

EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which is made at the request and with the consent of the Associated State of Saint Lucia under section 5 (4) of the West Indies Act 1967, provides a new constitution for Saint Lucia upon its attainment of fully responsible government within the Commonwealth at the termination of the status of association of Saint Lucia with the United Kingdom under the Act on 22 February 1979.

**The Saint Lucia Constitution Order 1978**

**STATUTORY INSTRUMENTS**

**1978 No. 1901**

**SAINT LUCIA**

**The Saint Lucia Constitution Order 1978**

Made: 20th December 1978

Coming into Operation: 22nd February 1979

At the Court at Buckingham Palace, the 20th day of December, 1978  
Present, The Queen's Most Excellent Majesty in Council

Whereas the status of association of Saint Lucia with the United Kingdom is to terminate on 22nd February 1979 and it is necessary to establish a new constitution for Saint Lucia upon its attainment of fully responsible status within the Commonwealth:

And whereas the Associated State of Saint Lucia has, by a resolution passed in the House of Assembly thereof on 24th October 1978, requested and consented to the making of this Order for that purpose:

Now, therefore, Her Majesty, by virtue and in exercise of the powers vested in Her in that behalf by section 5(4) of the West Indies Act 1967 ( **a** ), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: —

**1.-** (1) This Order may be cited as the Saint Lucia Constitution Order 1978.

(2) This Order shall come into operation on 22nd February 1979.

**2.-** The Saint Lucia Constitution Order 1967( **b** ), which made provision for the constitution of the Associated State of Saint Lucia, is revoked.

**3.-** The Constitution of Saint Lucia set out in Schedule 1 to this Order shall come into effect in Saint Lucia at the commencement of this Order subject to the transitional provisions set out in Schedule 2 to this Order.

*N.E. Leigh* ,  
Clerk of the Privy Council

## **SCHEDULE 1 TO THE ORDER**

### **THE CONSTITUTION OF SAINT LUCIA**

Arrangement of Sections

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##### *Section*

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WHEREAS the People of Saint Lucia-

- a) affirm their faith in the supremacy of the Almighty God;
- b) believe that all persons have been endowed equally by God with inalienable rights and dignity;
- c) recognize that the enjoyment of these rights depends upon certain fundamental freedoms namely, freedom of the person, of thought, of expression, of communication, of conscience and of association;
- d) maintain that these freedoms can only be safeguarded by the rule of law;
- e) realize that human dignity requires respect for spiritual values; for private family life and property; and the enjoyment of an adequate standard of economic and social well-being dependent upon the resources of the State;
- f) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity;
- g) express their commitment to democracy, in particular the principle of a government freely elected on the basis of universal adult suffrage.
- h) consider that individually, each person has duties towards every other and to the community and is under obligation to observe and promote the rights, freedoms and values recognized in this constitution;
- i) pledge their support for international peace and security, for friendly relations among nations and the promotion of universal respect for human rights and freedoms; and their co-operation in solving by peaceful means international

problems of an economic, social or political character;

j) desire that this Constitution shall reflect and make provisions for ensuring and protecting these rights, freedoms and values.

NOW; THEREFORE, the following provisions shall have effect as the Constitution of Saint Lucia:

## **CHAPTER I**

### **PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS**

#### ***1.- Fundamental rights and freedoms***

Whereas every person in Saint Lucia is entitled to the fundamental rights and freedoms, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

- a) life, liberty, security of the person, equality before the law and the protection of the law;
- b) freedoms of conscience, of expression and of assembly and association; and
- c) protection for his family life, his personal privacy, the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Chapter shall have effect of the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others or the public interest.

#### ***2.- Protection of right to life***

(1) A person shall not be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under any law or which he has been convicted.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use to such extent and on such circumstances as are permitted by law, of such force as is reasonably justifiable-

- a) for the defence of any person from violence or for the defence of a property;
- b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c) for the purpose or suppressing a riot, insurrection or mutiny; or
- d) in order to prevent the commission by that person of a criminal offence.

or if he dies as the result of lawful act of war.

### ***3.- Protection of right to personal liberty***

(1) A person shall not be deprived of his personal liberty save as may be authorized by law in any of the following cases, that is to say:-

- a) in consequence of his unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether established for Saint Lucia or some other country, in respect of a criminal offence of which he has been convicted;
- b) in execution of the order of the High Court or the Court of Appeal punishing him for contempt of the High Court or the Court of Appeal or of another court or tribunal;
- c) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;
- d) for the purpose of bringing him before a court in execution of the order of a court;
- e) upon a reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law;
- f) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;
- g) for the purpose of preventing the spread of an infectious or contagious disease;
- h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his case or treatment or the protection of the community;
- i) for the purpose of preventing his unlawful entry into Saint Lucia, or for the purpose of effecting his expulsion, extradition or other lawful removal from Saint Lucia or for the purpose of restraining him while he is being conveyed through Saint Lucia in the course of his extradition or removal as a convicted prisoner from one country to another; or
- j) to such extent as may be necessary in the execution of a lawful order requiring him to remain within a specified area within Saint Lucia, or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against him with a view to the making of any such order or relating to such an order after it has been made or to such extent as may be reasonably justifiable for restraining him during any visit that he is permitted to make to any part of Saint Lucia in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall with reasonable promptitude and in any case no later than twenty-four hours after such arrest or detention be informed in a language that he understands of the reasons for his arrest or detention and be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice and, in the case of a minor, with his parents or guardian.

(3) Any person who is arrested or detained-

- a) for the purpose of bringing him before a court in execution of the order of a court; or
- b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law and who is not released, shall be brought before a court without undue delay and in any case not later than seventy-

two hours after such arrest or detention.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in subsection (3) (b) of this section is not tried within a reasonable time, then without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial, and such conditions may include bail so long as it is not excessive.

(6) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from any other person or authority on whose behalf that other person was acting;

Provided that a judge, a magistrate or a justice of the peace or an officer of a court or a police officer shall not be under any personal liability to pay compensation under this subsection in consequence of any act performed by him in good faith in the discharge of the functions of his office and any liability to pay any such compensation in consequence of any such act shall be a liability of the Crown.

(7) For the purposes of subsection (1) a of this section a person charged before a court with a criminal offence in respect of whom a special verdict has been returned that he was guilty of the act or omission charged but was insane when he did the act or made the omission shall be regarded as a person who has been convicted of a criminal offence and the detention of a person in consequence of such a verdict shall be regarded as detention in execution of the order of a court.

#### ***4.- Protection from slavery and forced labour***

(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression "forced labour" does not include-

a) any labour required in consequence of the sentence or order of a court;

b) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objection to service as a member of a naval, military or air force, any labour that person is required by law to perform in place of such service;

d) any labour required during any period of public emergency or in the event of any accident or natural calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that accident or natural calamity, for the purpose of dealing with that situation.

### ***5.- Protection from inhuman treatment***

No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

### ***6.- Protection from deprivation of property***

(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except for a public purpose and except where provision is made by a law applicable to that taking of possession or acquisition for the prompt payment of full compensation.

(2) Every person having an interest in or right over property that is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for-

- a) determining the nature and extent of that interest or right;
- b) determining whether that taking of possession or acquisition was duly carried out in accordance with a law authorizing the taking of possession or acquisition;
- c) determining what compensation he is entitled to under the law applicable to that taking of possession or acquisition;
- d) obtaining that compensation:

Provided that if Parliament so provides in relation to any matter referred to in paragraph (a) or (c) of this subsection the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the interest in or right over the property) form a tribunal or authority, other than the High Court having jurisdiction under any law to determine that matter.

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court or, subject to such provision as may have been made in that behalf by Parliament, with respect to the practice and procedure of any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) of this section or exercisable by the other tribunal or authority for the purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).

(4) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation in the form of a sum of money or, as the case may be, has received any such amount in some other form and has converted any of that amount into a sum of money, the whole of that sum of money (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Saint Lucia.

(5) Nothing contained in or done under that authority of any law shall be held to be inconsistent with or in contravention of subsection (4) of this section to the extent that the law in question authorizes-

- a) The attachment, by order of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party;
- b) The imposition of reasonable restrictions on the manner in which any sum of money is to be remitted; or
- c) the imposition of reasonable restrictions upon the remission of any sum of money in order to prevent or regulate

the transfer to a country outside Saint Lucia of capital raised in Saint Lucia or in some other country or derived from the natural resources of Saint Lucia.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section-

a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property, interest or right-

i) in satisfaction of any tax, rate or due;

ii) by way of penalty for breach of any law or forfeiture in consequence of breach of any law;

iii) as an incident of a lease, tenancy, mortgage, hypothec, charge, bill of sale, pledge or contract;

iv) in the execution of judgements or orders of a court in proceedings for the determination of civil rights or obligations;

v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state, or likely to be injurious to the health of human beings, animals or plants;

vi) in consequence of any law with respect to the limitation of actions; or

vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out).

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

b) to the extent that the law in question makes provision for the taking of possession or acquisition of any of the following property (including an interest in or right over property), that is to say-

i) enemy property;

ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or

iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(7) Nothing contained in or done under the authority of any law enacted by Parliament shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking of possession of any property, or the compulsory acquisition of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no monies have been invested other than monies provided by Parliament.

(8) In this section-

“property” means any land or other thing capable of being owned or held in possession and includes any right relating thereto. Whether under a contract, trust or law or otherwise and whether present or future, absolute or conditional;

“acquisition”, in relation to an interest in or right over property, means transferring that interest or right to another person or extinguishing or curtailing that interest or right.

**7.- Protection from arbitrary search or entry**

(1) Except with his own consent, a person shall not be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilization of mineral resources or the development or utilization of any property for a purpose beneficial to the community;

b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

c) that authorizes an officer or agent of the Government, a local government authority or a body corporate established by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government or to that authority or body corporate, as the case may be; or

d) that authorizes, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such order,

and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

**8.- Provision to secure protection of the law**

(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence-

a) shall be presumed to be innocent until he is proved or has pleaded guilty;

b) shall be informed as soon as reasonably practicable, in a language that he understands and detail, of the nature of the offence charged;

c) shall be given adequate time and facilities for the preparation of his defence;

d) shall be permitted to defend himself before the court in person or, at his own expense, by a legal practitioner of his own choice;

e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial,

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence:

Provided that the trial may take place in his absence in any case in which it is so provided by a law under which he is entitled to adequate notice of the charge and the date, time and place of the trial and to a reasonable opportunity of appearing before the court.

(3) When a person is tried for any criminal offence, the accused person or any person authorized by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) A person shall not be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) A person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall not again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceeding relating to the conviction or acquittal.

(6) A person shall not be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) A person who is tried for a criminal offence shall not be compelled to give evidence at the trial.

(8) Any court or other authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority, the case shall be given a fair hearing within a reasonable time.

(9) Where the existence or extent of any civil right or obligation has been determined in proceedings in any court or before any other authority any party to those proceedings shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be entitled to obtain within a reasonable time after the judgment or other determination a copy of any record of the proceedings made by or on behalf of the court or other authority.

(10) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing in subsection (10) of this section shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and the legal practitioners representing them to such extent as the court or other authority-

a) may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings;  
or

b) may by law be empowered or required to do in the interests of defence, public safety or public order.

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of-

a) subsection (2) (a) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

b) subsection (2) (e) of this section to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;  
or

c) subsection (5) of this section to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment, take into account any punishment awarded him under that disciplinary law.

(13) In the case of any person who is held in lawful detention the provisions of subsection (1), paragraphs (d) and (e) of subsection (2) and subsection (3) of this section shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) In this section “criminal offence” means a criminal offence under a law.

### ***9.- Protection of freedom of conscience***

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a person under the age of eighteen years, the consent of his guardian) a person attending any place of education, detained in any prison or corrective institution or serving in a naval, military or air force shall not be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction ceremony or observance relates to a religion which is not his own.

(3) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided by that community whether or not it is in receipt of a government subsidy or other form of financial assistance designed to meet in whole or in part the cost of such course of education.

(4) A person shall not be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention

of this section to the extent that the law in question makes provision which is reasonably required-

- a) in the interests of defence, public safety, public order, public morality or public health;
- b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion; or
- c) for the purpose of regulating educational institutions in the interests of the persons who receive or may receive instruction in them,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

### **10.- *Protection of freedom of expression***

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provisions-

- a) that is reasonably required in the interest of defence, public safety, public order, public morality or public health;
- b) that is reasonably required for the purpose of protecting the reputation, rights and freedoms of to the persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating the technical administration or the technical operation of telephony, telegraphy, posts wireless broadcasting or television; or
- c) that imposes restrictions upon public officers that are reasonably required for the proper performance of their functions,

and except so far as that provisions or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

### **11.- *Protection of freedom of assembly and association***

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests or to form or belong to political parties or other political associations.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

- a) that is reasonable required in the interests of defence, public safety, public order, public morality or public health;

- b) that is reasonable required for the purpose of protecting the rights of freedoms of other persons; or
- c) that imposes restrictions upon public officers that are reasonably required for the proper performance of their functions,

and except so far as that provision or, as the case maybe, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

## ***12.- Protection of freedom of movement***

(1) A person shall not be deprived of his freedom of movement that is to say, the right to move freely throughout Saint Lucia, the right to reside in any part of Saint Lucia the right to enter Saint Lucia, the right to leave Saint Lucia and immunity form expulsion form Saint Lucia.

(2) Any restriction on a person's freedom of movement that is involved in this lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision\_

a) for the imposition of restrictions on the movement or residence within Saint Lucia of any person or non any person's right to leave Saint Lucia that are reasonably required in the interest of defence, public safety or public order;

b) for the imposition of restrictions, by order of a court, on the movement or residence within Saint Lucia or on the right to leave Saint Lucia of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health or, in respect of the right to leave Saint Lucia, of securing compliance with any international obligation of the Government particulars of which have been laid before the Senate and the House and except so far as tat provision or , as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;

c) for the imposition of restrictions, by order of a court, on the movement or residence within Saint Lucia of any person or on any person's right to leave Saint Lucia either in consequence of his having been found guilty of a criminal offence under a law or for the purpose of ensuring that he appears before a court at a later date for trial of such a criminal offence or of proceeding preliminary to trial or for proceedings relating to his extradition or lawful removal from Saint Lucia;

d) for the imposition of restriction on the freedom of movement of any person who is not a citizen;

e) for the imposition of restriction on the acquisition on the acquisition or use by any person of land or other property in Saint Lucia;

f) for the imposition of restrictions upon the movement of resident within Saint Lucia or on the right to leave Saint Lucia of any public officer that are reasonably required for the proper performance of his functions;

g) for the removal of a person from Saint Lucia to be tried or punished in some other country for a criminal offence under the law of that other country of to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under a law of which he has been convicted; or

h) for the imposition of restrictions on the right of any person to leave Saint Lucia that are reasonably required in

order to secure the fulfilment of any obligations imposed on that person by law.

and except so far as that provision or as case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) if any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(a) of this section so request at any time during the period of that restriction not earlier than twenty-one days after the order was made or three months after he last made such a request, as the case may be, his case shall be review by an independent and impartial tribunal presided over by a person appointed by the Chief Justice from among persons who are legal practitioners.

(5) On any review by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of the continuation of that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.

### **13.- *Protection from discrimination on grounds of race, etc***

(1) Subject to the provisions of subsection (4), (5) and (8) of this section, no law shall make any provisions that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsection (4), (5) and (8) of this section, no person shall be treated in a discriminatory manner by any person or authority.

(3) In this section, the expression “discriminatory” means affording different treatment to different person attributable wholly or mainly to their respective descriptions by sex, race place of origin, political opinions, colour or creed whereby persons of one such descriptions are subject to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such descriptions.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision-

a) for the appropriation of public revenues or other public funds;

b) with respect to persons who are not citizens;

c) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters which is the personal law of persons of that description;

d) whereby persons of any such description as is mentioned in subsection (3) of this section may be subject to any disability or restriction or may be accorded any privileges or advantage that, having regard to its nature and to special circumstance pertaining to those persons or to person of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section the extent that it makes provisions with respect to standards or qualifications (not being standard or qualification specifically relating to sex, race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to or to act in any office or employment.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (4) or subsection (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subject to any restriction as is mentioned in subsection 83) of this section may be subjected to any restriction on the rights and freedom guaranteed by sections 7, 9, 10, 11 and 12 of this Constitution, being such a restriction as is authorized by section 7(2), section 9(5)0, section 10(2), section 1182) or paragraph (a), (b) or (h) of section 12(3), as the case may be.

