or investigate serious crime; and
- (i) carry out such other functions conferred on the Agency by this Act and any other enactment.

- Functions of prosecution and investigation to be performed separately.**
7. Pursuant to paragraph (d) and (e) of section 6, the same individual shall not perform the functions of investigation and prosecution under this Act.
- Power of investigation not to affect exercise of investigative or prosecutorial functions of other law enforcement agency.**
8. – (1) Subject to section 9(1), the conferral of powers of investigation and prosecution upon the Agency by this Act shall not be construed as affecting the exercise of any function relating to the investigation or prosecution of offences conferred upon another law enforcement agency or any other person or authority, whether such functions are similar to these powers or not.
- (2) If, either before or after the commencement of an investigation, the Commissioner of Police or the head of a law enforcement agency, other than the Director-General, forms a view that the investigation should be conducted by the Agency, the Commissioner of Police or the head of that law enforcement agency may refer the investigation to the Agency and the Director-General shall determine whether to accept responsibility for the investigation and inform the Commissioner of Police or the head of the law enforcement agency, as the case may be, of his decision.
- Co-operation with other bodies.**
9. – (1) A law enforcement agency shall take reasonable steps to cooperate with the Agency in the exercise of its function under this Act.
- (2) Subject to subsection (3), the Agency shall take reasonable steps to cooperate with any strategic partner or law enforcement agency in the exercise of any function conferred on the strategic partner or law enforcement agency under this Act or any other enactment.
- (3) If after consultation with the Director-General, it appears to the Minister that it is appropriate for the Agency to provide specified assistance to another law enforcement agency, the Minister may direct the Director-General to provide specified assistance to that law enforcement agency and the Director-General shall take reasonable steps to comply with the directions of the

Minister.

Agency subject to oversight by Committee.

10. The Agency shall be subject to the oversight of the Committee.

Ministerial direction.

11. – (1) Subject to the provisions of this Act, the Minister may, after consultation with the Director-General, give to the Director-General such directions of a general character as to the policy to be followed by the Agency in the exercise of its functions as appear to the Minister to be necessary in the public interest, and the Director-General shall ensure that effect is given to those directions.

(2) Subject to subsection (4), the Minister shall approve the strategic plan for the Agency.

(3) In approving the strategic plans for the Agency, the Minister shall consult –

- (a) the Committee;
- (b) the Director-General;
- (c) the strategic partners; and
- (d) any other person whom the Minister considers it is appropriate to consult.

PART III. Administration

Appointment of Director-General of the Agency.

12. – (1) For the due administration of the Agency, there shall be appointed a Director-General.

(2) The Director-General shall be appointed by the Governor-General, upon the recommendation of the Minister, subject to the approval of the Prime Minister after consultation with the Leader of the Opposition.

(3) Subject to section 16, the Director-General shall be appointed for a period of three years and shall be eligible for reappointment.

Disqualification for appointment

13. – (1) Subject to section 20, a person shall not be qualified for

as Director-General. appointment as Director-General if the person –

- (a) is a member of –
 - (i) the Senate;
 - (ii) the House of Representatives;
 - (iii) the Council of a Municipal Corporation, City Municipality or Town Municipality;
- (b) is bankrupt; or
- (c) has been convicted of an offence involving dishonesty or moral turpitude.

(2) A Director-General shall vacate his office if any circumstances arise that, if he were not Director-General, would, by virtue of subsection (1), cause him to be disqualified for appointment as such.

Functions of the Director-General.

14. – (1) The Director-General shall –
- (a) be responsible for the day to day administration and operation of the Agency and shall have the sole operational command and superintendence of the Agency;
 - (b) determine the policy priorities of the Agency in accordance with the strategic plan and the annual plan;
 - (c) be responsible for the day to day operations of the Agency;
 - (d) determine the operational priorities for the Agency and those priorities may relate to –
 - (i) matters to which current strategic priorities also relate; or
 - (ii) other matters,
 but operational priorities shall, in any event, be framed so as to be consistent with the current strategic priorities and strategic plan;
 - (e) establish and implement practices for internal disciplinary procedures.
- (2) The Director-General shall have the power to decide –
- (a) which operations are to be conducted by the Agency; and

(b) how the operations are to be conducted.

(3) For the purposes of this Act, the Director-General shall have the powers of a constable and may, in writing, designate an officer as a person having any of those powers.

(4) The Director-General shall not designate an officer under subsection (3) unless the Director-General is satisfied that the officer –

(a) is capable of effectively exercising the power; and

(b) has received adequate training in respect of the exercise of those powers.

(5) The Director-General may modify or withdraw a designation of an officer by giving notice in writing of the modification or withdrawal to the officer.

(6) For the purposes of the exercise of the powers under subsection (3) by the Director-General or an officer designated by him, the Director-General may make arrangements for the Agency to use premises or facilities used in connection with those functions.

Delegation of functions.

15. – (1) The Director-General may delegate, in writing, the exercise of any function conferred upon him by or under this Act, (other than the power of delegation) to such officer or officers of the Agency (hereinafter called “the delegate”) as he thinks fit.

(2) A delegation under subsection (1) shall not affect –

(a) the exercise of the delegated function by the Director-General; or

(b) the responsibility of the Director-General in relation to acts of the delegate carried out in lawful exercise of the delegated function.

(3) Any act done by or in relation to the delegate pursuant to the delegated function shall have the same effect as if done by or in relation to the Director-General.

(4) It is declared, in the interest of certainty, that a delegation under

subsection (1) shall, in addition to conferring authority to exercise the delegated function, also subject the delegate to the same obligations as would apply under this Act to the Director-General's exercise of such function, and accordingly, the delegate shall be liable for any wrongful act or omission of the delegate occurring in the exercise of that authority.

(5) A delegation of any function shall be revocable by the Director-General in writing.

Removal of Director-General.

16. The Director-General may be removed from office if he –

- (a) is suffering from a mental disorder within the meaning of the *Mental Health Act*;
- (b) becomes incapable of satisfactorily discharging the functions of his office;
- (c) is bankrupt;
- (d) is convicted of any offence involving dishonesty or moral turpitude;
- (e) fails, without reasonable excuse, to carry out any of the functions conferred or imposed on him under this Act or requirements specified in his contract of employment, an annual plan, a plan or a performance agreement; or
- (f) is proven to have brought disrepute to the Agency through misconduct.

Resignation.

17. The Director-General may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the Minister, and the resignation shall take effect from the date on which the Minister receives the instrument or the date specified in the instrument, whichever is earlier.

Filling of vacancy in office of Director-General.

18. – (1) Where a vacancy arises in the office of Director-General, a suitable person may be designated to act in that office during such vacancy until an appointment is made.

(2) Where, by reason of illness, absence from Jamaica or other

sufficient cause, the Director-General is unable to perform his functions under this Act –

- (a) he may, after consultation with the Committee, appoint an officer of the Agency to perform those functions for a period not exceeding two months; or
- (b) if the Director-General is unable, or fails to appoint a person under paragraph (a), or if it is necessary to make such an appointment for a period in excess of two months, the appointment shall be made in the same manner as specified in section 12.

Appointment of other officers of the Agency and functions of investigating officer and prosecuting officer.

19. – (1) Subject to section 7, the Director-General, shall appoint such officers as may be necessary for the efficient operation of the Agency, including –

- (a) investigating officers, who shall investigate, in the manner specified by or under this Act, any allegation that involves or may involve serious crime; and
- (b) prosecuting officers, who shall, subject to the powers conferred on the Director of Public Prosecutions by section 94 of the *Constitution*, institute, undertake and have the conduct of prosecution in respect of an offence relating to serious crime.

