

eSwatini

## Consular Conventions Act, 1950

Act 69 of 1950

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1950/69/eng@1998-12-01

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PDF created on 21 February 2024 at 17:14.

*Collection last checked for updates: 1 December 1998.*

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## Consular Conventions Act, 1950

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## eSwatini

# Consular Conventions Act, 1950

Act 69 of 1950

Commenced on 8 December 1950

*[This is the version of this document at 1 December 1998.]*

**An Act to confer upon the consular officers of foreign States with which consular conventions are concluded by His Majesty, certain powers relating to the administration of the estates and property of deceased persons: and to restrict the powers of members of the police and other persons from entering consular offices of such States.**

### 1. Short title

This Act may be cited as the Consular Conventions Act, 1950.

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

- (1) If 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 Swaziland, or is otherwise a person to whom a grant of representation to the estate in Swaziland of a deceased person may be made, then if the Master of the High Court is satisfied, on the application of a consular officer of such state, that the said national is not resident in Swaziland, 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 Master of the High Court shall make to such officer any such grant of representation to the estate of the deceased as would be made to him if he were so authorised:

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

- (2) If any person who is a national of a state to which this section applies is—
- (a) 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 of any person, or is entitled to payment of any money becoming due on the death of any person; or
  - (b) 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 Swaziland, a consular officer of such state shall have the like right and power to receive and give a valid discharge for any such money or property in Swaziland 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 Swaziland has been expressly authorised to receive such money or property on behalf of such 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 if 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 such

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 so made or in whom it is so vested:

Provided that nothing in this sub-section shall affect any limitation contained in the grant, or any power of the Master of the High Court to revoke such grant.

- (4) Notwithstanding any other law sureties shall not be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.

### **3. Supplementary provisions 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 on him by or under [section 2](#) 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 this section, a consular office of a state to which this section applies shall not be entered by any police officer 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 such office or, if such consent is withheld or cannot be obtained, with the consent of the Prime Minister:

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

- (a) in pursuance of any law which confers power on any person to enter premises for the purpose of extinguishing fire;
  - (b) by any 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; or
  - (c) by any person entitled to enter by virtue of any servitude, 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 Swaziland or is not a national of the state by which that office is maintained.