

REPUBLIC OF SOUTH AFRICA

NATIONAL PROSECUTING AUTHORITY AMENDMENT BILL, 2026

(As introduced in the National Assembly (proposed section 75);
explanatory summary of Bill published in *Government Gazette* No XXXX of XXXX 2016)
(The English text is the official text of the Bill)

(Ms DE James, MP)

[B ?-2026]

ISBN ?-?-?-?-?

No. of copies printed ?

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the National Prosecuting Authority Act, 1998, so as to amend certain definitions; to strengthen and further institutionalise the Investigating Directorate against Corruption; to expand its mandate in relation to serious corruption, organised crime, serious commercial crime and offences affecting the integrity of the State and constitutional institutions; to provide for jurisdictional criteria; to provide for integrated prosecutorial and investigative functions; to provide for the appointment, tenure and removal of the Head of the Investigating Directorate against Corruption; to establish an Independent Oversight and Accountability Committee and provide for its composition, functions and powers; to provide for reconsideration of decisions not to prosecute; to provide for funding arrangements; to provide for investigations relating to misconduct by investigators; to provide for the transfer of certain functions, personnel, assets, liabilities and matters from the Directorate for Priority Crime Investigation; to provide for transitional arrangements; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 32 of 1998 as amended by section 2(a), (b) and (c) of Act 61 of 2000, by section 1(a) and (c) of Act 56 of 2008, by section 2(a), (c) and (d) of Act 10 of 2024

1. Section 25 of the National Prosecuting Authority Act, 1998, (Act No. 32 of 1998) (hereafter referred to as the “the principal Act”) is hereby amended by:

- (a) the adding of the following definition before the definition of “Constitution”:
“ ‘Committee’ means the Independent Oversight and Accountability Committee established by section 33K”;
- (b) the insertion of the following definition after the definition of “prescribe”:
“ ‘priority offences’ means offences contemplated in section 17D of the South African Police Service Act, 1995 (Act No. 68 of 1995)”; and
- (c) the insertion of the following definition after the definition of “Republic”:
“ ‘serious corruption matter’ means a matter which, having regard to its nature, complexity, organised character, systemic impact, abuse of public power, involvement of public funds, transnational elements or public interest significance, warrants investigation by the Directorate.”

Amendment of section 7 of Act 32 of 1998, as amended by section 4 of Act 10 of 2024

2. Section 7 of the principal Act is hereby amended by the substitution for subsection (1A) of the following subsection:

“(1A) [There is hereby established, in the *Office of the National Director*, an *Investigating Directorate* to be known as the *Investigating Directorate against Corruption* to investigate, and carry out, any functions incidental to investigations—

- (a) relating to serious, high-profile or complex corruption, commercial or financial crime cases—**
 - (i) arising from the recommendations of commissions of inquiry;**
 - (ii) referred to the *Investigating Director* by the *National Director* in terms of section 28(1)(b); or**
 - (iii) referred to the *Investigating Director* in terms of section 27, subject to section 26(2);**
- (b) relating to additional related offences or categories of offences, including common law offences of—**
 - (i) fraud;**
 - (ii) forgery;**
 - (iii) uttering;**
 - (iv) theft; and**
 - (v) any offence involving dishonesty;**
- (c) relating to additional related statutory offences or categories of statutory offences, including contraventions of—**
 - (i) the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);**
 - (ii) the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);**

- (iii) the Protection of Constitutional Democracy against Terrorist and Related Activities, 2004 (Act No. 33 of 2004);
- (iv) the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (v) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- (vi) the Financial Intelligence Centre Act 2001 (Act No. 38 of 2001); and
- (vii) any other statutory offence involving dishonesty; and
- (d) where appropriate, institute criminal proceedings and carry out any necessary functions incidental to instituting criminal proceedings relating to any offence contemplated in paragraphs (a) to (c).]

There is hereby established, in the Office of the National Director, an Investigating Directorate to be known as the Investigating Directorate against Corruption to—

