



**SAINT LUCIA**

## **CHAPTER 13.19**

# **MICRO AND SMALL SCALE BUSINESS ENTERPRISES ACT**

### **Revised Edition**

Showing the law as at 31 December 2006

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### **MICRO AND SMALL SCALE BUSINESS ENTERPRISES ACT**

Act 19 of 1998 in force 19 September 1998

Amended by Act 21 of 2006 in force 27 March 2006



## **CHAPTER 13.19**

# **MICRO AND SMALL SCALE BUSINESS ENTERPRISES ACT**

### **ARRANGEMENT OF SECTIONS**

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## **CHAPTER 13.19**

# **MICRO AND SMALL SCALE BUSINESS ENTERPRISES ACT**

(Acts 19 of 1998 and 21 of 2006)

AN ACT to provide a legislative base for micro and small scale business enterprises, to make provision for developmental support and financial relief with respect to micro and small scale business enterprises and related matters.

Commencement [19 September 1998]

## **PART 1 PRELIMINARY**

### **1. SHORT TITLE**

This Act may be cited as the Micro and Small Scale Business Enterprises Act.

### **2. INTERPRETATION**

(1) In this Act—

“**Committee**” means the Micro and Small Scale Business Enterprises Advisory Committee appointed by the Minister under section 15;

“**member State**” means a member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in the Schedule;

“**Minister**” means the Minister responsible for commerce;

“**micro business enterprise**” means a small business enterprise—

- (a) in which not more than 5 persons are employed;
- (b) whose annual turnover does not exceed \$100,000;
- (c) whose net assets do not exceed \$75,000; and
- (d) which is locally owned;

“**national**” includes a company or other legal entity constituted in a member State in accordance with the laws of the member State and which the member State regards as belonging to it, if the company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the member State and is substantially owned and effectively controlled by a person who:

- (a) is a citizen of a member State;
- (b) has a connection with a member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being native or resident of that member State for the purposes of the laws of that member State relating to immigration;

and for the purposes of this definition, a company or other legal entity is:

- (i) substantially owned if more than 50% of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b),
- (ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or are otherwise legally entitled to direct its actions;

“**small scale business enterprise**” or “**enterprise**” means a business enterprise—

- (a) in which not more than 50 persons are employed;
- (b) whose annual turnover does not exceed \$1,000,000;
- (c) whose net assets do not exceed \$500,000; and
- (d) which is locally owned.

*[The next page is page 6A]*

- (2) For the purposes of subsection (1), a locally owned business enterprise means a company which is not an alien company within the meaning of the Aliens Licensing Act or which is a national of a member State.

*(Amended by Act 21 of 2006)*

## **PART 2 DECLARATION**

### **3. APPLICATION FOR DECLARATION**

- (1) Subject to section 8, the owner of a small scale business enterprise or his or her agent may apply to the Minister for a declaration of his or her enterprise as a micro or small scale business enterprise for the purpose of this Act.
- (2) An application for a declaration shall be in such form and accompanied by a non-refundable fee as the Minister may specify in an order.
- (3) All information required for the purposes of the application shall be supplied at the time of the submission of the application.

### **4. INVESTIGATION BY MINISTER**

- (1) Upon the receipt of an application by the Minister he or she may cause investigations to be carried out to verify any statement contained in the application.
- (2) A person, including the owner of a small scale business enterprise or his or her agent who refuses to answer any question for the purposes of an investigation under this Act, or who knowingly gives any information which is false or inaccurate, commits an offence under this Act.

*[The next page is page 7]*





## **5. DECLARATION BY MINISTER**

- (1) Where the Minister is satisfied that a micro or small scale business enterprise has met all the requirements under this Act, he or she shall, by order, make a declaration and issue a certificate to the owner or agent of the enterprise to that effect.
- (2) Where the Minister turns down an application under subsection (1) he or she shall notify the owner or agent of the enterprise in writing within 30 days of the refusal.

## **6. REVOCATION OF DECLARATION**

The Minister may, by order, revoke a declaration made under section 5 if he or she is satisfied that a micro or small scale business enterprise—

- (a) is no longer a micro or small scale business enterprise as defined in section 2;
- (b) is in breach of any conditions upon which the declaration was made;
- (c) has failed, neglected or refused to submit an annual report as required by this Act; or
- (d) has failed to commence operations within 12 months of the issue of a declaration.

## **7. APPEALS**

An owner or agent of a micro or small scale business enterprise may, within one month of the receipt of a notice under section 5(2) or the publication of a revocation order against his or her enterprise under section 6, appeal against the decision of the Minister to a magistrate.

## **8. INCORPORATION**

- (1) Subject to this section, no declaration may be made with respect to a small scale business enterprise unless that enterprise is incorporated in accordance with the Companies Act, or registered under the Registration of Business Names Act.
- (2) Despite subsection (1), the Minister may make a declaration under section 5 where the owner or agent of a micro or small scale business enterprise gives an undertaking that the

enterprise will be incorporated within 3 months of the date of the declaration.

- (3) Where an enterprise is not incorporated within the time prescribed by subsection (2), any declaration made by the Minister with respect to that enterprise ceases on the expiration of such time.
- (4) For the purpose of this Act, an enterprise may either be incorporated as a private company or as a limited partnership, but nothing in this Act prevents an enterprise from incorporating as a public company.

