

SAINT LUCIA

No.14 of 2015

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

August 17, 2015.

SAINT LUCIA

No. 14 of 2015

AN ACT to enable persons to acquire citizenship of Saint Lucia by registration following a qualifying investment in Saint Lucia and for related matters.

[24th August, 2015]

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:

PRELIMINARY**Short title**

1. This Act may be cited as the Citizenship by Investment Act, 2015.

Interpretation

2.—(1) In this Act —

“applicant” means –

- (a) a person who applies for citizenship by investment under this Act;
- (b) a person who, as a head of a family, undertakes an investment for the purposes of this Act and signs the relevant agreements and undertakings on behalf of his or her dependants;

“Authenticated translation” means a translation effected by either a professional translator who is officially accredited to a court of law, a government agency, an international organization or similar official institution, or if effected in a country where there are no official accredited translators, a translation effected by a company whose role or business is effecting professional translations;

“authorised agent” means a person licensed by the Financial Services Regulatory Authority who has paid the prescribed fee and is authorised to act on behalf of the applicant in relation to an application for citizenship by investment;

“Board” means the Citizenship by Investment Board established under section 4 of this Act;

“citizenship” means the status of being a citizen of Saint Lucia;

“citizenship by investment” means the acquisition of citizenship in Saint Lucia by means of qualifying investment;

“Citizenship by Investment Programme” means the programme that allows a person to apply for citizenship of Saint Lucia upon satisfaction of the requisite qualifying investment and other requirements under this Act;

“Minister” means the Minister to whom the Citizenship by Investment Programme is assigned except where the Act specifically designates another Minister;

“qualifying dependant” means –

- (a) a spouse of the applicant;
- (b) a child of the applicant or of his or her spouse who is less than eighteen years of age;
- (c) a child of the applicant or of his or her spouse who is no more than twenty five years of age, who is fully supported by the applicant and is in full time attendance at a recognised institution of higher learning;
- (d) a child of the applicant or his or her spouse, of any age, who is physically or mentally challenged and fully supported by the applicant;
- (e) a parent of the applicant or of his or her spouse above the age of sixty five years who habitually lives with and is fully supported by the applicant;
- (f) a parent of any age who is physically or mentally challenged and fully supported by the applicant;

“qualifying investment” means cash or an investment in bonds, land or enterprise as may be prescribed by Regulations that in the opinion of the Minister brings substantial benefits to Saint Lucia;

“prescribed” means prescribed in the Regulations;

“Saint Lucia National Economic Fund” means the special fund established under section 33 of this Act for the special purpose of receiving qualifying investments of cash for funding government sponsored projects;

“Unit” means the Citizenship by Investment Unit established under section 25 of this Act.

Act binds the Crown

3. This Act binds the Crown.

PART I

CITIZENSHIP BY INVESTMENT BOARD

Establishment of Board

4. There is established a Citizenship by Investment Board which is a body corporate to which section 19 of the Interpretation Act, Cap. 1.06 applies.

Constitution of Board

5.—(1) The Board consists of no more than five members to be appointed by Cabinet.

(2) The Board consists of -

- (a) a person nominated by the Minister with responsibility for the Citizenship by Investment Programme;
- (b) a person nominated by the Minister with responsibility for national security;
- (c) the Attorney General or his or her appointed representative;
- (d) two Attorneys-at-law with at least 10 years standing.

(3) Persons appointed pursuant to subsection 2(a), (b), and (c) may be individuals trained in law, business, finance or international relations.

(4) Cabinet shall appoint one of the members of the Board to be the Chairperson and another member to be the Deputy Chairperson of the Board.

(5) A member holds office for a period not exceeding three years, and is eligible for reappointment.

Disqualification

6. A person is disqualified from being a member of the Board if that person –

- (a) is declared by a court to be a bankrupt;
- (b) is declared by a court or a qualified health practitioner to be mentally incapacitated;
- (c) has been convicted of a criminal offence except where the offence is a minor traffic offence or has been spent.

Functions of Board

7.—(1) Subject to subsection (3), the Board shall—

- (a) co-ordinate the administration and operation of the Citizenship by Investment Programme in an efficient manner;
- (b) monitor the process of an application by an applicant;
- (c) review reports of the Unit;
- (d) make recommendations to the Minister on the development of the Citizenship by Investment Programme;
- (e) establish and determine the functions or duties of the Unit;
- (f) issue guidelines within its jurisdiction under this Act;
- (g) carry out such other functions incidental to the proper discharge of the functions under paragraphs (a) to (f).