(8) Nothing contained in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

#### **14.- *Emergency powers***

(1) Without prejudice to the powers of Parliament, but subject to the provisions of this section, where any period of public emergency exists the Governor-general may, due regard being had to the circumstances of any situation likely to arise or exist during such period, make regulations for the purpose of dealing with that situation and issue orders and instruction for the purpose of the exercise of any powers conferred on him or any other person by any law referred to in subsection(3) of this section or instrument made under this section or any such law.

(2) Without prejudice to the generally of subsection (1) of this section regulations made under that subsection may make provision for the detention of persons.

(3) A law enacted by Parliament that is passed during a period of public emergency and is expressly declared to have effect only during that period or any regulation made under subsection (1) of this section shall have effect eve though inconsistent with section 3 or 13 of this Constitution except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period.

#### **15.- *Protection of persons detained under emergency laws***

(1) When a person is detained by virtue of any such law as is referred to in section 14 of this Constitution the following provisions shall apply, that is to say:-

a) he shall, with reasonable promptitude and in any case not more than seven days after the commencement of his detention, be informed in a language that he understands and in detail of the grounds upon which he is detained and furnished with a written statement in English specifying those grounds in detail;

b) not more than fourteen days after the commencement of his detention, a notification shall be published in the Official Gazette sating that he has been detained and giving particulars of the provisions of law under which his detention is authorized;

c) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than three months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who are legal practitioners;

d) he shall be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and

e) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or to be represented by a legal practitioner of his own choice.

(2) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his section to the authority by which it was ordered by, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

(3) Nothing contained in subsection (1)(d) or subsection (1)(e) of this section shall be construed as entitling a person to legal representation at public expense.

### **16.- *Enforcement of protective provisions***

(1) If any person alleges that any of the provision of sections 2 to 15 inclusive of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction-

a) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and

b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section.

and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 2 to 15 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court (other than the Court of Appeal of the High Court or a court-martial) any question arises as to the contravention of any of the provisions of sections 2 to 15 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the questions merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of subsection (3) of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision, or, if that decision is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

(5) The High Court shall have such powers in addition to those conferred by this section as may be conferred upon it by Parliament for t purpose of enabling it more effectively to exercise the jurisdiction conferred upon it by this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which

applications may be brought and references shall be made to the High Court).

**17.- Declaration of emergency**

(1) The Governor-General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exists for the purposes of this Chapter.

(2) A proclamation under this section shall not be effective unless it contains a declaration that the Governor-General is satisfied-

a) that a public emergency has arisen as a result of the imminence of a state of war between Saint Lucia and a foreign state;

b) that a public emergency has arisen as a result of the occurrence of any earthquake, , hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or

c) that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

(3) Every declaration of emergency shall lapse-

a) in the case of a declaration made when Parliament is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and

b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration.

unless it has in the meantime been approved by resolutions of the Senate and the House.

(4) A declaration of emergency may at any time be revoked by the Governor-General by proclamation which shall be published in the Official Gazette.

(5) A declaration of emergency that has been approved by resolutions of the Senate and the House in pursuance of subsection (3) of this section shall remain in force so long as both those resolutions remain in force and no longer.

(6) A resolution of the Senate or the House passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a further resolution.

(7) A resolution of the House for the purposes of subsection (3) of this section and a resolution of the House extending any such resolution shall not be passed in the House unless it is supported by the votes of majority of all the members of the House.

(8) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.

## **18.- Interpretation and savings**

(1) In this Chapter, unless the context otherwise requires-

“contravention” in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

“court” means any court of law having jurisdiction in Saint Lucia other than a court established by a disciplinary law, and includes Her Majesty in Council and in section 2 and 4 of this Constitution a court established by a disciplinary law;

“disciplinary law” means a law regulating the discipline of any disciplined force;

“disciplined force” means\_

- a) a naval, military or air force;
- b) the Police Force;
- c) a prison service; or
- d) any such other force or service as may be prescribed by Parliament.

“legal practitioner” means a person entitled to be in or to enter Saint Lucia and entitled to practice as a barrister in Saint Lucia or except in relation to proceedings before a court in which a solicitor has nor right of audience, entitled to practice as a solicitor in Saint Lucia;

“member”, in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that disciplined.

(2) In this Chapter “period of public emergency” means any period during which-

- a) Her Majesty is at war, or
- b) there is in force a proclamation by the Governor-General declaring that a state of public emergency exists; or
- c) there is in force a resolution of the House supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Saint Lucia are threatened by subversion.

(3) In relation to any person who is a member of a disciplined force of Saint Lucia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 2, 4 and 5 of this Constitution.

(4) In relation to any person who is a member of a disciplined force of a country other than Saint Lucia that is lawfully present in Saint Lucia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

## **CHAPTER II**

### **THE GOVERNOR-GENERAL**

#### **19.- *Establishment of office***

There shall be a Governor-General of Saint Lucia who shall be a citizen appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Saint Lucia.

#### **20.- *Acting Governor-General***

(1) During any period when the office of Governor-General is vacant or the holder of the office of Governor-General is absent from Saint Lucia or is for any other reason unable to perform the functions of his office those functions shall be performed by such person as Her Majesty may appoint.

(2) Any such person as aforesaid shall not continue to perform the function of the office of Governor-General if the holder of the office of Governor-General or some other person having a prior right to perform the functions of that office has notified him that he is about to assume or resume those functions.

(3) The holder of the office of Governor-General shall not, for the purposes of this section, be regarded as absent from Saint Lucia or as unable to perform the function of his office-

a) by reason that he is in passage from one part of Saint Lucia to another; or

b) at any time when there is a subsisting appointment of a deputy under section 22 of this Constitution.

#### **21.- *Oaths***

A person appointed to hold the office of Governor-General shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath of office.

#### **22.- *Deputy to Governor-General***

(1) Whenever the Governor-General-

a) has occasion to be absent from the seat of government by not from Saint Lucia;

b) has occasion to be absent from Saint Lucia for a period which he considers, acting in his own deliberate judgment, will be of short duration; or

c) is suffering from an illness which he considers, acting in his own deliberate judgment, will be of short duration, he may, acting in accordance with the advice of the Prime Minister, appoint any person in Saint Lucia to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the function of the office of Governor-General as may be specified in the instrument by which he is appointed.

(2) The power and authority of the Governor-General shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and, subject to the provisions of this Constitution, a deputy shall conform to and observe all instructions that the Governor-General, acting in his own deliberate judgment, may from time to time address to him:

provided that the question whether or not a deputy has conformed to and observed any such instructions shall not be enquired into by any court of law.

(3) A person appointed as deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked at any time by the Governor-general, acting in accordance with the advice of the Prime Minister.

## **CHAPTER III**

### **PARLIAMENT**

#### **Part 1**

#### **Composition of Parliament**

##### ***23.- Establishment***

There shall be a Parliament of Saint Lucia which shall consist of Her Majesty, a Senate and a House of Assembly.

#### **The Senate**

##### ***24.- Composition***

(1) The Senate shall consist of eleven Senators and such other Senators as may be temporarily appointed under section 28 of this Constitution.

(2) Of the eleven Senators-

- a) six shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister;
- b) three shall be appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition; and
- c) two shall be appointed by the Governor-General, acting in his own deliberate judgment after he has consulted those religious, economic or social bodies or associations from which he considers that such Senators should be selected.

##### ***25.- Qualifications***

Subject to the provisions of section 26 of this Constitution, a person shall be qualified to be appointed as a Senator if, and shall not be so qualified unless, he-

- a) is a Commonwealth citizen who has attained the age of thirty years;
- b) has been ordinarily resident in Saint Lucia for a period of five years immediately before the date of his appointment; and
- c) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with sufficient proficiency to enable him to take an active part in the proceedings of the Senate.

## **26.- Disqualifications**

(1) No person shall be qualified to be appointed as a Senator if, at the date of his appointment, he.

a) is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;

b) is a minister of religion (except in the case of an appointment under section 24(2)(c) of is Constitution);

c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;

d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any such law;

e) is under sentence of death imposed on him by a court of law in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended; or

f) subject to such exceptions and limitations as may be prescribed by Parliament, has any such interests in any such government contract as may be prescribed.

(2) If it is so provided by Parliament, a person who is convicted by any court of any offence that is prescribed by Parliament and that is connected with the election of members of the House or who is reported guilty of such an offence by the court trying an election petition shall not be qualified, for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed, to be appointed as a Senator.

(3) No person shall be qualified to be appointed as a Senator who is a member or is nominated as a candidate or election to the House.

(4) If it is so provided by Parliament, and subject to such exceptions and limitations (if any) as Parliament may prescribe, a person shall not be qualified to be appointed as a Senator if, at the date of his appointment-

a) he holds or is acting in any office or appointment (whether specified individually or by reference to a class of office or appointment);

b) he belongs to any of the armed forces of the Crown or to any class of persons that is comprised in any such force; or

c) he belongs to any police force or to any class of person that is comprised in any such force.

(5) In subsection (1) of this section-

“contract” means any contract made with the Government or with a department of the Government or with an officer of the Government contracting as such;

“minister of religion” means any person in holy orders and any other person the functions of whose principal occupation include teaching or preaching in any congregation for religious worship.

(6) For the purposes of paragraph (e) of subsection (1) of this section-

a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and

b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

### ***27.- Tenure of office***

(1) A senator shall vacate his seat in the Senate at the next dissolution of Parliament after his appointment.

(2) A senator shall also vacate his seat in the Senate-

a) if he is absent from the sittings of the Senate for such period and in such circumstances as may be prescribed in the rules of procedure of the Senate;

b) if he ceases to be a Commonwealth citizen;

c) if, with his consent, he is nominated as a candidate for election to the House or if he is elected to be a member of the House;

d) subject to the provisions of subsection (3) of this section, if any other circumstances arise that, if he were not a Senator, would cause him to be disqualified to be appointed as such by virtue of subsection (1) of section 26 of his Constitution or by virtue of any law enacted in pursuance of subsection (2) or (4) of that section; or

e) if the Governor-General, acting in accordance with the advice of the Prime Minister in the case of a Senator appointed under paragraph (a) of subsection (2) of section 254 of this Constitution or in accordance with the advice of the Leader of the Opposition in the case of a Senator appointed under paragraph (b) of that subsection or in his own deliberate judgment after such consultation as is specified in paragraph (c) of that subsection in the case of a Senator appointed under that paragraph, declares the seat of that Senator to be vacant.

(3) a) If any circumstances such as are referred to in paragraph (d) of subsection (2) of this section arise because any Senator is under sentence of death or imprisonment, adjudged to be of unsound mind, declared bankrupt or convicted or reported guilty of an offence relation to elections and if it is open to the Senator to appeal against the decisions (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a member of the Senate but, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the President may, at the request of the Senator, from time to time, extend that period for further periods of thirty days to enable the Senator to pursue an appeal against the decision, so, however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the Senate.

b) If on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the Senator, or if, by reason of the expiration of any period for entering an appeal or notice thereof of the refusal of leave to appeal or for any other reason, it ceases to be open to the Senator to appeal, he shall forthwith vacate his seat.

c) If at any time before the Senator vacates his seat such circumstances as aforesaid cease to exist, his seat shall not

become vacant on the expiration of the period referred to in paragraph (a) of this subsection and he may resume the performance of his functions as a member of the senate.

### **28.- Inability**

(1) If the Governor-General considers that a Senator is, by reason of his illness or absence from Saint Lucia, unable to perform his functions as a member of the Senate the Governor-General may-

a) in accordance with the advice of the Prime Minister in relation to a Senator appointed in pursuance of paragraph (a) of subsection (2) of section 24 of this Constitution;

b) in accordance with the advice of the Leader of the Opposition in relation to a Senator appointed in pursuance of paragraph (b) of that subsection : and

c) in his own deliberate judgment after such consultation as is specified in paragraph (c) of that subsection in relation to a Senator appointed in pursuance of that paragraph.

### **29.- President and Deputy President**

(1) When the Senate first meets after any dissolution of Parliament and before it proceeds to the despatch of any other business, it shall elect a Senator, not being a Minister or a Parliamentary Secretary, to be President of the Senate; and whenever the office of President is vacant otherwise than by reason of a dissolution of Parliament, the Senate shall, not later than its second sitting after the vacancy has arisen, elect another Senator to fill that office.

(2) When the Senate first meets after any dissolution of Parliament, it shall, as soon as practicable, elect a Senator, not being a Minister or a Parliamentary Secretary, to be Deputy President of the Senate; and whenever the office of Deputy President becomes vacant, the Senate shall, as soon as convenient, elect another Senator to fill that office.

(3) A person shall vacate the office of President or Deputy President-

a) if he ceases to be a Senator:

Provided that the President shall not vacate his office by reason only that he has ceased to be a Senator on a dissolution of Parliament until the Senate first meets after that dissolution;

b) if he is appointed to be a Minister or a Parliamentary Secretary; or

c) in the case of the Deputy President, if he is elected to be President.

(4) a) If, by virtue of section 27(3)(a) of this Constitution, the President or Deputy President is required to cease to perform his functions as a member of the Senate he shall also cease to perform his functions as President or Deputy President, as the case may be, and those functions shall, until he vacates his seat in the Senate or resumes the performance of the functions of his office, be performed-

i) in the case of the President, by the Deputy President or, if the office of Deputy President is vacant or the Deputy President is required to cease to perform his functions as a member of the Senate by virtue of section 27(3) of this Constitution, by such Senator (not being a Minister or a Parliamentary Secretary) as the Senate may elect for the purpose;

ii) In the case of the Deputy President, by such Senator (not being a Minister or Parliamentary Secretary) as the senate may elect for the purpose.

b) If the President or Deputy President resumes the performance of his functions as a members of the Senate, in accordance with the provisions of section 27(3)(c) of this Constitution, he shall also resume the performance of his functions as President or Deputy President, as the case may be.

## **The House of Assembly**

### **30.- *Composition***

(1) The House shall consist of such number of member of members as corresponds with the number of constituencies for the time being established in accordance with the provisions of section 58 of this Constitution, who shall be elected in accordance with the provisions of section 33 of this Constitution.

(2) If a person who is not a member of the House is elected to be Speaker he shall, by virtue of holding or acting in that office, be a member of the House.

(3) At any time when the office of Attorney-General is a public office, the Attorney-General shall by virtue of holding or acting in that office, be a member of the House.

### **31.- *Qualifications for election***

Subject to the provisions of section 32 of this Constitution, a person shall be qualified to be elected as a member of the House if, and shall not be so qualified unless, he-

a) is a citizen of the age of twenty-one years or upwards,

b) was born in Saint Lucia and is domiciled and resident there at the date of his nomination or, having been born elsewhere, has resided there for a period of twelve months immediately before that date; and

c) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the House.

### **32.- *Disqualifications from election***

(1) A person shall not be qualified to be elected as a member of the House (hereinafter in this section referred to as a member) if he-

a) if by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;

b) is a minister of religion;

c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;

d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any such law;

e) is under sentence of death imposed on him by a court of law in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted y competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended; or

f) subject to such exceptions and limitations as may be prescribed by Parliament, has an interest in any government contract.

(2) If it is so provided by Parliament, a person shall not be qualified to be elected as a member if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of any election of members or the compilation of any register of voters for the purpose of electing members.

(3) If it is so provided by Parliament, a person who is convicted by any court of law of any offence that is prescribed by Parliament and that is connected with the election of member or who is reported guilty of such an offence by the court trying an election petition shall not be qualified, for such period (not exceeding seven years) following his conviction or, as the case may be, following the report of the court as may be so prescribed, to be elected as a member.

(4) A person shall not be qualified to be elected as a member if he is a Senator.

(5) If it is so provided by Parliament and subject to such exceptions and limitations (if any) as Parliament may prescribe, a person shall not be qualified to be elected as a member if-

a) he holds or is acting in any office or appointment (whether specified individually or by reference to a class of office or appointment);

b) he belongs to any of the armed forces of Saint Lucia or to any class of person that is comprised in any such force;

c) he belongs to any police-force or to any class of person that is comprised in any such force; or

d) he has, within such period (not exceeding three years) as parliament may prescribe, held or acted in any office or appointment the tenure of which would, by virtue of any provisions made under this subsection, disqualify him for election as a member, being an office or appointment the emoluments of which exceed such amount as Parliament may prescribe.

(6) In subsection (1) of this section-

“government contract” means any contract made with the Government or with a department of the Government or with an office or the Government contracting as such;

“minister of religion” means any person in holy orders or any other person the function of whose principal occupation include teaching or preaching in any congregation for religious worship.

(7) For the purposes of paragraph (e) of subsection (1) of this section-

a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds that term they shall be regarded as one sentence; and

b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

### **33.- Elections**

(1) Each of the constituencies established in accordance with the provision of section 58 of this Constitution shall return one member to the House who shall be directly elected in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any law.