- (a) prevent, investigate and prosecute serious corruption matters, including serious, high-profile or complex corruption, commercial or financial crime cases—
 - (i) arising from the recommendations of commissions of inquiry;
 - (ii) referred to the *Investigating Director* by the *National Director* in terms of section 28(1)(b); or
 - (iii) referred to the *Investigating Director* in terms of section 27, subject to section 26(2);
- (b) investigate and prosecute organised crime, including offences contemplated in the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);
- (c) investigate and prosecute serious commercial and financial crime;
- (d) investigate and prosecute offences affecting the integrity of the State, constitutional institutions and public administration, including offences involving the abuse of public power, public procurement, public finance management and related unlawful conduct;
- (e) investigate additional related offences or categories of offences, including common law offences of—
 - (i) fraud;
 - (ii) forgery;
 - (iii) uttering;
 - (iv) theft; and
 - (v) any offence involving dishonesty;
- (f) investigate additional related statutory offences or categories of statutory offences, including contraventions of—
 - (i) the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
 - (ii) the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);
 - (iii) the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004);
 - (iv) the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - (v) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
 - (vi) the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001); and
 - (vii) any other statutory offence involving dishonesty;
- (g) on its own initiative, institute, direct, coordinate and supervise investigations relating to matters falling within its jurisdiction;

- (h) integrate prosecutorial and investigative functions through multidisciplinary investigation and prosecution teams in relation to offences falling within its mandate;
- (i) cooperate and exchange information, in accordance with applicable law, with national and international law enforcement, prosecutorial, regulatory and anti-corruption agencies;
- (j) where appropriate, institute criminal proceedings and carry out any necessary functions incidental to instituting criminal proceedings relating to any offence contemplated in paragraphs (a) to (f); and
- (k) perform any function incidental or conducive to the achievement of its objects and the effective investigation and prosecution of offences falling within its jurisdiction.”.

Insertion of section 7A in Act 32 of 1998

3. The following section is hereby inserted after section 7:

“Jurisdiction of Investigating Directorate against Corruption

7A. (1) No monetary threshold shall apply in respect of the assumption of jurisdiction by the Investigating Directorate against Corruption.

(2) The Investigating Directorate against Corruption may assume jurisdiction where one or more of the following factors are present:

- (a) significant public interest;
- (b) involvement of senior public office bearers;
- (c) systemic or institutional corruption;
- (d) organised criminal activity;
- (e) substantial prejudice to the State or the public;
- (f) transnational dimensions;
- (g) complexity requiring specialised multidisciplinary investigation; or
- (h) any other prescribed factor consistent with the objects of this Act.”

Amendment of section 13 of Act 32 of 1998, as amended by section 6(b) of Act 61 of 2000 and by section 5 of Act 10 of 2024

4. Section 13(1)(b) of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

- “(b) shall, in respect of any *Investigating Directorate* established in terms of section 7 appoint a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as a *Director of Public Prosecutions* as the head of such an *Investigating Directorate*[:]; Provided that the head of the *Investigating Directorate against Corruption* shall be appointed by the President on the recommendation of the National Assembly following a transparent and public process.”

Insertion of section 13A in Act 32 of 1998

5. The following section is hereby inserted after section 13:

“Tenure and removal of Head of Investigating Directorate against Corruption

13A. (1) The head of the *Investigating Directorate against Corruption* holds office for a non-renewable term of 10 years and may be removed only on the grounds of misconduct, incapacity or incompetence.

(2) Removal may occur only after—

- (a) a finding by an independent tribunal appointed by the Chief Justice;
- (b) adoption by the National Assembly of a resolution calling for such removal with a supporting vote of at least two thirds of its members; and
- (c) an order of the Supreme Court of Appeal confirming that the prescribed process and grounds for removal have been satisfied.”.

Insertion of section 22B in Act 32 of 1998

6. The following section is hereby inserted after section 22A:

“Independent Oversight and Accountability Committee

22B. (1) There is hereby established an *Independent Oversight and Accountability Committee*.

(2) The Committee consists of—

- (a) a retired judge as chairperson;
- (b) one advocate or attorney with at least 10 years’ experience in criminal justice or constitutional law;
- (c) one forensic investigation specialist;
- (d) one chartered accountant with forensic expertise;
- (e) one academic specialising in criminal justice or constitutional law;
- (f) one representative of civil society with expertise in governance and anti-corruption; and
- (g) one or two people with the requisite expertise in criminal justice or constitutional law who the Committee may co-opt as advisory members of the committee within the limits determined by the Committee.

(3) A person is not eligible for appointment if that person is—

- (a) a member of Parliament, a provincial legislature or municipal council;
- (b) a member of the Executive;
- (c) a member of the South African Police Service; or
- (d) employed by the National Prosecuting Authority.”.

