



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**CONSULAR FUNCTIONS (AMENDMENT)
ACT, No. 18 OF 2006**

[Certified on 18th May, 2006]

Printed on the Order of Government

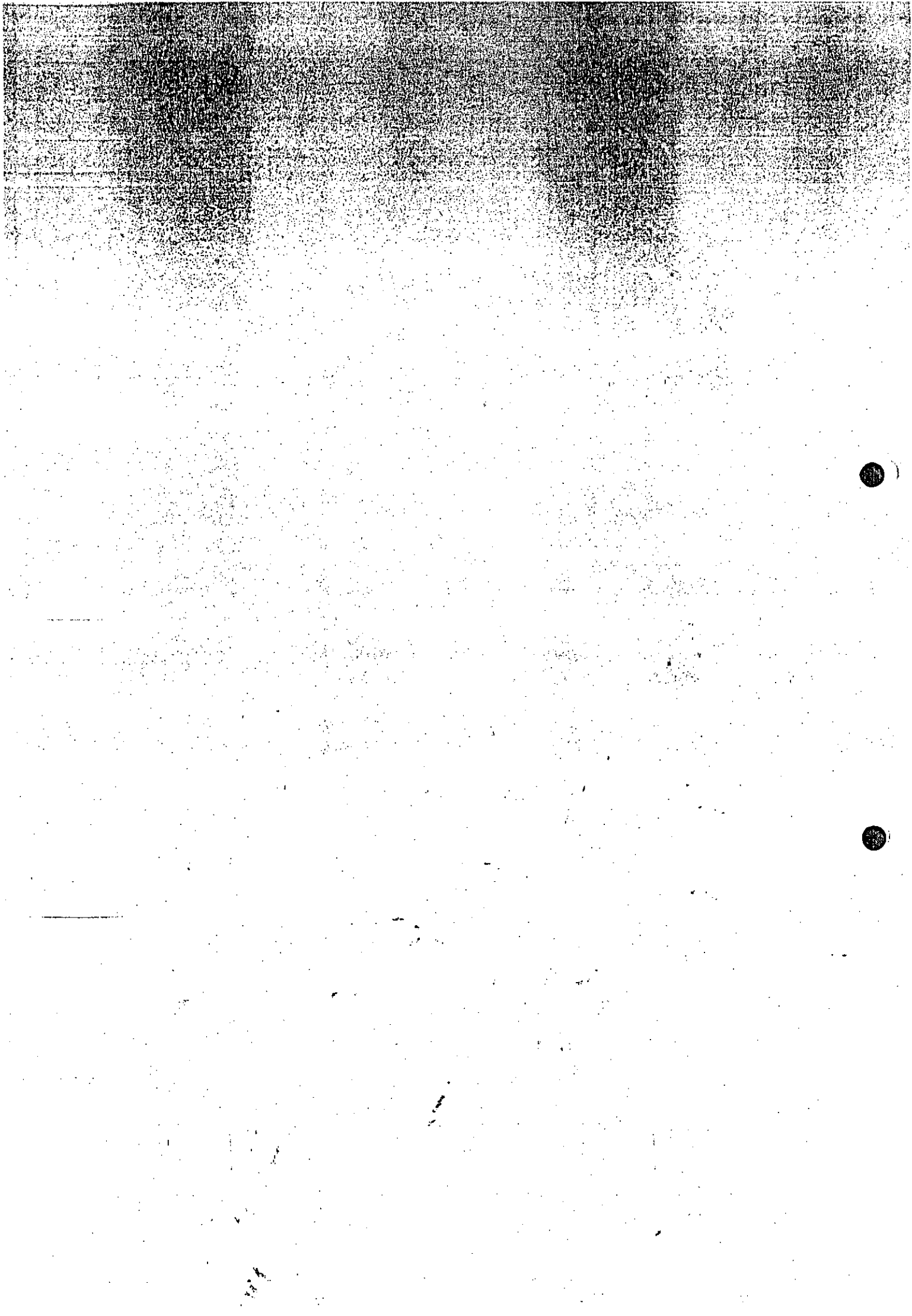
Published as a Supplement to Part II of the **Gazette of the Democratic
Socialist Republic of Sri Lanka** of May 19, 2006

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA
TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 1

Price : Rs. 12.25

Postage : Rs. 7.50

0400100367



*Consular Functions (Amendment)
Act, No. 18 of 2006*

[Certified on 18th May 2006]

L.D.—O. 74/2003.