(2) a) Every Commonwealth citizen of the prescribed age who possesses such qualifications relating to residence or domicile in Saint Lucia as Parliament may prescribe shall, unless he is disqualified by Parliament from registration as a voter for the purpose of electing members of the House, be entitled to be registered as such a voter in accordance with the provisions of any law in that behalf, and no other person may be so registered,

b) Every person who is registered as aforesaid in any constituency shall, unless he is disqualified by Parliament from voting in that constituency in any election of member so the House, be entitled so to vote, in accordance with the provisions of any law in that behalf, and no other person may so vote.

c) For the purpose of this subsection the prescribed age shall be the age of twenty-one years or such lower age, not being less than eighteen years, as Parliament may prescribe.

(3) In any election of members of the House the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

### **34.- Tenure of office**

(1) A member of the House (hereinafter in this section referred to as a member) shall vacate his seat in the House at the next dissolution of Parliament after his election.

(2) A member shall also vacate his seat in the House-

a) if he is absent from the sitting of the House for such period and in such circumstances as may be prescribed in the rules of procedure of the House;

b) if he ceases to be a citizen; or

c) subject to the provisions of subsection (3) of this section, if any other circumstances arise that, if he were not a member, would cause him to be disqualified to be elected as such by virtue of subsection 81) of section 32 of this Constitution or of any law enacted in pursuance of subsection (2), (3) or (5) of that section.

(3) (a) If any circumstances such as are referred to in paragraph (c) of subsection (2) of this section arise because any member is under sentence of death or imprisonment, adjudged to be of unsound mind, declared bankrupt or convicted or reported guilty of an offence relating to elections and if it is open to the member to appeal against the decision (either with the leave of a court of law or other authority or without such leave), he shall forthwith cease to perform his functions as a member but, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

b) If, on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the

member, or if, be reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

c) If at any time before the member vacates his seat such circumstances aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (a) of this subsection and he may resume the performance of his functions as a member.

(4) References i this section to a member do not include references to a Speaker who was elected from among persons who were not members of the House.

### **35.- Speaker**

(1) When the House first meets after any general election of members and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either form among the members of the House who are not members of the Cabinet or Parliamentary Secretaries of form among persons who are not members of the House:

Provided that a person who is not a member of the House shall not be elected as Speaker if\_

a) he is not a Commonwealth citizen; or

b) he is a person disqualified to be elected as a member by virtue of subsection (1) or (4) of section 32 of this Constitution to be virtue or any law enacted in pursuance of subsection (2), (3) or (5) of that section.

(3) No business shall be transacted in the House (other than the election of a Speaker) at any time when the office of Speaker is vacant.

(4) A person shall vacate the office of Speaker -

a) in the case of a Speaker who was elected from among the members of the House -

i) if he ceases to be a member of the House

Provided that the Speaker shall not vacate his office by reason only that he ceased to be a member of the House on a dissolution of Parliament, until the House first meets after the dissolution; or

ii) if he becomes a member of the Cabinet or Parliamentary Secretary;

b) in the case of a Speaker who was elected form among persons who were not members of the House-

i) when the House first meets after any dissolution of Parliament;

ii) of he ceases to be a Commonwealth citizen;

iii) if any circumstances arise that would cause him to be disqualified to be elected as a member by virtue of subsection (1) or (4) of section 32 of this Constitution or by virtue of any law enacted in pursuance of subsection (2), (3) or (5) of that section.

(5) If, by virtue of section 34(3) of this Constitution, the Speaker (being an elected member of the House) is required to cease to perform his functions as a member of the House he shall also cease to perform his functions as Speaker; and if the Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of that section, he shall also resume the performance of his functions as Speaker.

(6) At any time when , by virtue of section 34(3) of this Constitution, the Speaker is unable to perform the functions of his office, those functions shall, until he vacates his seat in the House or resumes the performance of the function of his office, be performed by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his function as a member of the House by virtue of that subsection, by such member of the House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for the purpose.

### ***36.- Deputy Speaker***

(1) When the House first meets after any general election of members and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House , who is not a member of the Cabinet or a Parliamentary Secretary, to be Deputy Speaker of the House and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as convenient, elect another member of the House to that office.

(2) A person shall vacate the office of Deputy Speaker\_

a) if he ceases to be a member of the House;

b) if he becomes a member for the Cabinet or a Parliamentary Secretary; or

c) if he is elected to be Speaker.

(3) if by virtue of section 34(3) of this Constitution, the Deputy Speaker is required to cease to perform his functions as a member of the House he shall also cease to perform his function as Deputy Speaker and if the Deputy Speaker resumes the performance of his function as a member of the House, in accordance with the provisions of that section, he shall also resume the performance of his function as deputy Speaker.

(4) At any time when by virtue of section 34(3) of this Constitution, the Deputy Speaker is unable to perform the functions of his office those function shall, until he vacates his seat in the House or resumes the performance of the function of his office, be performed by such member of the House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for the purpose.

### ***37.- Responsibility for elections***

(1) The Electoral Commission shall be responsible for the registration of voters for the purpose of electing member of the House and for the conduct of elections of member of the House and shall have such powers and other functions relating to such registration and elections as may be prescribed by law.

(2) In the discharge of its functions the Electoral Commission shall be assisted by a Chief Elections officer, whose office shall be a public office, and the Commission may give such directions as it considers necessary or expedient to the Officer, who shall comply with such directions or cause them to be complied with.

(3) For the purposes of the exercise of his function under subsection (2) of this section , the Chief elections Officer may give such directions as he considers necessary or expedient to any registering officer, presiding officer or

returning officer relating to the exercise by that officer of his functions under any law regulating the registration of voters or the conduct of elections, and any officer to whom directions are given under this subsection shall comply with those directions.

(4) The Electoral Commission may make such reports to the Governor-General concerning the matters for which it is responsible under this section or any draft bill or instrument that is referred to it under section 52 of this Constitution, as it may think fit and if the Commission so requests in any such report other than a report on a draft bill or instrument that report shall be laid before the House.

(5) Without prejudice to the provisions of subsection (2) of this section, in the exercise of his functions under this section the Chief Elections Officer shall not be subject to the direction or control of any other person or authority.

(6) The question whether the Chief Election Officer has acted in accordance with the directions of the Electoral Commission shall not be enquired into in any court of law.

### **General provisions**

#### ***38.- Clerks of Senate and House of Assembly and their staff***

(1) There shall be a Clerk of the Senate and a Clerk of the House:

Provided that the offices of Clerk of the Senate and Clerk of the House may be held by the same person.

(2) Subject to the provisions of any law enacted by Parliament the offices of Clerk of the Senate and Clerk of the House and the members of their staff shall be public offices.

#### ***39.- Determination of questions of membership***

(1) The High Court shall have jurisdiction to hear and determine any question whether-

a) any person has been validly elected as a member of the House;

b) any person shall be validly appointed as a Senator;

c) any person who has been elected as Speaker from among persons who were not members of the House was qualified to be so elected or has vacated the office of Speaker;

d) any Senator or any elected member of the House has vacate his seat or is required, under the provisions of section 27(3) or 34(3) of this Constitution, to cease to perform any of his functions as a member of the Senate or of the House.

(2) An application to the High Court for the determination of any question under subsection (1)(a) of this section may be made by any person entitled to vote in the election to which the application relates or by any person who was a candidate at that election or by the Attorney-General.

(3) An application to the High Court for the determination for any question under subsection (1)(b) or (1)(c) of this section may be made by any registered voter or by the Attorney-General.

(4) An application to the High Court for the determination for any question under subsection (1)(d) of this section may be made-

a) by a registered voter or by the Attorney-General; or

b) in relation to the Senate, by a Senator and in relation to the House by a member of the House

(5) If any application is made by a person other than the Attorney-General to the High Court for the determination of any question under this section, the Attorney-General may intervene and may then appeal or be represented in the proceedings.

(6) the Circumstances and manner in which and the imposition of conditions upon which any application may be made to the High Court for the determination of any question under this section and the powers, practice and procedure of the High Court in relation to any such application shall be regulated by such provision as may be made by Parliament.

(7) An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining such a question as is referred to in subsection (1) of this section.

(8) No appeal shall lie from any decision of the Court of Appeal in exercise of the jurisdiction conferred by subsection (7) of this section and no appeal shall lie from any decision of the High Court in proceeding under this section other than a final decision determining such a question as is referred to in subsection 81) of this section.

(9) In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

(10) In this section “registered voter” means a person registered as a voter in accordance with section 33(2)(a) of this Constitution.

## **Part 2**

### **Legislation and procedure of Parliament**

#### ***40.- Power to make laws***

Subject to the provisions of this Constitution parliament may make laws for the peace, order and good government of Saint Lucia.

#### ***41.- Alteration of Constitution and Supreme Court Order***

(1) parliament may alter any for the provisions of this Constitution or of the Supreme Court Order in the manner specified in the following provisions of this section.

(2) A bill to alter this section, Schedule 1 to this Constitution or any of the provisions of this Constitution specified in Part 1 of that Schedule or any of the provisions of the Supreme Court Order specified in Part II of that Schedule shall not be regarded as being passed by the House unless on its final reading in the House the bill is supported by the votes of not less than three-quarters of all the members of the House.

(3) A bill to alter any of the provisions of this Constitution to, as the case may be, of the Supreme Court Order other than those referred to in subsection (2) of this section shall not be regarded as being passed by the House unless on its final reading in the House the bill is supported by the votes of not less than two-thirds of all the members of the House.

(4) An amendment made by the Senate to a bill to which subsection (2) of this section applies shall not be regarded as being agreed to by the House for the purposes of section 50 of this Constitution unless such agreement is signified by resolution supported by the votes of not less than three-quarters of all the members of the House.

(5) An amendment made by the Senate to a bill to which subsection (3) of this section applies shall not be regarded as being agreed to by the House for the purposes of section 50 of this Constitution unless such agreement is signified by resolution supported by the votes of not less than two-thirds of all the members of the House.

(6) A bill to alter any of the provisions of this Constitution or the Supreme Court Order shall not be submitted to the Governor-General for his assent -

a) unless there has been an interval of not less than ninety days between the introduction of the bill in the House and the beginning of the proceedings in the House on the second reading of the bill; and

b) if the bill provides for the alteration of this section, Schedule 1 to this Constitution or any of the provisions of this Constitution or the Supreme Court Order specified in that Schedule, unless after it has been passed by the Senate and the House or, in the case of a bill to which section 50 of this Constitution applies after its rejection by the Senate for the second time, the bill has been approved on a referendum, held in accordance with such provision as may be made in that behalf by Parliament, by a majority of the votes validly cast on that referendum.

(7) The provisions of paragraph (b) of subsection (6) of this section shall not apply in relation to any bill to alter\_

a) section 107 of this Constitution in order to give effect to any agreement between Saint Lucia and the United Kingdom concerning appeals from any court having jurisdiction in Saint Lucia to Her Majesty in Council;

b) any of the provisions of the Supreme Court Order in order to give effect to any international agreement to which Saint Lucia is a party relating to the Supreme Court or any other court (or any officer or authority having functions in respect of any such court) constituted in common for Saint Lucia and for other countries also parties to the agreement.

(8) Every person who, at the time when the referendum is held would be entitled to vote for the purpose of electing members of the House shall be entitled to vote on a referendum held for the purposes of this section in accordance with such procedures as may be prescribed by Parliament for the purposes of the referendum and no other person shall be entitled so to vote.

(9) In any referendum for the purposes of this section the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

(10) The conduct of any referendum for the purposes of this section shall be the responsibility of the Electoral Commission and the provisions of section 37 and 52 of this Constitution shall apply in relation to the referendum as they apply in relation to election of members of the House and legislation relating thereto.

(11) a) A bill to alter any of the provisions of this Constitution or the Supreme Court Order shall not be submitted to the Governor-General for his assent unless it is accompanied by a certificate under the hand of the Speaker that the provisions of subsection (2), (3), (4) or (5) of this section, as the case may be, have been complied with and, where a referendum has been held in pursuance of subsection (6)(b) of this section, by a certificate under the hand of the Chief Elections Officer stating the results of the referendum.

b) The certificate of the Speaker under this subsection shall be conclusive that the provisions of subsection (2), (3), (4) or (5) of this section, as the case may be, have been complied with and shall not be enquired into in any court of law.

c) In this subsection references to the Speaker shall, if the person holding the office of Speaker is for any reason unable to perform the functions of his office and no other person is performing them, include references the Deputy Speaker.

(12) In this section and Schedule 1 to this Constitution references to any of the provisions of this Constitution or the Supreme Court Order include references to any law that alters that provision.

#### **42.- Freedom of speech**

Without prejudice to any provisions made by Parliament relating to the powers, privileges and immunities of the Senate or the House and the committees thereof, or the privileges and immunities of the members and officers to the Senate or the House and of other persons concerned in the business of the Senate or the House or the committees thereof, no civil or criminal proceedings may be instituted against any member of the Senate or the House for words spoken before, or written in a report to, the Senate or the House or a committee thereof or by reason of any matter or thing brought by him therein by petition, bill resolution, motion or otherwise.

#### **43.- Oath by members**

(1) Every member of the Senate or the House shall, before taking his seat therein, take and subscribe before the Senate or the House, as the case may be, the oath of allegiance but a member may before taking that oath take part in the election of the President or Speaker.

(2) Any person elected to the office of President or Speaker shall, if he has not already taken and subscribed the oath of allegiance under subsection (1) of this section, take and subscribe that oath before the Senate or the House, as the case may be, before entering upon the duties of his office.

#### **44.- Presiding**

There shall preside at any sitting of the Senate or the House-

a) the President or Speaker;

b) in the absence of the President or Speaker, the Deputy President or Deputy Speaker; or

c) in the absence of the President or Speaker and the Deputy President or Deputy Speaker, such member thereof (not being a member of the Cabinet or a Parliamentary Secretary) as the Senate or the House, as the case may be, may elect for that purpose.

#### **45.- Voting**

(1) Save as a otherwise provided in sections 17(7), 18(2) and 41(2), (3), (4) and (5) of this Constitution, any question proposed for decision in the Senate or the House shall be determined by a majority of the votes of the members present and voting.

(2) A question shall not be regarded as having been validly determined by a vote in the Senate or the House unless at least six member or such greater number of members as parliament may prescribe, take part in the voting.

(3) The reference to all the members of the House in sections 17(7), 18(2) and 41 (2), (3), (4) and (5) of this Constitution shall not include the Speaker if he was elected from among persons who were not members of the House.

(4) The President or other Senator presiding in the Senate and a Speaker who was elected from among the members of the House or other member presiding in the House shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote;

Provided that in the case of the question of the final reading of such a bill as is referred to in subsection (2) or (3) of section 41 of this Constitution or the question of a motion for such a resolution as is referred to in subsection (4) or (5) of that section a Speaker who was so elected or other member presiding in the House shall have an original vote but no casting vote.

(5) A Speaker who was elected from among persons who were not members of the House shall have neither an original nor a casting vote.

(6) If, upon any question before the House the votes of the members are equally divided and no casting vote may be exercised, the motion shall be lost.

***46.- Penalty for sitting if unqualified***

(1) Any person who sits or votes in the Senate or the House knowing or having reasonable grounds for knowing that he is not entitled to do so shall be guilty of an offence and liable to a fine not exceeding one hundred dollars, or such other sum as may be prescribed by Parliament, for each day on which he so sits or votes.

(2) Any prosecution for an offence under this section shall be instituted except by the Director of Public Prosecutions.

***47.- Mode of exercise of legislative power***

(1) The power of Parliament to make laws shall be exercised by bills passed by the Senate and the House (or in the cases mentioned in section 49 and 50 of this Constitution by the House) and assented to by the Governor-General.

(2) When a bill is submitted to the Governor-General for assent in accordance with the provisions of this Constitution he shall signify that he assents.

(3) When the Governor-General assents to a bill that has been submitted to him in accordance with the provisions of this Constitution the bill shall become law and the Governor-General shall thereupon cause it to be published in the Official Gazette as a law.

(4) No law made by Parliament shall come into operation until it has been published in the Official Gazette but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.

***48.- Restrictions with regard to certain financial measures***

(1) A bill other than a money bill may be introduced in the Senate or the House; a money bill shall not be introduced in the Senate.

(2) Except on the recommendation of the Governor-General signified by a Minister, neither the Senate nor the House shall-

a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes:-

i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

ii) for the imposition of any charge upon the Consolidated Fund or any other public fund of Saint Lucia or the alteration of any such charge otherwise than by reduction;

iii) for the payment, issue or withdrawal from the Consolidated Fund or any public fund of Saint Lucia of any monies not charged thereon or any increase in the amount of such payment, issue or withdrawal; or

iv) for the composition or remission of any debt due to the Crown; or

b) procedure upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provisions for any of those purposes.

