

I ASSENT

[L.S.]

PEARLETTE LOUISY,  
*Governor-General.*

*20th January, 2003.*

## **SAINT LUCIA**

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### **No. 6 of 2003**

**AN ACT** to provide for the receipt, investigation and determination of complaints by the public against the police and for related matters.

[ 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.— (1) This Act may be cited as the Police Complaints Act, 2003.

2. This Act comes into force on a date to be appointed by the Minister by Order in the *Gazette*.

**Interpretation**

2. In this Act —

“chairperson” means the person appointed as such under section 4 and includes the Deputy chairperson;

“Commission” means the Police Complaints Commission established under section 3;

“Commissioner” means the Commissioner of Police;

“complaint” means a complaint submitted pursuant to section 19;

“Director of Audit” means the person appointed as such under section 90 of the Saint Lucia Constitution Order;

“Minister” means the Minister with responsibility for the police;

“Police Force” means the Royal Saint Lucia Police Force established under the Police Ordinance, No. 30 of 1965;

“prescribed” means prescribed by regulations;

“Unit” means the Complaints Unit established under section 18.

PART II  
ESTABLISHMENT AND ORGANISATION OF COMMISSION

**Commission established**

3. There is established a body to be known as the Police Complaints Commission which shall undertake such functions as are prescribed under this Act.

**Membership of Commission**

4.— (1) The Commission shall consist of five members appointed by the Minister as follows —

- (1) two persons nominated by the Chief Justice;
- (2) two persons nominated by the Minister;
- (3) one person nominated by the Commissioner.

(2) The Minister shall, after consultation with the Chief Justice and the Commissioner, appoint one member to be Chairperson of the Commission.

(3) The Commission shall at its first meeting, appoint a Deputy Chairperson from amongst its members and the Deputy Chairperson shall act in the absence of the Chairperson.

#### **Alternate members**

5.—(1) The Minister may, in writing, appoint a person to be an alternate member for any member of the Commission, other than the Chairperson, and the alternate member so appointed may act as a member of the Commission in the event of the absence, incapacity or ineligibility to conduct a hearing of that member.

(2) In the exercise of the power under subsection (1), the Minister shall consult the Chief Justice or the Commissioner as the case may be, where an alternate is to be appointed to act for a member nominated by the Chief Justice or the Commissioner.

#### **Qualifications for membership**

6.— (1) Persons appointed to the Commission shall possess the qualifications necessary for the performance of the functions assigned to the Commission by this Act, save however, that the Chairperson shall either be —

- (a) an attorney with at least ten years standing as an attorney; or
- (b) a retired police officer who served at the rank of Superintendent or above.

(2) No person is qualified to be appointed a member of the Commission who —

- (a) is a member of —
  - (i) the Senate;
  - (ii) the House of Assembly;

- (iii) a local government authority;
- (b) was at any time during the two years preceding the appointment —
  - (i) a member of the Senate;
  - (ii) a member of the House of Assembly;
  - (iii) a member of a local government authority;
  - (iv) a candidate for election to membership of the House of Assembly; or
  - (v) a candidate for election to membership of a local government authority;
- (c) is a police officer, or was, at any time during the three years preceding the appointment, a police officer;
- (d) is an undischarged bankrupt;
- (e) has at any time been convicted of an offence involving dishonesty or moral turpitude.

#### **Tenure of Commission**

7.— (1) Each member of the Commission shall be appointed to hold office for a term not exceeding three years but may be removed for cause at any time by the Minister in writing.

(2) A member of the Commission is eligible for re-appointment on the expiration of the member's term of office.

#### **Remuneration of Commission**

8.— (1) Members of the Commission shall be paid such remuneration as is fixed by Cabinet acting on the advice of the Minister.

(2) Remuneration paid to members under subsection (1), shall be charged on the Consolidated Fund.