(2) Except as provided for in subsection (1)(b), any prosecuting officer appointed thereunder, shall not be subject to the direction or control of any person in relation to the conduct of his prosecutorial functions under this Act.

(3) No salary in excess of the prescribed rate shall be assigned to any post within the Agency without the prior approval of the Minister.

(4) No appointment shall be made to any post within the Agency to which salary in excess of prescribed rate is assigned without the prior approval of the Minister.

(5) For the purposes of subsections (3) and (4), the “prescribed rate”

means such rate as the Minister responsible for the public service may, by order, prescribe.

(6) The Governor General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of the Government to any office within the Agency and any public officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Government.

(7) The Agency may, with the approval of the Minister –

- (a) enter into arrangements respecting schemes whether by way of insurance policies or otherwise; and
- (b) make regulations, for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits relating to employees of the Agency and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the legal personal representatives of such officers.

Procedures relating to appointment. 20. – (1) The appointment of the Director-General and other officers of the Agency, and the members of the Committee shall be subject to positive vetting procedures.

(2) A person shall not be eligible to be appointed to the post of Director-General under section 12 or any other post under section 19 unless the person –

- (a) has received adequate training in respect of the performance of the duties of the post;
- (b) is capable of effectively performing the duties of the post; and
- (c) is a person of integrity, capable of exercising competence, diligence sound judgment and impartiality in fulfilling his functions in accordance with the provisions of the Act.

Obligation of secrecy.

21. – (1) Every person having an official duty or being employed or otherwise connected with the administration of this Act shall –

- (a) regard and deal with as secret and confidential, all information or documents relating to the functions of the Agency; and
- (b) upon assuming such duty or employment, take and subscribe an oath in

Second Schedule.

the form set out in the Second Schedule, to be administered –

- (i) in the case of the Director-General, by the Governor-General;
- (ii) in the case of any other officer, by the Director-General.

(2) Every person who had an official duty or was employed in the administration of this Act shall maintain, after such duty or employment is terminated, the confidentiality of all information or documents relating to the functions of the Agency.

(3) Any person to whom information is communicated pursuant to this Act shall regard and deal with the information as secret and confidential.

(4) Every person referred to in subsection (1), (2) or (3) having possession of or control over any information or document, who at any time communicates or attempts to communicate any such information or any thing contained in the document to any person, otherwise than pursuant to –

- (a) his functions under this Act or any other enactment;
- (b) a court order; or
- (c) an arrangement entered into for the exchange of information under section 31,

commits an offence.

(5) For the purposes of this section, “information” includes information from which a person can be identified and which is acquired by the Agency in the course of carrying out its functions.

PART IV. *Financial Provisions, Plans and Reports***Funds and resources of**

22. The Funds and the resources of the Agency shall consist of such funds

the Agency. as may be appropriated to the Agency by Parliament.

Accounts and audit. 23. – (1) The Agency shall keep proper records of its receipts, payments, assets and liabilities and such accounts may be audited annually by an auditor appointed in each year by the Director-General with the approval of the Minister and a statement of accounts so audited shall form part of the annual report submitted pursuant to section 29.

(2) The Director-General shall, at such time within each year as the Minister may direct –

- (a) submit to the Minister a statement of accounts of the Agency in accordance with the provisions of subsection (1); and
- (b) submit to the Minister for approval, the estimates of revenue and expenditure for the financial year.

(3) In this section, “Minister” means the Minister responsible for Finance.

Expenses and remuneration. 24. The expenses of the Agency, including the remuneration of the Director-General, officers and members of the Committee, shall be paid out of the funds of the Agency.

Annual plan. 25. – (1) Before the beginning of each financial year, the Director-General shall submit an annual plan to the Minister setting out how the Director-General intends that the functions of the Agency are to be exercised during that year.

(2) The annual plan for a financial year shall include –

- (a) a statement of the strategic priorities for the Agency;
- (b) pursuant to subsection (3), a statement of the operational priorities for the Agency and in relation to each of the strategic and operational priorities, an explanation of how the Director-General intends that the priority will be given effect to;
- (c) ways in which the Agency is to operate, including –

- (i) arrangements for publishing information about the exercise of the functions of the Agency and other matters relating to the Agency, including requirements about the type of information that should not be published; and
- (ii) ways in which the Agency is to be administered, including with respect to governance and finance.

- Director-General to consult in preparing annual plan.** 26. In preparing an annual plan, the Director-General shall consult with –
- (a) the strategic partners; and
 - (b) any other persons whom the Director-General considers it is appropriate to consult.
- Estimates and operating plan.** 27. The Agency shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval –
- (a) estimates of income and expenditure for the ensuing financial year; and
 - (b) the annual plan under section 25.
- Returns.** 28. The Authority shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Authority, and shall afford him facilities for verifying such information in such manner and at such times as he may reasonable require.
- Annual and other reports.** 29. – (1) Annual and other reports shall be prepared by the Agency in accordance with the provisions of *the Public Bodies Management and Accountability Act*.
- (2) A copy of the annual report and audited financial statements of the Agency, approved by the Minister, shall be submitted, no later than four months after the end of each financial year, to the Minister.
 - (3) The Minister shall cause a copy of the report together with the annual statement of accounts and the Auditor-General’s report thereon to be laid in the House of Representatives and of the Senate.
- Report.** 30. – (1) The Director-General shall, not later than three months after the end

of each financial year, submit to the Minister a report relating generally to the execution of the functions of the Agency during the preceding financial year, which shall contain the information set out in the Third Schedule.

**Third
Schedule.**

(2) The Director-General may, at any time, submit a report relating to any particular matter which, in the opinion of the Director-General, requires the special attention of the Minister.

(3) The report submitted by the Director-General to the Minister shall exclude such matters that may, if included, prejudice proceedings in relation to any matter referenced therein.

(4) The Minister shall, not later than one month after receipt of a report submitted to him under subsection (1) or (2), submit the report to Parliament.

PART V. *Agreements and Arrangements*

**Agreements
and
arrangements
with other
agencies,
bodies, etc.**

31. – (1) Subject to the provisions of this Act, the Director-General may, with the approval of the Minister, enter into a contract, memorandum of understanding or other agreement or arrangement with a strategic partner or a law enforcement agency, whether in or outside Jamaica, regarding the exchange of information with the agency relevant to the investigation or prosecution of offences relating to serious crime.

(2) Subject to subsection (1), the Director-General may exchange with a foreign intelligence department outside Jamaica, information necessary to enable that department to exercise regulatory functions, including the conduct of civil, criminal or administrative investigations and proceedings to enforce laws, regulations and rules administered by the department.

(3) The Director-General may decline to facilitate the exchange of information unless the foreign intelligence department, the strategic partner or the law enforcement agency, as the case may be, undertakes to make such contribution towards the costs of the exercise as the Director-General considers appropriate.

(4) Nothing in subsections (1) to (3) authorizes a disclosure by the Director-General unless –

(a) the Director-General is satisfied that the foreign intelligence department the strategic partner or law enforcement agency is subject to adequate legal restrictions on further disclosures, including the provision to the Director-General of –

- (i) an undertaking of confidentiality on the part of the foreign intelligence department the strategic partner or the law enforcement agency;
- (ii) an undertaking by the foreign intelligence department the strategic partners or a law enforcement agency not to disclose the information provided, without the consent of the Director-General; or

(b) the Director-General is satisfied that the assistance requested by the foreign intelligence department, the strategic partner or the law enforcement agency is required for the purposes of the functions of the department, or agency including the conduct of civil, criminal or administrative investigations or proceedings to enforce laws, regulations and rules administered by the department or the agency.

