

SAINT LUCIA

No. 42 of 2006

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[L.S.]

PEARLETTE LOUISY,
Governor-General.

16th November, 2006.

SAINT LUCIA

No. 42 of 2006

AN ACT to provide for the prevention of praedial larceny 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 1
PRELIMINARY

Short title and commencement

1.— (1) This Act may be cited as the Praedial Larceny Act 2006.

(2) This Act shall come into force on a day to be fixed by the Minister responsible for Agriculture by Order published in the *Gazette*.

Interpretation

2. In this Act —

“agricultural produce” includes any thing derived directly or indirectly from crop production, animal husbandry, aquaculture, mariculture, horticulture or forestry whether for profit or subsistence;

“Minister means the Minister responsible for Agriculture;

“premises” means any house, store, yard or other place or land whether enclosed or not.

PART 2
PRAEDIAL LARCENY

Offence of praedial larceny

3.— (1) A person shall not —

- (a) steal the whole or any part of any agricultural produce in any place;
- (b) with intent to steal, cut, break, up root or otherwise destroy or damage the whole of any agricultural produce in any place;
- (c) steal any agricultural produce at any stage in the process of manufacture; or
- (d) dishonestly receive or unlawfully obtain any agricultural produce which has been stolen or otherwise unlawfully obtained.

(2) A person who contravenes any provision of subsection (1) commits an offence of praedial larceny and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both.

Power to stop and search a suspect without a warrant

4.— (1) Subject to subsection (2), a police officer may, without a warrant, stop and search a person who commits an offence of praedial larceny under section 3 or who the police officer reasonably suspects to have committed an offence of praedial larceny under section 3.

(2) Where a person is stopped pursuant to subsection (1), the police officer may, on informing the person of his or her purpose, search the person and may require the person to produce proof of ownership of any agricultural produce found in that person's possession.

Power to stop and search a vehicle or conveyance without a warrant

5.— (1) Subject to subsection (2), a police officer may, without a warrant, stop any vehicle or other conveyance if the police officer reasonably believes that the vehicle or other conveyance is being used to convey agricultural produce in the commission of an offence of praedial larceny under section 3.

(2) Where a vehicle or other conveyance is stopped pursuant to subsection (1), the police officer may, on informing the person in charge of the vehicle or other conveyance of his or her purpose, search the vehicle or other conveyance and may require the person in charge of the vehicle to produce proof of ownership of any agricultural produce found in the vehicle or conveyance.

Power to arrest and seize without a warrant

6. Where, on being required to produce proof of ownership of an agricultural produce pursuant to section 4(2) or 5(2), a person fails to produce the proof of ownership or produces proof of ownership that the police officer reasonably believes is false, the police officer may, without a warrant —

- (a) arrest that person;
- (b) seize any agricultural produce found in the possession of the person or in the vehicle or other conveyance;
- (c) seize the vehicle or other conveyance in which the agricultural produce was being conveyed.

Warrant for search, arrest and seizure on escape of suspect

7. Where on being required to stop by a police officer pursuant to section 4 or 5, a person —

- (a) refuses to stop or refuses to stop the vehicle or other conveyance in his or her charge;
- (b) escapes from the police officer attempting to arrest him or her in accordance with section 6; or
- (c) throws away or lets fall from his or her possession any agricultural produce;

the police officer may apply to a Magistrate for a warrant for the arrest of the person, the search for and seizure of the agricultural produce or the vehicle or other conveyance and the Magistrate may issue the warrant.

Warrant to search premises and to arrest and seize

8. Where a police officer gives information on oath to a Magistrate that there is reasonable cause to believe that any agricultural produce obtained in the commission of an offence of praedial larceny is concealed or lodged in any premises, the Magistrate may issue a warrant authorising the police officer with such assistance as may be necessary to execute the warrant and to cause —

- (a) the premises to be entered and searched;
- (b) the arrest of the owner or occupier of the premises or any other person found in the premises; or
- (c) the seizure of any agricultural produce found in the premises;

if there is reasonable cause to suspect that an offence of praedial larceny has been committed.

Requirement for charge and appearance or release

9. — (1) Where a person is arrested for an offence pursuant to this Act, that person shall, as soon as is practicable and in any event before the expiry of seventy two hours after the arrest, be charged and brought before a court, or be discharged.

(2) Where a person from whom agricultural produce or a vehicle or other conveyance is seized pursuant to this Act —

(a) is not charged or brought before a court; or

(b) is discharged;

in accordance with subsection (1), the agricultural produce or vehicle or other conveyance seized shall be returned to that person within the period referred to in subsection (1).

