

# ROBERT LOUIS STEVENSON FOUNDATION

## ANALYSIS

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## THE 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 Western Samoa as "Tusitala" and to give recognition to and 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.  
*(17 December 1991)*

1. **Short Title** - (1) This Act may be cited as the Robert Louis Stevenson Foundation Act 1991.

2. **Interpretation** - In this Act unless the context otherwise requires:

"Act" includes Ordinance.

"Approved object" means an object or purpose described in section 5 of this Act.

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**"Cabinet"** means the Cabinet of the Independent State of Western 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 Western Samoan citizen and who has entered into and remains in Western Samoa solely for the purposes of employment by the Foundation:

**"Fiscal year"** means the period of time commencing on the first day of July in any year and ending on the last day of June next following; or any alternative period of time previously approved in writing by the Minister of Education.

**"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"** in relation to 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)** The provisions of sections 5, 6, 7, 8, 12 and 13 of this Act shall 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 Western 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 paragraph (a) or paragraph (b) of section 4 of this Act:

**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 either or both of the aforesaid paragraphs (a) and (b) of section 4.

(2) The members of the Foundation shall not be 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 approved objects of the Foundation are:

- (a) The restoration, maintenance, and preservation as part of the heritage of Western 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 are more particularly described in the Schedule to this Act;

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- (b) The raising of funds for the purposes set out in paragraph (a) of this section;
- (c) The preservation of the tomb of Robert Louis Stevenson as a national monument of Western Samoa;
- (d) The renovation of any building of historical significance in Western Samoa;
- (e) The establishment, maintenance and management of a museum in Western 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 Western 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)** Notwithstanding the provisions of the Land and Environment Act 1989 or the National Parks and Reserves Act 1974 but subject to subsection (3) of this section the Minister of Lands and Environment is hereby empowered to 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 paragraph (a) of section 4 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 of Lands and Environment (after he has consulted with the Minister of Education) 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 shall give the Minister of Lands 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 of this Act and to the conditions referred to in subsection (2) of this section, the Foundation shall be entitled to import into Western Samoa, free of customs duty and excise tax, or to purchase in Western 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 artifacts;
- (c) Memorabilia relating to or associated with Robert Louis Stevenson;
- (d) Office equipment, books and stationery.

(2) The following conditions shall apply to all items to which either of the benefits referred to in subsection (1) of this section 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) of this subsection at the date upon which it ceases to be so used, and such duty shall

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be paid by the Foundation forthwith upon assessment;

- (b) No item shall 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 in accordance with paragraph (c) of this subsection;
- (c) Where customs duty or excise tax is assessed for the purposes of paragraph (a) or paragraph (b) of this subsection, such duty or tax shall be assessed at the normal rate applicable to such item at the relevant date, but rebated in the proportion that the period of time to time from the relevant date to the date of assessment bears to the period of five years.

(3) For the purposes of subsection (2) of this section 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 the provisions of section 3 of this Act the income of the Foundation shall be wholly exempt from income tax.

8. **Other taxes etc.** - Subject to the provisions of section 3 of this Act the Foundation shall be exempt from the following taxes fees and duties:

- (a) Any fee for any licence which it may be obliged to obtain pursuant to the Business License Ordinance 1960;
- (b) Stamp duty on any lease or renewal thereof granted pursuant to section 5 of this Act.

9. **Taxation of expatriate employees** - Whenever the provisions of section 7 of this Act apply to the Foundation the overseas income of an expatriate employee together with income derived by him as an employee of the Foundation shall be exempt from income tax.

**10. Customs concessions for expatriate employees** - The Minister of Finance may in his discretion 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** - So long as section 12 of this Act applies to the Foundation, the Foundation shall submit to the Minister of Education 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 this Report shall 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.

**12. Foundation a Charitable Trust** - (1) Subject to section 3 of this Act the Foundation shall for all purposes be deemed 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 shall not apply to the Foundation.

**13. Setting up period** - For a period of twelve months from the date of the commencement of this Act the Foundation shall be deemed to be carrying out and performing the approved objects set out in paragraphs (a) and (b) of section 4 of this Act notwithstanding that it may not in fact have commenced to carry out and perform those objects.

**14. Savings** - Nothing in this Act shall be held to relieve the Foundation or any expatriate employee for any period from liability to pay:

- (a) Any levy payable under the Accident Compensation Act 1989;
- (b) Any motor vehicle licence or registration fees which may be payable under the Road Traffic Ordinance 1960;

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- (c) Any hospital, medical, pharmaceutical, nursing, first aid, or other fees or charges which may be payable pursuant to the Health Ordinance 1959;
- (d) Any radio communication, postage, telephone, private box, parcels clearance, registration of code address or other fees or charges which may be payable pursuant to the Post Office Act 1972;
- (e) Any other fee or charge which may be payable pursuant to any other law for the time being of Western 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 pursuant to sections 10 or 11 of this Act.

**15. Administration of Act** - This Act shall be administered under the authority of the Minister of Youth, Sports and Cultural Affairs, or of such other Minister of State as may be designated for that purpose by the Prime Minister.

**16. Appointment of Samoan Directors** - Every appointment of a Director or his alternate which is made by the Head of State of Western 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

All that piece of land containing an area of seventeen acres three roods and twenty four point five perches (17a - 3r - 24.5p) more or less situated at Vailima near Apia in the District of Tuamasaga described as Parcel 118/84 Flur VIII Upolu being part of the land registered in Volume 1 Folio 121 of the Land Register of Western Samoa as the same is shown on Grundburch Band IV Blatt 415 & Plan 1193L and Cadastral sheet 28 kept in the office of the Director of Lands, Apia.



**NOTES**

The Robert Louis Stevenson Foundation Act 1991 appearing in this reprint comprises that Act and the amendments contained in the Robert Louis Stevenson foundation Amendment Act 1992/1993 as set out below:

**Section 12(2):** A new subsection has been added by section 2 of the amendment Act.

**Section 15:** Amends the provisions as to the administration of the Act by removing it from the Department of Education to the authority of the Minister of Youth, Sports and Cultural Affairs.

**The Robert Louis Stevenson Act 1991  
is administered in the Department of Youth, Sports and Cultural**