(5) Where, in the opinion of the Director-General, it appears necessary, in relation to any request for information received from a foreign intelligence department, a strategic partner or a law enforcement agency, to invoke the jurisdiction of a Supreme Court Judge, the Director-General shall –

- (a) immediately notify the Attorney General of the particulars of the request; and
- (b) send the Attorney General copies of all documents relating to the requests,

and the Attorney General shall be entitled to appear or take part in any

proceedings in Jamaica, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(6) Where, pursuant to a request for the exchange of information, the Director-General in accordance with this Act, supplies information to a requesting party, the information supplied shall be deemed to be lawfully given under this Act.

(7) Subject to the provisions of this Act, the Minister may enter into any agreement or arrangement in writing with –

- (a) the Government of a foreign State;
- (b) an international organization; or
- (c) a foreign intelligence department,

regarding the exchange of information relevant to the investigation or prosecution of an offence relating to serious crime.

(8) For the purpose of an agreement or arrangement under subsection (7), the Minister shall be satisfied (in relation to the entity party to such agreement or arrangement) as to the like matters as those which the Director-General is required to be satisfied of in relation to an agreement or arrangement with a foreign intelligence department under subsection (4).

(9) The Minister may make regulations concerning the exchange of information relevant to the investigation or prosecution of an offence relating to serious crime.

PART VI. *Major Organised Crime and Anti-Corruption Agency Oversight Committee*

Establishment and objectives of Committee and appointment of members.

32. – (1) There is hereby established, a Committee, to be known as the Major Organised Crime and Anti-Corruption Agency Oversight Committee.

(2) The objectives of the Committee shall be to –

- (a) hold the Director-General and other officers of the Agency accountable to the public in the performance of their functions under this Act; and

(b) provide independent oversight in relation to the handling of a complaint made by any person pursuant to section 35.

(3) The Committee shall consist of the following persons appointed as members by the Governor-General, to serve for a period not exceeding three years, upon recommendations received by the Prime Minister after consultation with the Leader of the Opposition –

- (a) a retired Judge of the Supreme Court;
- (b) a retired officer of the Jamaica Constabulary Force not below the rank of Assistant Commissioner of Police;
- (c) a retired officer of the Jamaica Defence Force not below the rank of Colonel;
- (d) a minister of religion;
- (e) two other members appointed by the Minister responsible for national security with expertise in any one, or more of the following areas –
 - (i) financial sector;
 - (ii) anti-corruption;
 - (iii) public procurement;

(4) A person shall be eligible to be appointed as a member of the Committee if he is a person of integrity, capable of exercising competence, diligence, sound judgment and impartiality in fulfilling his functions pursuant to the provisions of this Act.

**Fourth
Schedule.**

(5) The provisions of the Fourth Schedule shall have effect as to the procedural and other matters relating to the Committee.

**Functions of
the
Committee.**

33. The functions of the Committee shall be to –

- (a) investigate any complaint, whether on its own motion or on receipt of a complaint, relating to misconduct, abuse of power, breach of disciplinary procedures or unlawful conduct, in respect of any action or omission by the Director-General or any other officer in relation to

- their functions under this Act;
- (b) monitor and investigate operations affecting members of the public;
- (c) review generally the performance by the Agency of its functions and make recommendations to the Minister thereon;
- (d) cooperate with or seek assistance from other government institutions or entities on issues of intelligence oversight or on any matter under investigation; and
- (e) perform such other functions as may be necessary for promoting the objectives under section 32(2) for which the Committee is established.

Powers of the Committee.

34. – (1) The Committee –

- (a) may investigate any aspect of the operations of the Agency or any conduct of the Director-General or any other officer of the Agency in relation to their functions under this Act;
- (b) is entitled to access to the records of the Agency and to take or have copies made of anything thereon;
- (c) may require the Director-General to supply information or provide documents in respect of any matter relating to the operations of the Agency or the conduct of an officer.

(2) Notwithstanding the provisions of any law to the contrary and subject to subsection (3), the Committee shall be the sole body responsible for receiving and investigating any complaint made pursuant to the provision of section 35 of this Act.

(3) Without prejudice to the provisions of subsection (2), the Minister, acting on the advice of the Committee, may, in such manner as he may deem appropriate, seek the assistance of any law enforcement agency, to assist the Committee in the investigation of a complaint made pursuant to section 35 or any other matter, which may be relevant to the investigation.

Making of complaint

35. – (1) A person may make a complaint to the Committee in respect of any

and conduct of investigation. matter relating to the conduct of the Director-General or an officer in the carrying out of his functions under this Act.

(2) A complaint under subsection (1) may be made orally, subject to subsection (3), or in writing, or in such form or manner as may be prescribed and shall be lodged with the Secretary of the Committee.

(3) Where a complaint is made orally, it shall be reduced into writing by the Secretary not later than three days from the date on which the complaint was lodged.

(4) A complaint made under subsection (1) shall contain such particulars as may be prescribed.

(5) Upon receipt of a complaint, the Committee shall forthwith –

- (a) request information or reports regarding the complaint from the Agency within a specified period; or
- (b) without prejudice to paragraph (a), initiate such investigation as it may consider necessary, having regard to the nature of the complaint.

(6) For the purposes of an investigation under this section, the Committee shall have the powers, protection and immunities conferred upon a Commissioner under the *Commissions of Enquiry Act* and the provisions of that Act shall apply to any person summoned by or appearing before the Committee in the same manner as it applies to a person summoned or appearing before a Commission of Enquiry.

(7) Where the Committee considers a complaint to be vexatious or frivolous, it may refuse to conduct an investigation and shall, where practicable, state its refusal in writing to the complainant.

(8) The Committee may, upon receipt of new evidence, re-open any investigation which has been concluded, and may amend or withdraw any previous findings and recommendations.

Steps after conduct of 36. After conducting an investigation into a complaint made under section

investigation. 35, the Committee may –

- (a) where the investigation, in the opinion of the Committee, discloses evidence of a criminal offence by any officer of the Agency, recommend the prosecution of the officer concerned to the Director of Public Prosecutions;
- (b) where the investigation, in the opinion of the Committee, discloses misconduct, malfeasance or negligence in the performance of a duty by the an officer, proceed in accordance with the prescribed disciplinary procedures;
- (c) where the investigation discloses any shortcomings in the processes or procedures employed by the Agency, recommend improvement or rectification thereof to the Minister.

PART VII. *Protection of Intelligence Officers and Maintenance of Register*

Protection of intelligence officers. 37. – The Director-General may take such action as may be necessary to ensure the security, secrecy, safety, accommodation and financial requirements of an intelligence officer.

PART VIII. *Protection from Liability and Suit*

Protection of persons exercising functions under this Act. 38. – (1) No civil or criminal action, suit or other proceedings for breach of confidentiality may be brought, nor any professional sanction for such breach may be taken against any person, who in good faith (under this Act or any other enactment) provides or transmits information requested by the Agency or submits a report to the Agency.

(2) No suit or other proceedings may be brought or instituted personally against any officer in respect of any lawful act done or omission made in good faith, in the course of carrying out the provisions of this Act.