#### **Resignation from Commission**

9.— (1) The Chairperson may at any time resign his or her office as Chairperson or as a member of the Commission or both, in writing addressed to the Minister.

(2) A member of the Commission other than the Chairperson, may at any time resign his or her office as member, in writing, addressed to the Minister and transmitted through the Chairperson.

(3) A resignation under this section takes effect from the date of receipt of the instrument of resignation by the Minister.

#### **Functions of the Commission**

**10.** —(1) Subject to Subsection (2), the Commission shall —

- (a) receive complaints on the conduct of any police officer;
- (b) monitor the investigation of a complaint by the Unit, so as to ensure that the investigation is conducted impartially;
- (c) report to the Minister from time to time, or at his or her request; and
- (d) review reports from the Unit in accordance with Part IV.

(2) Where the Commission so determines it may decline to refer a complaint to the unit and may in such case conduct an investigation on it's own accord.

#### **Powers of the Commission**

**11.** — (1) For the purposes of the discharge of its functions the Commission has power —

- (a) to request any information, documents or things, with respect to a complaint, from -
  - (i) the Commissioner;
  - (ii) the Unit;
  - (iii) any person making a complaint ;
  - (iv) the police officer against whom the complaint is made; or
  - (v) any other person who, in the opinion of the Commission, may be able to assist;
- (b) in the case of a review of a complaint to —
  - (i) request all or any of the parties concerned as well as witnesses to appear before the Commission;
  - (ii) request such information, documents or things as it deems necessary to review the complaint.

(2) The Commission may give such guidance to the Unit as may be necessary to ensure thoroughness and impartiality in the carrying out of the functions of the Unit.

**Staff of Commission**

**12.** The Commission shall, after consultation with the Minister, employ such number of staff as is necessary for the proper conduct of the work of the Commission.

**Funds of Commission**

**13.** The funds of the Commission shall consist of such sums as are appropriated to it by Parliament from time to time.

**Accounts of the Commission**

**14.—** (1) The Commission shall keep accurate and proper accounts and records of all transactions in accordance with recognized accounting standards, principles and practices and shall ensure that all payments out of the funds of the Commission are properly authorised and correctly made and that adequate control is maintained over the incurring of expenditure.

(2) The Accounts of the Commission shall be audited annually by the Director of Audit or by an auditor authorised by the Director of Audit for such purpose.

**Independence of Commission**

**15.** Subject to the provisions of the Constitution relating to the powers of the Director of Public Prosecutions and the Public Service Commission, the Commission is not subject to the direction or control of any other person in the exercise of its powers.

**Rules of Procedure**

**16.** Subject to this Act, the Commission may make rules regarding —

- (a) the sitting of the Commission;
- (b) the manner of dealing with matters and business before the Commission generally, including the practice and procedure before the Commission;

- (c) the apportionment of the work of the Commission among its members and the assignment of members to review complaints referred to the Commission; and
- (d) generally for the performance of the duties and functions of the Commission under this Act .

#### **Annual Report**

**17.**— (1) The Chairperson shall, within three months after the end of each financial year, submit to the Minister a report of the activities of the Commission during that year and its recommendations, if any, and the Minister shall cause a copy of the report to be laid before Parliament.

(2) For the purposes of this Act, the financial year of the commission shall be any period of twelve months beginning on 1<sup>st</sup> January in any year.

### **PART III**

#### **RECEIPT AND INVESTIGATION OF COMPLAINTS**

#### **Complaints Unit**

**18.**— (1) The Commissioner shall, after consultation with the Minister, establish and maintain for the purposes of this Act, a unit within the Police Force to be known as the Complaints Unit.

(2) The Unit shall —

- (a) investigate complaints made by members of the public against police officers and referred to it by the Commission;
- (b) resolve the said complaints in accordance with this Act;
- (c) submit to the Commission and to the Commissioner —
  - (i) at the end of every three months, a progress report on the work undertaken by the Unit;
  - (ii) a final report on all investigations; and
- (d) carry out such other duties as the Commissioner or the Commission may assign to it from time to time.

