



Tuvalu

CONSULAR (CONVENTIONS) ACT

2022 Revised Edition

CAP. 36.10



Tuvalu

CONSULAR (CONVENTIONS) ACT

Arrangement of Sections

Section

1	Short title and interpretation	5
2	Powers of consular officers in relation to property of deceased persons	5
3	Supplementary provision as to section 2	6
4	Restriction of powers of entry in relation to consular offices	6
5	Exemption from stamp duty.....	7
6	Exemption from income tax.....	7
7	Application.....	8

Supporting Documents

ENDNOTES

8



Tuvalu

CONSULAR (CONVENTIONS) ACT

AN ACT TO CONFER UPON THE CONSULAR OFFICERS OF FOREIGN STATES WITH WHICH CONSULAR CONVENTIONS ARE CONCLUDED BY HER MAJESTY CERTAIN POWERS RELATING TO ADMINISTRATION OF ESTATES AND PROPERTY OF DECEASED PERSONS; TO RESTRICT THE POWERS OF POLICE OFFICERS AND OTHERS TO ENTER THE CONSULAR OFFICES OF SUCH STATES; AND TO EXEMPT FROM STAMP DUTY CERTAIN DOCUMENTS CONNECTED WITH TRANSACTIONS ENTERED INTO BY SUCH STATES¹

Commencement [28th September 1951]

1 Short title and interpretation

- (1) This Act may be cited as the Consular (Conventions) Act.
- (2) In this Act unless the context otherwise requires:

“**consular officer**” means any person who is granted an exequatur or provisional or other authorisation by the Governor-General;

“**consular employee**” means any person employed at a Consulate for the performance of executive, administrative, clerical, technical or professional duties or as a consular guard, messenger or driver of a vehicle whose name has been communicated by a consular officer to the Governor-General but shall not include any person employed on domestic duties.

2 Powers of consular officers in relation to property of deceased persons

- (1) Where any person who is a national of any foreign state to which this section applies is named as executor in the will of a deceased person disposing of property in Tuvalu or is otherwise a person to whom a grant of representation

to the estate in Tuvalu of a deceased person may be made, then if the court is satisfied, on the application of a consular officer of the said foreign state, that the said national is not resident in Tuvalu, 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.

- (2) Where any person who is a national of any foreign state to which this section applies —
- (a) is entitled to any money or other property in Tuvalu forming part of the estate of a deceased person or to receive payment in Tuvalu of any money becoming due on the death of a deceased person; or
 - (b) is among the persons to whom any money or other property of a deceased person may under any law be paid or delivered without grant of probate or other proof of title,

then if the said national is not resident in Tuvalu 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 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 Tuvalu has been expressly authorised to receive that money or property on behalf of the said national.

- (3) No surety shall be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.

3 Supplementary provision as to section 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 upon him by or under section 2 of 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 foreign state to which this section applies shall not be entered by a police officer or other person acting in the execution of any warrant or other legal powers 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 the Governor-General:

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

- (a) in pursuance of the provisions of any enactment which confers or may hereafter confer power to enter premises for the purpose of extinguishing or preventing fire;
 - (b) by a police officer 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 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 charge of a consular officer who is a citizen of Tuvalu or is not a national of the state by which that office is maintained.
- (3) For the purpose 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 Exemption from stamp duty

Stamp duty shall not be chargeable upon the following documents —

- (a) a receipt given for the payment of fees received by or on behalf of a foreign state to which this section applies in compensation for consular services;
- (b) any instrument relative to the acquisition by a foreign state to which this section applies of immovable property for the purpose of a consular office or a residence for a consular officer or employee.

6 Exemption from income tax

- (1) Income tax shall not be chargeable in respect of the official emoluments, salaries, wages or allowances received in compensation for his services at a consulate by a consular officer or consular employee of a foreign state to which this section applies unless such officer or employee is a citizen of Tuvalu and is not also of the nationality of the said foreign state.
- (2) Without prejudice to the provisions of the previous subsection income tax shall not be chargeable on the income derived from sources outside Tuvalu of a consular officer or consular employee of a foreign state to which this section applies:

Provided that such officer or employee —

- (a) is not a citizen of Tuvalu;
- (b) is not engaged in private occupation for gain; and

- (c) is a permanent employee of the said foreign state or, if not a permanent employee thereof, was not resident in Tuvalu at the commencement of his employment at the consulate of the said foreign state.

7 Application

The Governor-General may by order direct that all or any of the sections 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.

ENDNOTES

¹ 1990 Revised Edition, Cap. 18 – Act 5 of 1951, LN 16/1972