

SAINT LUCIA

No. 6 of 2007

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

April 19, 2007.

SAINT LUCIA

No. 6 of 2007

AN ACT to provide for the presence, activities, privileges and immunities of members of visiting forces during the period of Cricket World Cup 2007 and for related matters.

[7th May, 2007]

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 :

No. 6] *Cricket World Cup (Visiting Forces) Act* [2007.

Short title

1. This Act may be cited as the Cricket World Cup (Visiting Forces) Act 2007.

Interpretation

2. In this Act —

“civil court” means a court of ordinary criminal jurisdiction in Saint Lucia and includes a court of summary jurisdiction;

“dependant” means the wife or husband of a member of a visiting force, or any other person wholly or mainly maintained by him or her, or in his or her custody, charge or care;

“designated State” means a State listed in the Schedule;

“Force” means the Royal Saint Lucia Police Force established under section 3 of the Police Act, Cap. 14.01;

“Minister” means the Minister responsible for national security except where this Act specifically designates another Minister;

“service court” means a court martial of a visiting force and includes the service authorities of a designated State who are empowered by the laws of that State to deal with charges brought against persons subject to the service law of that State;

“service law” in relation to a designated State, means the law governing all or any of the visiting forces of that State;

“visiting force” means any of the armed force or police force of a designated State present in Saint Lucia in connection with official duties, and includes civilian personnel designated under section 5 as a civilian component of a visiting force.

Application

3.— (1) The Minister may by Order published in the *Gazette* declare the extent to which this Act is applicable in respect of any designated State.

(2) This Act applies in respect of a designated State when the Minister has, pursuant to subsection (1), declared it to be applicable in respect of that State, and it applies in respect of that State only to the extent declared by the Minister pursuant to that subsection.

Binding of the Crown

4. This Act binds the Crown.

Designation of civilian personnel

5. The Minister may by Order published in the *Gazette* designate civilian personnel as a civilian component of a visiting force.

Jurisdiction of civil court

6. Except in respect of offences mentioned in section 8(2), the civil courts have the primary right to exercise jurisdiction in respect of any act or omission constituting an offence against any law in force in Saint Lucia committed by a member of a visiting force or a dependant.

Previous trial by service courts

7. Where a member of a visiting force or a dependant of a member of a visiting force has been tried by a service court of that visiting force and has been convicted or acquitted, he or she may not be tried again by a civil court for the same offence.

Jurisdiction of service court

8.— (1) Subject to this Act, the service authorities and service courts of a visiting force may exercise within Saint Lucia in relation to members of that force and dependants, all the criminal and disciplinary jurisdiction that is conferred upon them by the law of the designated State to which they belong.

(2) A service court of a visiting force has the primary right to exercise jurisdiction in relation to an alleged commission by a member of the visiting force or a dependant of a member of a visiting force of an offence in respect of —

- (a) the property or security of the designated State;
- (b) the person or property of another member of the visiting force or a dependant; or
- (c) an act done or anything omitted in the performance of official duty.

Previous trial by civil court

9.— (1) Where a member of a visiting force or a dependant of a member of a visiting force has been tried by a civil court and has been convicted or acquitted, he or she shall not be tried again within Saint Lucia for the same offence by a service court of that designated State.

(2) Subsection (1) does not prevent a service court from trying within Saint Lucia a member of the visiting force or a dependant of a member of a visiting force for any violation of rules of discipline arising from an act or omission that constituted an offence for which he or she was tried by a civil court.

Trial by court having primary right

10. Where under sections 6 to 9 a civil court or a service court of a visiting force has the primary right to exercise jurisdiction, the court having such primary right has the right to deal with charges against alleged offenders in the first instance, but that right may be waived in accordance with such Regulations as may be made in that behalf.

Certificate concerning official duty

11. A certificate of the service authorities of a designated State stating that anything alleged to have been done or omitted by a member of a visiting force of that state was or was not done or omitted in the performance of official duty, shall be receivable in evidence in any civil court, and for the purposes of this Act is *prima facie* proof of that fact.

Immunities and privileges of members of service court and witnesses

12. The members of a service court of a visiting force exercising jurisdiction by virtue of this Act, and witnesses appearing before such service court, have respectively the like immunities and privileges as a High Court exercising jurisdiction, and witnesses appearing before the High Court.