PART IX. *Offences*

Offences. 39. – (1) A person commits an offence if that person –

- (a) wilfully threatens or assaults an officer or any other person performing any function under this Act;
- (b) without lawful justification or excuse –
 - (i) obstructs or hinders an officer or any other person performing any function under this Act; or
 - (ii) wilfully refuses or neglects to carry out any duty required to be performed by him under this Act;
- (c) wilfully makes any false statement to mislead or attempts to mislead an officer or any other person performing any function, under this Act;
- (d) knowingly makes any false declaration or false statement of a material nature in any information provided to an officer or any other person performing any function under this Act;
- (e) knowingly furnishes to any officer or any other person performing any function under to this Act, a document that, to the knowledge of the first-mentioned person, contains information which is false or misleading in any material particular;
- (f) without reasonable excuse, fails to keep any record or other document required under this Act;
- (g) with intent to deceive –
 - (i) impersonates an officer;
 - (ii) makes any statement or does any act calculated falsely to suggest that the person is an officer;
 - (iii) makes any statement or does any act calculated falsely to suggest that the person has powers as an officer that exceed the powers the person actually has.

**Fifth
Schedule.**

(2) The offences specified in the first column of the Fifth Schedule shall incur the penalties specified in relation thereto in the second column of that Schedule.

(3) Every offence under this Act may be tried summarily before a Judge of a Parish Court.

(4) Where an offence under this Act is committed by a body corporate is proved –

(a) to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in that capacity; or

(b) to be attributable to the failure of any such director, manager, secretary or other officer to exercise all such reasonable diligence as he ought in the circumstances to have exercised to prevent the offence, having regard to the nature of his functions and all the circumstances,

such director, manager, secretary or other officer, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Fourth
Schedule.**

PART X. *General*

**Code of
Conduct.**

40. The Director-General and other officers of the Agency shall comply with such Code of Conduct as may be prescribed and a person who fails to comply with the Code of Conduct shall be liable to such disciplinary proceedings as may be prescribed.

Records.

41. The Director-General may require any person to keep such documents relating to the functions of the Agency, as may be prescribed.

Regulations.

42. – (1) The Minister may make regulations generally for the proper administration of and giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may make provision –

(a) requiring equipment used by the Agency to satisfy specified requirements as to design and performance;

(b) outlining the practices and procedures to be adopted in relation to the

investigation or prosecution or serious crime under this Act;

- (c) prescribing a Code of Conduct for officers; and
- (d) relating to such other matters as may be required by this Act to be prescribed.

(3) For the purposes of subsection (2)(a), “equipment” includes –

- (a) vehicles; and
- (b) headgear and any other protective clothing.

(4) Regulations made under this section shall be subject to affirmative resolution.

Minister may amend Monetary Penalties and schedules under Regulations.

43. The Minister may by order, subject to affirmative resolution, amend –
- (a) any monetary penalty specified in this Act; or
 - (b) the Schedules, other than the custodial penalties.

Transitional provisions for permanent and contracted employees.

44. – (1) Subject to the provisions of this section, on the appointed day, a person holding a permanent appointment to an office under the existing Agency shall be transferred on secondment to the services of the Agency for a period of six months or such longer period as the Director-General may, in special circumstances, determine.

(2) Pursuant to subsection (1), during the period of secondment to the Agency, an officer shall be employed on such terms and conditions as may be determined by the Director-General, being terms and conditions that are not less favourable than those enjoyed by the officer in his substantive position, on the appointed day and any pension benefits which may have accrued to the officer prior to his secondment shall be preserved.

(3) An officer who is transferred on secondment pursuant to subsection (1) may be deployed in the public service on or before the expiration of the period referred to in subsection (1) on terms and conditions that are not less favourable than those enjoyed by the officer in his substantive

position or be retired pursuant to the provisions of the *Pensions (Public Service) Act* on the ground that his substantive position.

(4) A person who has served in an office established under the existing Agency and would have, but for the establishment of the Agency, been eligible to receive a pension thereunder, shall be paid a pension where such service, together with the person's service under this Act, amount in the aggregate to not less than seven years.

Consequential amendments. 45. The enactments specified in the first column of the Sixth Schedule are amended to the extent specified in the Second Column of that Schedule.

Sixth Schedule.

FIRST SCHEDULE (Section 2)

Serious Crime

1. Any offence under the following provisions of the *Agricultural Produce Act*, namely-

- (a) section 16 (Contracts relating to specially protected produce to be recorded and returns of deliveries made); .
- (b) section 17 (Carriers licence);
- (c) section 18 (Use of carrier of vehicles to convey specially protected produce);
- (d) section 19 (Identification of vehicles);
- (e) section 20 (Book to be kept in vehicle when in use);
- (t) section 21 (Failure of driver to keep book in vehicle an offence and offences by carrier);
- (g) section 22 (Selectors and unlicensed persons to account for possession of specially protected produce);
- (h) section 36(a) (Offences).

2. Any offence under the following provision of the *Child Care and Protection Act*, that is to say, section 10 (Prohibition against sale or trafficking of children).

3. Any offence under the following provisions of the *Child Pornography (Prevention) Act*, namely-

- (a) section 3 (Using or involving a child in the production of child pornography);
- (b) section 4 (Producing, distributing, etc., child pornography);
- (c) section 6 (Offences by bodies corporate);
- (d) section 7 (Offences where profit is derived).

4. Any offence under the following provisions of the *Coinage Offences Act*, namely-

- (a) section 3 (Counterfeiting the gold or silver coin);
- (b) section 4 (Colouring counterfeit coin or any pieces of metal with intent to make them pass for gold or silver coin);
- (c) section 5 (Impairing the gold or silver coin with intent, etc.);

- (d) section 6 (Unlawful possession of filings or clippings of gold or silver coin);
- (e) section 7 (Buying or selling, etc., counterfeit gold or silver coin for a lower value than its denomination);
- (f) section 8 (Importing counterfeit coins from beyond seas);
- (g) section 9 (Exporting counterfeit coins);
- (h) section 10 (Uttering counterfeit gold or silver coins);
- (i) section 11 (Uttering accompanied by possession of other counterfeit coin, or followed by a second uttering);
- (j) section 12 (Having three or more pieces of counterfeit gold or silver coin in possession, etc., with intent, etc.);
- (k) section 13 (Every second offence of uttering, etc., after a previous conviction);
- (l) section 19 (Making, mending or having possession of any coining tools, felony).

5. Any offence under the following provisions of the *Copyright Act*, namely-

- (a) section 46 (Penalties in respect of dealings which infringe copyright);
- (b) section 134 (Criminal liability for making, dealing with or using illicit recordings).

6. Any offence under the following provision of the *Corruption (Prevention) Act*, that is to say, section 14 (Acts of corruption).

7. Any offence under the following provisions of the *Country Fires Act*, namely-

- (a) section 3 (Setting fire to crop);
- (b) section 4 (Setting fire to trash);
- (c) section 5 (Fires during night or unattended, prohibited)."

8. Any offence under the *Cybercrimes Act*.

9. Any offence under the following provisions of the *Dangerous Drug Act*, namely-

- (a) section 3 (Import and export of raw opium and coca leaves);
- (b) section 5 (Cultivation of opium or coca leaves);
- (c) section 6 (Export or import of prepared opium);
- (d) section 7 (Manufacturing, selling, using, etc., prepared opium an offence);
- (e) section 7 A (Export or import of ganja);
- (f) section 7B (Cultivating, selling or dealing in, or transporting ganja);
- (g) section 8 (Import and export of cocaine, etc.);
- (h) section 8A (Cultivating, selling or dealing in, or transporting cocaine, etc.);
- (i) section 11 (Trade, etc., in new drugs, and power to apply Part IV to certain drugs);
- (j) section 21A (Offence of using the postal services for drugs);
- (k) section 22 (Offence and penalties).