**49.- Restrictions on powers of Senate as to money bills**

(1) If a money bill, having been passed by the House and sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to the Senate, the bill shall, unless the House otherwise resolves, be presented to the Governor-General for his assent notwithstanding that the Senate has not consented to the bill.

(2) There shall be endorsed on every money bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a money bill; and there shall be endorsed on any money bill that is submitted to the Governor-General for assent in pursuance of subsection (1) of this section the certificate of the Speaker signed by him that it is a money bill and the provisions of that subsection have been complied with.

**50.- Restrictions on powers of Senate as to bills other than money bills**

(1) This section applies to any bill other than a money bill that is passed by the House in two successive sessions (whether or not Parliament is dissolved between those sessions) and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions.

(2) A bill to which this section applies shall, on its rejection for the second time by the Senate, unless the House otherwise resolves, be submitted to the Governor-General for assent notwithstanding that the Senate has not consented to the bill:

Provided that-

a) the foregoing provisions of this subsection shall not have effect unless at least six months have elapsed between the date on which the bill is passed by the House in the first session and the date on which it is passed by the House in the second session;

b) a bill such as is referred to in subsection 82) or (3) of section 41 of this Constitution shall not be submitted to the Governor-General for his assent unless the provisions of that subsection have been complied with and the power conferred on the House by this subsection to resolve that a bill shall not be exercised in respect of such a bill.

(3) For the purposes of this section a bill that is sent to the Senate from the House in any session shall be deemed to be the same bill as a former bill sent to the Senate in the preceding session if, when it is sent to the Senate, it is identical with the former bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since the date of the former bill or to represent any amendments which have been made by the Senate in the former bill in the preceding session.

(4) The house may, if it thinks fit, on the passage through the House of a bill that is deemed to be the same bill as a former bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the bill, and any such amendments shall be considered by the Senate, and if agreed to by the Senate, shall be treated as amendments made by the Senate, and if agreed to by the House, shall be treated as amendments made by the House; but the exercise of this power by the House shall not affect the operation of this section in the event of the rejection of the bill in the Senate.

(5) There shall be inserted in any bill that is submitted to the Governor-General for assent in pursuance of this section any amendments that are certified by the Speaker to have been made in the bill by the Senate in the second session and agreed to by the House.

(6) There shall be endorsed on any bill that is presented to the Governor-General for assent in pursuance of this section the certificate of the Speaker signed by him that the provisions of this section have been complied with.

### ***51.- Provisions relating to ss. 48, 49 and 50***

(1) In section 48, 49 and 50 of this Constitution, “money bill” means a public bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely the imposition, repeal, remission, alteration or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on public money, or the variation or repeal of any such charges; the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant; the appropriation, receipt, custody, investment, issue or audit of accounts of public money; the raising or guarantee of any loan or the payment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or subordinate matters incidental to any of the matters aforesaid; and in this subsection the expressions “taxation”, “debt”, “public money” and “loan” do not include any taxation imposed, debt incurred or money provided or loan raised by any local authority or body for local purposes.

(2) For the purposes of section 50 of this Constitution, a bill shall be deemed to be rejected by the Senate if-

a) it is not passed by the Senate without amendment; or

b) it is passed by the Senate with any amendment which is not agreed to by the House.

(3) In this section and section 49 and 50 of this Constitution references to the Speaker shall, if the person holding the office of Speaker is for any reason unable to perform the functions of his office and no other person is performing them, include references to the Deputy Speaker.

(4) Any certificate of the Speaker given under section 49 or 50 of this Constitution shall be conclusive for all purposes and shall not be questioned in any court of law.

(5) Before giving any certificate under section 49 or 50 of this Constitution the Speaker shall consult the Attorney-General.

### ***52.- Scrutiny of electoral legislation***

Every proposed bill and every proposed regulation or other instrument having the force of law relating to the registration of voters for the purpose of electing members of the House or to the election of members of the House shall be referred to the Electoral Commission and to the Chief Elections Officer at such time as shall give them sufficient opportunity to make comments thereon before the bill is introduced in the Senate or the House or, as the case may be, the regulation or other instrument is made.

### ***53.- Regulation of procedure***

(1) Subject to the provisions of this Constitution, the Senate and the House may each regulate its own procedure and may in particular make rules for the orderly conduct of its own proceedings.

(2) The Senate or the House may act notwithstanding any vacancy in its membership (including any vacancy not filled when it first meets after any general election) and the presence or participation of any person not entitled to be present at or to participate in its proceedings shall not invalidate those proceedings.

## **Part 3**

### **Summoning, prorogation and dissolution**

#### ***54.- Sessions***

(1) Each session of Parliament shall be held at such place within Saint Lucia and shall begin at such time, not being later than twelve months from the end of the preceding session if Parliament has been prorogued or one month from the holding of a general election of members of the House if Parliament has been dissolved, as the Governor-General shall appoint by Proclamation.

(2) Subject to the provisions of subsection (1) of this section, the sitting of the Senate or the House shall be held at such time and place as it may, by its rules of procedure or otherwise, determine.

#### ***55.- Prorogation and dissolution***

(1) The Governor-General may at any time prorogue or dissolve Parliament.

(2) Subject to the provisions of subsection (3) of this section Parliament, unless sooner dissolved, shall continue for five years from the date of the first sitting of the House after any dissolution and shall then stand dissolved.

(3) At any time when Saint Lucia is at war, Parliament may extend the period of five years specified in subsection (2) of this section for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this subsection for more than five years.

(4) In the exercise of this power to dissolve Parliament, the Governor-General shall act in accordance with the advice of the Prime Minister:

Provided that-

a) if the Prime Minister advises a dissolution and the Governor-General, acting in his own deliberate judgment, considers that the government of Saint Lucia can be carried on without a dissolution and that a dissolution would not be in the interests of Saint Lucia, he may, acting in his own deliberate judgment, refuse to dissolve Parliament;

b) if a resolution of no confidence in the Government is passed by the House and the Prime Minister does not within three days either resign or advise a dissolution the Governor-General, acting in his own deliberate judgment, may dissolve Parliament; and

c) if the office of the Prime Minister is vacant and the Governor-General, acting in his own deliberate judgment, considers that there is no prospect of his being able within a reasonable time to make an appointment to that office the Governor-General shall dissolve Parliament.

(5) If, after a dissolution of Parliament and before the holding of a general election of members of the House, the Prime Minister advises the Governor-General that, owing to the existence of a state of war or of a state of emergency in Saint Lucia, it is necessary to recall Parliament, the Governor-General shall summon the Parliament that has been dissolved to meet, but unless the life of parliament is extended under the provisions of subsection (3) of his section, the general election shall proceed and the parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the date appointed for the nomination of candidate in the general election.

#### **56.- Holding of elections**

(1) A general election of members of the House shall be held at such time within three months after any dissolution of Parliament as the Governor-General may appoint.

(2) Where the seat of a member of the House or a Senator falls vacant otherwise than by reason of a dissolution of Parliament-

a) if the vacant seat is that of a member of the House, a by-election shall be held; or

b) if the vacant seat is that of a Senator an appointment shall be made.

to fill the vacancy within three months of the occurrence of the vacancy unless Parliament is sooner dissolved.

### **Part 4**

#### **Constituency Boundaries and Electoral Commissions**

##### **57.- Constituency Boundaries Commission and Electoral Commission**

(1) There shall be a constituency Boundaries Commission and an Electoral Commission for Saint Lucia (each of which is hereinafter in this section referred to as a Commission).

(2) The Constituency Boundaries Commission shall consist of-

a) the Speaker, as chairman;

b) two members appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) two members appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

(3) The Electoral Commission shall consist of -

a) a chairman appointed by the Governor-General, acting in his own deliberate judgment;

b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) one member appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

(4) A person shall not be qualified to be appointed as a member of a Commission if he is a Senator or member of the House or a public officer nor, in the case of the chairman of the Electoral Commission, unless he holds one of the

specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

(5) Subject to the provisions of this section, a member of a Commission who has been appointed shall vacate his office-

a) when the House first meets after the next dissolution of Parliament after his appointment;

b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) A member of a Commission who has been appointed may be removed from office but only for inability to discharge the functions thereof (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and he shall not be so removed except in accordance with the provisions of this section.

(7) A member of a Commission who has been appointed shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal has recommended to the Governor-general that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(8) if the prime Minister, in the case of a member of the Constituency Boundaries Commission appointed in accordance with paragraph (b) of subsection (2) of this section, or the Leader of the Opposition, in the case of a member of that Commission appointed in accordance with paragraph (c) of that subsection, represents to the Governor-General of if, in the case of the chairman of the electoral Commission, the Governor-General, acting in his own deliberate judgment, and, in the case of any other member of that Commission, the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, considers that the question of removal of a member of the Commission from office for inability as aforesaid or for misbehaviour ought to be investigate, then-

a) the Governor-General shall appoint a tribunal, which shall consist of a chairman and not less than two other members, selected by the Chief Justice, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommended to the Governor-General whether the member of the Commission ought to be removed from office for inability as aforesaid or for misbehaviour.

(9) A Commission may regulate its own procedure, and, with the consent of the Prime Minister, confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.

(10) A Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its member ship and its proceedings shall not be invalidated by the presence of participation of any person not entitled to be present at or to participate in those proceedings;

provided that any decision of the Commission shall require the concurrence of a majority of all its members.

(11) In the exercise of its functions under this Constitution a Commission shall not be subject to the direction or control of any other person or authority.

## **Part 5**

### **Delimitation of constituencies**

#### **58.- Review of constituency boundaries**

(1) The Constituency Boundaries Commission (hereinafter in this section referred to as the Commission) shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Saint Lucia is divided and submit to the Governor-General reports either-

a) showing the constituencies into which it recommends that Saint Lucia should be divided in order to give effect to the rules set out in Schedule 2 to this Constitution; or

b) stating that, in its opinion, no alteration is required to the existing number or boundaries of constituencies in order to give effect to those rules.

(2) Reports under subsection (1) of this section shall be submitted by the Commission at intervals of not less than three nor more than seven years;

Provided that a report under paragraph (b) of that subsection shall not be submitted until the expiration of six years from the submission of the last report under that subsection.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(a) of this section, the Prime Minister shall lay before the House for its approval the draft of an order by the Governor-General for giving effect, whether with or without modification, to the recommendations contained in the report, and that draft order may make provisions for any matters that appear to the Prime Minister to be incidental to or consequential upon the other provisions of the draft.

(4) Where any such draft order gives effect to any such recommendations with modifications, the Prime Minister shall lay before the House together with the draft order a statement of the reason for the modifications.

(5) If the motion for the approval of any draft order laid before the House under this section is rejected by the House, or is withdrawn by leave of that House, the Prime Minister shall amend the draft order and lay the amended draft before the House.

(6) If any draft order laid before the House under this section is approved by resolution of the House, the Prime Minister shall submit it to the Governor-general who shall make and order in terms of the draft; and that order shall come into force upon the next dissolution of Parliament after it is made.

(7) The question of the validity of any order by the Governor-general purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House shall not be enquired into in any court of law.

(8) There shall be such provisions as may be made by Parliament for an appeal to the High Court against a recommendation or statement made to the Governor-General by the Commission in pursuance of paragraph (a) or (b) subsection (1) of this section.

## CHAPTER IV

### THE EXECUTIVE

#### **59.- *Executive authority***

- (1) The executive authority of Saint Lucia is vested in the Her Majesty.
- (2) Subject to the provisions of this Constitution, the executive authority of Saint Lucia may be exercised on behalf of Her Majesty by the Governor-general either directly or through officers subordinate to him.
- (3) Nothing in this section shall prevent parliament from conferring functions on persons or authorities other than the Governor-General.

#### **60.- *Ministers of the Government***

- (1) There shall be a Prime Minister of Saint Lucia who shall be appointed by the Governor-General.
- (2) Whenever the Governor-general has occasion to appoint a Prime Minister he shall appoint a member of the House who appears to him likely to command the support of the majority of the members of the House.
- (3) There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government as may be established by Parliament or, subject to the provisions of any law enacted by Parliament, by the Governor-General, acting in accordance with the advice of the Prime Minister.
- (4) Appointments to the office of Minister, other than the office of Prime Minister, shall be made by the Governor-general, acting in accordance with the advice of the Prime Minister, from among the Senators and the members of the House.
- (5) If occasion arises for making an appointment to the office of Prime Minister or any other Minister while Parliament is dissolved then, notwithstanding the provisions of subsections (2) and (4) of this section, a person who was a member of the House immediately before the dissolution may be appointed as Prime Minister or any other Minister and a person who was a Senator immediately before the dissolution may be appointed as any Minister other than Prime Minister.
- (6) The Governor-general shall remove the Prime Minister from office if a resolution of no confidence in the Government is passed by the House and the Prime Minister does not within three days either resign from his office or advise the Governor-general to dissolve Parliament.
- (7) If, at any time between the holding of a general election of members of the House and the first meeting of the House thereafter, the Governor-General considers that in consequence of changes in the membership of the House resulting from that election the Prime Minister will not be able to command the support of the majority of the members of the House the Governor-general may remove the Prime Minister from office.
- (8) The office of any Minister shall become vacant-
  - a) if the holder of the office ceases to be a Senator or a member of the House otherwise than by reason of the dissolution of Parliament;
  - b) in the case of the Prime Minister, if, when the House first meets after the dissolution of Parliament, he is not then a member of the House;

c) in the case of any other Minister, if, when the House first meet after the dissolution of Parliament, he is not then a Senator or a member of the House; or

d) if, by virtue of section 27(3) or 34(3) of this Constitution, he is required to cease to perform his functions as a Senator or a member of the House.

(9) The office of a Minister other than the Prime Minister shall become vacant-

a) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;

b) if the Prime Minister, resigns from office within three days after a resolution of no confidence in the Government has been passed by the House or is removed from office under subsection (6) of this section; or

c) on the appointment of any person to the office of Prime Minister

(10) In the exercise of the powers conferred upon him by subsections (2), (5) and (7) of his section the Governor-general shall act in his own deliberate judgment.

### **61.- Cabinet of Ministers**

(1) There shall be a Cabinet of Ministers for Saint Lucia which shall consist of the Prime Minister and the other Ministers.

(2) At any time when the office of Attorney-General is a public office the Attorney-General shall, by virtue of holding or acting in that office, be a member of the Cabinet in addition to the Ministers.

(3) The functions of the Cabinet shall be to advise the Governor-general in the government of Saint Lucia and the Cabinet shall be collectively responsible to Parliament for any advice given to the Governor-General by or under the general authority of the cabinet and for all things done by or under the authority of any Minister in the execution of his office.

(4) The provisions of subsection (3) of this sections shall not apply in relation to-

a) the appointment and removal from office of Ministers and parliamentary Secretaries, the assignment of responsibility to any Ministers under section 62 of this Constitution , of the authorization of another Minister to perform the functions of the Prime Minister during absence or illness;

b) the dissolution of Parliament; or

c) the matters referred to in section 74 of this Constitution (which relate to the prerogative of mercy).

### **62.- Allocation of portfolios to Ministers**

The Governor-General, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government, including the administration of any department of government:

Provided that responsibility for finance shall be assigned to a Minister who is a member of the House.

### **63.- Performance of functions of Ministers during absence or illness**

(1) Whenever the Prime Minister is absent from Saint Lucia or be reason of illness is unable to perform the functions conferred upon him by this Constitution, the Governor-General may authorize some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor-General.

(2) Whenever a Minister other than the Prime Minister is absent from Saint Lucia or is within Saint Lucia but by leave of the Governor-General is not performing the functions of his office or by reason of illness is unable to perform those functions, the Governor-General may authorize some other Minister to perform those functions or may appoint a Senator or a member of the House to be a temporary Minister in order to perform those functions; and that Minister may perform those functions until his authority or, as the case may be, his appointment is revoked by the Governor-General or he vacates office as a Minister under subsection (8) or (9) of section 60 of this Constitution.

(3) The power of the Governor-General under his section shall be exercised by him in accordance with the advice of the Prime Minister;

Provided that if the Governor-General, acting in his own deliberate judgment considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers without that advice and in his own deliberate judgment.

### **64.- Exercise of Governor-General's functions**

(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet:

Provided that the foregoing provisions of this subsection shall not apply where the Governor-General is authorized to act in his own deliberate judgment in accordance with the following provisions of this Constitution-

- a) section 57 (which relates to the Constituency Boundaries Commission and the Electoral Commission);
- b) section 60 and 63 (which relates to Ministers);
- c) section 67 (which relates to the Leader of the Opposition);
- d) section 86 (which relates to the appointment, etc, of public officers);
- e) section 88 (which relates to the Chief Elections Officer); and
- f) section 95 (which relates to the Public Service Board of Appeal).

