

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

7th October, 2004.

SAINT LUCIA

No. 16 of 2004

AN ACT to amend the Anti-Terrorism Act No. 36 of 2003.

[18TH OCTOBER, 2004]

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:

Short title

1. This Act may be cited as the Anti-Terrorism (Amendment) Act, 2004.

Interpretation

2. In this Act “principal Act” means the Anti-Terrorism Act No. 36 of 2003.

Addition of sections 20A and 20B

3. The principal Act is amended by adding the following sections 20A and 20B immediately after section 20 —

“Tipping-off

- 20A.— (1) A person who has reasonable grounds to believe that an investigation into a terrorist act has been, is being, or is about to be made shall not prejudice the investigation by divulging that fact to another person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine of not less than fifty thousand dollars and not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not less than five years and not exceeding ten years.
- (3) Nothing in subsection (1) makes it an offence for a professional legal adviser to divulge any information or other matter —
- (a) to, or to a representative of, a client in connection with the giving of legal advice to the client by the adviser; or
- (b) to any person —
- (i) in contemplation of, or in connection with, legal proceedings; and
- (ii) for the purpose of those proceedings;

but this subsection does not apply in relation to any information or other matter which is divulged with a view to furthering any terrorist act.

- (4) In proceedings against a person for an offence under subsection (1), it is a defence for a person to prove that he or she did not know or suspect that the divulging of information or any other matter was likely to be prejudicial to the investigation.
- (5) A police officer or other person does not commit an offence under this section in respect of anything done by him or her in the course of acting in accordance with the enforcement, or intended enforcement, of any provision in this Act or any regulations made hereunder relating to terrorist acts.

Financial institutions

- 20B. (1) A financial institution which engages in the financing of terrorist acts commits an offence and is liable on conviction on indictment to a fine of one million dollars.
- (2) A financial institution which attempts, aids, abets, counsels, or procures the commission of, or which conspires to engage in terrorist acts, commits an offence and is liable on conviction on indictment to a fine of two million dollars.
 - (3) A director, general manager, secretary or other like officer or any employee of the financial institution who engages in the financing of a terrorist act commits an offence and is liable on conviction on indictment to a fine of five hundred thousand dollars or to imprisonment for a term of five years or both.
 - (4) A director, general manager, secretary or other like officer or any employee of the financial institution who attempts, aids, abets, counsels, or procures the commission of, or who conspires to engage in the financing of terrorist acts, commits an offence and is liable on conviction on indictment to a fine of two hundred thousand dollars or to imprisonment for a term of three years or both.

Amendment of section 25

4. Section 25(2)(a)(ii) of the principal Act is amended by deleting the words “any country” and substituting the words “Saint Lucia”.

Addition of sections 36A and 36B

5. The principal Act is amended by adding the following sections 36A and 36B immediately after section 36 —

“Voidable transfers

36A. The High Court may —

- (a) before making a forfeiture order; and
- (b) in the case of property in respect of which a restraining order is made, where the order was served in accordance with section 35;

set aside any conveyance or transfer of the property that occurred after the seizure of the property or the service of the restraining order, unless the conveyance or transfer was made for valuable consideration to a person acting in good faith and without notice.

Protection of third parties

36B. (1) Where an application is made for a forfeiture order against property, a person who claims an interest in the property may apply to the High Court, before the forfeiture order is made, for an order under subsection (2).

(2) If a person applies to the High Court for an order under this section in respect of his or her interest in property and the High Court is satisfied on a balance of probabilities —

- (a) that he was not in any way involved in the commission of the offence; and
- (b) where he or she acquired the interest during or after the commission of the offence, that he or she acquired the interest —
 - (i) for sufficient consideration; and

- (ii) without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time he or she acquired it, property that was used in the commission of a terrorist act;

the High Court shall make an order declaring the nature, extent and value (as at the time the order is made) of his or her interest.

- (3) Subject to subsection (4), where a forfeiture order has already been made directing the forfeiture of property, a person who claims an interest in the property may before the end of the period of twelve months commencing on the day on which the forfeiture order is made, apply under this subsection to the High Court for an order under subsection (2).
- (4) A person who —
 - (a) had knowledge of the application for the forfeiture order before the order was made; or
 - (b) appeared at the hearing of that application;
 shall not be permitted to make an application under subsection (3), except with the leave of the High Court.
- (5) A person who makes an application under subsection (1) or (3) must give not less than fourteen days written notice of the making of the application to the Director of Public Prosecutions, who shall be a party to any proceedings in the application.
- (6) An applicant or the Director of Public Prosecutions may in accordance with the rules of court, appeal to the Court of Appeal from an order made under subsection (2).
- (7) The Registrar shall, on application made by any person who has obtained an order under subsection (2), and where the period allowed by the rules of court with respect to the making of appeals has expired and any appeal from that order taken under subsection (6) has been determined —

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- (a) direct that the property or the part thereof to which the interest of the applicant relates be returned to the applicant; or
- (b) direct that an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant.”.

Passed in the House of Assembly this 10th day of August, 2004.

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

Passed in the Senate this 23rd day of September, 2004.

HILFORD DETERVILLE,
President of the Senate.