Sentence

13. Where any sentence has been passed by a service court within or outside Saint Lucia upon a member of the armed forces of a designated State or upon a dependant of a member of any such force, then for the purposes of any legal proceedings within Saint Lucia —

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- (a) the service court shall be deemed to have been properly constituted;
- (b) its proceedings shall be deemed to have been regularly conducted;
- (c) the sentence shall be deemed to have been within the jurisdiction of the service court and in accordance with the law of the designated State; and
- (d) if the sentence has been executed according to the tenor thereof, it shall be deemed to have been lawfully executed.

Detention

14. Any member of the visiting force or any dependant of a member of a visiting force who is detained in custody —

- (a) under a sentence mentioned in section 13; or
- (b) pending the determination by a service court of a charge brought against him or her;

is, for the purposes of any legal proceedings in Saint Lucia, deemed to be in lawful custody.

Certificate of service court

15.— (1) For the purposes of any legal proceedings within Saint Lucia, a certificate under the hand of the officer in command of a visiting force stating that the persons specified in the certificate sat as a member of a service court, is receivable in evidence and is conclusive proof of that fact.

(2) A certificate under the hand of the officer in command given under subsection (1) stating that a member of that visiting force or a dependant is being detained in any of the circumstances described in section 13 is receivable in evidence and is conclusive proof of the cause of the detention, but not of his or her being a member of the visiting force or a dependant of a member of a visiting force.

Arrest

16. For the purposes of enabling the service authorities and service courts of a visiting force to exercise more effectively the powers conferred upon them by this Act, officers and soldiers of the Force, if so requested by the officer in command of the visiting force or by the

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designated State, may arrest members of the visiting force or dependants of members of the visiting force alleged to have been guilty of offences against the law of the designated State and to hand over any person so arrested to the appropriate authorities of the visiting force.

Place of incarceration

17. Where a member of a visiting force or a dependant of a member of a visiting force has been sentenced by a service court to undergo a punishment involving incarceration, the incarceration may, at the request of the officer in command of the visiting force and in accordance with the Regulations, be served wholly or partly in a civil prison or military establishment.

Lawful arrest

18. This Act shall not be construed to prevent a member of a visiting force from exercising any lawful power to make an arrest.

Exercise of police functions

19. The authority of members of a visiting force to exercise police functions, including the power of arrest, in relation to any member of that force or dependant of that member, shall be the same as authorized by the service law of that force but nothing contained in this Act shall empower a member of a visiting force to exercise police functions in respect of a person who is not a member of the visiting force or a dependant of a member of the visiting force.

Visiting force subject to order of Commissioner of Police

20.— (1) Any member of a visiting force who is sent to Saint Lucia for the performance of police duties similar to duties performed by him or her in office shall, while on duty in Saint Lucia be liable to perform the same duties and subject to the orders of the Commissioner of Police in the same manner and in all respects as if he or she were a member of the Force, and shall, subject to this Act, have the same rights, powers, privileges and immunities as are conferred by law and custom on members of the Force as may be necessary for the performance of such duties.

(2) In this section “Commissioner of Police” means the Commissioner of Police appointed under section 7 of the Police Act, Cap. 14.01.

Treatment of visiting force similar to Force

21.— (1) Where under any enactment a power is exercisable by any authority or person —

- (a) respecting the Force, its members, its service courts or any person connected therewith; or
- (b) respecting any property used or to be used for the purposes of the Force, or for taking possession of any property to be so used, or for acquiring, whether by agreement or compulsorily, any property so used or to be used;

the Minister may by Order provide that the power be exercisable by that authority or person, as the case may be, in the case of a visiting force to which the order applies to any extent to which it would be exercisable if the visiting force were a part of the Force.

(2) The Minister may, by Order —

- (a) exempt a visiting force or its members, its service courts, any other person connected therewith or any property used or to be used for the purposes thereof from the operation of any enactment specified in the Order to any extent to which the force, members, courts, persons or property would be, or would be capable of being exempted, if the force were a part of the Force; and
- (b) confer on that force or any members, courts, persons or property referred to in paragraph (a) any other privilege or immunity specified in the order, being a privilege or immunity that would be enjoyed, by, or would be capable of being conferred on, the force, members, courts, persons or property if the force were part of the Force.