(2) During any period in which there is a vacancy in the office of Leader of the Opposition by reason of the fact that no person is both qualified for appointment to that office in accordance with this Constitution and willing to accept appointment, or if the Governor-general, acting in his own deliberate judgment, considers that it is not practicable for him to obtain the advice of the Leader of the Opposition within the time within which it may be necessary for him to act, he may act without that advice and in his own deliberate judgment in the exercise of any power conferred

upon him by this Constitution in respect of which it is provided that he shall act on the advice or, or after consultation with, the Leader of the Opposition.

(3) Nothing in subsection (1) of this section shall require the Governor-General to act in accordance with the advice of the Cabinet or a Minister in exercise of the functions conferred upon him by the following provisions of this Constitution-

a) the proviso to section 55(4) (which requires the Governor-General to remove the Prime Minister from office in certain circumstances);

b) section 60(6) (which requires the Governor-General to remove the Prime Minister from office in certain circumstances);

c) section 65 (which entitles the Governor-general to information);

d) section 57 (7), 67 (5), 85 (6), 88 (7), 89 (8), 90 (7), 92 (6), 95 (5), 110 (7) and 118 (8) (which requires the Governor-General to remove holders of certain officers from office in certain circumstance).

#### ***65.- Governor-General to be informed concerning government matters***

The Prime Minister shall keep the Governor-general fully informed concerning the general conduct of the government of Saint Lucia and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of Saint Lucia.

#### ***66.- Oaths to be taken by Ministers, etc***

A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance, the oath of office and the oath of secrecy.

#### ***67.- Leader of the Opposition***

(1) There shall (except at times when there are no members of the House who do not support the Government) be a Leader of the Opposition who shall be appointed by the Governor-General.

(2) Whenever there is occasion for the appointment of a Leader of the Opposition the Governor-General shall appoint the member of the House who appears to him most likely to command the support of a majority or the members of the House who do not support the Government: or, if no member of the House appears to him to command such support, the member of the House who appeals to him to command the support of the largest single group of members of the House who do not support the Government.

(3) If occasion arises to appoint a Leader of the Opposition during the period between a dissolution of Parliament and the day on which the ensuing election of members of the House is held, and appointment may be made as if Parliament had not been dissolved.

(4) The office of Leader of the Opposition shall become vacant-

a) if he ceases to be a member of the House otherwise than by reason of a dissolution of Parliament;

b) if, when the House first meets after a dissolution of Parliament, he is not then a member of the House;

- c) if, under the provisions of section 34(3) of this Constitution, he is required to cease to perform his functions as a member of the House; or
- d) if he is removed from office by the Governor-General under the provisions of subsection (5) of this section.

(5) If it appears to the Governor-General that the Leader of the Opposition is no longer able to command the support of a majority of the members of the House who do not support the Government or (if no member of the House appears to him to be able to command such support) the support of the largest single group of members of the House who do not support the Government, he shall remove the Leader of the Opposition from office.

(6) The power of the Governor-General under his section shall be exercised by him in his own deliberate judgment.

### **68.- *Parliamentary Secretaries***

(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may appoint parliamentary Secretaries from among the Senators and the members of the House to assist Ministers in the performance of their duties:

Provided that, if occasion arises for making an appointment while parliament is dissolved, a person who was a Senator or a member of the House immediately before the dissolution may be appointed as a Parliamentary Secretary.

(2) The office of a Parliamentary Secretary shall become vacant-

- a) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;
- b) if the Prime Minister resigns from office within three days after a resolution of not confidence in the Government has been passed by the House or is removed from office under section 60(7) of this Constitution;
- c) upon the appointment of any person to the office of Prime Minister;
- d) if the holder of the office ceases to be a Senator or a member of the House otherwise than by reason of a dissolution of Parliament;
- e) if, when the House first meets after the dissolution of Parliament, he is not then a Senator or a member of the House; or
- f) if, by virtue of section 27(3) or 34(3) of this Constitution, he is required to cease to perform his functions as a member of the Senate or a member of the House.

### **69.- *Permanent Secretaries***

Where any Minister has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and subject to such direction and control, every department of government shall be under the supervision of a public officer whose office is referred to in this Constitution as the office of a permanent secretary:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

### **70.- Secretary to the Cabinet**

(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet Office, shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions the Prime Minister may direct.

### **71.- Constitution of offices, etc.**

Subject to the provisions of the Constitution and of any other law, the Governor-General may constitute offices for Saint Lucia, make appointments to any such office and terminate any such appointment.

### **72.- Attorney-General**

(1) There shall be an Attorney-General who shall be the principal legal adviser to the Government.

(2) The office of Attorney-General shall be either a public office or the office of a Minister.

(3) At any time when the office of Attorney-General is a public office the same person may, if qualified, be appointed to hold or act in the office of Attorney-General and the office of Director of Public Prosecutions.

(4) Where the offices of Attorney-General and Director of Public Prosecutions are held by the same person the following provisions of this Constitution shall have effect as if references therein to the Director included references to the Attorney-General, that is to say, sections 87, 89(5), (6), (7), (8), (9) and (10), 98 (3) and 124 (8)(a); but the provisions of this subsection shall be without prejudice to the powers of Parliament or, subject to the provisions of any law enacted by Parliament, the Governor-general to determine that the office of Attorney-General shall be the office of a Minister.

### **73.- Control of public prosecutions**

(1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do-

a) to institute and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person;

b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and

(c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(3) The powers of the Director of Public Prosecutions under subsection (2) of this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instruction.

(4) the powers conferred on the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (2) of this section shall be vested in him to the execution of any other person or authority;

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(5) For the purposes of this section, any appeal from a judgment in criminal proceedings before any court or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including Her Majesty in Council) shall be deemed to be part of those proceedings;

Provided that the power conferred on the Director of Public Prosecutions by subsection (2)(c) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(6) In the exercise of the powers vested in him by subsection (2) of this section and section 46 of this Constitution, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

#### ***74.- Prerogative of mercy***

(1) The Governor-General may-

- a) grant a pardon, either free or subject to lawful conditions, to any person convicted of any offence;
- b) grant to any person a respite, either indefinite or of a specified period, of the execution of any punishment imposed on that person for any offence;
- c) substitute a less severe form of punishment for any punishment imposed on any person for any offence; or
- d) remit the whole or any part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Crown on account of any offence.

(2) The power of the Governor-general under subsection (1) of this section shall be exercised by him in accordance with the advice of the Committee established by section 75 of this Constitution.

#### ***75.- Committee on Prerogative of Mercy***

(1) There shall be a Committee on the Prerogative of Mercy which shall consist of-

- a) such Minister as may be designated by the Governor-General, who shall be chairman;
- b) the Attorney-General;
- c) the chief medical officer of the Government; and
- d) not more than three other members appointed by the Governor-General, by instrument in writing under his hand.

(2) A member of the Committee appointed under subsection (1)(d) of this section shall hold his seat thereon for such period as may be specified in the instrument by which he was appointed:

Provided that his seat shall become vacant-

- a) in the case of a person who at the date of his appointment was a Minister, if he ceases to be a Minister; or

b) if the Governor-General, by instrument in writing under his hand, so directs.

(3) The Committee may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) The Committee may regulate its own procedure.

(5) In the exercise of his functions under this section, the Governor-General shall act in accordance with the advice of the Prime Minister.

**76.- *Procedure in capital cases***

Where any person has been sentenced to death (otherwise than by a court-martial) for an offence the Minister for the time being designated under section 75(1) of this Constitution shall cause a written report of the case from the trial judge (or the Chief Justice, if a report from the trial judge cannot be obtained), together with such other information derived from the record of the case or elsewhere as he may require, to be taken into consideration at a meeting of the Committee on the Prerogative of Mercy, so that the Committee may advise the Governor-General whether to exercise any of his power under section 74(1) of this Constitution.

**CHAPTER V**

**FINANCE**

**77.- *Consolidated Fund***

All revenues or other moneys raised or received by Saint Lucia (not being revenues or other moneys that are payable, by or under any law for the time being in force in Saint Lucia, into some other fund established for specific purpose) shall be paid into and form a Consolidated Fund.

**78.- *Withdrawals from Consolidated Fund or other public funds.***

(1) No money shall be withdrawn from the Consolidated Fund except-

a) to meet expenditure that is charged upon the Fund by this Constitution or by any law enacted by parliament; or

b) where the issue of those moneys has been authorized by an appropriation law or by law made in pursuance of section 80 of this Constitution.

(2) Where any moneys are charged by this Constitution or any law enacted by Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorized by or under any law.

(4) There shall be such provision as may be made by parliament prescribing the manner in which withdrawals may be made from the Consolidated Fund or nay other public fund.

**79.- Authorisation of expenditure from Consolidated Fund by appropriation law**

(1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the House before, or not later than thirty days after, the commencement of each financial year estimates of the revenues and expenditure of Saint Lucia for that financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any law enacted by Parliament) have been approved by the House, a bill, known as an appropriation bill, shall be introduced in the House, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

(3) if in respect of any financial year it is found-

a) that the amount appropriated by the appropriation law to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that law; or

b) that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose by the appropriation law or for a purpose to which no amount has been appropriated by that law.

a supplementary estimate showing the sums required or spent shall be laid before the House and, when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced in the House providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

**80.- Authorisation of expenditure in advance of appropriation**

There shall be such provisions as may be made by Parliament under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister for the time being responsible for finance may authorize the withdrawal of money from the Consolidated Fund for the purpose of meeting expenditure necessary to carry of the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the law, whichever is the earlier.

**81.- Contingencies Fund**

(1) There shall be such provisions as may be made by Parliament for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House and when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.

**82.- Remuneration of certain officers**

(1) There shall be paid to the holders of the office to which this section applies such salaries and such allowances as may be prescribed by or under a law enacted by Parliament.

(2) The salaries and allowances prescribed in pursuance of this section in respect of the holders of the office to which this section applies shall be charge on the Consolidated Fund.

(3) The salary prescribed in pursuance of this section in respect of the holder of any office to which this section applies and his other terms of service (other than allowances that are not taken into account in computing, under any law in that behalf, any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment.

(4) When a person's salary or other terms of service depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of the Governor-general, member of the Public Service Commission, member of the Teaching Service Commission, member of the Public Service Board of Appeal, the Director of Public Prosecutions, the Director of Audit, the Parliamentary Commissioner, the Deputy parliamentary Commissioner and the Chief Elections Officer.

(6) Nothing in this section shall be construed as prejudicing the provisions of section 97 of this Constitution (which protects pensions rights in respect of service as a public officer).

### **83.- *Public Debt***

(1) All debt charges for which Saint Lucia is liable shall be a charge on the Consolidated Fund.

(2) For the purposes of this section debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created thereby.

### **84.- *Audit of public accounts, etc.***

(1) there shall be a Director of Audit whose office shall be a public office.

(2) The Director of Audit shall-

a) satisfy himself that all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes to which they were so appropriated and that the expenditure conforms to the authority that governs it; and

b) at least once in every audit and report on the public accounts of Saint Lucia, the accounts of all officers and authorities of the Government, the accounts of all officers and authorities of the Government, the account of all courts of law in Saint Lucia (including any accounts of the Supreme Court maintained in Saint Lucia), the accounts of every Commission established by this Constitution and the accounts of the Parliamentary Commission the Clerk of the Senate and the Clerk of the House.

(3) The Director of Audit and any officer authorized by him s have access to all books, records, return, reports and other documents which in his opinion relate to any of the accounts referred to in s section (2) of this section.

(4) The Director of Audit shall submit every made by him pursuance of subsection (2) of this section to the Minister for the t being responsible for finance who shall, not later than seven days at the Hose first meets after he has received the report, lay it before House.

(5) If the Minister fails to lay a report before the House in accordance with the provisions of subsection (4) of this section the Director Audit shall transmit copies of that report to the Speaker who shall, soon as practicable, present them to the House.

(6) The Director of Audit shall exercise such other functions in reception to the accounts of the Government or the accounts of other authorities or bodies established by law for public purposes as may be prescribed by or under any law enacted by Parliament.

(7) In the exercise of his functions under subsections (2), (3), (4) and (5) of his section, the Director of Audit shall not be subject to the direction or control of any other person or authority.

## **CHAPTER VI**

### **THE PUBLIC SERVICE**

#### **Part 1**

#### **The Public Service Commission**

##### **85.- *Public Service Commission***

(1) There shall be a Public Service Commission for Saint Lucia (hereinafter in this section referred to as the Commission ) which shall consist of a chairman and not less than two nor more than four other members, who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister;

Provided that the Prime Minister shall consult the Leader of the Opposition before tendering any advice to the Governor-General for the purposes of this subsection.

(2) A person shall not be qualified to be appointed as a member of the Commission if-

a) he is a Senator or a member of the House;

b) he is, or has at any time during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office or member of the Commission, be eligible for appointment to or to act in any public office.

(4) Subject to the provisions for this section, the office of a member of the Commission shall become vacant-

a) at the expiration of three years from the date of his appointment; or

b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(5) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) A member of the Commission shall be removed from office by the Governor-General if the question of his

removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated then-

a) the Governor-general shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in any part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-general and recommend to him whether the member ought to be removed under this section.

(8) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of his office and any such suspensions may at any time be revoked by the Governor-general, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-general that member should not be removed.

(9) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, then until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such other member of the Commission as may for the time being be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

(10) If at any time there are less than two members of the Commission besides the chairman or if any such member is acting as chairman or is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(11) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.

(12) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(13) The Commission may regulate or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any members and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

## **86.- Appointment etc. of public officers**

(1) The power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

(2) The public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) of this section to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.

(3) The provisions of this section shall not apply in relation to the following offices, that is to say-

- a) any office to which section 87 of this Constitution applies;
- b) the office of Chief Elections Officer;
- c) the office of Director of Public Prosecutions;
- d) the office of Director of Audit;
- e) any office to which section 91, 93 or 94 of this Constitution applies.

(4) No person shall be appointed under this section to or to act in any office on the Governor-General's personal staff except with the concurrence of the Governor-General, acting in his own deliberate judgment.

(5) Before any of the powers conferred by this section are exercised by the Public Service Commission or any other person or authority in relation to the Clerk of the Senate or the Clerk of the House or a member of their staff, the Commission or that person or authority shall consult with the President or the Speaker, as the case may be.

(6) Before any of the powers conferred by this section are exercised by the Public Service Commission or any other person or authority in relation to a members of the staff of the Parliamentary Commissioner or the Chief Elections Officer, the Commission or that person or authority shall consult with the Commissioner or ,as the case may be, the Officer.

(7) A public officer shall not be removed from office or subject to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of a judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein.

## **Part 2**

### **Appointments, etc., to particular offices**

## **87.- Appointment, etc., of permanent secretaries and certain other officers**

(1) This section applies to the offices of Secretary to the Cabinet, permanent secretary, head of a department of government, deputy head of a department of government, any office for the time being designated by the Public Service Commission as an office of a chief professional adviser to a department of government and any office for the time being designate by the Commission, after consultation with the Prime Minister, as an office the holders of which are required to reside outside Saint Lucia for the proper discharge of their functions or as an office in Saint

Lucia whose functions relate to external affairs.

(2) The power to appoint person to hold or to act in offices to which this section applies (including the power to confirm appointments) and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the advice of the Public Service Commission:

Provided that-

a) the power to appoint a person to hold or act in an office of permanent secretary on transfer from another such office carrying the same salary shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister;

b) before the Public Service Commission tenders advice to the Governor-General with respect to the appointment of any person to hold an office to which this section applies (other than an appointment to an office of permanent secretary on transfer from another such office carrying the same salary) it shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to the office, the Commission shall not advise the Governor-General to appoint that person;

c) in relation to any office of Ambassador, High Commissioner or other principal representative of Saint Lucia in any other country or accredited to any international organization the Governor-General shall act in accordance with the advice of the Prime Minister, who shall, before tendering any such advice in respect of any person who holds any public office to which appointments are made by the Governor-General on the advice of or after consultation with some other person or authority, consult that person or authority.

(3) References in this section to a department of government shall not include the office of the Governor-General, the department of the Attorney-General, the department of the Director of Public Prosecutions, the department of the Director of Audit, the department of the Parliamentary Commissioner, the department of the Chief Elections Officer or the Police Force.

### **88.- Chief Elections Officer**

(1) The Chief Elections Officer (hereinafter in this section referred to as the Officer) shall be appointed by the Governor-General, acting after consultation with the Electoral Commission.

(2) If the office of the Officer is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting after consultation with the Electoral Commission, may appoint a person to act as Officer.

(3) A person shall not be qualified to be appointed to hold the office of the Officer unless he holds such qualifications (if any) as may be prescribed by parliament.

(4) A person appointed to act in the office of the Officer shall, subject to the provisions of subsection (5), (7) and (8) of this section, cease so to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time as may be prescribed by the terms of his appointment.