10. Any offences under the following provisions of the *Endangered Species (Protection, Conservation and Regulation of Trade) Act*, namely-

- (a) section 18 (Restriction on trade in endangered species);

- (b) section 40 (Unlawful trade in specimen, etc.);
 - (c) section 41 (Offence of using postal service for transporting endangered species).
11. Any offences under the following provision of *the Firearms Act*, namely-
- (a) section 4 (Restriction on importation, and transhipment of firearms and ammunition);
 - (b) section 9 (General restrictions upon manufacture and dealing in firearms and ammunition);
 - (c) section 10 (Restrictions upon acquisition or disposal of firearms and ammunition);
 - (d) section 13 (General restriction on repair and transfer of firearms and ammunition);
 - (e) section 1S (Special restrictions on shortening firearms and converting imitation firearms into firearms);
 - (f) section 20 (Possession of firearms and ammunition);
 - (g) section 24 (penalty for possessing firearm or ammunition with intent to inure);
 - (h) section 2S (penalty for use and possession of firearm or imitation firearm in certain circumstances).
12. Any offences under the following provision of the *Fishing Industry Act*, namely -
- (a) section 22 (penalty for removing fish-pot, etc. of another);
 - (b) section 23 (Penalty for landing and sale of illegally caught fish).
13. Any offences under the following provisions of the *Fishing Industry Regulations, 1976*, namely-
- (a) regulation 3 (Fishing beyond the territorial sea of Jamaica without licence, prohibited);
 - (b) regulation 14 (catching, destroying, lobster, etc. and using certain mesh sizes for fishing, prohibited).
14. Any offences under the following provisions of the *Forest Act*, namely-
- (a) section 30 (Prohibition of cutting of trees in a forest reserve);
 - (b) section 31 (Offences).
15. Any offences under the following provisions of the *Forest Regulations, 2001*, namely-
- (a) regulation 13 (Burning permit);
 - (b) regulation 14 (Prohibition of burning substance);
 - (c) regulation 37 (Removal of forest produce);
 - (d) regulation 38 (Protection of fauna);
 - (e) regulation 41 (Riparian areas and buffer zones);
 - (f) regulation 42 (Wetlands).
16. An offence under the following provision of *the Forgery Act*, that is to say, section 4 (Forgery of certain documents with intent to defraud).
17. Any offences under the following provisions of *the Larceny Act*, namely-
- (a) section 13 (Praedial larceny);
 - (b) section 37 (Robbery);
 - (c) section 39 (Burglary);
 - (d) section 40 (House-breaking and committing felony);
 - (e) section 42A (Extortion).
18. Any offence under the following provisions of the *Law*

Reform(Fraudulent Transactions) (Special Provisions) Act, namely--

- (a) section 3 (Offence of obtaining property by a false pretence, etc.);
- (b) section 4 (Offence of inviting a person to visit Jamaica by a false pretence);
- (c) section 5 (Offence of using premises for purposes which constitute an offence under Act);
- (d) section 6 (Offence of using an access device to transfer or transport money or monetary instrument);
- (e) section 7 (Offence of threatening or intimidating a person involved in a criminal investigation or trial of an offence);
- (f) section 8 (Offences relating to theft, forgery, etc., of access device);
- (g) section 9 (Offence of making, repairing, buying, etc., thing for copying data from an access device or forging or falsifying an access device);
- (h) section 10 (Offence of knowingly obtaining or possessing, transmitting, distributing, etc., identity information of a person);
- (i) section II (Offence of obtaining a benefit by menace);
- (j) section 12 (Conspiring to commit, aiding, etc., offence).

19. Any offence under the following provisions of the *Malicious Injuries to Property Act*, namely-

- (a) section 3 (Arson of a dwelling house person being therein);
- (b) section 4 (Arson of a house, outhouse, etc.);
- (c) section 5 (Arson of a building belonging to railway, port or harbour);
- (d) section 6 (Arson of other buildings of a public character).

20. Any offence under the following provision of the *Metal and Jewellery (Control of Second-Hand) Act*, that is to say, section 3 (No person to deal in second-hand metal or second-hand jewellery without licence).

21. An offence under the following provision of the *Natural Resources Conservation Authority Act*, that is to say, section 18 (Enforcement of controls).

22. An offence under the following provision of the Natural Resources Conservation Authority (Air Quality) Regulations, 2006, that is to say, regulation 44 (Offences).

23. Any offence under the following provisions of the Natural Resources (Hazardous Waste) (Control of Transboundary Movement) Regulations, 2002, namely -

- (a) regulation 6 (Importation of hazardous waste prohibited);
- (b) regulation 8 (Restriction on export of hazardous waste);
- (c) regulation 22 (Offence of illegal traffic in hazardous waste);
- (d) regulation 23 (Offence of failing to return waste).

24. Any offence under the following provisions of the Natural Resources (Marine Parks) Regulations, 1992, namely-

- (a) regulation 3 (Mining in marine park);
- (b) regulation 4 (Removal or destruction of natural features and marine life);
- (c) regulation 5 (Dredging, filling, excavating and building activities);

- (d) regulation 6 (Refuse and polluting substances);
- (e) regulation 8 (Fishing);
- (f) regulation 12 (Explosives and dangerous weapons).

25. Any offence under the following provisions of the *Offences Against the Person Act*, namely-

- (a) section 2 (Murder);
- (b) section 8 (Conspiring or soliciting to commit murder);
- (c) section 13 (Administering poison, or wounding with intent to murder);
- (d) section 14 (Destroying or damaging building with intent to murder);
- (e) section 15 (Setting fire to ship, etc., with intent to murder);
- (f) section 16 (Attempting to administer poison, etc., with intent to murder);
- (g) section 17 (By other means attempting to commit murder);
- (h) section 20 (Shooting or attempting to shoot or wounding with intent to do grievous bodily harm);
- (i) section 70 (Kidnapping with certain intents persons of any age).

26. Any offence under the following provision of the *Parliament (Integrity of Members) Act*, that is to say, section 15 (Offences).

27. Any offence under the following provision of the *Petroleum (Quality Control) Act*, that is to say, section 4 (Restrictions on retailing and transportation of petroleum).

28. Any offence under the following provisions of the *Post Office Act*, namely-

- (a) section 35 (Transmission of prohibited articles);
- (b) section 36 (Fraudulent evasion and false statement on postal articles).

29. An offence under the following provision of the *Post Office Regulations 1941*, that is to say, regulation 58 (List of prohibitions and restrictions).

30. Any offence under the following provisions of the *Praedial Larceny (Prevention) Act*, namely-

- (a) section II (Powers of search);
- (b) section 3 (Assaulting, obstructing or threatening an agricultural warden);
- (c) section 14(8) (Disposal of perishable agricultural produce, livestock and fish);
- (d) section 15 (Penalty on possession of clothing, etc. by persons not agricultural wardens);
- (e) section 16 (Penalty on unauthorized use of agricultural warden uniform).

31. Any offence under the following provisions of the *Precursor Chemicals Act*, namely-

- (a) section 23 (Offence of unlawfully engaging in prescribed activity and unlawful trade in specified chemical substances);
- (b) section 24 (Offence of unlawful possession of specified chemical substances);

- (c) section 25 (Offence of using a postal service for transporting specified chemical substances).

