

SAINT LUCIA

No. 2 of 2014

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

January 3, 2014.

SAINT LUCIA

No. 2 of 2014

AN ACT to provide for the issuance of production orders in investigations of criminal offences and in civil fraud and other civil proceedings.

[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 may be cited as the Production Orders Act, 2014.

(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 —

“duly authorised person” means a person authorised in writing by the Director of Public Prosecutions or the Attorney General, to make an application under section 3 of the Act;

“judge “ means a Judge of the High Court;

“material” includes all tangible items as well as information written and typed and includes tangible and intangible data of representations of facts, information or concepts being prepared or that have been prepared in a form suitable for use in an electronic system including a computer program, text, image, sound, video, and information within a database or electronic system;

“order” means a production order made under section 3 of this Act;

“police officer” means a police officer of a rank no less than sergeant.

Application for production order

3.— (1) A police officer or a duly authorised person may make an application to a judge for an order under this section.

(2) An application under subsection (1) shall be made *ex parte* and shall be in writing and accompanied by an affidavit.

(3) A judge may make an order if he or she is satisfied that —

(a) there are reasonable grounds to suspect a criminal offence or civil fraud or other civil wrong has been committed;

- (b) there is material on the premises specified in the application or in the possession of the person named in the application which is likely to be of value, whether by itself or together with other material, to the investigation in connection with which the application is made; and
- (c) the material to be produced consists of information stored in electronic form or in any form in which it can be taken away, in which it is visible and legible or in a form from which it can be readily produced in a visible and legible form.

(4) An order under this section shall require the person who appears to the judge to be in possession or control of the material to which the application relates to —

- (a) immediately produce the material to a police officer or duly authorised person for such person to take away; or
- (b) immediately give a police officer or duly authorised person access to the material.

Service of Orders

4. — (1) An order granted under section 3 shall be served on a person by delivering it to the person or leaving it at his or her usual address.

(2) An order shall be served —

- (a) on a body corporate, by serving it on the secretary or clerk or other similar officer at the registered address or principal place of business;
- (b) on a partnership, by serving it on any of the partners or by delivering it to the principal office of the partnership.

(3) Where an order has been served on a person, he or she shall not conceal, destroy, alter or dispose of the material to which the order relates.

(4) A judge may, upon the application of any person, discharge or modify an order made under this Act.

Powers to search and seize

5. Where, on an application made by a police officer or duly authorised person, a judge is satisfied that an order made under section 3 has not been complied with, the judge may issue a warrant authorising a police officer or duly authorised person to enter and search any premises occupied or controlled by the person referred to in the Order and seize the material.

Material subject to legal professional privilege

6. All material, except those subject to legal professional privilege, may be the subject of an order made under section 3 and material held with the intention of furthering a criminal purpose, shall not be considered the subject of legal professional privilege.

Evidential value of copies

7. A police officer or duly authorised person may accept copies of the material if satisfied that the copies are true copies of the material.

Material admissible in proceedings

8. Material produced to, or seized by a police officer or duly authorized person in pursuance of this Act shall be admissible in evidence in any proceedings.

Judge to prescribe costs

9. The judge may in his or her discretion prescribe the costs to be met by any party in proceedings under this Act.

Offences

10. Without prejudice to the power of the judge to impose a penalty for breach of an order, a person who –

- (1) obstructs, hinders or resists a police officer or duly authorised person in the discharge of their functions under this Act; or
- (2) fails to comply with an order under this Act;

commits an offence under this Act and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term of five years or to both such fine and imprisonment.

No. 2]

Production Orders Act

[2014.

Passed in the House this 19th day of November, 2013.

PETER I. FOSTER,
Speaker of the House of Assembly.

Passed in the Senate this 28th day of November, 2013.

CLAUDIUS J. FRANCIS,
President of the Senate.