(5) Subject to the provisions of subsection (6) of this section, the Officer shall vacate his office when he attains the prescribed age.

(6) A person holding the office of the Officer may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(7) The Officer shall be removed from office by the Governor-general if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.

(8) If the Governor-General, acting in his own deliberate judgment, considers that the question of removing the Officer under this section ought to be investigated, then-

a) The Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the officer ought to be removed under this section.

(9) If the question of removing the officer has been referred to a tribunal under this section, the Governor-general, acting in his own deliberate judgment, may suspend the Officer from the exercise of the functions of this office and any such suspension may at anytime be revoked by the Governor-General, acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Officer should not be removed.

(10) The prescribed age for the purpose of subsection (5) of this section is the age of fifty-five years or such other age as may be prescribed by Parliament;

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Officer, shall not have effect in relation to that person unless he consents that it should have effect.

### **89.- Director of Public Prosecutions**

(1) The Director of Public Prosecutions shall be appointed by the Governor-general, acting in accordance with the advice of the Judicial and Legal Services Commission.

(2) If the office of Director of Public Prosecutions is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, may appoint a person to act as Director.

(3) Before tendering advice for the purposes of subsection (1) or (2) of this section the Judicial and Legal Services Commission shall consult the Prime Minister.

(4) A person shall not be qualified to be appointed to hold the office of Director of Public Prosecutions unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

(5) A person appointed to act in the office of Director of Public Prosecutions shall, subject to the provision of subsections (6), (8), (9) and (10) of this section, cease so to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time as may be prescribed by the terms of his appointment.

(6) Subject to the provisions of subsection (7) of this section, the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.

(7) A person holding the office of Director of Public Prosecutions may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(8) The Director of Public Prosecutions shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (9) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.

(9) If the Prime Minister or the chairman of the Judicial and Legal Services Commission represents to the Governor-General that the question of removing the Director of Public Prosecutions under this section ought to be investigated then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge or a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court, and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.

(10) if the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the Governor-general, acting in accordance with the advice of the Judicial and Legal Services Commission, may suspend the Director from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-general that the Director should not be removed.

(11) The prescribed age for the purposes of subsection (6) of this section is the age of fifty-five years or such other age as may be prescribed by Parliament

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Director of Public Prosecutions, shall not have effect in relation to that person unless he consents that it should have effect.

(12) The Judicial and Legal Services Commission shall consult the Prime Minister before it tenders any advice to the Governor-General under this section in its application to the Attorney-General by virtue of section 72(4) of this Constitution.

## **90.- Director of Audit**

(1) The Director of Audit shall be appointed by the Governor-General acting in accordance with the advice of the Public Service Commission.

(2) If the office of Director of Audit is vacant or if the holder of that office is for any reason unable to exercise the functions of his office the Governor-General, acting in accordance with the advice of the Public Service Commission, may appoint a person to act as Director.

(3) Before tendering advice for the purposes of subsection (1) or subsection (2) of this section , the Public Service Commission shall consult the Prime Minister.

(4) A person appointed to act in the office and of Director of Audit shall, subject to the provisions of subsections (5), (7), (8) and (9) of this section, cease so to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time as may be prescribed by the terms of his appointment.

(5) Subject to the provisions of subsection (7) of this section the Director of Audit shall vacate his office when he attains the prescribed age.

(6) A person holding the office of Director of Audit may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(7) The Director of Audit shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this subsection and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.

(8) If the Prime Minister or the chairman of the Public Service Commission represented to the Governor-General that the question of removing the Director of Audit under this section ought to be investigated -

a) the Governor-general shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge or a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth of a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the fact thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.

(9) If the question Of removing the Director of Audit has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Public Service Commission, may suspend the Director from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.

(10) The prescribed age for the purposes of subsection (5) of the section is the age of fifty or such other age as may be prescribed by Parliament:

Provided that any law enacted by parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Director of Audit, shall not have effect in relation to that person unless he consents that it should have effect.

**91.- *Appointment, etc., of magistrates, registrars and legal officers***

(1) This section applies to the offices of magistrate, registrar of the High Court and assistant registrar of the High Court, to any public office in the department of the Attorney-General (other than the public office of Attorney-General) or in the department of the Parliamentary Commissioner, the department of the Chief Elections Office (other than the office of Officer) or the department of the Director of Public Prosecutions (other than the office of Director) for appointment which persons are required to hold one or other of the specific qualifications and such other offices connected with the courts parliament may prescribe.

(2) The power to appoint persons to hold or act in offices to which this section applies (including the power to confirm appointments) shall vest in the Judicial and Legal Services Commission:

(3) Subject to the provisions of section 96 of this Constitution the power to exercise disciplinary control over persons holding acting in offices to which this section applies and the power to remove such persons from office shall vest in the Judicial and Legal Service Commission.

**Part 3**

**The Teaching Service Commission**

**92.- *Teaching Service Commission***

(1) There shall be a Teaching Service Commission for Saint Lucia (hereinafter in this section referred to as the Commission ) which shall consist of a chairman and not less than two nor more than for other member, who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister:

provided that the Prime Minister shall consult the Leader of the Opposition before tendering any advice to the Governor-General for the purposes of this subsection.

(2) A person shall not be qualified to be appointed as a member of the Commission if-

a) he is a Senator or a member of the House;

b) he is, or has at any time during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office on member of the Commission, be eligible for appointment to or to act in any public office.

(4) Subject to the provisions of this section, the office of a member of the Commission shall become vacant-

a) at the expiration of three years from the date of his appointment; or

b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(5) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) A member of the Commission shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to the Governor-general that he ought to be removed for office for inability as aforesaid or for misbehaviour.

(7) If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as judge or a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(8) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(9) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such other member of the Commission as may for the time being be designated by the Governor-general, acting in accordance with the advice of the Prime Minister.

(10) If at any time there are less than two members of the Commission besides the chairman or if any such member is acting as chairman or is for any reason unable to exercise the function of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office in which he is acting has been filled or, as the case may be, until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(11) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.

(12) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(13) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public office or on any authority of the Government for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

provided that any decision of the Commission shall enquire the concurrence of a majority of all its members.

### **93.- *Appointment, etc., of teachers***

(1) The power to appoint persons to hold or act in offices to which this section applies (including the power to confirm appointments), and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Teaching Service Commission.

(2) The Teaching Service Commission may, by directions in writing and subject to such conditions as it thinks fit delegate any of its powers under subsection (1) of this section to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.

(3) This section applies to any office in the public service, the duties of which are wholly or mainly concerned with teaching in schools or with the administration of schools, not being an office to which section 87 of this Constitution applies.

## **Part 4**

### **The Police**

#### **94.- *Police Force***

(1) The power to appoint a person to hold or act in the office of Commissioner of Police and, subject to the provision of section 96 of this Constitution, the power to remove the Commissioner from office shall rest in the Governor-General, acting in accordance with the advice of the Public Service Commission.

Provided that before the Commission tenders advice to the Governor-General with respect to the appointment of any person to hold the office of Commissioner the Commission shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to the office the Commission shall not advise the Governor-general to appoint that person.

(2) The power to appoint persons to hold or act in office in the Police Force below the rank of Commissioner of Police but above the rank of Inspector (including the power to confirm appointments), and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

(3) The power to appoint persons to hold or act in offices in the Police Force of or below the rank of Inspector (including the power to confirm appointments), and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Commissioner of Police.

(4) The Commissioner of Police may, by directions give in such manner as he thinks fit and subject to such conditions as he thinks fit delegate any of his powers under subsection 83) of this section to any other member of the Police Force.

(5) A police officer shall not be removed from office or subjected to any other punishment under his section on the grounds of any act done or omitted by him in the exercise of any judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein.

(6) IN this section references to the rank of Inspector shall, if the ranks within the Police Force are altered (whether in consequence of the reorganization or replacement of any existing part of the Force or the creation of an additional part) be construed as references to such rank or ranks as may be specified by the Public Service Commission by order published in the Official Gazette, being a rank or ranks that in the opinion of the Commission most nearly correspond to the rank of Inspector as it existed before the alteration.

## **Part 5**

### **The Public Service Board of Appeal**

#### ***95.- Public Service Board of Appeal***

(1) There shall be a Public Service Board of Appeal for Saint Lucia (hereinafter in this section and in section 96 of this Constitution referred to as the Board) which shall consist of-

- a) one member appointed by the Governor-General, acting in his own deliberate judgment, who shall be chairman;
- b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and
- c) two members appointed by the Governor-General, acting in accordance with the advice of the appropriate representative bodies.

(2) A person shall not be qualified for appointment as a member of the Board if he is a Senator or a member of the House and a person shall not be qualified for appointment under paragraph (c) of subsection (1) of this section unless he is or has been a public office.

(3) Subject to the provisions of this section, the office of a member of the Board shall become vacant-

- a) at the expiration of three years from the date of his appointment; or
- b) if any circumstances arise that, if he were not a member of the Board, would cause him to be disqualified to be appointed as such under subsection 82) of this section.

(4) A member of the Board may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provision of this section.

(5) A member of the Board shall be removed from office by the Governor-general if the question of his removal from office has been referred to a tribunal appointed under subsection 86) of this section and the tribunal has recommended to the Governor-general that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Governor-general considers that the question of removing a member of the Board under this section ought

to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(7) If the question of removing a member of the Board has been referred to a tribunal under this section, the Governor-General may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal recommends to the Governor-general that member should not be removed.

(8) If at any time any member of the Board is for any reason unable to exercise the functions of his office, the Governor-General may appoint a person who is qualified to be appointed as a member of the Board to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General.

(9) In the exercise of the powers conferred upon him by subsections (6), (7) and (8) of this section the Governor-General shall, in the case of a member of the Board appointed under paragraph (b) of subsection (1) of this section, act in accordance with the advice of the Prime Minister and shall in any other case act in his own deliberate judgment.

(10) The Board shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(11) In this section “ the appropriate representative bodies” means the Saint Lucia Civil Service Association and the Police Association or such other bodies as may be designated by the Governor-General, acting in accordance with the advice of the Prime Minister, as representing the interest of public officers and of members of the Police Force.

#### **96.- Appeals in discipline cases**

(1) This section applies to-

a) any decision of the Governor-General, acting in accordance with the advice of the Public Service Commission, or any decision of the Public Service Commission, or any decision of the Public Service Commission or of the Teaching Service Commission, to remove a public officer from office or to exercise disciplinary control over a public officer (including a decision made on appeal from or confirming a decision of any person to whom powers are delegated under section 86(29 or 93(2) of this Constitution);

b) any decision of any person to whom powers are delegated under section 86(2) or 93(2) of this Constitution to remove a public officer from office or to exercise disciplinary control over a public officer (not being a decision which is subject to appeal to confirmation by the Public Service Commission or the Teaching Service Commission);

c) if it is so provided by parliament, any decision of the Commissioner of Police under subsection (3) of section 94 of this Constitution, or of a person to whom powers are delegate under subsection (4) of that section, to remove a police officer from office or to exercise disciplinary control over a police officer;

d) such decisions with respect to the discipline of any military, naval or air force of Saint Lucia as may be prescribed by Parliament.

(2) Subject to the provisions of this section, and appeal shall lie to the Board from any decision to which this section applies at the instance of the public officer or member of the naval, military or air force in respect of whom the decision is made:

provided that in the case of any such decision as is referred to in subsection (1)(c) of this section, an appeal shall lie in the first instance to the Commissioner of Police if it is so provided by Parliament or, if it is not so provided, if the Commissioner so requires.

(3) Upon an appeal under this section the Board may affirm or set aside the decision appealed against or may make any other decision which the authority or person from whom the appeal lies could have made.

(4) Every decision of the Board shall require the concurrence of a majority of all its members.

(5) Subject to the provisions of subsection (4) of this section, the Board may by regulation make provision for-

a) the procedure of the Board;

b) the procedure in appeals under this section; or

c) excepting from the provisions of subsection (2) of this section decisions in respect of public officers holding offices whose emoluments do not exceed such sum as may be prescribed by the regulations or such decisions to exercise disciplinary control, other than decisions to remove from office, as may be so prescribed.

(6) Regulations made under this section may, with the consent of the Prime Minister, confer powers or impose duties on any public officer or any authority of the Government for the purpose of the exercise of the functions of the Board.

(7) The Board may, subject to the provisions of this section and to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member.

## **Part 6**

### ***Pensions***

#### ***97.- Pensions laws and protection of pension rights***

(1) The law to be applied with respect to any persons benefits that were granted to any person before the commencement of this Constitution shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

(2) The law to be applied with respect to any persons benefits (not being benefits to which subsection (1) of this section applies) shall-

a) in so far as those benefits are wholly in respect of a period of service as a judge or officer of the Supreme Court or a public officer that commenced before the commencement of this Constitution, be the law that was in force at such commencement; and

b) in so far as those benefits are wholly or partly in respect of a period of service as a judge or officer of the Supreme Court or a public office that commenced after the commencement of this Constitution, be the law in force on the date on which that period of service commenced,

or any law in force at a later date that is not less favourable to that person.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) All persons benefits shall (except to the extent that they are by law charged upon and duly paid out of some other fund) be a charge on the Consolidated Fund.

(5) In this section “pensions benefits” means any pension, compensation, gratuities or other like allowance for persons in respect of their services as judge or officers of the Supreme Court or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduce in amount or suspended and the law regulating the amount of any such benefits.

**98.- Power to withhold pensions, etc.**

(1) Where under any law any person or authority has a discretion -

a) to decide whether or not any pensions benefits shall be granted; or

b) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) where the amount of any persons benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in this being granted benefits of a smaller amount.

(3) The Public Service Commission shall not concur under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held the office of judge of the Supreme Court, Director of Public Prosecutions, Director of Audit or Chief Elections Officer has been guilty of misbehaviour in that office unless he has been removed from that office by reason of such misbehaviour.

(4) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 91 of this Constitution applies has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.

(5) In this section “ pension benefits” means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judges or officers of the Supreme Court or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

## **CHAPTER VII**

### **CITIZENSHIP**

#### **99.- *Persons who become citizens on 22nd February 1979***

(1) Every person who, having been born in Saint Lucia, is immediately before the commencement of this Constitution a citizen of the United Kingdom and Colonies shall become a citizen at such commencement.

(2) Every person who, immediately before the commencement of this Constitution, is a citizen of the United Kingdom, and Colonies -

a) having become such a citizen under the British nationality Act 1948(a) by virtue of his having been naturalized in Saint Lucia as a British subject before that Act came into force; or

b) having while resident in Saint Lucia become such a citizen by virtue of his having been naturalized or registered under the British Nationality Act 1948,

shall become a citizen at such commencement.

(3) Every person who, having been born outside Saint Lucia, is immediately before the commencement of this Constitution a citizen of the United Kingdom and Colonies shall, if his father or mother becomes, or would but for his death or the renunciation of his citizenship of the United Kingdom and Colonies have become, a citizen by virtue of subsection (1) or subsection (2) of this section, become a citizen at such commencement.

(4) Every woman who, having been married to a person who becomes or but for his death or the renunciation of this citizenship of the United Kingdom and Colonies would have become, a citizen by virtue of subsection (1), (2) or (3) of this section, is a citizen of the United Kingdom and Colonies immediately before the commencement of this Constitution shall become a citizen at such commencement.

#### **100.- *Persons born in Saint Lucia on or after 22nd February 1979***

Every person born in Saint Lucia after the commencement of this Constitution shall become a citizen at the date of his birth:

Provided that a person shall not become a citizen by virtue of this section if at the time of his birth-

a) neither of his parents is a citizen of Saint Lucia and his father possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Saint Lucia; or

b) his father is a citizen of a country with which Saint Lucia is at war and the birth occurs in a place then under occupation by that country.

#### **101.- *Persons born outside Saint Lucia on or after 22nd February 1979***

A person born outside Saint Lucia after the commencement of this Constitution shall become a citizen at the date of his birth if, at that date, his father or mother is a citizen otherwise than by virtue of this section or section 99(3) of this Constitution.

## **102.- Registration**

(1) The following persons shall be entitled, upon making application, to be registered as citizens-

- a) any woman who is married to a citizen or who has been married to a person who, at any time during the period during which they were married to each other, was a citizen;
- b) any person who, being a Commonwealth citizen, is ordinarily resident in Saint Lucia at the commencement of this Constitution having been so resident for the period of seven years immediately preceding such commencement;
- c) any person who, having been a citizen has renounced his citizenship in order to qualify for the acquisition or retention of the citizenship of another country;
- d) any person who, but for having renounced his citizenship of the United Kingdom and Colonies in order to qualify for the acquisition or retention of the citizenship of another country, would have become a citizen at the commencement of this Constitution;
- e) any woman who is married to any such person as is mentioned in paragraph (b), (c) or (d) of this subsection or who was married to a person who, at any time during the period during which they were married to each other, was entitled to be registered as a citizen under any such paragraph;
- f) any woman who, before the commencement of this Constitution has been married to a person-
- i) who becomes a citizen by virtue of section 99 of this Constitution; or
- ii) who, having died before such commencement, would but for his death have become a citizen by virtue of that section.

but whose marriage has been terminated by death or dissolution before such commencement.