(2) The Board shall consider and advise upon all matters which may from time to time be referred to it by the Minister and shall furnish to the Minister information he or she may reasonably require relating to the administration of this Act.

(3) Subject to this Act, the Board may, for the purpose of exercising or discharging any functions under this Act, do anything and enter into any transaction which in the opinion of the Board, is reasonably necessary to ensure the proper exercise or discharge of its functions.

Powers of Board

8. For the purposes of the discharge of the functions under section 7, the Board has power to request any information, document or thing, with respect to an application from –

- (a) the applicant or any qualifying dependant;
- (b) the Unit;
- (c) any other person who, in the opinion of the Board, may be able to assist.

Acting member

9.—(1) Where both the Chairperson and Deputy Chairperson are absent or unable to act, the Minister may appoint any person to act temporarily in the place of the Chairperson or Deputy Chairperson.

(2) Where the Minister appoints a person temporarily under subsection (1), the appointment must comply with the requirements in section 5 as to the constitution of the Board.

Resignation

10.—(1) Any member of the Board, other than the Chairperson or Deputy Chairperson, may at any time resign his or her office by notice in writing addressed to the Minister and transmitted through the Chairperson or Deputy Chairperson, and from the date of the receipt by the Minister of such notice, such member ceases to be a member of the Board.

(2) The Chairperson or the Deputy Chairperson may at any time resign his or her office by notice in writing addressed to the Minister and such resignation takes effect as from the date of the receipt by the Minister of such notice.

Revocation of appointment

11. Cabinet may at any time revoke the appointment of any member of the Board if —

- (a) that member becomes disqualified in accordance with section 6;
- (b) that member is guilty of neglect of duty, misconduct or malfeasance;

- (c) that member exhibits behaviour inconsistent with his or her functions as assigned under the Act;
- (d) that member is absent from three consecutive meetings without reasonable excuse; or
- (e) it is for reasons of national security.

Publication of names of members

12. The names of all members of the Board as first constituted and every change in the membership of the Board must be published in the *Gazette*.

Procedure for meetings

13.—(1) The Board shall meet -

- (a) twice yearly with the head of the Unit to review the efficient running of the Unit; and
- (b) from time to time as required to consider decisions of the Unit.

(2) Subject to this section, the Board may regulate its own procedure.

Seal

14.—(1) The Board must have an official seal which is kept in the custody of the Secretary.

(2) The official seal of the Board must be affixed in the presence of and signed by the Chairperson or the Deputy Chairperson.

(3) All documents other than those required by law to be under seal, which are executed by the Board and all decisions of the Board are to be signed by the Chairperson or any other member duly authorized in writing by the Chairperson to act on behalf of the Chairperson.

Protection of members

15.—(1) A member of the Board is not personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of subsection (1), the Board may be liable to the extent that it would be if such member were a servant or agent of the Board.

Disclosure of interest

16. A member of the Board who is in any way interested in any matter which is under consideration by the Board shall disclose to the Board the fact and nature of his or her interest and shall not take part in and shall be absent from any deliberation or any decision of the Board relating to such matter and such a disclosure must immediately be recorded in the records of the Board.

Remuneration of members

17. There shall be paid to the members of the Board, such remuneration, if any, whether by way of honorarium, salary or fees, or such allowances as Cabinet, on the recommendation of the Minister, determines.

Expenses of the Board

18. Except for the expenses incurred in establishing the Citizenship by Investment Programme, the expenses of the Board, including the remuneration of the members are to be paid out of the income generated by the Citizenship by Investment Programme.

Financial year of the Board

19. The financial year of the Board begins on the 1st day of April and ends on the 31st day of March in each year or as otherwise determined by the Minister, in writing.

Budget and plan of action of the Board

20. The Board shall, not later than the 31st day of October in each year cause to be prepared and shall adopt and submit to the Minister –

- (a) a budget with the estimates of its income and expenditure;
- (b) a plan of action,

for the Board in respect of the next financial year.

Accounts

21. The Board shall keep proper records of accounts in accordance with generally accepted international accounting standards and principles and shall prepare and retain financial statements in respect of each financial year.

Audit

22.—(1) The Board shall, with the approval of the Minister, within one month after each financial year appoint an independent auditor.

(2) An auditor appointed under subsection (1) may be reappointed for two additional terms.

(3) An independent auditor appointed under subsection (1), shall conduct the audit in accordance with generally accepted international auditing standards.