(3) Where under any enactment the doing of anything is prohibited, restricted or required in relation to —

- (a) the Force its members, its service courts or any other person connected therewith; or
- (b) any property used or to be used for the purposes of the Force;

the Minister may by Order extend the prohibition, restriction or requirement to any visiting force in the same manner as if the visiting force were a part of the Force.

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(4) An Order made under this section may contain such incidental, consequential and supplementary provisions as the Minister thinks necessary for the purposes of the Order, including provisions for applying, modifying, adapting or suspending any enactment.

(5) Subsections (1) and (4) apply whether the power is exercisable, or the prohibition, restriction or requirement is imposed, by a provision expressly relating to the Force or by a more general provision; and subsection (3) applies whether the exemption, privilege or immunity subsists, or is capable of being conferred, by virtue of such a provision or by reason of any enactment not binding the Crown.

Firearms and drilling

22. A member of a visiting force acting in the course of their duties, except civilian personnel —

- (a) may, after consultation with the competent authorities of Saint Lucia, and if authorized to do so by orders of service authorities of the visiting force, possess and carry explosives, ammunition and firearms; and
- (b) where paragraph (a) is satisfied, shall not be subject to the criminal law relating to unlawful drilling or the making or possessing of explosives.

Proceedings in respect of service of members of visiting force

23. No proceedings shall be entertained by any court in Saint Lucia with regard to the pay of any person in respect of service as a member of a visiting force or as a member of a civilian component of such a force, with regard to the terms of such service or with regard to a person's discharge from such service.

Claims

24. For the purposes of the Crown Proceedings Act, Cap. 2.05—

- (a) a delict or tort committed by a member of a visiting force while acting within the scope of his or her duties or employment shall be deemed to have been committed by a servant of the Crown while acting within the scope of his or her duties or employment;
- (b) property owned, occupied, possessed or controlled by a visiting force shall be deemed to be owned, occupied, possessed or controlled by the Crown; and

- (c) a service motor vehicle or aircraft of a visiting force shall be deemed to be owned by the Crown.

Proceedings when compensation payable

25. Proceedings shall not lie against —

- (a) the Crown by virtue of section 24; or
- (b) any member of a visiting force who is deemed a servant of the Crown under section 24, with respect to a claim by himself or herself or his or her personal representative or a dependant arising out of that member's death, or injury to that member;

if compensation has been paid or is payable by a designated State, or out of any funds administered by any agency of a designated State, for the death or injury.

Enforcement of judgment

26. A member of a visiting force is not subject to any proceedings for the enforcement of any judgment given against him or her in Saint Lucia in respect of a matter that arose while he or she was acting within the scope of his or her duties or employment.

Immunity from prosecution

27.— (1) A member of a visiting force shall be immune from prosecution in civil and criminal court proceedings in Saint Lucia in respect of actions taken in the course of their official duties.

(2) The immunity specified in subsection (1) may be waived in respect of any member of a visiting force, by the competent authority of the designated State of the visiting force.

Ships

28. Except as section 24 may be made applicable by Order of the Attorney General in respect of ships of visiting forces, that section does not apply to a claim arising out of or in connection with the navigation, operation or salvage of a ship or the loading, carriage or discharge of a cargo, unless the claim is a claim arising out of death or injury to the person.

Official duty

29.— (1) Where a question that cannot be settled by negotiation between the parties arises under this Act a certificate from the officer in command that —

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- (a) a member of a visiting force was acting within the scope of his or her duties or employment; or
- (b) a matter in respect of which judgment was given against a member referred to in paragraph (a) arose while he or she was acting within the scope of his or her duties or employment;

the question must be submitted to an arbitrator appointed in accordance with subsection (2), and for the purposes of this section the decision of the arbitrator is final and conclusive.

(2) An arbitrator must be appointed for the purposes of subsection (1) by agreement between the designated State concerned and Saint Lucia from among the nationals of Saint Lucia who hold or have held high judicial office.

(3) If the designated State and Saint Lucia are unable, within two months, to agree upon an arbitrator, either the designated State or Saint Lucia may request any person designated in an agreement with the designated State or acceptable to the designated State and Saint Lucia to appoint the arbitrator from among the nationals of Saint Lucia who have held high judicial office.

Salaries

30.— (1) A member of a visiting force shall be exempt from taxation in Saint Lucia on the salary and emoluments paid to him or her as such member by a designated State and in respect of any tangible movable property that is in Saint Lucia temporarily by reason of his or her presence in Saint Lucia in that capacity.

