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**AN BILLE UM CHOINBHINSIUIN CHONSALACHTA, 1953.  
CONSULAR CONVENTIONS BILL, 1953.**

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*Mar a tugadh isteach.  
As introduced.*

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AN BILLE UM CHOINBHINSIUIN CHONSALACHTA, 1953.  
CONSULAR CONVENTIONS BILL, 1953.

# BILL

*entitled*

AN ACT TO MAKE PROVISION FOR GRANTING CERTAIN 5  
CONSULAR POWERS, PRIVILEGES AND IMMUNITIES  
TO COUNTRIES WITH WHICH CONSULAR CONVEN-  
TIONS ARE IN FORCE AND TO PROVIDE FOR OTHER  
MATTERS RELATING THERETO.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:— 10

Definitions.

1.—In this Act—

“archives” includes official correspondence, documents and papers  
(including official pouches containing them), books, records, cash,  
stamps, seals, filing cabinets, safes, and other office paraphernalia  
held or used for the official purposes of a consular officer; 15

“consular convention country” means a country between which  
and the State a consular convention is in force dealing with some  
or all of the matters for which provision is made by this Act;

“consular employee” means any person employed at a consulate  
for the performance of executive, administrative, clerical, 20  
technical, or professional duties, or as consular guard, messenger  
or driver of a vehicle whose name has been communicated to the  
Minister, but does not include any person employed on domestic  
duties;

“consular officer” means a consul-general, consul, vice-consul or 25  
other official of a consular convention country who is granted an  
exequatur or provisional or other authorisation, for the perform-  
ance of consular functions, by the President or the Minister;

“consulate” means any building or part of a building which is  
exclusively occupied for the purposes of the official business of a 30  
consular officer;

“the Minister” means the Minister for External Affairs;

“national” includes subject or citizen.

Application of  
sections 3 to 11.

2.—(1) Sections 3 to 11 shall not apply in respect of any country  
save to such extent as they are so applied by order under this 35  
section for the time being in force.

(2) Whenever the Government are satisfied that, in a consular convention country, powers, privileges and immunities similar to those conferred by any of the provisions of sections 3 to 11 are conceded in respect of the State, the Government may by order  
5 apply all or any of these provisions in respect of that country.

(3) The Government may by order revoke an order under subsection (2).

(4) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made  
10 and, if a resolution annulling such order is passed by either House within the next twenty-one days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

15 3.—(1) Where—

(a) a national of a consular convention country, not resident in the State, is named as executor of a will under which property situate in the State is disposed of or is a person to whom a grant of administration to an estate  
20 in the State may be made, and

(b) no application for a grant of representation has been made by a person authorised to act for the national,

the Court may, on the application of a consular officer of that country, make a grant of representation to the consular officer  
25 as if he were so authorised.

Grants of representation to consular officers.

(2) 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  
30 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 so vested.

(3) Sureties shall not be required to an administration bond given by a consular officer upon the issue of a grant of administration under this section.

(4) Without prejudice to the generality of its powers, the Court may, if it thinks fit, postpone the making of a grant of administration by virtue of this section for such time as it thinks necessary  
40 to enable the national to be informed of the proposed grant and to decide whether he desires to be represented otherwise than by the consular officer.

(5) This section shall not affect any limitation contained in the grant or any power of the Court to revoke the grant.

4.—(1) Where a national of a consular convention country, not resident in the State, is—

(a) entitled to any property out of the estate of a deceased person, or

(b) entitled to any property vesting in possession, or becoming  
50 due on the death of any person,

a consular officer of that country may receive and give a valid discharge for such property as if he were authorised to do so by the national.

Power of consular officers to receive property.

(2) No person shall be authorised or required by this section to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in the State has been expressly authorised to receive that money or property on behalf  
55 of the national.

Provision against immunities in respect of powers conferred by sections 3 and 4.

5.—Notwithstanding any other provision of this Act or any rule of law conferring immunity or privilege in respect of the official acts or archives of a consular officer, 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 3 or 4 or in respect of any document for the time being in his possession relating thereto. 5

Restriction of powers of entry into consulates.

