

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

16th November, 2006.

SAINT LUCIA

No. 46 of 2006

AN ACT to amend the Evidence Act 2002, No. 5.

[27th November, 2006]

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 Evidence (Amendment) Act 2006.

Interpretation

2. In this Act “principal Act” means the Evidence Act 2002, No. 5.

Amendment of section 70

3. Section 70 of the principal Act is amended by inserting the words “where the issue of admissibility is raised by the defendant” between the words “admission” and “is” appearing in that section.

Amendment of section 71

4. Section 71 of the principal Act is amended by —
 - (a) inserting the following words between the word “defendant” and the full-stop occurring at the end of subsection (1):

“where the issue of admissibility of the confession is raised by the defendant”; and
 - (b) inserting the words “referred to in subsection (1)” between the words “confession” and “is” appearing in subsection (2).

Amendment of section 72

- 5.— (1) Subsection (2) of section 72 of the principal Act is amended by deleting paragraphs (a) and (b) and by substituting the following:

- “(a) the questioning of the person and any thing said by the person during the questioning was tape recorded; or
- (b) the questioning of the person was conducted in the presence of a person, not being an investigating official, who was —
 - (i) a Justice of the Peace; or
 - (ii) an attorney-at-law acting for the person;

and a document prepared by or on behalf of the investigating official to prove the contents of the question, representation or response has been signed, initialed or otherwise marked by the person making the admission, and by the Justice of the Peace or the attorney-at-law, acknowledging that the document is a true record of the question, representation or response; or”.

(2) Subsection (4) of section 72 is amended by deleting the words “seven” wherever it appears and by replacing it with the word “fourteen”.

Amendment of section 73

6. Section 73 of the principal Act is amended by inserting the following as subsection (3):

“(3) A court may admit evidence to which this section applies even if subsection (1) has not been complied with, if having regard to the reasons for non-compliance and any other relevant matters the court is satisfied that it was not practicable to comply with that provision and in the special circumstances of the case it would not be contrary to the interests of justice.”.

Amendment of section 102

7.— (1) Subsections (2), (3) and (4) of section 102 of the principal Act are deleted and replaced by the following:

“(2) In particular, the Judge shall warn the jury that it should not find, on the basis of the identification evidence, that the defendant was a person by whom the relevant offence was committed unless —

- (a) there is, in relation to the identification, at least one special circumstance that tends to support the identification; or
- (b) there is substantial evidence, not being identification evidence, that tends to prove the guilt of the defendant and that the jury accepts that evidence.

(3) Special circumstance for the purposes of subsection (2) includes —

- (a) that the defendant is known to the person who made the identification; or
- (b) that the identification was made on the basis that the quality of the identification is good.

(4) Where—

- (c) it is not reasonably open to find the defendant guilty except on the basis of identification evidence; or
- (d) there are no special circumstances of the kind mentioned in subsection (3);

the Judge shall direct that the defendant be acquitted.”.

Amendment of section 149

8. Section 149 of the principal Act is amended by deleting the words “of any Superior Court” appearing in paragraph (ii) and by substituting the words “or Magistrate”.

Passed in the House of Assembly this 31st 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.