CHAPTER 144

CONSULAR CONVENTIONS ACT

To confer upon the consular officers of foreign States with which consular conventions are concluded certain powers relating to the administration of the hereditary estate of deceased persons; to confer on consular officers certain rights relating to deceased seamen and to wrecked ships; to restrict the powers of the Police and other persons to enter the consular offices of such States, and to give consular officers certain other rights recognized by international law.

(27th October, 1955)*

Enacted by ACT XXXI of 1955, as amended by Emergency Ordinance XV of 1958; Ordinance XXV of 1962; Legal Notice 46 of 1965; and Acts I of 1966 and II of 2015.

1. This Act may be cited as the Consular Conventions Act. Short title.

2. (1) In this Act unless the context otherwise requires - Interpretation. *Amended by: I. 1966.13; II. 2015.2.*

"consular employee" means any person employed at a consulate in a subordinate capacity provided that his name has been duly communicated by the consular officer to the Minister, but does not include any person employed on domestic duties;

"consular officer" means any person who is granted an exequatur or a provisional or other authorisation to act in such capacity in Malta;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

"Minister" means the Minister for the time being responsible for external affairs.

(2) References in this Act to "consular officers" and "consular employees" shall be construed as including references to persons in the service of any Commonwealth country other than Malta holding such offices or classes of offices as may be specified by the Minister by notice in the Government Gazette being offices or classes of offices appearing to the Minister to involve the performance of duties substantially corresponding to those which, in the case of a foreign State, would be performed by consular officers and consular employees respectively and "consular office" shall be construed accordingly.

(3) The Minister may compile a list of Commonwealth countries for the purposes of this Act and shall cause such list and any amendment of such list or amended list to be published by notice in the Government Gazette.

(4) Notwithstanding the provisions of sub-article (3), the provisions of the Vienna Convention on Consular Relations, signed in Vienna on the 24th April 1963 shall be applicable to the

See Government Notice No. 587 of 28th October, 1955.

provisions of this Act.

Power of consular officers in relation to property in Malta of deceased persons.

3. (1) Where any person who is a national of a State to which this article applies is named as executor in the will of a deceased person disposing of property in Malta, or is otherwise a person who could be appointed or confirmed as executor or curator of the estate in Malta of a deceased person then if the court is satisfied, on the application of a consular officer of such State, that such national is not resident in Malta and that he is not represented by a person duly authorized by power of attorney to act for him in that behalf, the court shall make an order appointing or confirming such officer as curator or executor of the estate of the deceased as if the said officer were so authorized as aforesaid.

(2) Where the court has granted an application for appointment or confirmation as executor or curator of the estate of a deceased person made by a consular officer by virtue of this article, that officer or his successors in office shall be entitled to receive and administer the said estate and to do all things necessary in that behalf as if duly authorized so to act by power of attorney granted by the executor.

(3) Where any person who is a national of a State to which this article applies -

(*a*) is entitled to payment or delivery of any money or property in respect of any interest in the estate of a deceased person, or is entitled to payment or delivery of any money or property becoming due on the death of any person; or

(*b*) is a person to whom any money or property comprised in the estate of a deceased person may be paid or delivered under any law whether passed before or after the commencement of this Act, authorising the payment or delivery of such money or property without the succession of the deceased person being declared open in his favour,

then if the said national is not resident in Malta, a consular officer of that State shall have the like right and power to give a valid discharge for any such money or property in Malta to take all such steps as may be necessary for completing the title of the said national to such property and to administer or dispose of that property as if he were duly authorized by power of attorney to act for him in that behalf:

Provided that no person shall be authorized or required by this subarticle to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in Malta has been expressly authorized to receive that money or property on behalf of the said national:

Provided further that any money or other property paid, delivered or transferred to a consular officer under the provisions of this article shall remain subject to such conditions or liabilities as would have attached to such money or other property under any law in force in Malta had the money or property been received by

the person on whose behalf it has become payable or transferable to such consular officer.

(4) Notwithstanding anything to the contrary contained in any other law in force in Malta, a consular officer shall not be required to give security for the proper administration of the estate or property aforesaid.

Supplementary provisions as to article 3.