(3) The Unit shall be headed by a police officer of a rank no lower than that of Assistant Superintendent save that, where a complaint is made —

- (a) against the Head of the Unit; or
- (b) against an officer of a higher rank than the Head of the Unit;

the Commissioner shall appoint an officer of a rank senior to that of the officer against whom the complaint is made to investigate that complaint.

(4) The Commissioner shall ensure that the Unit is supplied with sufficient staff and facilities to receive complaints from the commission and to record and investigate those complaints.

#### **Complaints by public**

**19.**— (1) Any member of the public having a complaint concerning the conduct of any police officer appointed or employed under the Police Ordinance No. 30 of 1965 may, whether or not that member of the public is affected by the subject matter of the complaint, make a complaint in the form contained in the Schedule, to —

- (a) the Commission;
- (b) any police officer appointed by the Commissioner to be responsible for the receipt and investigation of complaints by the public against the police.

(2) The person who receives a complaint —

- (a) under subsection (1) (a), shall give a certified copy to the person making the complaint; and
- (b) under subsection (1) (b), shall send a copy of the complaint to the Commission.

(3) Where, however, the complaint relates to a fatality or alleged criminal conduct a copy shall be sent also to the Director of Public Prosecution.

(4) In this section “certified copy” means a copy of the complaint signed by the person receiving the same and stamped “certified” with an official stamp.

#### **Commission to transmit complaints to Unit**

**20.** The Commission shall record all complaints received, and shall submit them to the Unit through the Commissioner for investigation and resolution in the manner provided in this Act.

#### **Notification of police officer**

**21.** Forthwith after being notified of a complaint under section 19, the Commissioner shall, in writing, notify the police officer whose conduct is



the subject matter of the complaint, of the substance of the complaint unless, in the Commissioner's opinion, to do so might adversely affect or hinder any investigation that is being or may be carried out in respect of the complaint.

**Informal disposition**

**22.**— (1) The Commissioner shall consider whether a complaint under section 19 (1) can be disposed of informally and, with the consent of the complainant and the police officer whose conduct is the subject-matter of the complaint, may attempt to so dispose of the complaint.

(2) No answer or statement made, in the course of attempting to dispose of a complaint informally, by the complainant or the police officer whose conduct is the subject-matter of the complaint shall be used or receivable in any criminal, civil or administrative proceedings.

(3) Where a complaint is disposed of informally, a record shall be made of the manner in which the complaint was disposed of, the complainant's agreement to the disposition shall be signified in writing by the complainant and the police officer whose conduct is the subject-matter of the complaint shall be informed of the disposition.

(4) The provisions of this section shall not apply where a complaint relates to a fatality.

**Frivolous complaints**

**23.**— (1) The Unit shall investigate all complaints in a thorough and impartial manner, except that where the Head of the Unit is of the view that the complaint is of a frivolous nature, the person making that complaint shall be informed that no investigation shall be undertaken in the matter, or that investigations have been discontinued.

(2) Where a decision is taken not to investigate or to discontinue investigations under subsection (1), the Head of the Unit shall, within seven days accordingly inform the Commissioner, the Commission, the police officer against whom the complaint was made, and the complainant.

(3) Notwithstanding subsections (1) and (2), where the Commission is of the opinion that the disposal of a complaint under subsection (1) was obtained as a result of a misunderstanding, threat or other improper pressure, the Commission may order that the complaint continue to be dealt with under section 24, giving written reasons for its decision to the

Commissioner, the Unit, the complainant and the police officer whose conduct is the subject matter of the complaint.

**Unit to investigate complaints**

**24.**— (1) Where a complaint is not disposed of under section 22 or 23 the Unit shall cause a full investigation to be made into the complaint and on completion of an investigation, shall prepare a full report of the investigation together with its findings and recommendations.

