

SAINT LUCIA

No. 5 of 2008

Sections

PART 1

PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Application

PART 2

SMALL CLAIMS COURT

4. Establishment of Small Claims Court
5. Jurisdiction of the Small Claims Court
6. Composition of the Small Claims Court

PART 3

PROCEDURE IN SMALL CLAIMS COURT

7. Rules
8. Sittings
9. Small Claims Court to enquire into claims
10. Pre Hearing Conferences
11. Inquiries to be in Public
12. Party to proceedings may not commence or continue any proceedings for the same cause or matter
13. Re-hearing
14. Witness to answer questions
15. Enforcement of decisions
16. Small Claims Court may order that proceedings be dealt under the District Court Act
17. District Court may order that proceedings be dealt under this Act
18. Record of proceedings
19. Costs
20. Order of Small Claims Court

PART 4

MISCELLANEOUS

21. Officers of the Small Claims Court
22. Appeals
23. Rules
24. Regulations

No. 5]

Small Claims Court Act

[2008.

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

April 4, 2008.

SAINT LUCIA

No. 5 of 2008

AN ACT to provide for the establishment of a Small Claims Court, its jurisdiction and powers 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:

Short title and commencement

1.— (1) This Act maybe cited as the Small Claims Court Act.

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

Interpretation

2. In this Act —

“District Courts Act” means the District Courts Act, Cap. 2.02;

“functions” includes powers and duties;

“Minister” means the Minister responsible for Justice;

“Rules” means Rules made pursuant to section 24;

“Small Claims Court” means the Small Claims Court established under section 4.

Application

3. This Act shall not apply to or in relation to proceedings commenced under the District Court Act before the commencement of this Act.

PART 2
SMALL CLAIMS COURT

Establishment of Small Claims Court

4. — (1) There is established a court to be called the Small Claims Court, which has the jurisdiction and powers conferred on it by this Act or any other law in force in Saint Lucia.

(2) The Small Claims Court shall have a seal, which shall be judicially noticed, and all process issuing from the Small Claims Court shall be sealed or stamped with such seal.

Jurisdiction of the Small Claims Court

5.— (1) The Small Claims Court shall have civil jurisdiction to try or otherwise deal with causes, or matters in accordance with the Rules where proceedings are instituted with respect to a claim for —

No. 5] *Small Claims Court Act* [2008.

- (a) the recovery of an amount not exceeding \$5,000;
- (b) the performance of work of a value not exceeding \$5,000;
- (c) relief from payment of money of an amount not exceeding \$5,000;
- (d) the return or replacement of goods to a value not exceeding \$5,000; and
- (e) in tortious actions where the special damages does not exceed \$5,000.00.

(2) The Small Claims Court shall have all the functions and authorities incidental to the jurisdiction conferred upon it by subsection (1).

(3) Without prejudice to anything ordered or otherwise provided under this Act, the Jurisdiction of the Small Claims Court extends throughout the State.

Composition of the Small Claims Court

6.— (1) Subject to subsection (2), there shall be [6] lay magistrates of the Small Claims Court, to whose offices section 91 of the Constitution of Saint Lucia shall apply.

(2) In relation to exercising its jurisdiction and to the execution of other functions of its office, the Small Claims Court shall, without prejudice to anything provided by or under this Act, have with the necessary modifications like authority, powers, privileges and immunities as appertain or would, but for this Act, appertain to the office of a magistrate.

(3) The Small Claims Court may sit at any time and at any place for the trial of any matter whatsoever, within its jurisdiction.

(4) The Minister may, upon the recommendation of the Chief Justice, by Order published in the *Gazette* amend subsection (1) so as to increase the number of lay magistrates, and an Order made pursuant to this subsection, shall be subject to negative resolution of Parliament.