Insertion of section 22C in Act 32 of 1998

7. The following section is hereby inserted after section 22B:

“Functions of Committee

22C. (1) The Committee may—

- (a) review systemic practices, policies, systems and institutional performance of the *Investigating Directorate against Corruption*, without determining the merits of, or directing the conduct or outcome of, any particular investigation or prosecution;
- (b) receive complaints concerning maladministration;
- (c) issue recommendations concerning systemic, administrative or institutional reform, and require the *Investigating Director* to respond in writing to those recommendations within a reasonable period specified by the Committee;
- (d) monitor compliance with statutory safeguards; and
- (e) table annual reports in Parliament: Provided that no report may disclose information that is likely to prejudice a pending investigation or proceeding, endanger any person, unjustifiably infringe privacy, or reveal information protected by law.

(2) The Committee may not—

- (a) direct, control or supervise a criminal investigation conducted by the *Investigating Directorate against Corruption*, or determine the scope, method, priority, timing or outcome of that investigation;
- (b) institute, conduct or discontinue criminal proceedings, or require an authorised prosecutor to do so, but may refer information concerning alleged criminal conduct to a competent authority;
- (c) give an instruction, exert pressure or otherwise improperly influence prosecutorial discretion or decision-making in relation to an identifiable matter, including a decision whether to prosecute, whom to prosecute, what charges to institute, or whether to amend, withdraw or discontinue proceedings; or
- (d) access information subject to legal professional privilege, except with the informed consent of the person entitled to claim the privilege, under an express provision of an Act of Parliament, or pursuant to an order of a competent court.

(3) For the purposes of subsection (1), the Committee may, by written notice, require the *Investigating Director* or any official of the *Investigating Directorate against Corruption* to provide information or records that are reasonably necessary for the performance of its functions and are not prohibited from disclosure by subsection (2) or any other law.

(4) A notice under subsection (3) must identify the systemic or institutional matter under review, specify the information required and allow a reasonable period for compliance, and the recipient may provide reasons for withholding or redacting information where disclosure would prejudice a pending investigation or proceeding, endanger any person, infringe privacy or contravene any law.

(5) The Committee and every person performing functions on its behalf must preserve the confidentiality of information obtained under this section and may disclose it only to the extent necessary for the performance of a function under this Act and subject to any applicable law.

(6) Before making an adverse finding that identifies or is reasonably capable of identifying a person, the Committee must give that person reasonable notice of the material allegations and a reasonable opportunity to respond, unless doing so would prejudice a pending investigation or proceeding or endanger any person.”.

Insertion of section 43D in Act 32 of 1998

8. The following section is hereby inserted after section 43C:

“Funding of Investigating Directorate against Corruption

43D. Funds appropriated for the *Investigating Directorate against Corruption*—
(a) must be reflected as a distinct programme within the national budget; and
(b) may not be reduced during a financial year except by an Act of Parliament.”.

Insertion of section 43E in Act 32 of 1998

9. The following section is hereby inserted after section 43D:

“Complaints and investigations relating to investigators

43E. (1) Any allegation of criminal conduct or serious misconduct by an investigator appointed under this Act must be investigated by the Independent Police Investigative Directorate.

(2) The Independent Police Investigative Directorate Act shall apply, with the necessary changes required by the context, to such investigation.”.

Insertion of section 43F in Act 32 of 1998

11. The following section is hereby inserted after section 43E:

“Transfer of functions, personnel and assets

43F. (1) The Minister may, after consultation with the *National Director*, identify personnel of the *Directorate for Priority Crime Investigation* for transfer to the *Investigating Directorate against Corruption*.

(2) Any person transferred in terms of subsection (1) shall retain terms and conditions of employment not less favourable than those applicable immediately before transfer.

(3) All investigations, prosecutions, contracts, rights, obligations, assets and liabilities connected with a transferred function vest in the *Investigating Directorate against Corruption* by operation of law.

(4) No investigation, prosecution, civil proceedings, contract or administrative act shall be invalid merely by reason of a transfer contemplated in this section.”.

Amendment of Index to Act 32 of 1998 as inserted by section 21 of Act 61 of 2000 and amended by section 12 of Act 10 of 2024

12.The Index to the principal Act is hereby amended by the insertion of the following items in the appropriate places:

“7A. Jurisdiction of Investigating Directorate against Corruption”

“13A. Tenure and removal of Head of Investigating Directorate against Corruption”

“20A. Reconsideration of decisions not to prosecute”

“22B. Independent Oversight and Accountability Committee”

“22C. Functions of Committee”

“43D. Funding of Investigating Directorate against Corruption”

“43E. Complaints and investigations relating to investigators”

“43F. Transfer of functions, personnel and assets”.

Short title and commencement

13.This Act is called the National Prosecuting Authority Amendment Act, 2026, and comes into operation on a date determined by the President by proclamation in the Gazette.