(4) The Board shall grant to the auditor appointed under subsection (1) access to all books, deeds, contracts, accounts, vouchers, or other documents which the auditor may consider necessary and the auditor may require the person holding or accountable for such document to appear, make a signed statement or provide such information in relation to the document as the auditor considers necessary.

Auditor's report

23. An independent auditor appointed under section 22 shall not later than three months after the end of each financial year, submit copies of the audited financial statement of the Board and a report on the financial statement to the Board.

Annual report

24.—(1) Not later than three months after the end of each financial year and in accordance with subsection (3), the Board shall submit to the Minister an annual report on the work and activities of the Board for that financial year and the Minister shall not later than three months after the submission lay the same in Parliament.

(2) Information contained in the report referred to in subsection (1) shall include –

- (a) the number of applications made, granted and refused under the Act;
- (b) the names, addresses and nationalities of successful applicants and any qualifying dependants included in the applications;
- (c) the amount and other details of the investment;
- (d) such other information as the Minister considers appropriate.

(3) The name of an unsuccessful applicant shall not be included in the report in subsection (1).

(4) An annual report under subsection (1) must be accompanied by the auditor's report under section 23.

PART II

CITIZENSHIP BY INVESTMENT UNIT

Establishment of Unit

25. There is established a Citizenship by Investment Unit.

Constitution of Unit

26.— (1) The Unit shall be staffed by persons of integrity who are qualified and have the necessary experience and capacity to provide services to the Unit.

(2) The Board, with the approval of the Minister, shall appoint a Chief Executive Officer to be the head of the Unit.

(3) Cabinet shall set the terms and conditions of the Chief Executive Officer.

Functions of Unit

27.—(1) The Unit shall be responsible for the general administration of the Citizenship by Investment Programme.

(2) The Unit shall consider and advise upon all matters which may from time to time be referred to it by the Board and shall furnish

to the Board information it may reasonably require relating to the administration of the Citizenship by Investment Programme.

(3) The Unit shall —

- (a) process all applications for the Citizenship by Investment Programme;
- (b) recommend suitably qualified applicants for citizenship to the Board;
- (c) make recommendations to the Board on the development of the Citizenship by Investment Programme;
- (d) advise the Board on any matter within its knowledge or on which the Board may seek its advice, including advice in relation to the terms and conditions on which citizenship by investment may be granted;
- (e) undertake, sponsor or assist in research relating to citizenship by investment which may be subject to control or regulation under this Act;
- (f) collect fees;
- (g) implement and provide technical advice and guidance on citizenship by investment in Saint Lucia;
- (h) utilize best practices in administering the Citizenship by Investment Programme;
- (i) carry out any other function specified in this Act.

Chief Executive Officer

28. The Chief Executive Officer shall –

- (a) attend all meetings of the Board;
- (b) provide the necessary leadership to the Unit;
- (c) monitor the Citizenship by Investment Programme to ensure that its independence and integrity is maintained and managed in accordance with international best practice;
- (d) be responsible for the overall management of the affairs of the Unit;

- (e) keep the Minister fully informed of the business of the Unit;
- (f) furnish the Minister with all requested information as required; and
- (g) generally be responsible for the internal organisation and administration of the Unit and do all things necessary or convenient to be done for or in connection with the performance of his or her duties.

Staff of the Unit

29.—(1) The Board may appoint on such terms and conditions as it thinks fit, such officers and employees as may be required for the proper and efficient discharge by the Unit of its functions under this Act.

(2) An employee of the Unit shall be under the administrative control and supervision of the Chief Executive Officer who may discipline and terminate employees, as is necessary.

PART III

APPLICATION AND REGISTRATION

Application

30.— (1) Any person who —

- (a) is at least eighteen years of age; and
- (b) meets the application requirements,

may apply to be registered as a citizen of Saint Lucia pursuant to this Act.

(2) Any person who is a qualifying dependant of an applicant may apply along with that applicant as a dependant applicant.

(3) An applicant for citizenship by investment under this Act shall be submitted by an authorized agent.

(4) Applications shall –

- (a) be made in the prescribed form;

- (b) be dated and signed;
- (c) be accompanied by all requisite documentation and information;
- (d) be accompanied by the non-refundable processing fees as prescribed; and
- (e) be accompanied by –
 - (i) a health certificate by a medical practitioner with respect to each applicant and qualifying dependant;
 - (ii) a police certificate from the applicant's country of residence;
 - (iii) a banker's reference; and
 - (iv) the details and evidence of the proposed qualifying investment.

(5) An application form shall be completed in the English language and any document submitted with the application must be in the English language or an authenticated translation into the English language.

