



# Consular Conventions Act 1949

## 1949 CHAPTER 29

An Act to provide for the making of payments in respect of jury service in Great Britain; to abolish special juries in Great Britain except in commercial causes tried in London; to abolish the privilege of landed persons in relation to jury trial in Scotland ; to empower the Parliament of Northern Ireland to make laws providing for the payment of jurors in His Majesty's High Court of Justice in Northern Ireland and the abolition of special juries in that Court; and for purposes connected with the matters aforesaid. [26th April 1949]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Powers of consular officers in relation to property in England of deceased persons.**

- (1) Where any person who is a national of a State to which this section applies is named as executor in the will of a deceased person disposing of property in England, or is otherwise a person to whom a grant of representation to the estate in England of a deceased person may be made, then if the court is satisfied, on the application of a consular officer of the said State, that the said national is not resident in England, and if no application for a grant of such representation is made by a person duly authorised by power of attorney to act for him in that behalf, the court shall make to that officer any such grant of representation to the estate of the deceased as would be made to him if he were so authorised as aforesaid:

Provided that the court may, if it thinks fit, postpone the making of a grant by virtue of this section during such period as the court considers appropriate having regard to the circumstances of the case.

- (2) Where any person who is a national of a State to which this section 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 vesting in possession on the death

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*Status: This is the original version (as it was originally enacted).*

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of any person, or is entitled to payment of any money 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 in pursuance of any enactment, rule or regulation, whether passed or made before or after the commencement of this Act, authorising the payment or delivery of such money or property without representation to the estate of the deceased being granted,

then if the said national is not resident in England, a consular officer of that State shall have the like right and power to receive and give a valid discharge for any such money or property in England as if he were duly authorised by power of attorney to act for him in that behalf:

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

- (3) A grant of administration made by virtue of this section may be made to the consular officer by his official title, and to his successors in office; and where a grant is so made, the office of administrator, and all the estate, rights, duties and liabilities of the administrator (including liabilities under the administration bond) shall be vested in and imposed on the person for the time being holding the office, and no fresh grant shall be required by reason only of the death or vacation of office of the person to whom the grant was made or in whom it is vested as aforesaid:

Provided that nothing in this subsection shall affect any limitation contained in the grant, or any power of the court to revoke the grant.

- (4) Notwithstanding anything in subsection (1) of section one hundred and sixty of the Supreme Court of Judicature (Consolidation) Act, 1925 (which provides that in the case of a minority or a life interest administration must be granted either to a trust corporation or to not less than two individuals), administration of an estate may in any case be granted by virtue of this section to a consular officer alone; and subsection (2) of the said section one hundred and sixty (which provides for the appointment of additional personal representatives in the case of a minority or a life interest) shall not apply in any case where the existing personal representative is a consular officer appointed by virtue of this section.
- (5) Without prejudice to the provisions of subsection (7) of section one hundred and sixty-seven of the Supreme Court of Judicature (Consolidation) Act, 1925 (which enables probate rules and orders to dispense with sureties to administration bonds in certain cases), sureties shall not be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.

## **2 Powers of consular officers in relation to property in Scotland of deceased persons.**

- (1) Where any person who is a national of a State to which this section applies is named as executor in the will of a deceased person disposing of property in Scotland, or is otherwise a person who may be appointed or confirmed as executor on the estate in Scotland of a deceased person, a consular officer of the said State, if satisfied that the said national is not resident in Scotland, and that he is not represented by a person duly authorised by power of attorney to act for him in that behalf, may make application to

the court for the said national to be appointed or confirmed as executor on the estate of the deceased as if the said officer were so authorised as aforesaid.

- (2) Where the court has granted an application for appointment or confirmation as executor on the estate of a deceased person made by a consular officer by virtue of this section 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 authorised 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 section 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 in pursuance of any enactment, rule or regulation, whether passed or made before or after the commencement of this Act, authorising the payment or delivery of such money or property without production of confirmation;

then if the said national is not resident in Scotland 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 Scotland, 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 authorised by power of attorney to act for him in that behalf:

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

### **3 Supplementary provisions as to sections 1 and 2.**

Notwithstanding any rule of law 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 section one or section two of this Act, or in respect of any document for the time being in his possession relating thereto.

### **4 Restriction of powers of entry in relation to consular offices.**

- (1) Subject to the provisions of this section, a consular office of a State to which this section applies shall not be entered by a constable or other person acting in the execution of any warrant or other legal process or in the exercise of powers conferred by or under any enactment (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 a Secretary of State :

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

- (a) in pursuance of subsection (1) of section thirty of the Fire Services Act, 1947 (which confers power to enter premises for the purpose of extinguishing fire) or any other enactment making provision corresponding with the provisions of that subsection;

- (b) by a constable 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 section 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 the United Kingdom and Colonies or is not a national of the State by which that office is maintained.
- (3) For the purposes of this section, 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.

## **5 Amendments of Merchant Shipping Act, 1894.**

- (1) Where it appears to the Minister of Transport that any person to whom any money or other property of a deceased seaman may be paid or delivered under paragraph (b) of subsection (1) of section one hundred and seventy-six of the Merchant Shipping Act, 1894 (which relates to the disposal of property not exceeding one hundred pounds in value) is resident in a foreign State, he may pay or deliver the money or property to a consular officer of that State on behalf of that person; and the provisions of that section shall have effect accordingly.
- (2) The powers of a consul general or other consular officer under subsection (2) of section five hundred and twenty-one of the Merchant Shipping Act, 1894 (which enables a consular officer in certain circumstances to act as the agent of the owner for the purposes of the custody and disposal of articles belonging to or forming part of a foreign ship wrecked on or near the coasts of the United Kingdom) shall extend to the custody and disposal of the wrecked ship itself as well as to the custody and disposal of such articles as aforesaid.

## **6 Application of sections 1, 2 and 4.**

- (1) His Majesty may by Order in Council direct that sections one and two or section four of this Act shall apply to any foreign State specified in the Order, being a State with which a consular convention providing for matters for which provision is made by those sections has been concluded by His Majesty.
- (2) Any Order in Council made under this section may be revoked by a subsequent Order.
- (3) Any Order in Council made under this section shall be laid before Parliament after being made.

## **7 Application to Northern Ireland.**

- (1) This Act shall, subject to the provisions of this section, apply to Northern Ireland as it applies to England.
- (2) In the application of this Act to Northern Ireland—
  - (a) the expression " enactment " shall include an enactment of the Parliament of Northern Ireland;
  - (b) subsection (3) of section one shall not have effect, and for subsection (4) of that section there shall be substituted the following subsection:—

- “(4) Notwithstanding anything in section eighty-six of the Probates and Letters of Administration Act (Ireland) 1857, sureties shall not be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.”;
- (c) in subsection (1) of section four the references to a constable shall be construed as including references to a constable of the Royal Ulster Constabulary or a special constable.

**8 Repeal of Domicile Act, 1861, s.4.**

Section four of the Domicile Act, 1861, is hereby repealed:

Provided that any Order in Council in force under that section immediately before the commencement of this Act shall continue in force, notwithstanding anything in this section, until revoked by His Majesty by Order in Council.

**9 Short title.**

This Act may be cited as the Consular Conventions Act, 1949.