

**SAINT LUCIA**

—  
No. 31 of 2003

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No. 31]                      *Legal Services (Criminal Matters) Act*                      [2003.

I ASSENT

[L.S.]

PEARLETTE LOUISY,  
*Governor-General.*

*24th December, 2003*

## SAINT LUCIA

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### No. 31 of 2003

**AN ACT** to provide for a system of legal services to persons in respect of criminal matters where those persons are of insufficient means and to provide for matters incidental thereto.

[ ON ORDER ]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

## PART I

## PRELIMINARY

**Short title and commencement**

1. This Act may be cited as the Legal Services (Criminal Matters) Act, 2003, and shall come into force on such day as the Minister may, by Order, appoint.

**Interpretation**

2. In this Act unless the context requires —

“applicant” means a person applying for legal services under this Act;

“Bar Association” means the Bar Association of Saint Lucia established pursuant to the Legal Profession Act No. 31 of 2000 or any enactment replacing it;

“legal aid certificate” means a certificate issued pursuant to section 9;

“legal officer” means an attorney-at-law who holds office in the Public Service and is appointed by the Judicial and Legal Service Commission and which office is declared by Order of the Attorney-General to be a law office;

“legal services” means such services as may be provided under this Act;

“Minister” means the Attorney-General;

“panel” means the panel of attorneys-at-law maintained by the Attorney-General pursuant to section 10;

“scheduled offence” means an offence specified in the Schedule.

## PART II

## PROVISION OF LEGAL SERVICES

**Power to provide legal services**

3. Legal services under this Act may be provided to any person in accordance with this Act.

**Applications for legal aid certificate by persons charged**

**4.**— (1) An application for a legal aid certificate may be made by or on behalf of a person charged with a scheduled offence to —

- (a) a magistrate before whom, and at such time as, he or she is charged or may appear upon remand;
- (b) the examining magistrate by whom a preliminary inquiry in relation to that offence is held-
  - (i) at the commencement of the preliminary inquiry, or
  - (ii) where the person charged is committed for trial, at the conclusion of the preliminary inquiry;
- (c) a Judge at any time between committal for trial and the appearance of the person charged before the High Court to plead to the indictment;
- (d) the trial Judge in relation to a scheduled offence at any time during the hearing ,

where such person is not represented by an attorney-at-law.

(2) The Magistrate or Judge shall, as soon as practicable, cause the application to be transmitted to the Attorney-General for consideration.

**Applications for legal aid certificate by persons convicted**

**5.**— (1) An application for a legal aid certificate may be made by or on behalf of a person convicted for a scheduled offence to —

- (a) a Judge at any time after conviction and before an appeal by the person convicted is set down for hearing before the Court of Appeal;
- (b) a Judge at any time after the appeal by the person convicted is determined by the Court of Appeal and before the time for applying for leave to appeal to the Caribbean Court of Justice has expired,

where such person is not represented by an attorney-at-law.

(2) The Judge shall, as soon as practicable, cause the application to be transmitted to the Attorney-General for consideration.

**Duty of magistrate to inform persons of right to apply for legal services**

6. Where any person who has not made an application for the provision of legal services appears before a magistrate charged with a scheduled offence, or where any such person is committed for trial, the magistrate shall inform the person so charged, appearing or committed, of his or her right to make such an application.

**Proceedings to be adjourned**

7. Where a Magistrate or Judge is acting in accordance with section 4 or section 5, he or she shall adjourn the proceedings for inquires to be made by the Attorney-General into the financial circumstances of the applicant.

**Powers of Attorney-General**

8. On receipt of an application pursuant to section 4 or 5, the Attorney-General shall inquire into the financial circumstances of an applicant and shall, for that purpose —

- (a) establish guidelines and procedures to determine the eligibility of applicants for the services of an attorney-at-law under this Act;
- (b) establish a committee to advise him or her in evaluating the eligibility of applicants under this Act.

**Grant of legal aid certificate**

9.— (1) Where the Attorney-General is satisfied that an applicant is eligible for legal services he or she shall issue a legal aid certificate to the applicant.

(2) A legal aid certificate may be issued only where the person is a citizen, permanent resident or immigrant of Saint Lucia.

(3) Where the Attorney-General is of the opinion that the interests of justice demand that legal services be provided in respect of any scheduled offence, he or she may, notwithstanding that the person is not within the category of persons specified in subsection (2), issue a legal aid certificate to that person.

(4) A legal aid certificate entitles the person to whom it is issued to such free legal services as the Attorney General specifies in the certificate.

**Panel of attorneys-at-law**

**10.**— (1) An attorney-at-law who is desirous of providing legal services and who —

- (a) is not a legal officer;
- (b) holds a valid practising certificate;
- (c) has at least four years experience as a criminal lawyer;
- (d) is a member in good financial standing of the Bar Association,

may, with his or her consent, be registered by the Attorney-General as a member of the panel maintained under subsection (2).

(2) The Attorney-General shall maintain a panel of attorneys-at-law who are willing to provide legal services under this Act.