32. Any offence wider the following provisions of the *Proceeds of Crime Act*, namely-

- (a) section 92 (Concealing, etc., criminal property);
 (b) section 93 (Acquisition, use and possession of criminal property).

33. An offence wider the following provision of the *Quarries Control Act*, that is to say, section 5 (Offence to operate quarry without licence).

34. Any offence under the following provisions of the *Road Traffic Act*, namely-

- (a) section 46 (1) (a) (Forging, using, etc. any licence, registration marks or plates, etc.);
 (b) section 46 (1) (b) (Giving or lending to person any licence, registration marks or plates, etc.);
 (c) section 61 (Using public passenger vehicle in contravention of road licence, etc.).

35. An offence under the following provision of the Road Traffic Regulations, 1940 that is to say, regulation 25 (Alteration, mutilation, etc., of registration plates).

36. Any offence under the following provisions of the *Sexual Offences Act*, namely-

- (a) section 3 (Rape);
 (b) section 4 (Grievous sexual assault);
 (c) section 9 (Sexual grooming of child);
 (d) section 10 (Sexual intercourse with person under sixteen);
 (e) section II (Householder etc., inducing or encouraging violation of child under sixteen);
 (f) section 13 (indecent assault);
 (g) section 15 (Abduction of child under sixteen);
 (h) section 16 (Violation of person suffering from mental disorder or physical disability);
 (i) section 17 (Forcible abduction);
 (j) section 18 (Procurator);
 (k) section 19 (Procuring violation of person by threats or fraud or administering drugs);
 (l) section 20 (Abduction of child with intent to have sexual intercourse, etc.);
 (m) section 21 (Unlawful detention with intent to have sexual intercourse, etc.);
 (n) section 23 (Living on earnings of prostitution).

37. Any offence under the following provisions of the *Terrorism Prevention Act*, namely:-

- (a) section 4 (Providing, making available, etc., property or services for terrorist purposes);
 (b) section 5 (Using or possessing property for terrorist purposes);
 (c) section 6 (Dealing in property for terrorist purposes);
 (d) section 7 (Participation in activity of terrorist group);
 (e) section 8 (Facilitating terrorist activity);
 (f) section 9 (Commission of offence for terrorist group);
 (g) section 10 (Instructing commission of offence for terrorist

- group);
- (h) section 11 (Instructing to carry out terrorist activity);
 - (i) section 12 (Harbouring or concealing);
 - (j) section 13 (Information about terrorism offence).
38. An offence under the following provision of the *Trade Marks Act*, that is to say, section 69 (Unauthorized use of trade mark).
39. Any offence under the following provisions of the Trade (Scrap Metal) Regulations, 2013, namely:-
- (a) regulation 3 (Restriction on exportation of scrap metal and other metals);
 - (b) regulation 4 (Restriction on export of specified scrap metal without licence, etc.);
 - (c) regulation 5 (Restriction on sale or purchase of bronze from cemeteries, etc.);
 - (d) regulation 6 (Restriction on transportation of scrap metal);
 - (e) regulation 7 (Restriction on dealing in scrap metal);
 - (f) regulation II (Restriction on the alteration, etc., of scrap metal);
 - (g) regulation 30 (Offence of exporting, etc., scrap metal without licence or certificate);
 - (h) regulation 31 (Offence of operating storage facility in contravention of the Act);
 - (i) regulation 32 (Offence of exporting without identification number);
 - (j) regulation 33 (Offence of corruption by authorized officer).
40. Any offence under the following provisions of *Trafficking in Persons (prevention, Suppression and Punishment) Act*, namely-
- (a) section 4 (Trafficking in persons);
 - (b) section 5 (Offences by bodies corporate);
 - (c) section 15 (Offence of threatening, obstructing, etc., constable).
41. Any offence under the following provisions of the *Treason Felony Act*, namely-
- (a) section 2 (Punishment for intending to depose the Queen, or levy war against her, etc.);
 - (b) section 3 (Punishment for intending to levy war or excite insurrection, etc.);
 - (c) section 4 (Punishment for inciting to insurrection or rebellion, etc.).
42. Any offence under the following provisions of the *Wild Life Protection Act*, namely-
- (a) section 4 (Hunting, etc., in Game Sanctuary);
 - (b) section 6 (Hunting protected animals and protected birds);
 - (c) section 6A (Processing protected animal, etc.);
 - (d) section 7 (Hunting, disposing, etc., of game birds);
 - (e) section 8 (Taking turtle eggs);
 - (f) section 8A (Hunting of animals and birds in and taking of eggs from the exclusive economic zone);
 - (g) section 9 (Taking immature fish);
 - (h) section 10 (Dynamite and other noxious materials);
 - (i) section II (Protection of waters containing fish from trade effluents);
 - (j) section 12 (Dealings with fish taken, killed or injured contrary to

this Act).

43. An offence under the following provision of the Wild Life Protection (Protective Zone) Regulations, 1998, that is to say, regulation 3 (Hunting any animal, fish or bird in protective zone, prohibited).

44. Perverting the course of justice.

45. Any offence under the *Criminal Justice (Suppression of Criminal Organizations) Act*.

SECOND SCHEDULE

(Section 21)

Oath to be taken by Director-General and officers.

I _____ do swear that I will faithfully perform any functions assigned to me under the Major Organised Crime and Anti-Corruption Agency Act and I will not, on any account, at any time whatsoever, except in so far as provisions of the Act authorize, directly or indirectly reveal any information or the nature or contents of any information or documents communicated to me in the performance of any functions assigned by me by virtue of the Act.

So help me God.

THIRD SCHEDULE

(Section 30)

Contents of Report of Agency

1. A general description of the matters that were referred to the Agency.
2. Subject to section 30 (2) a general description of the matters investigated by the Agency.
3. The following details with respect to matters investigated by the Agency –
 - (a) the number of investigations commenced but not finally dealt with during the financial year in question;
 - (b) the average time taken to deal with complaints and the actual time taken to investigate any matter in respect of which a report is made.

4. Any recommendations for changes in the laws of Jamaica, or for administrative action, that the Agency considers should be made as a result of the exercise of its functions.
5. The general nature and extent of any information submitted under this Act by the Agency during the year to any other public body.
6. The number of matters investigated by the Agency which have resulted in prosecutions or disciplinary action in that year.
7. A description of its activities during that year in relation to any of its functions.
8. The number of convictions and acquittals, and where a charge is laid, the time taken to dispose of each matter.
9. Such other information as the Agency thinks relevant, however, no details shall be provided by the Agency in relation to any matter under investigation by the Agency, or for which criminal proceedings have been instituted by the prosecuting officer.

THIRD SCHEDULE (Section 32(5))

Procedure of Committee

- | | |
|---|--|
| Names of members of the Committee to be published in the <i>Gazette</i>. | 1. The Minister shall cause the names of the Chairman and other members of the Committee to be published in the <i>Gazette</i> . |
| Appointment of Chairman and Tenure of office. | 2. The Minister shall appoint the Chairman from among the members of the Committee
2.1 The Chairman and other members shall hold office for a period not exceeding five years. |
| Chairman is unable to Act. | 3. If the Chairman is absent or unable to act, the Minister may appoint another person to act temporarily as Chairman. |
| Appointment of secretary and staffing arrangements. | 4. – (1) The Committee shall appoint a secretary whose duties shall be –
(a) to receive complaints pursuant to section 35 of the Act;
(b) to attend the meetings of the Committee;
(c) to record the proceedings of the Committee and keep the minutes of such meeting in proper form;
(d) generally to perform such duties connected with the work of the Committee as the Committee may require. |

- (2) The Committee may arrange for the use of the services of any officer or facilities of the Agency.

