

CONSULAR CONVENTIONS (ADMINISTRATION OF ESTATES)

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Consular Conventions (Administration of Estates) Act 1977

TABLE OF PROVISIONS

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Consular Conventions (Administration of Estates) Act 1977

TABLE OF AMENDMENTS

The Consular Conventions (Administration of Estates) Act 1977 No 3 was certified and commenced on 1 April 1977 (GN No 148/1977; Gaz 31/1977).

Amending Legislation	Certified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to make provision for the administration of estates by, and conferring certain powers on, consular officers.

Enacted by the Parliament of Nauru as follows:

1 Short title and commencement

This Act may be cited as the *Consular Conventions (Administration of Estates) Act 1977* and came into effect on 1 April 1977.

2 Interpretation

In this Act:

'consular officer' means a person whose name as a consular officer of a foreign State has been notified to, and who has been recognised as such by, the Minister; and

'foreign State' includes a country within the Commonwealth.

3 Powers of consular officers in relation to property in the Republic of deceased persons

(1) Notwithstanding the provisions of the *Succession, Probate and Administration Act 1976* but subject to subsection (4) and Section 9 of the *Foreign Trusts, Estates and Wills Act 1972*, where a person who is a national of any foreign State to which this Act applies is named as executor in the will of a deceased person disposing of property in the Republic or is otherwise a person to whom a grant of representation of the estate in the Republic of a deceased person may be made, then:

- (a) if the Supreme Court is satisfied, on the application of a consular officer of the said foreign State, that the said national is not resident in the Republic; and
- (b) if within 3 months after the death of the deceased person no application for a grant of such representation is made by the said national or by a person duly authorised by power of attorney to act for the said national in that behalf,

the Court shall grant to that consular officer, upon his or her application, representation of the estate of the deceased as if he or she were so authorised.

(2) Where a person who is a national of any foreign State to which this Act applies:

- (a) is entitled to any money or other property in the Republic forming part of the estate of a deceased person or to receive payment in the Republic 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 written law whether passed before or after the commencement of this Act be paid or delivered without grant of probate or other proof of title,

then, if the said national is not resident in the Republic, 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 or she were duly authorised by power of attorney to act for him or her 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 or her knowledge that any other person in the Republic has been expressly authorised to receive that money or property on behalf of the said national or if he or she has cause to believe that the consular officer will not deliver that money or property or cause it to be delivered to the person entitled to receive it or that person will not receive it beneficially or as a trustee for a person who will benefit from the trust.

- (3) A grant of administration made by virtue of this Section may be made to the consular officer by his or her official title, and to his or her 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, 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) The Supreme Court shall not make a grant of representation to a consular officer in respect of the estate of a person unless it is satisfied that the persons to whom the assets of the estate are to be distributed outside the Republic will receive them be beneficiary or as trustees for persons who will benefit from the trust.

4 No immunity or privilege in respect of acts done under Section 3

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 or her by or under the provisions of Section 3 or in respect of any document for the time being in his or her possession in relating thereto.

5 Application of this Act

- (1) The provisions of this Act shall apply to nationals of the states specified from time to time by the Minister by order published in the Gazette.
- (2) The Minister may at any time, by an order published in the Gazette, revoke or vary any order made under subsection (1).