AN ACT TO AMEND THE CONSULAR FUNCTIONS ACT AND TO INCLUDE PROVISION TO GIVE EFFECT TO THE VIENNA CONVENTION ON CONSULAR RELATIONS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Consular Functions (Amendment) Act, No. 18 of 2006.

Short title.

2. The Consular Functions Act, No. 4 of 1981 (hereinafter referred to as the "principal enactment") is hereby amended by the repeal of the Long Title to that enactment and the substitution therefor of the following Long Title :—

Replacement of Long Title to Act, No. 4 of 1981.

"AN ACT TO GIVE EFFECT TO THE VIENNA CONVENTION ON CONSULAR RELATIONS ; TO PROVIDE A LEGAL REGIME TO GOVERN THE CONSULAR FUNCTIONS CARRIED OUT BY DIPLOMATIC AND CONSULAR OFFICERS OF SRI LANKA IN FOREIGN COUNTRIES AND TO GOVERN THE GRANT WITHIN SRILANKA OF IMMUNITES, PRIVILEGES AND FUNCTIONS TO CONSULAR OFFICERS OF FOREIGN COUNTRIES ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO."

3. The principal enactment is hereby amended by the substitution for the Enacting Clause to that enactment of the following :—

Replacement of Enacting Clause of principal enactment.

Preamble. WHEREAS an International Convention on Consular Relations (hereinafter referred to as "the Convention") was adopted at Vienna, on the Twenty-Fourth day of April One Thousand Nine Hundred and Sixty Three, by the United Nations Conference on Consular Relations ;

*Consular Functions (Amendment)
Act No 18 of 2006*

AND WHEREAS the aforesaid Convention entered into force on the Nineteenth day of March One thousand Nine Hundred and Sixty - Seven :

AND WHEREAS Sri Lanka intends to accede to the aforesaid Convention by the deposit of an Instrument of Accession on behalf of the Government of Sri Lanka, with the Secretary-General of the United Nations :

AND WHEREAS it is necessary for the Government of Sri Lanka to make legislative provision to give effect to Sri Lanka's obligations under the aforesaid Convention :

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—"

Insertion of heading before section 2 of the principal enactment.

4. The principal enactment is hereby amended by the insertion immediately before section 2 of that enactment of the following heading :—

"PART I

ESTABLISHMENT OF CONSULAR RELATIONS AND IDENTIFICATION OF CONSULAR FUNCTIONS"

Replacement of section 2 of the principal enactment.

5. Section 2 of the principal enactment is hereby repealed and the following section substituted therefor :—

"Establishment of consular relations and authorisation of consular officers to perform consular functions.

2. (1) For the purposes of this Act, consular relations shall be deemed to be established consequent to the establishment of diplomatic relations between two States. A consular post may be established in the territory of the receiving State.

(2) Consequent to the establishment of consular relations, consular functions shall be exercised by a consular officer through a consular post :

Provided that, consular functions may also be exercised by diplomatic missions in accordance with the provisions of the Convention.

(3) Every consular officer is authorized to discharge within a foreign State to which he is accredited or appointed, any consular function in accordance with the provisions of any written law, or any consular functions as identified in terms of the Convention and which are set out in the Schedule, provided that the discharge of such function is not prohibited by the laws of such foreign State.

(4) The functions set out in sections 3, 4, 5, 6 and 7 of the principal enactment shall be exercised by the consular officers of a consular post in addition to the functions set out in the Schedule.