(2) The following persons shall upon making application, be entitled to be registered as citizens-

- a) any man who is married to a citizen or who has been married to a person who, at any time during the period during which they were married to each other, was a citizen;
- b) any person who, being a Commonwealth citizen, is and for seven years previous to his application has been ordinarily resident in Saint Lucia;
- c) any man who is married to any such person as is mentioned in paragraph (b), (c) or (d) of subsection (1) of this section or who was married to a person who, at any time during the period which they were married to each other, was entitled to apply to be registered as a citizen under any such paragraph;
- d) any person under the age of twenty-one years who is the stepchild or child adopted in a manner recognized by law of a citizen or is the child stepchild so adopted of a person who is or would but for his death have been entitled to be registered as a citizen under subsection (1) of this section;

Provided that if it is so provided by Parliament an application for registration as a citizen under this subsection may, in such circumstances as may be prescribed by Parliament in the interests of defence, public safety or public order, be refused by the Minister responsible for the matter in any case in which he is satisfied that there are reasonable grounds for refusing the application.

(3) An application under this section shall be made in such manner as may be prescribed, as respects that application, by or under a law enacted by Parliament and in the case of a person to whom subsection (2)(d) of this section applies, it shall be made on his behalf by his parent or guardian:

Provided that, if any such person is or has been married, he may make the application himself.

(4) Every person who, being a British protected person, an alien or if it so prescribed by Parliament, a citizen of any country within the Commonwealth that does not form part of Her Majesty's dominions and having reached the age of twenty-one years applies for registration under this section shall, before such registration, take the oath of allegiance.

### **103.- Acquisition, deprivation and renunciation**

There shall be such provision as may be made by Parliament for-

- a) the acquisition of citizenship by persons who are not eligible or who are no longer eligible to become citizen under the provisions of this Chapter.
- b) depriving of his citizenship any person who is a citizen other wise than by virtue of section 99, 100 or 101 of this Constitution
- c) the renunciation by any person of his citizenship.

### **104.- Interpretation**

(1) In this Chapter-

“alien” means a person who is not a Commonwealth citizen, a British protected person or a citizen of the republic of Ireland;

“British protected person” means a person who is a British protected person for the purposes of the British Nationality Act 1948;

“the British Nationality Act 1948” includes any Act of the Parliament of the United Kingdom altering that Act.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father at the time of the father's death; and where that death occurred before the commencement of this Constitution and the birth occurred after such commencement the national status that the father would have had if he had died immediately after such commencement shall be deemed to be his national status at the time of his death.

## **CHAPTER VIII**

### **JUDICIAL PROVISIONS**

#### ***105.- Original jurisdiction of High Court in constitutional questions***

(1) Subject to the provisions of section 22(2), 37(6), 41(11), 58(7), 117(8), 121(3) and 124(10) of this Constitution, any person who alleges that any provisions of this Constitution (other than a provisions of Chapter 1 thereof) has been or is being contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.

(2) The high Court shall have jurisdiction on an application made under this section to determine whether any provisions of this Constitution (other than a provision of Chapter 1 thereof) has been or is being contravened and to make a declaration accordingly.

(3) Where the High Court makes a declaration under this section that a provision of this Constitution has been or is being contravened and the person on whose application the declarations made has also applied for relief, the High Court may grant to that person such remedy as it considers appropriate, being a remedy available generally under any law in proceedings in the High Court.

(4) The Chief Justice may make rules with respect to eh practice and procedure of the High Court in relation to the relation to the jurisdiction and power conferred on the Court by or under his section, including provision with respect to the time within which any application under this section may be made.

(5) A person shall be regarded as having a relevant interest for the purpose of an application under this section only if the contravention of this Constitution alleged by him is such as to affect his interests.

(6) The right conferred on a person by this section to apply for a declaration and relief in respect of any alleged contravention of this Constitution shall be in addition to any other action in respect of the same matter that may be available to that person under any other law.

(7) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 39 of this Constitution.

#### ***106.- Reference of constitutional questions to High Court***

(1) Where any question as to the interpretation of this Constitution arises in any court of law established for Saint Lucia (other than the Court of Appeal , the High Court or a court martial) and the court is of opinion that the question involves a substantial question of law, the court shall refer the question to the High Court.

(2) Where any question is referred to the High Court in pursuance of this section the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if the decision is the subject of an appeal to the Court of Appeal or Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, her Majesty in Council.

#### ***107.- Appeals to Court of Appeal***

Subject to the provisions of section 39(8) of this Constitution, an appeal shall lie from decision of the High Court of Appeal as of right in the following cases-

- a) Final decision in any civil or criminal proceedings on question as to the interpretation of this Constitution:
- b) final decision given in exercise of the jurisdiction conferred on the High Court by section 16 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms); and
- c) such other cases as may be prescribed by Parliament.

**108.- Appeals to Her Majesty in Council**

(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases-

- a) final decision in any civil proceedings where the matter in dispute on the appeal to Her Majesty in Council is of the prescribed value or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the prescribed value or upwards;
- b) final decision in proceedings for dissolution or nullity of marriage;
- c) final decisions in any civil or criminal proceedings which involve a question as to the interpretation of this Constitution; and
- d) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decision of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases-

- a) decision in any civil proceedings where in the opinion of the Court of Appeal the question involve in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council; and
- b) such other cases as may be prescribed by Parliament,

(3) An appeal shall lie to Her Majesty in Council with the special leave of Her Majesty from any decision of the Court of Appeal in any civil criminal matter.

(4) References in this section to decisions of the Court of Appeal shall be construed as references to decisions of the Court of Appeal in exercise of the jurisdiction conferred by this Constitution or any other law.

(5) In this section the prescribed value means the value of fifteen hundred dollars or such other value as may be prescribes by Parliament.

(6) This section shall be subject to the provisions of section 39 (7) of this Constitution.

**109.- Interpretation**

In this Chapter references to the contravention of any provision of , or the interpretation of, this Constitution shall be construed as including references to the contravention of any provision of , or the interpretation of the Supreme Court Order.

## CHAPTER IX

### PARLIAMENTARY COMMISSIONER

#### 110.- *Appointment, etc. of Commissioner*

(1) There shall be a Parliamentary Commissioner for Saint Lucia who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any other occupation for reward.

(2) The Parliamentary Commissioner shall be appointed by the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, for a term not exceeding five years.

(3) Before entering upon the duties of his office, the Parliamentary Commissioner shall take and subscribe the oath of office before the Speaker.

(4) Subject to the provisions of subsection (7) of this section the Parliamentary Commissioner shall vacate his office at the expiration of the term for which he was appointed;

Provided that he shall vacate his office-

a) if he is appointed as a Senator or with his consent he is nominated as a candidate for election to the House; or

b) if he is appointed to any other office of emolument or engages in any other occupation for reward.

(5) If the office of Parliamentary Commissioner becomes vacant, and appointment to fill the office shall be made within ninety days of the occurrence of the vacancy;

provided that the House may by resolution extend that period for further periods not exceeding in the aggregate one hundred and fifty days.

(6) A person holding the office of parliamentary Commissioner may be revoked from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(7) The parliamentary Commissioner shall be removed from office by the Governor-general if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-general that he ought to be removed for inability as aforesaid or for misbehaviour.

(8) If the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, considers that the question of removing the Parliamentary Commissioner under this section ought to be investigated-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-general and recommend to him whether the Commissioner ought to be removed under this section.

(9) If the question of removing the Parliamentary Commissioner has been referred to a tribunal under this section the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, may suspend the Commissioner from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-general, acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Commissioner should not be removed.

#### **111.- Deputy Parliamentary Commissioner**

(1) There shall be a Deputy Parliamentary Commissioner and the provisions of section 110 of this Constitution shall apply in relation to the Commissioner and his office as they apply in relation to the parliamentary Commissioner and his office.

(2) The Deputy Parliamentary Commissioner shall assist the Parliamentary Commissioner if the performance of the functions of his office and whenever that office is vacant or the holder of the office is for any reason unable to perform those functions, the Deputy parliamentary Commissioner shall perform those functions.

#### **112.- Functions of Commissioner**

(1) Subject to the provisions of this section and sections 113 and 114 of this Constitution , the principal functions of the Parliamentary Commissioner shall be to investigate any decision or recommendation made including any advice give or recommendation made to a Minister, or any act done or omitted by any department of government or any other authority to which this section applies, or by officers or member of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Parliamentary Commissioner shall be provided with a staff adequate for the efficient discharge of his functions and the office of the member of this staff shall be public offices.

(3) The Parliamentary Commissioner may investigate any such matter in any of the following circumstances-

a) where a complaint in duly made to the Commissioner by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;

b) where a Senator or a member of the House request the Commissioner to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(4) The authorities other than departments of government to which this section applies are-

a) local authorities or other bodies established for purposes of the public service or of local government;

b) authorities or bodies the majority of whose members are appointed by the Governor-General or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;

c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of the Government; and

d) such other authorities as may be prescribed by Parliament.

#### **113.- Restrictions on matters for investigation**

(1) In investigating any matter leading to ,resulting from or connected with the decision of a Minister, the Parliamentary

Commissioner shall not inquire into or question the policy of the Minister in accordance with which the decision was made.

(2) The Parliamentary Commissioner shall have power to investigate complaints of administrative injustice under section 112 notwithstanding that such complaint raise question as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage, corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

(3) Where in the course of an investigation it appears to the parliamentary Commissioner that there is evidence of any corrupt act by any public office or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

(4) The Parliamentary Commissioner shall not investigate-

a) any action in respect of which the complainant has or had

i) a remedy by way of proceedings in a court of law; or

ii) a right of appeal, references or review to or before an independent and impartial tribunal other than a court of law; or

b) any such action, or action taken with respect to any matter, as is described in Schedule 3 to this Constitution.

(5) Notwithstanding the provision of subsection(4) of this section the Parliamentary Commissioner-

a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a court of law if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;

b) is not in any case preclude from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 16 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms).

#### **114.- *Discretion of Commissioner***

In determining whether to initiate, continue or discontinue an investigation, the Parliamentary Commissioner shall, subject to the provisions of sections 112 and 113 of this Constitution, act in his discretion, the Commissioner may refuse to initiate or may discontinue an investigation where it appears to him that-

a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Commissioner;

b) the subject matter of the complaint is trivial;

c) the complaint is frivolous or vexatious or is not made in good faith; or

d) the complainant has not a sufficient interest in the subject matter of the complaint.

### **115.- *Report on investigation***

(1) Where a complaint or request for an investigation is duly made and the Parliamentary Commissioner decides not to investigate the matter or where he decides to discontinue and investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

(2) Upon the completion of an investigation the Parliamentary Commission shall inform the department of government of the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government of the authority of the reason for his opinion and make such recommendations as he thinks fit.

(3) The Parliamentary Commissioner may in his original recommendation, or at any later stage if he thinks fit specify the time within which the injustice should be remedied.

(4) Where the investigation is undertaken as a result of a complaint or request, the Parliamentary Commissioner shall inform the person who made the complaint or request of his findings.

(5) Where the matter is in the opinion of the Parliamentary Commissioner of sufficient public importance or where the Commissioner has made a recommendation under subsection (2) of this section and within the time specified by him no sufficient action has been taken to remedy the injustice, then the Commissioner shall make a special report to the Senate and the House on the case.

(6) The parliamentary Commission shall make annual reports to the Senate and the House on the performance of his functions which shall include statistics in such form and in such detail as may be prescribed by law of the complaints received by him and the results of his investigations.

### **116.- *Power to obtain evidence***

(1) The Parliamentary Commissioner shall have the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.

(2) The parliamentary Commissioner shall have power to enter and inspect the premises of any department of government of any authority to which section 112 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

### **117.- *Prescribed matters concerning Commissioner***

(1) There shall be such provisions as may be made by Parliament-

a) for regulating the procedure for the making of complaints and request to the Parliamentary Commissioner and for the exercise of his functions;

b) for conferring such power on the Commissioner and imposing duties on persons in connection with the due performance of his functions; and

c) generally for facilitating the performance by the Commissioner of his functions.

(2) The Parliamentary Commissioner may not be empowered to summon a Minister or a Parliamentary Secretary to

appear before him or to compel a Minister or a Parliamentary Secretary to answer any question relating to any matter under investigation by the Commissioner.

(3) The parliamentary Commissioner may not be empowered to summon any witness to procedure any Cabinet papers or to give any confidential income tax information.

(4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Parliamentary Commissioner.

(5) No proceedings, civil or criminal, may lie against the Parliamentary Commissioner, or against any person holding an office or appointment under him, for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Commissioner under this Constitution, unless it is shown that he acted in bad faith.

(6) The parliamentary Commissioner, and any person holding office or appointment under him, may not be called to give evidence in any court of law, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(7) Anything said or any information supplied or any document paper, or thing produced by any person in the course of any enquiry by or proceedings before that parliamentary Commissioner under this Constitution shall be privileged in the same manner as if the enquiry of proceedings were proceedings in a court of law.

(8) No proceedings of the Parliamentary Commissioner may be held bad for want of form, and, except on the ground of lack of jurisdiction not proceeding or decision of the Commissioner shall be liable to be challenged review, quashed or called in question in any court of law.

## **CHAPTER X**

### **MISCELLANEOUS**

#### **118.- *The Integrity Commission***

(1) There shall be an Integrity Commission for Saint Lucia (hereinafter in this section referred to as the Commission) which shall consist of a chairman and not less than two nor more than four other members, who shall be appointed by the Governor-general, acting in accordance with the advice of the Prime Minister:

provided that the Prime Minister shall consult the Leader of the Opposition before tendering any advice to the Governor-general for the purposes of this subsection.

(2) A person shall not be qualified to be appointed as a member of the Commission if-

a) he is a Senator or a member of the House:

b) he is, or has at any time during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office of member of the Commission, be eligible for appointment to or to act in any public office.

(4) Subject to the provisions of this section, the office of a member of the Commission shall become vacant-

a) at the expiration of three years from the date of his appointment or

b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(5) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) A member of the Commission shall be removed from office by the Governor-General if the question of this removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) If the Prime Minister represents to the Governor-General, that the question of removing a member of the Commission under this section ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(8) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of this office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(9) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, then until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions as the case may be, they shall be exercised by such other member of the Commission as may for the time being be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

(10) If at any time there are less than two members of the Commission besides the chairman or if any such member is acting as chairman or is for any reason unable to exercise the functions of this office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(11) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.

(12) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(13) The Commission may be regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public office or on any authority of the Government for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

provided that any decision of the Commission shall require the concurrence of a majority of all its members.

#### **119.- Declaration of assets**

(1) The integrity Commission shall obtain declaration in writing from time to time of their assets, liabilities and income from Senators and member of the House (including Ministers and Parliamentary Secretaries) and from the holders of such other offices as Parliament may prescribe.

(2) There shall be such provision as may be made by Parliament in relation to the due performance by the Commission of its function under this section, including its powers, privileges, immunities and procedure and the security and confidentiality of the information it receives.

#### **120.- Supreme law**

This Constitution is the supreme law of Saint Lucia and, subject to the provisions of section 41 of this Constitution, if any other law is inconsistent with this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

#### **121.- Functions of Governor-General**

(1) Any reference in this Constitution to the functions of the Governor-general shall be construed as a reference to his powers and duties in the exercise of the executive authority of Saint Lucia and to any other powers and duties conferred or imposed on him as Governor-general by or under his Constitution or any other law.

(2) Where by this Constitution the Governor-general is required to perform any function in accordance with any person or authority he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(3) Where by this Constitution the Governor-general is required to perform any function in accordance with the advice of, or after consultation with, any person or authority the question whether the Governor-General, has so exercised that functions shall not be enquired into in any court of law.

#### **122.- Resignations**

(1) A Senator or a member of the House may resign his seat by writing under his hand addressed to the president or the Speaker as the case may be, and the resignation shall take effect, and the seat shall accordingly become vacant, when the writing is received, as the case may be, by-

a) the President or Speaker;

b) if the office of President or Speaker is vacant or the President or Speaker is for any reason unable to perform the functions of his office and no other person is performing them, the Deputy President or Deputy Speaker; or

c) if the office of Deputy President or Deputy Speaker is vacant or the Deputy President or Deputy Speaker is for any reason unable to perform the functions of his office and no other person is performing them, the Clerk of the Senate or Clerk of the House.