Removal of Chairman or members of Committee.

5. The Chairman and other members of the Committee shall be removed from office by the Governor-General upon the recommendation of the Prime Minister after consultation with the Leader of the Opposition, if any of them –

- (a) is absent from three consecutive meetings of the Committee without the leave of –
- (i) the Governor-General, in the case of the Chairman;
- (ii) the Chairman, in the case of any other member and,

without reasonable excuse.

- (b) become incapable of satisfactorily discharging the functions of their office; or
- (c) suffering from a mental disorder within the meaning of the Mental Health Act,.

Resignation of members of the Committee.

6. A member may resign by giving a written notice of resignation to the Chairman, and in the case of the Chairman, by giving written notice to the Governor-General.

Authentication of documents.

7. All documents made by, and all decisions of the Committee, may be signed under the hand of the Chairman or any member of the Committee authorized to act in that behalf.

Procedure.

8. – (1) The Committee shall meet as often as it considers necessary for the proper conduct of the affairs of the Committee:

However the Committee shall meet not less than once per month.

(2) The Chairman or any other person appointed to act temporarily as Chairman shall preside at a sitting of the Committee.

(3) A quorum of the Committee shall be three.

(4) Decisions of the Committee shall be by a majority of votes of the members. In addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal.

(5) The Committee is not bound by rules of evidence and may inform itself in a way it considers appropriate but must observe the rules of natural justice.

(6) Proper records of all proceedings of the Committee shall be kept.

Protection of members.

9. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Committee in respect of an act done *bona fide* in pursuance, or execution, or intended execution of the provisions of this Act.

Disclosure of interest.

10. Any member of the Committee who has any interest, directly or indirectly, in any matter brought before the Committee shall –

- (a) as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a sitting of the Committee; and
- (b) not be present during the deliberations of the Committee on the matter or take part in the decision of the Committee with respect thereto.

Remuneration.

11. There shall be paid from the funds of the Agency to the Chairman and other members of the Committee, such remuneration, whether by way of honorarium, salary or fees and such allowances the Minister with responsibility for the public service may determine.

FIFTH SCHEDULE

(Section 39(2))

Offences and Penalties

Brief Description of Offence	Relevant Section	Penalty
<p>Communicating or attempting to communicate information otherwise than for the purposes of this Act or any other enactment, or otherwise than pursuant to a court order or an arrangement entered into under section 21.</p>	21(4)	<p>On summary conviction before a Judge of the Parish Court –</p> <p>(a) in the case of an individual, to a fine not exceeding one million dollars or imprisonment for a term not exceeding one year;</p> <p>(b) in the case of a body corporate, to a fine not exceeding three million dollars.</p> <p>On conviction on indictment in the Circuit Court, to a fine or imprisonment or to both such fine and</p>

			imprisonment.
Wilfully threatening or assaulting an officer or other person performing a duty.	39(1)(a)	On summary conviction before a Judge of the Parish Court –	
		(a) in the case of an individual, to a fine not exceeding one million dollars or imprisonment for a term not exceeding one year or to both such fine and imprisonment;	
		(b) in the case of a body corporate, to a fine not exceeding three million dollars.	
		On conviction on indictment in the Circuit Court, to a fine or imprisonment.	
Without lawful justification or excuse, obstructing or hindering an officer or other person in the execution of his	39(1)(b) (i)	On summary conviction before a Judge of the	

functions.

Parish Court –

(a) in the case of an individual, to a fine not exceeding one million dollars or imprisonment for a term not exceeding one year;

(b) in the case of a body corporate, to a fine not exceeding three million dollars.

On conviction on indictment in the Circuit Court, to a fine or imprisonment.

Without lawful justification or excuse, failing to comply with a lawful requirement of the Agency, the Director-General, an officer or other person in the execution of his functions.

39(1)(b)
(ii)

On summary conviction before a Judge of the Parish Court –

(a) in the case of an individual, to a fine not exceeding one million dollars

Without lawful justification or excuse,
wilfully refusing or neglecting to carry
out a duty required to be performed.

39(1)(b)
(iii)

or imprisonment for
a term not
exceeding one year;

(b) in the case of a
body corporate, to a
fine not exceeding
three million
dollars.

On conviction on
indictment in the
Circuit Court, to a
fine or
imprisonment.

On summary
conviction be-fore
a Judge of the
Parish Court –

(a) in the case of
an individual, to a
fine not exceeding
one million dollars
or imprisonment
for a term not
exceeding one
year;

(b) in the case of a
body corporate, to
a fine not

Wilfully making a false statement to mislead or attempt to mislead the Agency, the Director-General, an officer or other person performing a duty.

39(1)(c)

exceeding three million dollars.

On conviction on indictment in the Circuit Court, to a fine or imprisonment or to both such fine and imprisonment.

On summary conviction before a Judge of the Parish Court –

(a) in the case of an individual, to a fine not exceeding three million dollars or imprisonment for a term not exceeding three years;

(b) in the case of a body corporate, to a fine not exceeding three million dollars.

On conviction on indictment in the

Knowingly making a false declaration or statement of a material nature in information provided to the Agency, the Director-General, an officer or other person performing a duty.

39(1)(d)

Circuit Court, to a fine or imprisonment.

On summary conviction before a Judge of the Parish Court –

(a) in the case of an individual, to a fine not exceeding three million dollars or imprisonment for a term not exceeding three years;

(b) in the case of a body corporate, to a fine not exceeding three million dollars.

On conviction on indictment in the Circuit Court, to a fine or imprisonment.

Knowingly furnishing to the Agency, the Director-General, an officer or other person performing a duty, a document

39(1)(e)

On summary conviction before a Judge of the Parish

known to contain information which is false or misleading in any material particular.

Court –

(a) in the case of an individual, to a fine not exceeding three million dollars or imprisonment for a term not exceeding three years;

(b) in the case of a body corporate, to a fine not exceeding three million dollars.

On conviction on indictment in the Circuit Court, to a fine or imprisonment.

Failure to keep any record or other document required by this Act or regulations.

39(1)(f)

On summary conviction before a Judge of the Parish Court –

(a) in the case of an individual, to a fine not exceeding one million dollars or imprisonment for

With intent to deceive, impersonating an officer of the Agency, making a statement or doing an act to suggest that one is an officer of the Agency, or making a statement or doing an act calculated falsely to suggest that one has powers as an officer of the Agency that exceed one's actual powers.

39 (1)(g)

a term not exceeding one year;
(b) in the case of a body corporate, to a fine not exceeding three million dollars.

On conviction on indictment in the Circuit Court, to a fine or imprisonment.

On summary conviction before a Judge of the Parish Court –
(a) in the case of an individual, to a fine not exceeding one million dollars or imprisonment for a term not exceeding one year;

(b) in the case of a body corporate, to a fine not exceeding three

million dollars.
 On conviction on
 indictment in the
 Circuit Court, to a
 fine or
 imprisonment.

SIXTH SCHEDULE

(Section 45)

Consequential Amendments

First Column

Second Column

Enactment

Amendment

The Access to Information Act

Section 5

In subsection (8), delete the fullstop at the end of paragraph (d) and substitute therefor a semi-colon, and insert immediately thereafter the following as paragraph (e) –

“ (e) the Major Organised Crime and Anti-Corruption Agency.”.