(5) Every consular post shall have its own consular premises from which it shall discharge its consular functions."

6. The following new section is hereby inserted immediately after section 2 of the principal enactment and shall have effect as section 2A of that enactment :—

"Performance of diplomatic acts by consular officers.

2A. Where a sending State has no diplomatic mission and is not represented by the diplomatic mission of a third State, a consular officer may with the consent of the receiving State and without prejudice to his consular status, be authorised to perform diplomatic acts :

Insertion of new section 2A in the principal enactment.

*Consular Functions (Amendment)
Act, No. 18 of 2006*

Provided however, that the performance of such acts shall in no way confer upon such consular officer, the right to claim diplomatic privileges and immunities.

Insertion of Part II and Part III in the principal enactment.

7. The following new Parts are hereby inserted immediately after section 7 of the principal enactment and shall have effect as Part II (section 7A, 7B, 7C, 7D, 7E, 7F, 7G, 7H, 7J, 7K, 7L, 7M and 7N) and Part III (sections 7P, 7Q, 7R, 7S, 7T, 7U, 7V, and 7W) of that enactment :—

'PART II

**IMMUNITIES, FACILITIES AND PRIVILEGES OF CAREER CONSULAR POSTS
IN SRI LANKA**

Inviolability
of consular
premises.

7A. (1) The receiving State shall accord full facilities for the performance of the functions of the consular post in Sri Lanka.

(2) Consular premises from which a consular post discharges its functions shall be inviolable as provided herein.

(3) The authorities of the receiving State shall not enter that part of the consular premises that is used exclusively for the purpose of the work of the consular post, otherwise than with the consent of the head of the consular post of the sending State.

(4) The receiving State shall take appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the consular post.

Exemption
from taxation.

7B. The residence of the consular post of a sending State and the consular premises of the sending State shall be exempt from all national

taxation at whatever level. Provided that such exemption shall not extend to the payment required to be made in respect of specific services rendered.

Inviolability
of consular
archives.

7C. The consular archives of a consular post shall be inviolable.

Freedom of
movement
within
receiving
State

7D. The receiving State shall ensure freedom of movement and travel within its territory to all members of a consular post : Provided however that this freedom shall be subject to such restrictions, which may be imposed for reasons of national security.

Freedom of
communica-
tion.

7E. (1) The receiving State shall ensure and protect the freedom of communication on the part of the consular post for all its official purposes. The consular post may employ appropriate means of communication for communicating in the discharge of its functions.

(2) The official correspondence of the consular post relating to the discharge of the consular functions of the consular post, shall be inviolable.

(3) The consular bag shall be neither opened nor detained and shall contain only official correspondence and documents or articles intended exclusively for official use : Provided that if there is a reasonable suspicion on the part of the relevant authorities of the receiving State that the bag contains something other than the aforesaid official correspondence, they may request that the bag be opened in their presence by an authorised representative of the sending State. If the request is refused the bag shall be forthwith be returned to its place of origin.

6
*Consular Functions (Amendment)
Act, No. 18 of 2000*

(4) The consular courier entrusted with the transit of the consular bag shall be provided with an official document indicating his status and the number of packages which constitute the consular bag : Provided however a consular post may send one of its members to take possession of the bag directly from the Captain of the ship or aircraft on which the same was brought.

Right of consular officer to communicate with national of sending State.

7F. (1) A consular officer shall have the right of access to and to communicate freely with nationals of the sending State and likewise nationals of the sending State shall have the same access and freedom, to communicate with the consular officers of the sending State.

(2) The relevant authorities of the receiving State shall forthwith inform the consular post of the sending state if a national of such State is arrested or committed to prison, or to custody pending trial or is in any manner detained : Provided that in such cases the consular officers shall in conformity with the laws and regulations of the receiving State, have the right to visit such nationals, converse or correspond with them and arrange where necessary, legal representation for such nationals.

Information to be communicated to the consular officer of a sending State.