(2) The report shall be forwarded to the Commissioner and the Commission, and its recommendations notified to the complainant and the police officer whose conduct is the subject matter of the complaint.

**Reports to Commission**

**25.** The Head of the Unit shall —

- (a) not later than thirty days after the receipt of a complaint, furnish to the Commission a report in the prescribed form providing a summary of the investigation to date; and
- (b) furnish further reports on a monthly basis to the Commission during the course of the investigation.

**Preservation of evidence**

**26.** On receipt of a complaint, the Unit shall take any steps or measures which appear to it desirable for the purposes of obtaining or preserving any evidence which relates to a complaint and may to that end obtain the assistance of any police officer in charge of the police station where the police officer whose conduct is the subject matter of the complaint, is stationed.

**Review by Commissioner**

**27.**— (1) The Commissioner shall review all reports submitted by the Unit under this Act and, unless notice of an application for a review of the findings is served on the Commission in accordance with section 30, the Commissioner may immediately —

- (a) refer the matter to the Director of Public Prosecutions or the Public Service Commission where the report recommends this course of action;
- (b) take such action as he or she thinks fit, in accordance with the Public Service Commission Regulations, or the Police Services Regulations as the case may be.

(2) The Commissioner shall also give notice in writing to the Commission, the complainant and the police officer whose conduct is the subject matter of the complaint, of the action taken under subsection (1), giving reasons for such action.

**Delegation of functions by Commissioner**

**28.**— (1) Subject to subsection (2), the Commissioner may delegate to a police officer, not below the rank of Superintendent, the right to exercise any of the Commissioner's functions under this Act, and such functions shall be specified in the instrument of delegation.

(2) The Commissioner may not delegate any of his or her powers under section 27.

**Rules by Commissioner**

**29.** The Commissioner may make rules governing the procedures to be followed by officers of the Unit in receiving, recording, investigating, disposing of or otherwise dealing with complaints, and may require that all complaints be notified to such officers of the Police Force as the Commissioner may specify.

**PART IV**

**REVIEW OF RESULTS OF INVESTIGATION**

**Application for review**

**30.** A person who is aggrieved with the disposition of his or her complaint or with the findings and recommendations of the Unit, may apply in writing to the Commission for a review of the matter by the Commission, within one month of receipt of the outcome of the investigation.

**Commissioner to furnish relevant material**

**31.**— (1) On receipt of an application under section 30, the Commission shall notify the Commissioner in writing and request of the Commissioner all material relevant to the particular complaint.

(2) The Commissioner shall, upon receiving the request under subsection (1), furnish the Commission with all material relevant to the complaint within twenty-one days.

**Review by Commission**

**32.**— (1) Where, on review, the Commission is satisfied as to the manner of the disposition of a complaint, it shall prepare and send a report in writing to that effect to the Minister, the Commissioner, the complainant and the police officer whose conduct is the subject matter of the complaint.

(2) Where, however, the Commission is not satisfied as to the manner of the disposition of a complaint, it —

- (a) shall submit a report in writing to the Minister and the Commissioner setting out its findings and recommendations with respect to the disposition of the complaint;
- (b) may request the Commissioner to conduct further investigation into the complaint;
- (c) may institute a hearing to inquire into the complaint;
- (d) shall inform the complainant of the action taken.

**Hearing instituted by Commission**

**33.** — (1) For purposes of section 32 (2)(c), the Commission shall institute a hearing by sending a notice of the hearing to the Minister, the Commissioner, the complainant and the police officer whose conduct is the subject matter of the complaint.

(2) The notice of hearing shall —

- (a) specify the purpose of the hearing;
- (b) specify the place and time of the hearing; and
- (c) be in such form as may be prescribed by rules made by the Commission

(3) The complainant and the police officer whose conduct is the subject matter of the complaint shall attend the hearing.

