



SAMOA

ROBERT LOUIS STEVENSON FOUNDATION ACT 1991

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ROBERT LOUIS STEVENSON FOUNDATION ACT 1991 1991 No. 19

AN ACT to promote the honouring of the memory of Robert Louis Stevenson known to the people of Samoa as “Tusitala” and to give recognition to and to assist by the granting of a lease and other privileges the work of a body corporate known as the Robert Louis Stevenson Museum/Preservation Foundation Incorporated and for matters incidental thereto.

[Assent and commencement date: 17 December 1991]

1. Short title – (1) This Act may be cited as the Robert Louis Stevenson Foundation Act 1991.

(2) This Act comes into force on the date of assent.

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2. Interpretation – In this Act, unless the context otherwise requires:

“Act” includes Ordinance;

“approved object” means an object or purpose described in section 5;

“Cabinet” means the Cabinet of the Independent State of Samoa;

“Director” means a person who performs the duties of a director or a member of the Board of the Foundation by whatever name known;

“expatriate employee” means a person who is not a Samoan citizen and who has entered into and remains in Samoa solely for the purposes of employment by the Foundation;

“fiscal year” means the period of time commencing on 1 July in any year and ending on 30 June next following; or any alternative period of time previously approved in writing by the Minister of Education, Sports and Culture;

“Foundation” means the Robert Louis Stevenson Museum/Preservation Foundation Inc, a body incorporated in and under the laws of the State of Arizona in the United States of America; and includes any successor to that body which the Head of State acting on the advice of Cabinet by Order recognises as such successor;

“pecuniary gain”, for a member of the Foundation, includes any benefit which that member is or may be entitled to obtain by way of division of the property of the Foundation or any part thereof amongst the members of the Foundation or any of them upon the dissolution of the Foundation, but does not include the refund to that member of any payment made by that member to the Foundation.

3. Conditions attaching to benefits, rights and privileges afforded to Foundation – (1) Sections 5, 6, 7, 8, 12 and 13 apply to the Foundation only so long as the Foundation satisfies and continues to satisfy the following conditions:

- (a) that it is a body corporate (whether incorporated in the United States of America or elsewhere) and

its members are not associated for pecuniary gain;

- (b) that it provides in its Articles or other document under which it is constituted for at least two fifths of its directors to be appointed by the Head of State of Samoa with provision for alternates of those Directors to be appointed by the Head of State;
- (c) that it is carrying out and performing any of the objects set out in section 4(a) or (b):

PROVIDED THAT the Head of State on the advice of Cabinet may for the purposes of this section by Order substitute some other approved object or objects in lieu of the objects referred to in section 4(a) or (b).

(2)The members of the Foundation are not deemed to be associated for pecuniary gain merely by reason of the following circumstances, namely:

- (a) that the Foundation itself makes a pecuniary gain unless that gain or some part thereof is divided among or received by the members or some of them, or unless the members of the foundation or some of them are entitled to divide between them or receive the property of the Foundation or part thereof on its dissolution;
- (b) that any member of the Foundation derives pecuniary gain from the society by way of salary as a servant or officer of the Foundation;
- (c) that any member of the Foundation derives from the Foundation any pecuniary gain to which he would be equally entitled if they were not a member of the Foundation.

4. Approved objects of Foundation – For the purposes of this Act the following are the approved objects of the Foundation:

- (a) the restoration, maintenance, and preservation as part of the heritage of Samoa, of the residence at Vailima once occupied as a home by Robert Louis Stevenson together with the grounds appurtenant thereto which residence and grounds

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are more particularly described in the Schedule to this Act;

- (b) the raising of funds for the purposes set out in paragraph (a);
- (c) the preservation of the tomb of Robert Louis Stevenson as a national monument of Samoa;
- (d) the renovation of any building of historical significance in Samoa;
- (e) the establishment, maintenance and management of a museum in Samoa;
- (f) the establishment maintenance and management or the assistance in the establishment maintenance and management of any track, walkway, green way or park in Samoa;
- (g) the raising of funds for any approved object;
- (h) the making of any gift or loan to the government, or to any person for any charitable purpose approved by Cabinet;
- (i) the carrying on of any other activity which the Head of State acting on the advice of Cabinet may by Order declare to be an approved object.