7G. It shall be the duty of the relevant authorities of the receiving State to communicate to the relevant consular post—

- (a) the information relating to the death of a national of the sending State ;
- (b) the necessity for the appointment of a guardian or trustee for a minor person or person of unsound mind who is a national of the sending State ; or

Consular Functions (Amendment)
Act No. 18 of 2006

7

- (c) information relating to any wreck or accident in relation to a vessel or aircraft of the sending State.

Communication with relevant authorities.

7H. The consular officers of the sending State shall have the right to communicate with the relevant authorities of the receiving State on all matters relating to the exercise of their consular functions, to the extent that it is permitted by the laws and regulations of the receiving state.

Consular fees and charges.

7J. The consular post may levy for the discharge of its consular functions within the territory of the receiving State, such fees and charges as are required in respect thereto. The amounts so levied as fees and charges shall be exempt from all dues and taxes of the receiving State.

Inviolability of consular officers and freedom from arrest &c.

7K. (1) All consular officers shall be treated with due respect at all times and consular officers shall not be liable to arrest or detention (other than for the commission of a grave crime and pursuant to a decision of a competent court) or any other form of restriction on their personal freedom.

(2) In the event of the arrest or detention of a consular officer for a grave crime as specified in subsection (1) the receiving State shall notify the head of the consular post of such fact. If the person arrested, is the head of the consular post himself, they shall notify the sending State of such fact through the means of the diplomatic channel.

(3) Consular officers and consular employees shall not in respect of acts performed in the

exercise of their consular functions, be subject to the jurisdiction of any Court of administrative authority of the receiving State.

Provided however, the provisions of subsection (3) shall not apply to civil proceedings instituted against a consular officer or a consular employee—

- (a) in respect of any contract entered into by such officer otherwise than as an agent of the sending State ; or
- (b) in respect of third party damage arising out of an accident in the receiving State.

(4) Except as otherwise provided for in subsection (1) of this section consular officers shall not be committed to prison or be liable to any other form of restriction on their personal freedom save in the execution of a judicial decision of a court of competent jurisdiction, having the effect of a final judgement.

(5) Where criminal proceedings are instituted against a consular officer, such officer shall appear before the competent authorities when summoned to do so: Provided that any such proceedings shall be conducted with due respect to such officer in consideration of his official position and other than as provided for in subsection (1), and in such a manner as will not substantially hamper the exercise of consular functions.

(6) Where pursuant to the circumstances set out in subsection (1) it becomes necessary to detain a consular officer, the receiving State shall ensure that any proceedings against such officer shall be instituted with the minimum of delay.

Liability to
give
evidence.

7L. Members of a consular post may be called upon to attend as witnesses in judicial or administrative proceedings and any consular officer shall not decline to so give evidence, except in relation to any matter connected to the exercise of their official functions or where they are required to produce any official document or correspondence.

Waiver of
privileges
and
immunities.

7M. The privileges and immunities provided for in subsections (1) and (3) of section 7K and section 7L may at any time be waived by the sending State in regard to a member of the consular post, by the sending State forwarding a written communication to that effect to the receiving State.

Exemptions.

7N. (1) Consular officers and consular employees and members of their families shall be exempt from any obligation with regard to the registration of aliens and residence permits in the receiving State.

(2) Members of consular posts and members of their families shall be exempt from social security requirements with respect to the services rendered by them for the sending State.

(3) Consular officers and consular employees and members of their families shall be exempt from all dues and taxes other than in the case of—

- (a) indirect taxes ;
- (b) dues on private immovable property situated in the receiving State ;
- (c) succession or inheritance dues ;

- (d) dues and taxes on private income ;
- (e) charges levied on specific services ;
and
- (f) registration fees, mortgage fees, stamp
duties and court record fees.

(4) The receiving State may in accordance with its laws grant exemption from all customs duties, taxes and related charges other than charges for storage or similar services in respect of—

- (a) articles for the official use of the consular post ;
- (b) articles for the personal use of a consular officer or members of his family including articles for his establishment. The articles intended for consumption shall not exceed the quantities stipulated by any rules or regulations of the receiving State in relation thereto.

