



TRINIDAD AND TOBAGO

No. 21—1954

[L.S.]

I ASSENT,

H. E. RANCE,
Governor.

28th April, 1954.

AN ORDINANCE to confer certain powers and privileges upon the consular officers of Foreign States with which consular conventions were concluded by His late Majesty or may be concluded by Her Majesty and certain privileges upon the consular employees of such States; and to amend section 87 of the Merchant Shipping Ordinance.

[6th May, 1954.]

Commence-
ment

Enactment

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

Short title

1. This Ordinance may be cited as the Consular Conventions Ordinance, 1954.

2. (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 Ordinance), 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 with the concurrence of a Secretary of State:

Restriction
of powers
of entry
in relation
to consular
offices

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

- (a) in pursuance of paragraph (f) of section 18 of the Fire Brigades Ordinance (which confers power to enter premises for the purpose of extinguishing fire) or any other enactment making provision corresponding with the provisions of that paragraph;
- (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.

Ch. 11. No. 4

(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.

3. A consular employee shall be exempt from liability to serve as a juror, provided that—

Exemption
from jury
service

- (a) he is a national of a State to which this section applies and is not a citizen of the United Kingdom and Colonies;
- (b) he is not engaged in any private occupation for gain; and
- (c) he was not normally resident in the Colony at the time he was appointed as a consular employee.

Exemption
from taxation

4. (1) No tax or other similar charge of any kind, governmental or municipal, shall be collected from the Government of a State to which this section applies or any natural or juridical person acting on its behalf in respect of land, buildings, parts of buildings, or appurtenances owned or otherwise held or occupied, or in respect of buildings or parts of buildings erected by or on behalf of the said Government, and used exclusively for the purpose of a consular office, or of a residence for a consular officer or consular employee, or for other purposes, to which the Government of the Colony does not object, arising out of the operation of the consular establishment of such State; except taxes or other assessments levied for services or local public improvements by which and to the extent that the premises are benefited.

(2) No tax or other similar charge of any kind, governmental or municipal shall be collected from the Government of any State to which this section applies, or any natural or juridical person acting on its behalf, in respect of the ownership, possession, or use of moveable property owned by or used by the said Government exclusively for any of the purposes specified in subsection (1) of this section.

(3) No tax or other similar charge of any kind, governmental or municipal, shall be collected from the Government of any State to which this section applies in respect of transactions or instruments relating to the acquisition of immovable property for any of the purposes specified in subsection (1) of this section.

(4) No tax or other similar charge of any kind, governmental or municipal shall be imposed or collected in respect of fees received on behalf of the Government of any State to which this section applies in compensation for consular services, or in respect of any receipt given for the payment of such fees.

(5) The Government of any state to which this section applies and every consular officer and consular employee of any such Government shall be exempt from all taxes and other similar charges, governmental or municipal, imposed or collected in respect of acts performed in the course of the officer's or employee's official functions: Provided that this exemption shall not apply to taxes or other similar charges in respect of which some other person is legally liable, notwithstanding that the burden of the tax or other similar charge may be passed on to the said Government, consular officer or consular employee.

(6) No tax or other similar charge of any kind shall be imposed or collected by the Government of the Colony in respect of the official emoluments, salaries, wages or allowances received as compensation for his consular services by a consular officer of any State to which this section applies unless he is a citizen of the United Kingdom and Colonies and is not also a national of such State.

(7) Without prejudice to the provisions of the preceding subsections of this section, a consular officer or consular employee who is—

- (a) not a citizen of the United Kingdom and Colonies,
- (b) not engaged in private occupation for gain in the Colony, and
- (c) a permanent employee of his Government or, if not a permanent employee thereof, was not resident in the Colony at the commencement of his employment at the consulate,

shall, except as provided in subsection (8) of this section, be exempt from all taxes and other similar charges, governmental or municipal.

(8) The provisions of subsection (7) of this section shall apply only to taxes and other similar charges in respect of which the consular officer or consular employee would, in the absence of the exemption provided by this section, be the person legally liable, and shall not apply to taxes or other similar charges in respect of which some other person is legally liable, notwithstanding that the burden of the tax or other similar charge may be passed on to the consular officer or consular employee, or to duties or taxes payable on the withdrawal of goods from a bonded warehouse: Provided, however, that if a consular officer or consular employee is entitled to income from sources outside the Colony but that income is payable to him, or collected on his behalf, by a banker or other agent within the Colony who is required to deduct income tax on payment of the income and to account for the tax so deducted, the consular officer or consular employee shall be entitled to repayment of the tax so deducted.