6.—(1) Subject to this section, a consulate shall not be entered by a member of the Garda Síochána or other person acting in the execution of any warrant or other legal process or in the exercise of any other power conferred by law, except with the consent of the consular officer in charge or, if that consent is withheld or cannot be obtained, with the consent of the Minister. 10

(2) This section does not apply to an entry effected by—

(a) a member of the Garda Síochána having reasonable cause to believe that a crime involving violence has been or is being or is about to be committed in the premises; 15

(b) a person entitled to enter by virtue of any easement, contract or other private right;

(c) a person entitled under section 9 of the Fire Brigades Act, 1940 (No. 7 of 1940), to enter premises for the purpose of extinguishing a fire. 20

(3) This section does not apply to a consulate which for the time being is in the charge of a consular officer who is a citizen of Ireland or is not a national of the country of which he is consular officer. 25

Personal immunity of consular officers and employees.

7.—(1) A consular officer shall not be liable, in any proceedings, civil or criminal, in respect of acts performed by him in his official capacity, which fall within the functions of a consular officer in international law, unless his government requests or assents to the proceedings. 30

(2) A consular employee shall not be liable in any proceedings, civil or criminal, in respect of acts performed by him within the scope of his employment and in the course of his official duties in so far as those duties are within the functions of a consular officer in international law, unless his government requests or assents to the proceedings. 35

(3) A consular officer who is a national of the country of which he is a consular officer and not a citizen of Ireland and not engaged in private occupation for gain in the State shall be exempt from arrest or prosecution except when charged with the commission of a crime punishable by imprisonment for a period of one year or more or by penal servitude. 40

(4) This section does not exempt a consular officer or consular employee from liability 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 personally for performance. 45

Immunity for consular archives.

8.—The archives kept at a consulate and official correspondence sent to or by a consular officer shall be inviolable and no person shall examine or detain them without the consent of the consular officer. 50

9.—A consular officer or consular employee shall be entitled to refuse—

Consular immunity in respect of giving evidence.

(a) to produce in court any of his archives, or

5 (b) to give evidence with respect to anything contained in his archives or any other matter falling within the scope of his official duties, or

(c) to give expert evidence respecting the laws of the country of which he is the consular officer or consular employee.

10 10.—Stamp duty shall not be chargeable on receipts issued by a consular officer in respect of the payment of fees for consular services rendered by him.

Exemption of receipts for consular fees from stamp duty.

15 11.—Notwithstanding section 3 of the Merchant Shipping Act, 1947 (No. 46 of 1947), the flag of a consular convention country and its consular flag may be hoisted on an Irish ship employed in the exercise of consular duties by a consular officer.

Flying of flags on Irish ships employed by consular officers.

20 12.—(1) Where it appears to the Minister for Industry and Commerce 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 176 of the Merchant Shipping Act, 1894 (which relates to the disposal of property not exceeding one hundred pounds in value) is resident in a consular convention country, he may pay or deliver the money or property to a consular officer of that country on behalf of that person and the provisions of that section shall have effect accordingly.

Powers of consuls in relation to wrecked ships and property of deceased seamen.

25 (2) The powers of a consular officer under subsection (2) of section 521 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 Ireland) shall extend to the custody and disposal of  
30 the wrecked ship itself as well as to the custody and disposal of such articles as aforesaid.

35 13.—The privileges and immunities conferred on consular officers under this Act are without prejudice to any privilege or immunity which they may enjoy by law or custom.

Saver.

14.—Section 4 of the Domicile Act, 1861, is hereby repealed.

Repeal.

15.—This Act may be cited as the Consular Conventions Act, 1953.

Short title.

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BILLE

(*mar a tugadh isteach*)

*da ngairmtear*

Acht do dhéanamh soeruithe chun cumhachta, pribhléidí agus díolúintí áirithe consalachta a dheonadh do thíortha lena bhfuil coinbhinsiúin chonsalachta i bhfeidhm agus do dhéanamh soeruithe i dtaobh nithe eile a bhaineas leis sin.

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*An tAire Gnóthai Eachtracha a thug isteach.*

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*Do hordáíodh, ag Dáil Éireann, do chlóbhuailadh, 24ú Meitheamh, 1953.*

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BAILE ATHA CLIATH:  
ARNA FHOILSIÚ AG OIFIG AN tSOLATHAIR.

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BILL

(*as introduced*)

*entitled*

An Act to make provision for granting certain consular powers, privileges and immunities to countries with which consular conventions are in force and to provide for other matters relating thereto.

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*Introduced by the Minister for External Affairs.*

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*Ordered by Dáil Éireann, to be printed, 24th June, 1953.*

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