(5) The receiving State shall exempt members of the consular post and members of their families from all personal services and military obligations or contributions.

(6) In the event of the death of a member of a consular post or a member of his family, the receiving State shall permit the export of his movable property other than any articles that may be prohibited and shall not levy any duties on the transfers of movable property of the deceased.

PART III

IMMUNITIES, FACILITIES AND PRIVILEGES OF HONORARY CONSULAR
POSTS IN SRI LANKA

Protection of
premises.

7P. The receiving State shall protect the consular premises from which a consular post headed by a honorary consular officer discharges its functions.

Exemption
from
taxation.

7Q. The consular premises of the sending State shall be exempt from all national taxation in respect of acts performed in the course of their consular functions : Provided that such exemption shall not extend to the payment required to be made in respect of specific services rendered.

Inviolability
of consular
archives.

7R. The consular archives and documents of a honorary consular post shall be inviolable.

Exemption
from customs
duties.

7S. The receiving State may in accordance with its laws grant exemption from all customs duties, taxes and related charges other than charges for storage or similar services supplied by or at the instance of the sending State for the official use of the honorary consular post.

Appearance
at criminal
proceedings.

7T. Where proceedings are instituted against an honorary consular officer, he must appear before the competent authorities : however such proceedings must be conducted with due respect to his official position.

Protection of
honorary
consular
officers.

7U. The receiving State shall accord all protection to an honorary consular officer as befits his position.

Exemptions

7v. (1) Consular officers and consular employees and members of their families shall be exempt from any obligation with regard to the registration of aliens and residence permits in the receiving State.

(2) The receiving State shall exempt honorary consular officers from all personal services and military obligations or contributions.

(3) An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments if any, which he receives from the sending State for the performance of his consular functions.

Applicability of the provisions of sections 7D to 7J to this Part.

7w. The provisions of section 7D to 7J of Part II of this Act as are applicable to Career Consular Posts shall *mutatis mutandis* apply, to and in relation to Honorary Consular Posts.

Insertion of heading before section 8 of the principal enactment.

8. The principal enactment is hereby amended by the insertion immediately before section 8 of that enactment of the following heading :—

“PART IV

GENERAL”.

Insertion of new sections 8A and 8B in the principal enactment.

9. The following new sections are hereby inserted immediately after section 8 of the principal enactment and shall have effect as sections 8A and 8B of that enactment :—

“Respect for the laws and regulations of the receiving State.

8A. (1) Without prejudice to the privileges and immunities enjoyed by persons to whom the provisions of this Act applies, every such person shall respect the laws and regulations of the receiving State. They shall also have a duty not to interfere in the internal affairs of the receiving State.

(2) Consular premises shall not be used in any manner incompatible with the exercise of consular functions.

Limited immunity where consular officers are nationals of receiving State.

8b. Consular officers who are nationals of, or are permanently resident in, the receiving State, shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions.”.

10. Section 11 of the principal enactment is hereby amended by the repeal of the definition of the expressions “consular functions” and “consular officer” and the substitution therefor of the following definitions :—

Amendment of section 11 of the principal enactment.

“consular archives” includes all papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card - indexes and any article of furniture intended for their protection or safekeeping ;

“consular functions” means any consular function authorized by any written law, or any consular function specified in the Schedule hereto and shall in addition include any function referred to in sections 3, 4, 5, 6 and 7 of this Act ;

“consular officer” means any person, including the head of a consular post, entrusted with the exercise of consular functions ;

“consular post” means and consulate - general, consulate, vice-consulate, consulate agency or honorary consulate ;

*Consular Functions (Amendment)
Act No. 18 of 2006*

“consular premises” means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, which is used exclusively for the purposes of the consular office.”.

Sinhala text to prevail in case of inconsistency.

11. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.