(6) The applicant shall provide a sworn affidavit of support of each qualifying dependant.

(7) Each application form must be completed personally and signed by the applicant and any of the qualifying dependants over eighteen years of age except where a qualifying dependant is physically or mentally challenged, and the additional conditions shall be applicable-

- (a) for a child who is below the age of eighteen, both of his or her parents may be required to sign the forms on behalf of the child;
- (b) in a case where one parent has sole custody of a child or another person has legal guardianship of a child, the appropriate legal documentation shall be provided to evidence custody or guardianship.

(8) An applicant applying on behalf of a qualifying dependant who is less than twenty six years of age, shall submit official transcripts

or written confirmation from a recognised school, university or college of the qualifying dependant's enrolment and attendance at that school, university or college at the time of the application.

Authorised agent

31.—(1) An application for an authorised agent's licence shall be submitted to the Unit.

2) An application submitted under subsection (1) shall be made on the prescribed form and accompanied by –

- (a) the prescribed fee; and
- (b) such evidence of the applicant's professional qualification, ability, resources, experience and integrity, as the Unit may require.

(3) An authorised agent shall maintain a place of business in Saint Lucia and shall promptly inform the Unit of any changes in the address.

(4) An authorised agent's licence shall be revoked if —

- (a) the ability, resources, experience or integrity of the authorised agent has fallen below the standard that might reasonably be expected;
- (b) the prescribed fee remains unpaid for fourteen calendar days after it has become due;
- (c) the requirements of subregulation (3) have not been complied with; or
- (d) the authorised agent has contravened any of the provisions of this Act.

(5) An authorised agent shall —

- (a) sign a written agreement with the Board, among other things, agreeing to adhere to the terms and conditions of the Citizenship by Investment Programme;
- (b) prior to being granted a new licence, be reviewed by the Unit as to performance and suitability for continued

involvement with the Citizenship by Investment Programme;

- (c) be responsible for all promotion, advertisement or publication in relation to Citizenship by Investment published or disseminated publicly by any sub-agent, promoter, media outlet, entity or person on behalf of or in conjunction with the said authorised agent;
- (d) take reasonable steps to confirm the identity and reputation of each promoter with whom the agent enters into agreement, engages or acts in conjunction with;
- (e) not engage or use any person or entity as a promoter who has not been registered and in respect of whom the prescribed annual fee has not been paid;
- (f) pay or cause to be paid the prescribed fee in respect to each promoter he or she engages, collaborates with or otherwise uses in relation to the Citizenship by Investment Programme;

(6) Each promoter shall comply with the terms and conditions of the Citizenship by Investment Programme.

Proof of financial resources

32. For the purposes of a qualifying investment under this Act, an application may be considered when all the requisite criteria in relation to financial resources are satisfied by the applicant pursuant to such guidelines contained in Regulations.

Saint Lucia National Economic Fund

33.—(1) The Saint Lucia National Economic Fund is established.

(2) Qualifying investments of cash shall be paid into the Saint Lucia National Economic Fund.

(3) The Minister for Finance shall lay before Parliament every financial year for its approval the purposes to which the funds will be allocated.

Due diligence checks

34.—(1) The Unit may engage the services of independent, professional and qualified persons or bodies as necessary to conduct due diligence checks on any applicant.

(2) An applicant may also be required to attend an interview in Saint Lucia or at an embassy or High Commission of Saint Lucia prior to the consideration of his or her application for citizenship by the Board.

Report to Board

35.—(1) Upon receipt of all requisite information for an application for citizenship by investment, the Unit shall prepare a full report of its findings and recommendations for the Board.

(2) The Board shall review all reports prepared under subsection (1).

Approval, denial or delay of application

36.—(1) The Board shall after consideration of an application for citizenship referred to it by the Unit -

- (a) grant;
- (b) deny; or
- (c) delay, for cause,

an application for citizenship by investment.

(2) The Board shall notify the applicant and the Minister in writing of the decision made regarding the application.

(3) An applicant who -

- (a) provides false information;
- (b) has been convicted of a criminal offence except where the offence is a minor traffic offence;
- (c) is the subject of a criminal investigation;
- (d) is considered to be a potential national security risk;

- (e) is involved in any activity likely to cause disrepute to Saint Lucia;
- (f) has been denied a visa to a country with which Saint Lucia has visa-free travel and has not subsequently obtained a visa to that country,

shall not be approved for citizenship under this Act.