(9) The provisions of subsection (7) of this section shall not apply to—

- (a) taxes imposed or collected on the ownership or occupation of immoveable property situate within the Colony;

- (b) taxes on income derived from sources within the Colony;
- (c) taxes imposed or collected on the passing of property on death, whether the consular officer or consular employee is the person who dies or the person to whom the property passes on death;
- (d) taxes on the sale or transfer of money or property or on similar transactions, or on instruments effecting the same, or stamp duties imposed or collected in connection therewith;
- (e) taxes and duties imposed upon, or by reason of, importation of articles into the Colony which are dealt with exclusively in section 5 of this Ordinance.

(10) Where, but for the provisions of this section, a municipality would have been entitled to collect any tax or similar charge from the Government of any State or any natural or juridical person acting on its behalf, the amount of such tax or charge, provision for exemption from payment of which is made under this section, shall be paid to the municipality by the Accountant General from general revenue on the warrant of the Governor.

(11) In this section "municipality" means the Mayor, Aldermen, and Citizens of the City of Port-of-Spain; the Mayor, Aldermen, and Burgesses of the Borough of San Fernando; the Mayor, Aldermen, and Burgesses of the Borough of Arima; and any other authority to whom the provisions of this section shall be applied by order of the Governor in Council; and "municipal" shall be construed accordingly.

Free entry
of certain
articles

5. (1) All furniture, equipment, supplies, building materials and other articles, including vehicles, marine vessels and aircraft, intended for official use in the Colony in connection with any of the purposes specified in subsection (1) of section 4 of this Ordinance shall be permitted entry into the Colony free of all taxes or duties imposed upon, or by reason of, importation.

(2) Baggage and effects and other articles, including vehicles, marine vessels and aircraft, imported into the Colony by a consular officer or consular employee of a State to which this section applies provided that he fulfils the conditions specified in subsection (7) of section 4 of this Ordinance, exclusively for his personal use and the use of the members of his family forming part of his household, shall be exempt from all taxes or duties, imposed upon, or by reason of,

importation, whether accompanying him to his consular post, either upon first arrival or upon subsequent arrivals, or subsequently consigned to him at his post and imported at any time while he is assigned to or employed at such post.

(3) Notwithstanding anything contained in the preceding subsections of this section,—

- (a) the Government of the Colony may, as a condition precedent to the granting of the exemption provided in this section, require that a notification of any importation be given in such manner as may be prescribed;
- (b) the exemption provided for in this section shall extend to articles imported as samples of commercial products solely for display within a consular office;
- (c) the Government of the Colony may determine that the exemption provided for by this section shall not apply in respect of articles grown, produced or manufactured in the Colony which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation;
- (d) nothing herein shall be construed to permit the entry into the Colony of any article the importation of which is specifically prohibited by law.

6. (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 the Colony, or is otherwise a person to whom a grant of representation to the estate in the Colony 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 the Colony, 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:

Powers of consular officers in relation to property in the Colony of deceased persons

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 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 Ordinance, 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 the Colony, 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 the Colony 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 the Colony 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) Without prejudice to the provisions of the proviso to subsection (1) of section 81 of the Wills and Probate Ordinance (which enables a court in its discretion to dispense with sureties to administration bonds), sureties shall not be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.

7. 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 6 of this Ordinance, or in respect of any document for the time being in his possession relating thereto.

Supplementary provisions as to section 6

8. The powers of a consular officer under section 87 of the Merchant Shipping Ordinance (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 Colony) 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.

Wrecked vessels
Ch. 18. No. 5

9. (1) The Governor in Council may by order direct that any or all of sections 2, 3, 4, 5, 6, and 7 of this Ordinance 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 late Majesty or by Her Majesty; and, in the application of those sections to any such foreign State, the expressions "consular employee", "consular office", and "consular officer" shall, unless the context otherwise requires, have the meanings respectively assigned to those expressions by any such convention.

Application of sections 2 to 7

(2) Any order made under this section shall be laid before the Legislative Council after being made.

10. Whenever, in pursuance of section 9 of this Ordinance, the Governor in Council directs that any section of this Ordinance which confers any immunity or exemption from taxes or other similar charges or from duties shall apply to any State, the provisions of such section shall apply in respect of the Government, the consular officers and consular employees of such State, or any of them, as the case may be, in substitution for any other law of the Colony under or by virtue of which any similar immunities or exemptions were enjoyed by such Government or consular officers or consular employees before the application of such section to such State.

Certain provisions of this Ordinance when applied to be in substitution for other similar provisions of the laws of the Colony

Passed in Council this ninth day of April in the year of Our Lord one thousand nine hundred and fifty-four.

T. F. FARRELL,
Clerk of the Council.