PART 3
PROCEEDINGS IN SMALL CLAIMS COURT

Rules

7.— (1) In proceedings, the Small Claims Court shall—

- (a) observe the Rules made pursuant to section 24; and
- (b) subject as otherwise provided by or under this Act, shall observe the like process, procedure and practice as relate to the exercise of the jurisdiction of a District Court, and otherwise to the conduct of its business, in so far as they are applicable, with necessary adaptations, in relation to the exercise of jurisdiction, and otherwise to the conduct of business, of the Small Claims Court;

(2) Without prejudice to the generality of subsection (1), the judgments and orders of the Small Claims Court pursuant to this Act and the attendance of persons before it, whether as respondents or witnesses or otherwise, are enforceable.

Sittings

8. The Small Claims Court may hold its sittings in the city of Castries and at such other places and at such times as the Minister may by Order published in the *Gazette* appoint.

Small Claims Court to enquire into Claims

9.—(1) The Small Claims Court may, on the application of a party, as required, conduct an inquiry into the matters at issue in proceedings and shall give judgment and assess damages, if necessary, accordingly.

(2) An application pursuant to subsection (1) shall clearly stipulate the factual basis for a claim and the amount, if determined, of the claim.

Pre-Hearing Conferences

10.— (1) The lay magistrate may, on or without application of a party, order that a pre-hearing conference be conducted in relation to a claim.

(2) A lay magistrate shall conduct the pre-hearing conference in accordance with the Rules and may —

No. 5] *Small Claims Court Act* [2008.

(a) if the matter is not settled between the parties, refer the matter back to a lay magistrate other than the lay magistrate who conducted the pre-hearing conference for determination; or

(b) enter an order with the consent in writing of each party;

(3) An order entered pursuant to subsection (2) (b) has effect as an order of the Small Claims Court.

Inquiries to be in public

11.— (1) An inquiry in proceedings shall be conducted in public unless the Small Claims Court orders to the contrary.

(2) Where the Small Claims Court makes an order pursuant to subsection (1), a person shall not publish or cause to be published —

(c) any report of the proceeding or of the evidence given in the proceedings; or

(d) any matter that discloses the identity of a party to the proceedings or from which a party to the proceedings may reasonably be identified.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction, to a fine not exceeding one thousand dollars.

Party to proceedings may not commence or continue any proceedings for same cause or matter

12. Subject to this Act, if the Small Claims Court makes a final order in proceedings, a party to the proceedings may not commence or continue any other proceedings, whether under this Act or any other law, in any court for the same cause or matter.

Re-Hearing

13.— (1) If an order is made in proceedings against a party to the proceeding who —

(a) did not file a notice of defence; or

(b) consented to the making of the order but there are grounds on which to the satisfaction of the Small Claims Court that the

No. 5] *Small Claims Court Act* [2008.

order is to be set aside including grounds of fraud, duress, suppression of evidence or the giving of false evidence;

the party may, subject to and in accordance with the Rules, apply to the Small Claims Court for an order that the order be set aside and that the proceedings be reheard.

(2) On an application under this section, the Small Claims Court may set aside the order subject to such terms and conditions, if any, as it considers just and re-hear the proceedings.

(3) An application under this section operates as a stay of the order unless the Small Claims Court orders otherwise.

(4) If an application made under this section is heard and determined, the party who made the application must not file, in respect of the proceedings to which the determined application relates, another application pursuant to this section without leave of the Small Claims Court or the consent of the other party.

Witness to answer questions

14.— (1) A person appearing as a witness before the Small Claims Court shall not, without lawful excuse, refuse to answer a question relevant to the proceedings put to him or her by the Court.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding one thousand dollars.

Enforcement of decisions

15. A judgment pursuant to this Act is enforceable as if it were an order made by the District Court on a claim made pursuant to the District Court Act.

Small Claims Court may order that proceedings be dealt under the District Court Act

16.— (1) Subject to subsection (3), the Small Claims Court may at any stage of proceedings, order that a claim be dealt with as if it had been commenced under the District Court Act, and give such direction as it thinks appropriate.

(2) An order made pursuant to this section may be made by the Small Claims Court of its own motion or on application by a party to the proceedings.