5. Power to lease – (1) Despite the Lands, Surveys and Environment Act 1989 or the National Parks and Reserves Act 1974 but subject to subsection (2) of this section, the Minister for Natural Resources and Environment may lease to the Foundation all or any part or parts of the land described in the schedule to this Act for the purposes of those approved objects of the Foundation which are set out in section 4(a) of this Act (together with such other purposes as may be ancillary thereto) for a term of 20 years at such annual rental (whether nominal or otherwise) as may be agreed upon by the Minister and the Foundation and otherwise subject to such covenants, conditions and stipulations as may from time to time be agreed upon between the Minister for Natural Resources and Environment (after he or she has consulted with the Minister for Education, Sports and Culture) and the Foundation, with two rights of renewal each for terms of 20 years at annual rentals (whether nominal or otherwise) to be determined in accordance with the provisions in that regard contained in the lease and otherwise

subject to the same covenants conditions and stipulations as are contained in the lease.

(2) Nothing in the section gives the Minister for Natural Resources and Environment power to lease any land referred to in the Stevenson Memorial Reserve and Mount Vaea Reserve Ordinance 1958.

6. Relief from customs duty and excise tax – (1) Subject to section 3 and to the conditions referred to in subsection (2), the Foundation is entitled to import into Samoa, free of customs duty and excise tax, or to purchase in Samoa with benefit of refund of customs duty and excise tax any or all of the following items which it satisfies the Comptroller of Customs are necessary or desirable for the furtherance of any of the approved objects of the Foundation:

- (a) building materials plant vehicles machinery tools and other apparatus and equipment;
- (b) furniture furnishings antiquities, books and artefacts;
- (c) memorabilia relating to or associated with Robert Louis Stevenson;
- (d) office equipment, books and stationery.

(2) The following conditions apply to all items to which either of the benefits referred to in subsection (1) attach:

- (a) each item is to be used for a period of not less than 5 years from the relevant date solely or principally in the furtherance of the approved object or approved objects for which it was imported. If any item is not so used customs duty and excise tax shall be assessed in accordance with paragraph (c) at the date upon which it ceases to be so used, and such duty shall be paid by the Foundation forthwith upon assessment;
- (b) no item is to be sold or disposed of within a period of 5 years from the relevant date, unless there is paid at the time of sale or disposal, customs duty and excise tax assessed under paragraph (c);
- (c) where customs duty or excise tax is assessed for the purposes of paragraph (a) or (b), the duty or tax is to be assessed at the normal rate applicable to such item at the relevant date, but rebated in the

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proportion that the period of time to time from the relevant date to the date of assessment bears to the period of 5 years.

(3) For the purposes of subsection (2), the relevant date, in the case of any item imported by the Foundation, is the date of that importation, and in the case of any item acquired by the Foundation, with benefit of refund of customs duty, or excise tax is the date of acquisition.

7. Exemption from income tax – Subject to section 3, the income of the Foundation is wholly exempt from income tax.

8. Other taxes etc. – Subject to section 3, the Foundation is exempted from the following taxes, fees and duties:

- (a) any fee for any licence which it may be obliged to obtain under the Business Licences Act 1998;
- (b) stamp duty on any lease or renewal thereof granted under section 5.

9. Taxation of expatriate employees – Whenever section 7 applies to the Foundation, the overseas income of an expatriate employee together with income derived by him or her as an employee of the Foundation is exempted from income tax.

10. Customs concessions for expatriate employees – The Minister of Finance may extend to any expatriate employee of the Foundation all or any of the benefits and privileges relating to customs duty and excise tax which may then be applicable to expatriate Government contract employees.

11. Annual Report – (1) So long as section 12 applies to the Foundation, the Foundation shall submit to the Minister for Education, Sports and Culture once in each calendar year a report in writing of the conduct and progress of the activities of the Foundation during the fiscal year immediately preceding the submission of the report together with the annual accounts for that year and a copy of the report is to be laid by the Minister before the Legislative Assembly if the Assembly is then in session, but if not, within 7 days after the commencement of the next ensuing session.