(4) Where an application is approved under sub-section 1(a) the Board shall notify the applicant of the approval in 30 days of the decision and shall require –

- (a) payment of any other fees within 60 days; and
- (b) commencement of all qualifying investments as described in the application within the period specified in the Regulations.

(5) An applicant who has satisfied all the requirements of the application and is granted citizenship by investment shall take the oath or affirmation of allegiance to Saint Lucia as prescribed by the Minister.

(6) An applicant who is granted citizenship by investment shall enjoy all the rights of a citizen and also be subject to the laws of Saint Lucia including exemption from the requirements of the Alien (Licensing) Act.

Request for review where an application for citizenship has been denied

37.—(1) Where an application for citizenship by investment has been denied, that applicant may, in writing, request a review by the Minister.

(2) A request for a review -

- (a) must be in writing, addressed to the Minister and submitted through the Unit;
- (b) must be submitted within 60 days of a letter of denial being issued by the Board;
- (c) may not seek to introduce new information or documents;

- (d) must show one or more of the following grounds for seeking a review -
 - (i) incorrect application of the law;
 - (ii) that the Unit either considered irrelevant matters or failed to consider relevant matters in making a decision not to recommend the applicant to the Board;
 - (iii) irregularities at the decision-making stage;
 - (iv) that the Board did not have evidence to support its findings against the applicant.

(3) The Minister shall consider the request within 21 days of receipt and notify the applicant in writing of his or her decision to grant or deny the request for review in accordance with sub paragraph (2)(d).

(4) Where the Minister grants the request for review he or she may co-opt additional persons with expert knowledge or experience to provide necessary advice.

(5) The Minister may request the applicant to -

- (a) provide further information or explanations;
- (b) appear in person to be interviewed.

(6) Subject to subsection (7), an interview will normally be conducted in Saint Lucia.

(7) At the request of the applicant and where considered by the Minister to be appropriate, provision may be made for the interview to be conducted elsewhere at the expense of the applicant.

(8) The Minister shall consider the application and as he or she considers appropriate approve or deny the application for citizenship by investment.

Revocation of citizenship by investment

38.—(1) The Minister may by Order, revoke a grant of citizenship with respect to any person who is a citizen of Saint Lucia by virtue of this Act, on the grounds that -

- (a) such registration as a citizen was obtained by false representation or fraud or wilful concealment of material facts; or
- (b) the person has been convicted of an offence; or
- (c) the person has performed any other act which, within the opinion of the Minister, has the potential to bring disrepute to Saint Lucia.

(2) A person whose citizenship has been revoked under subsection (1) shall not be entitled to repayment of any investment or contribution made by him or her in furtherance of the grant of citizenship.

(3) The Minister shall in writing specify the grounds for the revocation of citizenship by investment.

(4) Any person whose citizenship is revoked under this section shall have the right of appeal to the High Court.

(5) Notice of appeal under section (4) shall be given within 30 working days of the date that the Minister serves a copy of the Order on the person.

PART IV

MISCELLANEOUS

Publication of information

39. The Minister shall, by Notice published in the Gazette, publish any revocation of citizenship.

Regulations

40.—(1) Subject to the approval of Cabinet, The Minister may, make regulations for the purposes of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) the Minister may make regulations in respect of –

- (a) qualifications, general requirements and procedures for citizenship by investment;

- (b) requirements for a Saint Lucia National Economic Fund investment;
- (c) requirements for an investment in land or enterprise;
- (d) requirements for the purchase of a Government bond or a direct monetary contribution;
- (e) the registration of anything required or authorised to be registered;
- (f) the administration and taking of oaths of allegiance, for the time within which such oaths shall be taken and for the registration of such oaths;
- (g) the giving of any notice required or authorised to be given under this Act;
- (h) providing for the issue of a certificate to any person registered as a citizen;
- (i) the cancellation of the registration of persons whose citizenship has been revoked;
- (j) the imposition and recovery of fees relating to any application made in respect of any registration or the grant of any certificate, or the taking of any oath of allegiance authorised to be made, granted or taken, and in respect of supplying a certified copy of any notice, certificate, order, declaration or entry given, granted or made and for the application of such fees;
- (k) the nature of a qualifying investment;
- (l) the marketing and promotion of the Citizenship by Investment Programme;
- (m) anything which may be or is to be prescribed under this Act.

(3) Regulation made under subsection (2) shall be subject to negative resolution.

Passed in the House of Assembly this 28th day of July, 2015.

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

Passed in the Senate this 4th day of August, 2015.

CLAUDIUS J. FRANCIS,
President of the Senate.