### **PART 3 ADMINISTRATION**

#### **9. REGISTER**

The Minister shall cause to be kept a register to be known as the Micro and Small Scale Business Enterprises Register and in which the following information on enterprises so declared under section 5 shall be entered—

- (a) the name and address of the enterprise;
- (b) the date of the application for a declaration under section 3;
- (c) the date of the declaration by the Minister, if any;
- (d) the conditions, if any upon which the declaration was made; and
- (e) such other information as the Minister may require.

#### **10. RELIEF**

- (1) Subject to sections 11 and 12, the Minister responsible for Commerce may recommend relief to a micro or small scale business enterprise under the Fiscal Incentives Act.
- (2) Despite subsection (1), relief granted in respect of income tax shall be in accordance with section 68 of the Income Tax Act.

## **11. QUALIFICATIONS FOR RELIEF**

- (1) A small scale business enterprise may qualify for any or all the reliefs specified under section 10 where the Minister is satisfied that the enterprise is in a field considered to be a priority area in accordance with subsection (3) and meets 3 of the following—
  - (a) has in the immediately preceding year made serious efforts to become more efficient, as measured by financial ratio indicators;
  - (b) has achieved significant growth in the last 2 years of its operation, as measured by—
    - (i) production levels,
    - (ii) revenue performance,
    - (iii) increase in market share,
    - (iv) other growth performance indicators;
  - (c) has combined with other enterprises to share the cost of relevant services or with respect to the bulk importation of raw materials;
  - (d) has created additional employment within that enterprise.
- (2) Despite subsection (1) an enterprise shall not be entitled for relief if it is not engaged in environmentally sound operations to the satisfaction of the Minister responsible for the environment.
- (3) The Minister shall issue a policy statement identifying the priority sectors for the establishment of micro and small scale business enterprises.

## **12. DISQUALIFICATION**

A micro or small scale business enterprise is not entitled to apply or qualify to receive any relief under section 10 if it is in receipt of fiscal incentives under the Fiscal Incentives Act.

## **13. REPORTS**

- (1) The owner, manager, or chief executive officer of a micro or small scale business enterprise, that has been so declared for the purposes of this Act, shall maintain proper books of accounts and other relevant records and shall submit to the Registrar annual reports in such form as the Registrar approves.

- (2) The Registrar shall submit an annual consolidated report covering activities and developments within the micro and small scale business sector together with the comments of the Committee, on the Registrar's Report, to the Minister.
- (3) The Minister shall submit the report submitted to him or her under subsection (2) to Parliament within 3 months of the date of receipt from the Registrar.

#### **14. MICRO AND SMALL SCALE BUSINESS ENTERPRISES DEVELOPMENT UNIT**

- (1) Subject to the directions of the Minister, the Small Scale Enterprise Development Unit (SEDU) shall co-ordinate and enforce the provisions of this Act and the Minister may designate a person to perform the functions of Registrar of Micro and Small Scale Business Enterprises.
- (2) For the purpose of giving effect to the objects of this Act, the Minister may cause advice to be given to Micro and Small Scale Business Enterprises in such areas as management, accounting, marketing, production techniques or in any other areas that appear to the Minister to be necessary.
- (3) The cost incurred with respect to the operation of the Micro and Small Scale Business Enterprise Development Unit under subsection (1) and the provision of advisory services under subsection (2) may be met out of funds voted by Parliament for that purpose.

#### **15. MICRO AND SMALL SCALE BUSINESS ENTERPRISES ADVISORY COMMITTEE**

- (1) The Minister shall, with the approval of Cabinet, appoint a committee to be called the Micro and Small Scale Business Enterprises Advisory Committee to advise him or her on matters relating to micro and small scale business enterprises.
- (2) The Committee shall consist of not more than 9 persons representing relevant Ministries and non-governmental agencies and shall include various types of Micro and Small Enterprise Development Agencies.
- (3) The members of the Committee shall be appointed for a period not exceeding 3 years.

- (4) A member of the Committee shall not serve for more than 2 terms.
- (5) The person designated by the Minister to perform the functions of Registrar of Micro and Small Scale Business Enterprises shall be the Secretary of the Committee.
- (6) The Committee shall regulate its own procedure.

## **PART 4 MISCELLANEOUS**

### **16. PENALTY**

A person who contravenes any provision of this Act commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

### **17. REGULATIONS**

The Minister may make regulations generally for the effective implementation of this Act.

### **18. RIGHTS OF A NATIONAL OF A MEMBER STATE**

- (1) Subject to subsection (3), a national of a Member State shall not require a work permit or a visa to enter Saint Lucia for the purpose of conducting a business that had been declared to be a micro or small-scale business enterprise under this Act.
- (2) Subsection (1) applies despite anything to the contrary in any other law.
- (3) Subsection (1) shall not be construed to apply to any officer, servant, agent or employee of a national of a member State if that officer, servant, agent or employee is not also a national of a member State.

*(Inserted by Act 21 of 2006)*

## **SCHEDULE**

(Section 2)

### **Member States**

- (a) Antigua and Barbuda
- (b) Barbados
- (c) Belize
- (d) Commonwealth of Dominica
- (e) Grenada
- (f) Guyana
- (g) Jamaica
- (h) Saint Christopher and Nevis
- (i) Saint Vincent and the Grenadines
- (j) Suriname
- (k) Trinidad and Tobago

*(Inserted by Act 21 of 2006)*