(2) The Controller and Auditor General must audit the accounts for the Foundation annually.

12. Foundation a Charitable Trust – (1) Subject to section 3, the Foundation is, for all purposes, taken to be Charitable Trust as fully and effectually as if it were a Trust Board registered under the Charitable Trusts Act 1965.

(2) Section 5B of the Incorporated Societies Ordinance 1952 does not apply to the Foundation.

13. Setting up period – For a period of 12 months from the date of the commencement of this Act, the Foundation is taken to be carrying out and performing the approved objects set out in section 4(a) and (b) although it may not in fact have commenced to carry out and perform those objects.

14. Savings – Nothing in this Act relieves the Foundation or any expatriate employee for any period from liability to pay:

- (a) any levy payable under the Accident Compensation Act 1989; or
- (b) any motor vehicle licence or registration fees which may be payable under the Road Traffic Ordinance 1960; or
- (c) any hospital, medical, pharmaceutical, nursing, first aid, or other fees or charges which may be payable under the Health Ordinance 1959; or
- (d) any radio communication, postage, telephone, private box, parcels clearance, registration of code address or other fees or charges which may be payable under the Postal Services Act 2010; or
- (e) any other fee or charge which may be payable under any other law for the time being of Samoa as a payment for a service rendered; or
- (f) any tax, duty, assessment or impost levied or imposed by the Government other than those specified in sections 7, 8 and 9 of this Act or to the extent permitted under section 10 or 11 of this Act.

15. Administration of Act – This Act shall be administered under the authority of the Minister for Education, Sports and Culture, or of such other Minister of State as may be designated for that purpose by the Prime Minister.

16. Appointment of Samoan Directors – An appointment of a Director or his or her alternate which is made by the Head of State of Samoa shall be made by the Head of State acting on the advice of Cabinet, by Order, and any appointment so made may at any time be revoked in like manner.

SCHEDULE
(Sections 4 and 5)

All that piece or parcel of land containing an area of six point seven naught four eight hectares 6.7048ha (16a.-2r.-10.9p) more or less, situated at Vailima in the District of Tuamasaga described as Parcel 2620 being part of parcel 115/84 Flur VIII Upolu and part of the land registered in Volume 1 Folio 121 of the land register of Samoa as the same is more particularly delineated on Plan 6830 deposited in the Office of the Chief Executive Officer of the Ministry of Natural Resources, Environment and Meteorology (MNREM), Apia.

All that piece or parcel of land containing an area of four point nine seven naught two hectares 4.9702ha (12a.-1r.-05.0p) more or less, situated at Vailima in the District of Tuamasaga described as Parcel 2622 being parts of parcels 115/83 and 234 Flur VIII Upolu and part of the land registered in Volume 1 Folio 121 of the land register of Samoa as the same is more particularly delineated on Plan 6831 deposited in the Office of the Chief Executive Officer of the Ministry of Natural Resources and Environment (MNRE), Apia.

REVISION NOTES 2008–2019

This is the official version of this Act as at 31 December 2019.

This Act has been revised by the Legislative Drafting Division from 2008 to 2019 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes. (*Post Office Act 1972* changed to *Postal Services Act 2010*)
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) Present tense drafting style where appropriate:
 - “hereby” and “from time to time” (or “at any time” or “at all times”) removed
 - (ii) Use of plain language
 - “notwithstanding” changed to “despite” or “although”
 - “pursuant to” or “in accordance with the provisions of” changed to “under”
 - “deemed” changed to “taken”
 - Names of Minister and Ministry corrected to be aligned with the names in the Ministerial and Departmental Arrangements Act 2003.

Since the publication of the *Consolidated and Revised Statutes of Samoa 2007* this Act was amended by:

- The *Audit Act 2013, No. 22*, in section 11 by renumbering existing provision as “(1)” and adding a new subsection (2).



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
The Ministry of Education, Sports and Culture.*