(3) The Small Claims Court shall not make an order pursuant to this section unless the Small Claims Court is satisfied that —

- (a) the value of the claim concerned is more than \$5,000; and
- (b) the order will not be unfair to the parties to the proceedings.

District Court may order that proceedings be dealt under this Act

17.— (1) Subject to subsection (3), the District Court may at any stage of the proceedings, order that a claim be dealt with as if it had been commenced under this Act, and give such direction as it thinks appropriate.

(2) An order made pursuant to this section may be made by the District Court of its own motion or on application by a party to the proceedings.

(3) The District Court shall not make an order pursuant to this section unless the District Court is satisfied that the order will not be unfair to the parties to the proceedings.

Record of proceedings

18. At an inquiry under this Act, the lay magistrate shall keep a record of the proceedings sufficient to enable him or her to prepare a report for the District Court.

Costs

19.— (1) Except in respect of an application for re-hearing, the Small Claims Court is not to make an order in relation to the costs of proceedings unless the Small Claims Court is satisfied that, having regard to the complexity of the law, the facts or any other matter in respect of the proceedings, it is fair and responsible to do so.

(2) Where an order is made under section 16, the costs of and incidental to the proceedings under the District Court Act and of the application, if any, under section 16 shall be in the discretion of the Small Claims Court.

Order of Small Claims Court

20.— (1) Where a settlement is made in respect of a claim, the Small Claims Court shall, on the request of a party to the settlement, make an order that gives effect to the terms of the settlement.

(2) The Small Claims Court may make any one or more of the following orders —

- (a) that requires a party to the proceedings before it to pay money to a person specified in the order;
- (b) in the case of a claim for relief from payment of money —
 - (i) that money in an amount specified is not due or owing by the claimant to a person specified in the order; or
 - (ii) that requires the claimant to pay money to a person specified in the order;
- (c) that dismisses the claim to which the proceedings relate; or
- (d) that requires a party to the proceedings before it to return any goods to which the claim in the proceedings relates and which are in his possession or control, whether the property therein has passed or not, to a person specified in the order;
- (e) that requires a party to the proceedings before it to replace any goods to which the proceedings relate.

(3) An order made pursuant to this section may specify the time within which compliance is required for any thing required to be done under that order.

Part 4

MISCELLANEOUS

Officers of the Small Claims Court

21.— (1) There shall be assigned to a Small Claims Court such clerks and other officers and employees as may be requisite for the carrying out of the functions of the Small Claims Court.

(2) Subject as otherwise provided by or under this Act, any person assigned to the Small Claims Court, whether as a clerk, deputy clerk or assistant clerk or otherwise, to any office corresponding to an office in a District Court, shall, for the purposes of the execution of his or her functions, have the like powers, privileges and immunities, if any, as appertain to such an office in a District Court.

Appeals

22. Decisions given by a Small Claims Court in proceedings of any kind shall be subject to appeal, in like manner and to the like extent, if any, as decisions given by a magistrate in proceedings in a District Court, and any laws in force in Saint Lucia relating to appeals from such decisions as last aforesaid shall, with the necessary modifications, extend accordingly to appeals under this section.

Rules

23. The Chief Justice may make Rules and give such practice directions, not inconsistent with this Act to regulate the practice and procedures of the Small Claims Court.

Regulations

24. The Minister may make Regulations to give effect to the purposes of this Act and, without prejudice to the generality of the foregoing, may make Regulations particularly to —

- (a) provide, whether in like manner or otherwise, for matters appearing to the Minister to be incidental or supplemental to or consequential upon, the carrying out of any of the purposes of this Act;
- (b) provide for such other matters necessary for the better administration of the Small Claims Court.

Passed in the House of Assembly this 16th day of August, 2007.

SARAH FLOOD-BEAUBRUN,
Speaker of the House.

Passed in the Senate this 24th day of August, 2007.

ROSEMARIE HUSBANDS-MATHURIN,
President of the Senate.