**Non-attendance of parties**

**34.**— (1) Where the complainant does not attend the hearing, having had due notice of the time and place of hearing, the Commission may dismiss the complaint, unless having received a reasonable excuse for the non-appearance of the complainant the Commission thinks it fit to adjourn the matter.

- (2) Any other person who —
- (a) refuses or neglects without reasonable cause, to attend a hearing in compliance with the requirements of a notice issued under section 33; or
  - (b) departs from a hearing without the authority of the person holding the hearing,

commits an offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for one year.

#### **Completion of hearing**

**35.**— (1) On completion of a hearing, the Commission shall prepare and send to the persons referred to in section 32(1), a report setting out its findings and recommendations with respect to the complaint.

(2) Where the Commissioner receives a report under subsection (1), he or she shall, after considering the recommendations contained therein, act in accordance with section 27.

### PART V MISCELLANEOUS

#### **Immunity of members**

**36.** No member of the Commission or of a committee appointed by the Commission shall be personally liable for any act or default of the Commission or a committee, done or omitted to be done in good faith in the course of performing any function under this Act.

#### **Committees of Commission**

**37.**— (1) The Commission may delegate any of its functions to a committee of its members.

(2) Nothing in subsection (1) shall be construed as affecting the responsibility of the Commission for any function performed on its behalf pursuant to subsection (1).

#### **Prohibition and privilege**

**38.**— (1) No person shall, without the consent in writing given by or on behalf of the Chairman, publish or disclose to another person, otherwise than is necessary in the course of his or her duties, the contents of any documents, communication or information whatsoever, which relate to,

and have come to his or her knowledge in the course of his or her duties under this Act.

(2) Anything said or information supplied or any document produced by any person for the purpose of, or in the course of an investigation or proceedings before the Commission under this Act, is privileged in the same manner as if the investigations or proceedings were proceedings in a court of law.

### **Secrecy**

**39.** The Commission and every person concerned with the administration of this Act, shall regard as secret and confidential all documents, information or matters disclosed in the administration of this Act except that disclosures —

- (a) made by the Commission or any other person in proceedings for an offence under section 40; or
- (b) which the Commission considers necessary in the discharge of its functions,

shall not be deemed inconsistent with any duty imposed under this section.

### **Channel of communication**

**40.—** (1) All communication and correspondence between the Commission and the Complaints Unit shall be conducted through the office of the Commissioner.

(2) The Commissioner shall ensure that all communication and correspondence between the Commission and the Unit shall be transmitted to the appropriate party in a speedy and efficient manner.

### **Offences**

**41.** A person who —

- (a) wilfully makes a false statement to mislead or misleads or attempts to mislead the Commission or any other person in the discharge of functions under this Act; or
- (b) without lawful justification or excuse —
  - (i) obstructs, hinders or resists the Commission or any other person in the discharge of functions under this Act;

(ii) fails to comply with any lawful requirement of the Commission or any other person under this Act; or

(c) deals with documents, communication or information in a manner inconsistent with his or her duty under this Act,

commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for a term of two years.

**Regulations**

**42.** The Minister may make regulations for the carrying out of the objects of this Act.

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*Police Complaint Act, 2002 (No. of 2002)*

*(Section 19)*

SCHEDULE  
**COMPLAINT**

Date .....

Name of Complainant .....

Address of Complainant .....

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Contact Telephone No. ....

Name, Rank and Number of the Officer against whom the complaint is being made.....

Particulars of the complaint\* .....

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\* (Continue on a separate sheet if necessary and attach hereto)

Received by .....

Name and signature .....

Date .....

No. 6 ]                      *Police Complaints Act*                      [ 2003.

Passed in the House of Assembly this 12th day November, 2002.

MATTHEW ROBERTS,  
*Speaker of the House of Assembly.*

Passed in the Senate this 20th day of December, 2002.

HILFORD DETERVILLE,  
*President of the Senate.*