Forfeiture and sale after conviction

10.— (1) Where any person is convicted of an offence pursuant to this Act, the court before which the person is convicted may, subject to sections 11 and 12, order the forfeiture and sale of any agricultural produce or vehicle or other conveyance seized in relation to the offence.

(2) Where an order for forfeiture is made pursuant to subsection (1) the court may order the sale of such agricultural produce or the vehicle or other conveyance and unless an application pursuant to section 11 is successful, the same shall be sold and the proceeds of sale shall be paid into the Consolidated Fund.

Restitution

11.— (1) Notwithstanding section 10, where any person is convicted of an offence pursuant to this Act, the court before which the person is convicted may order the delivery of any agricultural produce or vehicle or other conveyance seized in relation to the offence to the person who appears to be entitled to the same.

(2) Notwithstanding section 10, the owner of agricultural produce or a vehicle or other conveyance which has been seized or forfeited pursuant to this Act may make a claim to the court for the agricultural produce, vehicle or other conveyance or the proceeds of sale of the same to be restored to the owner.

(3) Where a claim is made pursuant to subsection (2), the court may, subject to subsection (4), order that the agricultural produce, vehicle or other conveyance or the proceeds of sale of the same be restored to the owner on payment by the owner of any expenses incurred in transporting and keeping the agricultural produce vehicle or other conveyance for the purposes of this Act.

(4) A court shall not make an order under subsection (3) if the owner of the agriculture produce, vehicle or other conveyance is convicted of aiding and abetting any person convicted of an offence pursuant to this Act in the commission of the offence.

(5) For the purposes of this section “owner” in relation to a motor vehicle has the meaning given to it pursuant to section 2 of the Motor Vehicle and Road Traffic Act 2003, No. 10.

Sale or disposal of and compensation for perishable agricultural produce

12.— (1) Notwithstanding section 10, where agricultural produce is seized, the police officer making the arrest shall deliver the agricultural produce to the Director of Agricultural Services who shall, subject to subsection (2), preserve the agricultural produce for the purposes of the trial of the offence and where the agricultural produce is likely to perish before the trial of the offence, the Director of Agricultural Services shall sell it or if a sale cannot be conducted shall dispose of it in any other manner as he or she sees fit.

(2) Where the offence referred to in subsection (1) is to be tried, the Director of Agricultural Services shall deliver to the Clerk of Court a certificate containing the following information —

- (a) the quantity of agricultural produce received by him or her;
- (b) the quantity of agricultural produce sold;
- (c) the amount realised by the sale;
- (d) where the agricultural produce is disposed of otherwise than by sale, the method and date of disposal;
- (e) the value of the proceeds of sale less any amount that is applied to satisfy the conduct of the sale.

(3) A certificate referred to in subsection (2) shall be admissible in evidence as proof of the matters stated in it without proof of the signature of the Director of Agricultural Services.

(4) Where the person charged with an offence pursuant to this Act is convicted of an offence pursuant to this Act in relation to which agricultural produce was seized and sold or otherwise disposed pursuant to this section, the court may —

- (a) in the case of sale, order that compensation be paid out of and not exceeding the net realized by the sale to the person who

makes a claim and who appears to the court to be the owner of the agricultural produce;

- (b) subject to subsection (5), in the case where the agricultural produce was disposed of, order the accused to pay the person who makes a claim and who appears to the court to be the owner of the agricultural produce such compensation not exceeding the net market value of the agricultural produce.

(5) An order for the payment of compensation made pursuant to subsection (4)(b) shall not be for an amount in excess of five thousand dollars.

(6) An award of compensation referred to in subsection (4) shall not be a bar to any civil proceedings for damages where the net market value of the agricultural produce exceeds five thousand dollars, but any compensation awarded shall be taken into account for the purposes of awarding damages.

(7) Where agricultural produce is sold in accordance with subsection (1) and the owner cannot be ascertained, the proceeds of the sale shall be paid into the Consolidated Fund.

PART 3
MISCELLANEOUS

Regulations

13. The Minister may make Regulations generally for the purpose of giving effect to this Act.

Repeal

14. The *Praedial Larceny Act*, Cap 3.05 is repealed.

Passed in the House of Assembly this 24th day of October, 2006.

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

Passed in the Senate this 9th day of November, 2006.

HILFORD DETERVILLE,
President of the Senate.