The Committal Proceedings Act

Section 6

In subsection (2), delete paragraphs (a) and (b) and substitute therefor the following as paragraphs (a) and (b) –

“ (a) the statement has been recorded (whether in writing or by electronic means) by a member of the Jamaica Constabulary Force (hereinafter referred to as “the recorder”) in the presence of a Justice of the Peace or in the

absence of a Justice of the Peace, a senior member of the Jamaica Constabulary Force not below the rank of Sergeant, or a senior officer of the Major Organised Crime Anti-Corruption Agency and read over to the person who made it (hereinafter referred to as “the maker”):

However, in the case of a person who is suffering from a physical disability, physical disorder or a mental disorder within the meaning of the *Mental Health Act*, which renders it impracticable for him to be communicated with in the absence of special assistance or equipment, the statement may be communicated in any other effective manner;

- (b) the statement purports to be signed by the maker and the recorder and in the presence of –
 - (i) the Justice of the Peace (and has been sworn to by the maker before the Justice of the Peace); or as the case

may be;

- (ii) an officer of the Major Organised Crime Anti-Corruption Agency;
- (iii) the senior members of the Jamaica Constabulary Force.”.
- (iv) section (20) (2) (g) of the Firearms Act, DG and Officers can get immunity

The Contractor-General Act

Section 2

In the definition of “Security Forces” –

- (a) delete the word “and” at the end of paragraph (c);
- (b) delete the fullstop at the end of paragraph (d) and substitute therefor a semi-colon and the word “and”;
- (c) insert next after paragraph (d), the following as paragraph (e) –
 - “ (e) the Major Organised Crime and Anti-Corruption Agency.”.

*The Criminal Justice
(Suppression of Criminal
Organizations) Act, 2014*

Section 2

In the definition of “law enforcement officer”, renumber paragraphs (f) and (g) as paragraphs (g) and (h), respectively, and insert after paragraph (e), the following as paragraph (f) –

- “ (f) an officer of the Major Organised

Crime and Anti-Corruption

Agency;”.

*The Financial Investigation
Division Act*

Section 5

In subsection (1)(d)(ii), delete the words “or the Director of Public Prosecutions” and substitute therefor the words “, the Director of Public Prosecutions or the Director-General of the Major Organised Crime and Anti-Corruption Agency”.

*The Interception of
Communications Act*

Section 2

In the definition of “authorized officer” –

- (a) in paragraph (b)(ii), delete the word “or” at the end thereof;
- (b) in paragraph (c), insert immediately after the semi-colon, the word “or”;
- (c) insert after paragraph (c), the following paragraph as paragraph (d) –

“ (d) the Director-General of the Major Organised Crime and Anti-Corruption Agency or, for the purposes of section 15, an officer of that Agency who is authorized in writing by him;”.

Section 16

In subsection (1), in the definition of “designated person”, insert immediately after the words “means the Minister”, the words “, the Director-General of the Major

Organised Crime and Anti-Corruption Agency”.

The Judicature (Parish Court) Act

Section 292A

In paragraph (b), insert immediately after the words “Director of Public Prosecutions”, the words “or the Director-General of the Major Organised Crime and Anti-Corruption Agency”.

The Maritime Drug Trafficking (Suppression) Act

Section 2

In the definition of “law enforcement officials” –

- (a) in paragraph (a), delete the word “or” at the end thereof;
- (b) in paragraph (b), insert after the semi-colon, the word “or”;
- (c) insert next after paragraph (b), the following as paragraph (c) –
 - “ (c) officers of the Major Organised Crime and Anti-Corruption Agency;”.

The Proceeds of Crime Act

Section 5

In subsection (1), delete the words “or the Director of Public Prosecutions” and substitute therefor the words “, the Director of Public Prosecutions or the Director-General of the Major Organised Crime and Anti-Corruption Agency”.

Section 33

1. In paragraph (a), delete the word “or” at the end thereof.
2. In paragraph (b), delete the full stop and substitute therefor the word “; or”.

Section 36

Section 52

Section 73

Section 91

3. Insert next after paragraph (b), the following as paragraph (c) –

“ (c) the Director-General of the Major Organised Crime and Anti-Corruption Agency.”.

In subsection (3) –

- (a) in paragraph (c), delete the word “or” at the end thereof;
- (b) renumber paragraph (d) as paragraph (e) and insert next after paragraph (c), the following as paragraph (d) –
 - “ (d) an officer of the Major Organised Crime and Anti-Corruption Agency; or”.

In subsection (1)(b), delete the words “or the Agency” and substitute therefor the words “, the Agency or the Director-General of the Major Organised Crime and Anti-Corruption Agency”.

In subsection (1)(b), by inserting next after subparagraph (iii), the following as subparagraph (iv) –

“ (iv) in relation to the exercise of the power by an officer of the Major Organised Crime and Anti-Corruption Agency, an officer of that Agency designated by the Director-General of that

Agency;”.

In subsection (1)(f) –

- (a) in subparagraph (ii), delete the word “or” at the end thereof;
- (b) in subparagraph (iii), insert after the semi-colon, the word “or”;
- (c) insert next after subparagraph (iii), the following as subparagraph (iv) –
 - “ (iv) an officer of the Major Organised Crime and Anti-Corruption Agency;”.

Section 103

1. In the definition of “authorized officer” –
 - (a) in paragraph (b), delete the word “or” at the end thereof;
 - (b) in paragraph (c), insert after the semi-colon, the word “or”;
 - (c) insert next after paragraph (c), the following as paragraph (d) –
 - “ (d) an officer of the Major Organised Crime and Anti-Corruption Agency;”;
2. In the definition of “senior appropriate officer” –
 - (a) in paragraph (a), renumber subparagraph (v) as subparagraph (vi) and insert next after subparagraph (iv), the following as

subparagraph (v) –

“ (v) an officer of the Major Organised Crime and Anti-Corruption Agency;”;

(b) in paragraph (c), renumber

subparagraph (iv) as subparagraph (v) and insert next after

subparagraph (iii), the following as subparagraph (iv) –

“ (iv) an officer of the Major Organised Crime and Anti-Corruption Agency;”.

The Protected Disclosures Act Insert next after item 18, the following –

First Schedule “19. Major Organised Crime and Anti-Corruption Agency”.

The Road Traffic Act 1. In subsection (2), insert immediately

Section 43 after the word “Constabulary”, the words “or the Major Organised Crime and Anti-Corruption Agency,”.

2. In subsection (3), insert immediately after the words “Fire Brigade”, the words “, or the Major Organised Crime and Anti-Corruption Agency”.

Section 115 Insert immediately after the word “constable”, the words “, officer of the Major Organised Crime and Anti-Corruption Agency”.

MEMORANDUM OF OBJECTS AND REASONS

Crime and corruption are major obstacles to the nation's growth and development and pose a serious threat to the nation's economic stability and sustainable development.

The nature of organised crime requires sustained, focused, strong, cross-cutting investigations, and dedicated resources over longer periods of time to eliminate this threat. \

The Bill provides for the establishment of a statutory law enforcement Agency to be known as "the Major Organised Crime and Anti-Corruption Agency". The Agency will have operational independence and authority and be dedicated to combating serious crimes, in collaboration with other local and foreign law enforcement agencies and strategic partners.

The Agency will have a dedicated, specialized team of investigators. It will investigate and prosecute the complex cases that are often characteristic of organised criminal networks.

Robert Montague
Minister of National Security