(2) For the purpose of this section, the expression “member of a visiting force” does not include a Saint Lucian citizen resident or ordinarily resident in Saint Lucia.

Service vehicles

31. Tax is not payable in respect of the licensing or registration of service vehicles of a visiting force or in respect of the use of those vehicles on any road in Saint Lucia.

Imports

32.— (1) A visiting force may import into Saint Lucia, free of customs duty and any tax, equipment for the visiting force and such quantities of

provisions, supplies, and other goods for the exclusive use of the visiting force as the Minister responsible for finance considers reasonable.

(2) The Minister responsible for finance may authorize the importation into Saint Lucia, free of duty and tax, of goods for use by dependants of members of a visiting force.

Personal effects

33. A member of a visiting force may —

- (a) at the time of his or her first arrival to take up service in Saint Lucia and at the time of the first arrival of any dependant of that member to join him or her, import his or her personal effects and furniture and the personal effects of his or her dependant free of customs duty and any tax; and
- (b) import, free of customs duty and any tax, his or her private motor vehicle for the personal use of himself or herself and his or her dependants temporarily;

but paragraph (b) shall not be construed as granting, or authorizing the granting of, any exemption from taxes or fees in respect of the licensing or the registration of private vehicles or the use of the roads by private vehicles in Saint Lucia.

Fuel, oil, etc.

34. Customs duty or any tax is not payable on any fuel, oil or lubricants intended for use exclusively in the service vehicles, aircraft or vessels of a visiting force.

Coroner's inquest

35.— (1) Where a coroner who has jurisdiction to hold an inquest relating to a death is satisfied that the deceased person at the time of his or her death had a relevant association with a visiting force, then unless the Director of Public Prosecution otherwise directs, the coroner may not hold the inquest or, if the inquest has been begun but not completed, shall adjourn it.

(2) Subject to subsection (1), a coroner referred to in that subsection shall, unless the Attorney General otherwise directs, adjourn the inquest if he or she is satisfied —

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- (a) that a person who is subject to the jurisdiction of the service courts of a designated State has been charged before a court of that State with the homicide of the deceased person, whether or not that charge has been dealt with; or
- (b) that a person referred to in paragraph (a) is being detained by an authority of that State with a view to being so charged.

(3) Where an inquest is adjourned under this section, the coroner may resume the inquest only on the direction of the Attorney General.

(4) Where an inquest that was adjourned under this section is resumed, the coroner shall proceed in all respects as if the inquest had not been previously begun.

(5) In this section —

- (a) the expression “homicide” includes murder, manslaughter, infanticide and any offence under the law of the country in question which is analogous to any of those offences;
- (b) references to a person having at any time a relevant association with a visiting force are references to his or her being at that time a person of one or other of the following descriptions, that is to say —
 - (i) a member of that visiting force or a member of a civilian component of that force;
 - (ii) a person, not being a citizen of Saint Lucia or ordinarily resident in Saint Lucia who is a dependant of a member of that visiting force or of a civilian component of that force.

(6) In determining whether a person is, or was at any time, ordinarily resident in Saint Lucia, no account shall be taken of any period during which he or she has been or intends to be present in Saint Lucia while being a member of a visiting force or of a civilian component of such a force, or while being a dependant of a member of a visiting force or of such a civilian component.

Amendment of Schedule

36. The Minister may by Order published in the *Gazette* amend the Schedule.

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Regulations

37. The Minister may make Regulations for the better carrying out of the purposes and provisions of this Act and without prejudice to the generality of the foregoing the Regulations may provide for —

- (a) the summoning of civilian witnesses before a service court;
- (b) waiving of the primary right of jurisdiction by a service court or a civil court;
- (c) determining where a sentence of imprisonment shall be spent;
- (d) prescribing anything that is required by the Act to be prescribed.

Expiry of Act

38. This Act expires on 30 June 2007.

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SCHEDULE

(Section 2)

DESIGNATED STATES

1. Member States of the Caribbean Community
2. Associate Members of the Caribbean Community
3. South Africa
4. Canada
5. United Kingdom
6. France
7. The Netherlands Antilles

Passed in the House of Assembly this 27th day of March, 2007.

SARAH FLOOD-BEAUBRUN,
Speaker of the House.

Passed in the Senate this 29th day of March, 2007.

ROSEMARIE HUSBANDS-MATHURIN,
President of the Senate.