(2) The President or the Deputy President or the Speaker or the Deputy Speaker may resign his office by writing under his hand addressed to the Senate or the House, as the case may be, and the resignation shall take effect, and the office shall accordingly become vacant, when the writing is received, as the case may be, by the Clerk of the Senate or Clerk of the House.

(3) Any person who has been appointed to an office established by this Constitution (other than an office to which subsection (1) or (2) of this section applies) or any office of Minister established under this Constitution may resign that office by writing under his hand addressed to the person or authority by whom he was appointed and the resignation shall take effect, and the office shall accordingly become vacant-

a) at such time or on such date (if any) as may be specified in the writing; or

b) when the writing is received by the person or authority to whom it is addressed to by such other person as may be authorized to receive it,

whichever is the later;

Provided that the resignation may be withdrawn before it takes effect if the person or authority to whom the resignation is addressed consents to its withdrawal.

### **123.- *Re-appointment and concurrent appointments***

(1) Where any person has vacated any office established by this Constitution or any office of Minister established under this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

(2) Where this Constitution vests in any person or authority the power to make any appointment to any office, a person may be appointed to that office, notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending the relinquishment of the office; when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

### **124.- *Interpretation***

(1) In this Constitution, unless the context otherwise requires-

“citizen” means a citizen of Saint Lucia and “citizenship” shall be construed accordingly;

“Commonwealth citizen” has such meaning as Parliament may prescribe;

“dollars” means dollars in the currency of Saint Lucia;

“financial year” means any period of twelve months beginning on 1st January in any year or such other date as may be prescribed by law;

“the Government” means the Government of Saint Lucia,

“the House” means the House of Assembly;

“law” means any law in force in Saint Lucia or any part thereof including any instrument having the force of law and any unwritten rule of law and “lawful” and “lawfully” shall be construed accordingly;

“Minister” means a Minister of the Government and includes a temporary Minister;

“Parliament” means the Parliament of Saint Lucia;

“oath” includes affirmation;

“oath of allegiance” means such oath of allegiance as may be prescribed by law;

“oath of office” means, in relation to any office such oath for the due execution of that office as may be prescribed by law;

“oath of secrecy” means such oath of secrecy as may be prescribed by law;

“the Police Force” means the Royal Saint Lucia Police Force and includes any other police force established to succeed to the functions of the Royal Saint Lucia Police Force;

“President” and “Deputy President” mean the respective persons holding office as President and Deputy President of the Senate;

“public office” means any office of emolument in the public service;

“public officer” means a person holding or acting in any public office;

“the public service” means, subject to the provisions of this section, the service in a civil capacity of the Government;

“session” means, in relation to the Senate or the House, the period beginning when it first meets after Parliament has at any time been prorogued or dissolved and ending when Parliament is prorogued or when Parliament is dissolved without having been prorogued;

“sitting” means, in relation to the Senate or the House the period during which it is sitting continuously without adjournment and includes any period during which it is in committee;

“Speaker” and “Deputy Speaker” means the respective persons holding office as Speaker and Deputy Speaker of the House.

(2) In this Constitution references to an office in the public service shall not be construed as including-

a) references to the office of the President of Deputy president, the Speaker or Deputy Speaker, the Prime Minister or any other Minister, a Senator, a Parliamentary Secretary or a member of the House, the Parliamentary Commissioner of the Deputy Parliamentary Commissioner;

b) references to the office of a member of any Commission established by the Constitution or a member of the Advisory Committee on the Prerogative of Mercy or a member of the Public Service Board of Appeal;

c) references to the office of judge or officer of the Supreme Court;

d) save in so far as may be provided by Parliament, references to the office of a member of any other council, board, panel, committee or other similar body (whether incorporate or not) established by or under any law.

(3) In this Constitution-

a) references to the Supreme Court Order include references to any law in force in Saint Lucia altering that Order;

b) references to the Supreme Court, the Court of Appeal, the High Court and the Judicial and Legal Services Commission are references to the Supreme Court, the Court of Appeal, the High Court and the Judicial and Legal Services Commission established by the Supreme Court Order;

c) references to the Chief Justices have the same meaning as in the Supreme Court Order;

d) references to a judge of the Supreme Court are references to a judge of the High Court or the Court of Appeal and , unless the context otherwise requires, include references to a judge of the former Supreme Court of the Windward Islands and Leeward islands; and

e) references to officers of the Supreme Court are references to the Chief Registrar and other officers of the Supreme Court appointed under the Supreme Court Order.

(4) In this Constitution “ the specified qualification “ means the professional qualifications specified by or under any law, one of which must be held by any person before he may apply under that law to be admitted to practice as a barrister or a solicitor in Saint Lucia.

(5) For the purposes of this Constitution, a person shall not be regarded as holding an office by reason only of the fact that he is in receipt of a persons or other like allowance.

(6) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorized to exercise the functions of that office.

(7) Except in the case where this Constitution provides for the holder of any office thereunder to be such person holding or acting in any other office as may for the time being be designated in that behalf by some other specified person or authority, no person may without his consent, be nominated for election to any such office or be appointed to or to act therein or otherwise be selected therefor.

(8) References in this Constitution to the power to remove a public office from his office shall be construed as including references to any powers conferred by any law to require or permit that officer to retire from the public service:

Provided that-

a) nothing in this subsection shall be construed as conferring on any person or authority the power to require the Director of Public Prosecutions, the Director of Audit or the Chief Elections Officer to retire from the public service; and

b) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this

Constitution, vest in the Public Service Commission.

(9) Any provisions in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified by or under the law.

(10) Where this constitution vested in any person or authority the power to appoint any person to act in or to exercise the functions of any office if the holder thereof is himself unable to exercise those functions, no such appointment shall be called in question on the grounds that the holder of the office was not unable to exercise those functions.

(11) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under his Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has exercised those functions in accordance with this Constitution to any other law.

(12) Without prejudice to the provisions of section 32(3) of the Interpretation Act 1889(a) (as applied by subsection (14) of this section), where any power is conferred by this Constitution to make any order, regulation or rule or give any direction or make any designation, the power shall be construed as including the power, exercisable in like manner and subject to the like conditions, if any, to amend or revoke any such order, regulation, rule, direction, or designation.

(13) In this Constitution references to altering this Constitution or any other law, or any provision thereof, include references\_

a) to revoking it, with or without re-enactment thereof or the making of different provisions in lieu thereof;

b) to modifying it whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise; and

c) to suspending its operation for any period or terminating any such suspension.

(14) The Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of the Parliament of the United Kingdom.

Section 41

## **SCHEDULE 1 TO THE CONSTITUTION**

### **ALTERATION OF CONSTITUTION AND SUPREME COURT ORDER**

#### **Part I**

##### **Provisions of Constitution referred to in section 41(2)**

i) Chapter I;

ii) section 19, 20 and 59;

- iii) sections 23, 24, 30, 33, 37, 39, 40, 47, 48, 49, 50, 51, 54, 55, 56, 57, 58 and 73;
- iv) Chapter V;
- v) sections 85, 86, 87, 88, 89, 90, 91, 93, 94, 97, and 98;
- vi) Chapter VIII;
- vii) Chapter IX;
- viii) section 124 in its application to any of the provisions mentioned in this Schedule; or
- ix) Schedule 2.

## **Part II**

### **Provisions of the Supreme Court Order Referred to in section 41(2)**

Section 4, 5, 6, 8, 11, 18 and 19.

Section 58

## **SCHEDULE 2 TO THE CONSTITUTION**

### **RULES CONCERNING CONSTITUENCIES**

All constituencies shall contain as nearly equal numbers of inhabitants as appear to the Constituency Boundaries Commission to be reasonable and practicable by the Commission may depart from this principle to such extent as it considers expedient to take account of the following factors, that is to say:-

- a) the density of population, and in particular the need to ensure the adequate representation of sparsely populated rural areas;
- b) the means of communication;
- c) geographical features; and
- d) the boundaries of administrative areas.

Section 113

## **SCHEDULE 3 TO THE CONSTITUTION**

### **MATTERS NOT SUBJECT TO INVESTIGATION BY PARLIAMENTARY COMMISSIONER**

- 1.-** Action taken in matters certified by the Attorney-general to affect relations or dealings between the Government and the Government of any country or territory other than Saint Lucia or any international organization.
- 2.-** Action taken in any country or territory outside Saint Lucia by or on behalf of any officer representing or acting under the authority of the Government.

- 3.-** Action taken under any law relating to extradition or fugitive offenders.
- 4.-** Action taken for the purposes of investigating crime or of protecting the security of Saint Lucia.
- 5.-** The commencement or conduct of civil or criminal proceedings before any court of law having jurisdiction in Saint Lucia or before any international court or tribunal.
- 6.-** Any exercise of the prerogative of mercy.
- 7.-** Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government of an authority to which section 112 applies but not being transactions for or relating to-
- a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
- b) the disposal as surplus of land acquired compulsorily or in circumstances in which it could have been acquired compulsorily.
- 8.-** Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matter in relation to service in any office or employment in the public service or under any authority as may be prescribed by law.
- 9.-** Any matter relating to any person who is or was a member of the armed forces of Saint Lucia in so far as the matter relates to-
- a) the terms and conditions of his service as such; or
- b) any order, command, penalty or punishment given to or affecting him in his capacity as such.
- 10.-** Any action which by virtue of any provision of this Constitution may not be enquired into by any court of law.

### Section 3

## **SCHEDULE 2 TO THE ORDER**

### **TRANSITIONAL PROVISIONS**

#### **Arrangement of paragraphs**

#### **Paragraph**

##### ***1.- Discharge of Governor-General's functions***

Until such time as a person has assumed office as Governor-General having been appointed as such in accordance with section 19 of the Constitution, the person who immediately before the commencement of the Constitution held office as Governor of Saint Lucia (or, if there is no such person, the person who was then acting as Governor) shall discharge the functions of the office of Governor-General.

## **2.- Existing laws**

(1) the Existing laws shall, as from the commencement of the Constitution, be construed with such modifications, adaptations, qualification and exceptions as may be necessary to bring them into conformity with the Constitution and the Supreme Court Order.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section), that prescription or provisions shall, as from the commencement of the Constitution, have effect (with such modifications, adaptations, qualification and exceptions as may be necessary to bring it into conformity with the Constitution and the Supreme Court Order) as if it had been made under the Constitution, by Parliament or, as the case may require by the other authority or person.

(3) The Governor-general may be order made at any time before 31st December 1980 make such alterations to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Constitution and the Supreme Court Order or otherwise for giving effect or enabling effect to be given to those provisions.

(4) The provision so of this paragraph shall be without prejudice to any powers conferred by the Constitution or by any other law upon any person or authority to make provision for any matter including the alteration of any existing law.

(5) For the purposes of this paragraph, the expression “existing law” means any Act ordinance, rule, regulation, order of other instrument made in pursuance of or continued in force by or under the former constitution and having effect as a law immediately before the commencement of the Constitution.

## **3.- Parliament**

(1) Until other constituencies are established for Saint Lucia by order in pursuance of section 58 of the Constitution and the order has come into effect there shall, for the purposes of the election of members of the House, be seventeen constituencies having the same boundaries as the constituencies into which Saint Lucia is divided immediately before the commencement of the Constitution of for the purposes of the election of elected members of the House under the former Constitution and those constituencies shall be deemed to have been established under that section.

(2) The persons who, immediately before the commencement of the Constitution, are elected member of the House under the former Constitution shall, as from the commencement of the Constitution, be deemed to have been elected in pursuance of the provisions of section 33 of the Constitution in the respective constituencies corresponding to the constituencies by which they were returned to the House and shall hold their seat in the House in accordance with the provisions of the Constitution.

(3) The persons who, immediately before the commencement of the Constitution, are nominated members of the House under the former Constitution shall vacate their seats in the House at the commencement of the Constitution but shall be eligible for appointment as Senators in pursuance of the provisions of section 245 of the Constitution.

(4) The persons who immediately before the commencement of the Constitution, are respectively the Speaker and the Deputy Speaker and the Leader of the Opposition shall be deemed as from the commencement of the Constitution to have been elected as Speaker and Deputy Speaker or, as the case may be, appointed as leader of the Opposition in accordance with the provisions of the Constitution and shall hold office in accordance with those provisions.

(5) Until Parliament otherwise provides , any person who hold or acts in any office the holding of which would,

immediately before the commencement of the Constitution, have disqualified him for membership of the House under the former Constitution shall be disqualified to be elected as a member of the House or appointed as a Senator as though provisions in that behalf had been made in pursuance of section 26 and 32 of the Constitution.

(6) The rules of procedure of the House under the former Constitution as in force immediately before the commencement of the Constitution shall, until it is otherwise provided by the House under section 53(1) of this Constitution, be the rules of procedure of the House but they shall be construed with such modifications, adaptations, qualification and exceptions as may be necessary to bring them into conformity with the Constitution.

(7) Subject to the provisions of section 55 of the Constitution Parliament shall, unless sooner dissolved, stand dissolved on 6th June 1979 (that is to say, five years from the first sitting of the House after the last dissolution of Parliament under the former Constitution)

(8) For the purpose of section 58(2) of the Constitution, a report of the Constituency Boundaries Commission shall be deemed to have been submitted on 19th November 1973 (that is to say, the date of the submission of the last report of the Standing Committee of the House under section 49 of the former Constitution).

#### ***4.- Ministers and Parliamentary Secretaries***

(1) The person who, immediately before the commencement of the Constitution, holds the office of Premier under the former Constitution- shall as from the commencement of the Constitution ,hold office as prime Minister as if he had been appointed thereto under section 60 of the Constitution.

(2) The person who, immediately before the commencement of the Constitution, hold office as Minister (other than the Premier) or as parliamentary Secretaries under the former Constitution shall, as from the commencement of the Constitution hold the like offices as if they had been appointed thereto under section 60 or 68 of the Constitution.

(3) Any person holding the office of Prime Minister or other Minister by virtue of the provisions of sub-paragraphs (1) and (2) of this paragraph who, immediately before the commencement of the Constitution, was charged under the former Constitution with responsibility for any matter or any department of government, shall, as from the commencement of the Constitution, be deemed to have been assigned responsibility for that matter or department under section 62 of the Constitution.

#### ***5.- Office of Attorney-General***

Until Parliament or, subject to the provisions of any law enacted by Parliament, the Governor-General, acting in accordance with he advice of the Prime Minister, otherwise decides, the office of Attorney-General shall be a public office.

#### ***6.- Existing public officers***

Subject to the provisions of the Constitution, every person who immediately before the commencement of the Constitution holds or is acting in a public office under the former Constitution shall, as from the commencement of the constitution, continue to hood or act in that office or the corresponding office established by the Constitution as if he had been appointed thereto in accordance with the provisions of the Constitution:

Provided that any person who under the former Constitution to any other law in force immediately before immediately before such commencement would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

## **7.- Oaths**

Until such time as the oath of allegiance, the oath of secrecy or, in relation to any office, the oath of office is prescribed by law, that oath may be taken in the form prescribed immediately before the commencement of the Constitution.

## **8.- Supreme Court Order**

The West Indies Associated States Supreme Court Order 1967(a), in so far as it has effect as a law, may be cited as the Supreme Court Order and for the purposes of the Order or any other law-

a) the Supreme Court established by that Order shall, unless parliament otherwise provides, be styled the Eastern Caribbean Supreme Court; and

b) references in that Order to the Premier of Saint Lucia or to the Premier of any other independent state shall be construed as references to the Prime Minister of Saint Lucia or, as the case may be, to the Prime Minister of that other state.

## **9.- Appeals Order**

The West Indies Association States (Appeals to Privy Council) Order 1967(b) may, in its application to Saint Lucia, be cited as the Saint Lucia Appeals to Privy Council Order and shall, to the extent that it has effect as a law, have effect as if the expression "Court Order" included any law altering the Supreme Court Order and as if section 3 were revoked.

## **10.- Protection from inhuman treatment**

Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 5 of the Constitution to the extent that the law in question authorizes the infliction of any description of punishment that was lawful in Saint Lucia immediately before 1 March 1967 (being the date on which Saint Lucia became an associated state).

## **11.- Commonwealth citizen**

Until such time as Parliament otherwise prescribes, the expression "Commonwealth citizen" shall have the meaning assigned to it by the British Nationality Act 1948 or any Act of the parliament of the United Kingdom altering that Act.

## **12.- Interpretation**

(1) In this Schedule-

"the Constitution" means the Constitution set out in Schedule 1 of this Order;

"the former Constitution" means the Constitution in force immediately before the commencement of this Order.

(2) The provisions of section 124 of the Constitution shall apply for the purposes of interpreting this Schedule and otherwise in relation thereto as they apply for the purposes of interpreting and in relation to the Constitution.