

No. 12] *Criminal Records (Rehabilitation of Offenders)* [2021
(Amendment) Act

SAINT LUCIA

No. 12 of 2021

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Insertion of new sections 25A and 25B

No. 12] *Criminal Records (Rehabilitation of Offenders)* [2021
(Amendment) Act

Short title

1. This Act may be cited as the Criminal Records (Rehabilitation of Offenders) (Amendment) Act, 2021.

Insertion of new sections 25A and 25B

2. The Criminal Records (Rehabilitation of Offenders) Act, Cap. 3.13 is amended by inserting immediately after section 25 the following new section 25A —

“Exemption

25A.—(1) The Minister may, by Order published in the *Gazette*, if satisfied that it is in the public interest so to do and the interest of justice or national security is not prejudiced, exempt from a provision of this Act a person who has been convicted of one or more offences for which —

- (a) the sentence imposed was imprisonment for a term not exceeding three years or for terms that together do not exceed three years,
- (b) a custodial sentence was not imposed.

(2) An Order made under subsection (1) may be issued subject to any condition the Minister considers necessary, must relate to a particular conviction and sentence and provides the effect of the exemption in accordance with section 25B.

Effect of exemption under section 25A

25B.—(1) The effect of an exemption under section 25A is that —

- (a) a person having custody or control of the records shall, on commencement of the Order made under section 25A, expunge the conviction from the records;
- (b) the person exempted is treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence which was the subject of that conviction and notwithstanding any other enactment to the contrary —

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- (i) evidence is not admissible in any proceedings before a judicial authority to prove that the person exempted has committed or had been charged with or prosecuted for or convicted of or sentenced for the offence, and
- (ii) the person exempted shall not, in any such proceedings, be asked, and, if asked, shall not be required to answer, any questions relating to his or her past which cannot be answered without acknowledging or referring to the conviction or circumstances ancillary to the conviction;
- (c) where a question seeking information with respect to the person exempted previous convictions, offences, conduct or circumstances is put to the person exempted or to any other person otherwise than in proceedings before a court —
 - (i) the question is treated as not relating to the conviction or to circumstances ancillary to the conviction, and the answer may be framed accordingly, and
 - (ii) the person questioned is not subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a conviction in his or her answer to the question;
- (d) any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him or her to disclose a conviction of the exempted person; and
- (e) a conviction, or any failure to disclose a conviction under this section, is not a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him or her in any way in any occupation or employment.

(2) In this section —

“exempted person” means a person exempted by an Order made by the Minister under section 25A;

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“proceedings before a judicial authority” includes in addition to proceedings before any of the ordinary courts of law, proceedings before any tribunal, body or person having power —

- (a) by virtue of any provisions of law, custom or practice;
- (b) under the rules governing any association, institution, profession, occupation or employment; or
- (c) under any provision of an agreement providing for arbitration, with respect to questions arising thereunder, to determine any question affecting the rights, privileges, obligations or liabilities of any person, or to receive evidence affecting the determination of any such question.”.

Passed in the House of Assembly this 31st day of August, 2021.

CLAUDIUS FRANCIS,
Speaker of the House of Assembly.

Passed in the Senate this 2nd day of September, 2021.

STANLEY FELIX,
President of the Senate.