(3) The Attorney-General may, for good reasons, remove an attorney-at-law from the panel.

**Choice of attorney-at-law from panel**

**11.** An applicant who is eligible to receive the services of an attorney-at-law under this Act may select any attorney-at-law from the panel to render the legal services in respect of which a legal aid certificate relates.

**Declining to provide services**

**12.**— (1) A member of the panel may decline to provide his or her services in respect of any applicant for whom the member was appointed on the ground of conflict of interest, impropriety or impossibility.

(2) A member of the panel who declines pursuant to subsection (1) shall give his or her reasons in writing for so doing.

**Withdrawal of services**

**13.**— (1) An attorney-at-law who has accepted an appointment to act for an applicant may, subject to section 14, withdraw his or her services by notifying the Attorney-General in writing, or such person as the Attorney-General may designate, of his or her intention to withdraw.

(2) No attorney-at-law who has accepted an appointment to provide legal services may secure another attorney-at-law to render such services unless —

- (a) exceptional circumstances exist in respect of the matter for which he or she was appointed, and the Attorney-General approves of such action by the attorney-at-law;
- (b) the services are to be rendered to secure an adjournment in a trial or proceeding, or relate to a matter in respect of such an adjournment or motion therefore; or
- (c) the applicant in respect of whom the attorney-at-law was appointed consents in writing to such action by the attorney-at-law, and the attorney-at-law or applicant has supplied the Attorney-General with a copy of the consent.

(3) On the receipt of a notification under subsection (1), the Attorney-General; shall, with the consent of the applicant, appoint another member of the panel to provide legal services.

**Power of Magistrate or Judge to recommend new appointment**

**14.** Where the court is satisfied that in the interests of justice another member of the panel ought to be appointed to provide the legal services for the person to whom a legal aid certificate is issued, it shall so direct.

**Cancellation of legal aid certificate**

**15.** — (1) On application by the Attorney-General, a Judge may cancel a legal aid certificate where he or she is satisfied that —

- (a) the legal aid certificate ought not to have been issued;
- (b) the applicant has made a false statement or has concealed material information in applying for legal services; or
- (c) because of changed circumstances since the date of the issue of the certificate, the benefits under this Act ought not to be provided to the applicant.

(2) Where a legal aid certificate is cancelled pursuant to subsection (1), the applicant shall, unless exempted from this provision by the Attorney-General, on the ground that its application would create a hardship to the applicant, reimburse the Accountant-General for the cost of providing legal services to the applicant up to the time at which the certificate is cancelled, and the amount payable is a debt due by the applicant and owing to the Crown.



**Tariff of fees**

**16.** The Attorney-General shall, after consultation with the Bar Association establish a tariff of fees according to which attorneys-at-law rendering their services under this Act shall be remunerated.

**PART III**  
MISCELLANEOUS

**Contribution by applicants**

**17.** — (1) The Attorney-General may require an applicant whom the Attorney-General considers to be financially able to contribute towards the cost of the services to be provided to him or her, to pay such portion of those costs as the Attorney-General may specify.

(2) Any amount determined to be payable by an applicant under subsection (1), shall be paid to the Accountant General, and until it is paid it is a debt due and owing by the applicant to the Crown.

**Bill for services**

**18.** An attorney-at-law who has provided legal services under this Act may submit a bill of costs for such services to the Attorney-General in such manner as the Attorney-General may determine, claiming sums for those services in accordance with the tariff of fees established by the Attorney-General under this Act.

**Non-liability of Attorney-General**

**19.** The Attorney-General is not liable for anything done or omitted to be done by an attorney-at-law in the course of providing legal services under this Act.

**Privilege**

**20.** Any information disclosed by an applicant to the Attorney-General that would be privileged if disclosed to an attorney-at-law pursuant to an attorney-at-law and client relationship, shall be privileged to the same extent as if it had been disclosed to an attorney-at-law pursuant to an attorney-at-law and client relationship.

**Regulations**

**21.**— (1) The Minister may make regulations —

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- (a) prescribing the qualifications of applicants to be eligible for legal services under this Act;
- (b) classifying legal services for the purposes of this Act and prescribing the class or classes of legal services that may be provided under this Act;
- (c) prescribing a tariff of fees in respect of the classes of legal services to be provided under this Act;
- (d) generally for the purposes of giving effect to the provisions of this Act.

**Amendment of Schedule**

**22.** The Minister may by order amend the Schedule.

**Offences**

**23.** A person who, for the purpose of obtaining legal services under this Act, whether for himself or herself or some other person, knowingly makes a false statement or false representation, either verbally or in writing, or knowingly conceals any material fact, commits an offence, and is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months, or both.

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**SCHEDULE**

**SCHEDULED OFFENCE**

(Section 2,4,5)

- (a) Murder;
- (b) All indictable offences where the person charged is a minor.

Passed in the House of Assembly this 18th day of November, 2003.

J. BADEN ALLAIN,  
*Speaker of the House of Assembly.*

Passed in the Senate this 5th day of December, 2003.

THERESA ROMULUS,  
*Deputy President of the Senate.*