4. Notwithstanding the provisions of articles 9 and 10 or of any law or recognized international custom conferring immunity or privilege in respect of the official acts and documents of consular officers, a consular officer shall not be entitled to any immunity or privilege in respect of any act done by virtue of powers conferred on him by or under article 3 of this Act, or in respect of any document for the time being in his possession relating thereto.

Restrictions of powers of entry in relation to consular offices.
Amended by: XV. 1958.2; XXV.1962.2; I. 1966.13.

5. (1) Subject to the provisions of this article, a consular office of a State to which this article applies shall not be entered by any member of the Police force or other person acting in the execution of any warrant or other legal process or in the exercise of power conferred by or under any other law (whether passed before or after the commencement of this Act), or otherwise, except with the consent of the consular officer in charge of that office or, if that consent is withheld or cannot be obtained, with the consent of the Minister:

Provided that the foregoing provisions of this subarticle shall not apply in relation to any entry effected -

(*a*) by a member of the Police force for the purpose of extinguishing fire or preventing other disaster;

(*b*) by a member of the Police force having reasonable cause to believe that a crime involving violence has been or is being or is about to be committed in the consular office;

(*c*) by any person entitled to enter by virtue of any easement, contract or other private right.

(2) This article shall not apply to any consular office which for the time being is in the charge of a consular officer who is a citizen of Malta or is not a national of the State by which that office is maintained.

(3) For the purposes of this article the expression "consular office" means any building or part of a building which is exclusively occupied for the purposes of the official business of a consular officer.

Application of articles 3 and 5.
Amended by: XV.1958.2; XXV.1962.2; L.N. 46 of 1965; I.1966.13.

6. (1) The Minister may by order direct that article 3 or article 5 or both of such articles shall apply to any Commonwealth country specified in such order or to any foreign State, specified in such order, being a State with which a consular convention providing for matters for which provision is made by those articles has been concluded.

(2) Any order made under this article may be revoked by subsequent order.

(3) Any order made under this article shall be laid before the House of Representatives as soon as possible after being made.

Estates of deceased seaman.

7. Where any money or other property in Malta belonging to the estate of a deceased seaman may be paid or delivered to any person who is resident in a foreign State, such money or property may be paid or delivered to a consular officer of that State on behalf of that person.

Disposal of foreign wrecked ships or articles on such ships.
Amended by: XV. 1958.2; XXV.1962.2; I. 1966.13.

8. Where any foreign ship or any article belonging to or forming part of a foreign ship which has been wrecked on or near the coasts of Malta, or belonging to and forming part of the cargo, is found on or near those coasts or is brought into any port in Malta, the consular officer of the country to which the ship or in the case of cargo to which the owners of the cargo may belong, or any other consular officer authorized in that behalf by any treaty or arrangement with that country, shall, in the absence of the owner and of the master or other mandatory of the owner, be deemed to be the mandatory of the owner, so far as relates to the custody and disposal of such ship or article:

Provided that, if the Minister considers such ships or any such articles to constitute a navigational hazard within the territorial waters of Malta or an obstruction within the meaning of article 224 of the Code of Police Laws, he may take such action as he may think fit to remove such hazard or such obstruction.

Cap. 10.

Consular documents exempt from production in court.

9. (1) Any consular officer or employee shall be entitled to refuse to produce in court or before or to any authority any document from the consular archives or other official papers or to give evidence relating to matters within the scope of his official duties.

(2) A consular officer is likewise entitled to decline to give evidence as an expert witness with regard to the law of the State by which he is appointed.

Exemption from liability.

10. (1) A consular officer or employee shall not be liable in proceedings in the courts, in respect of acts performed in his official capacity, falling within the functions of a consular officer unless his Government requests or assents to the proceedings through its diplomatic representative:

Provided that nothing in this subarticle shall preclude a consular officer or employee from being held liable in a civil action arising out of a contract concluded by him in which he did not expressly contract as agent for his Government and in which the other party looked to him for performance, and the provisions of article 9 shall not entitle a consular officer or employee to refuse to produce any document or to give evidence relating to any such contract.

(2) Any court or authority requiring the testimony of any consular officer shall take all reasonable steps to avoid interference with the performance of his official duties and shall, wherever possible or permissible, arrange for the taking of such testimony at his residence or office.