

LANDING LIMITED BILL 2016

SAMOA

Explanatory Memorandum

1.0 Object and reasons:

- 1.1 The Bill seeks to legislate the terms and arrangements that have agreed between the Government of Samoa and the Endemol Shine Australia Pty Ltd (Overseas Company) in relation to the production and filming of the Australian Survivor Television Series 1 in Samoa (Australian Survivor).
- 1.2 The object of the Bill is to provide for tax, duty and rebate incentives for the production of the Australian Survivor in Samoa.

Clauses:

PART 1 - PRELIMINARY

- Clause 1:** - provides for the short title and commencement.
- Clause 2:** - provides for the definitions of terms used in the Bill.
- Clause 3:** - binds the Government.

PART 2 - TAX, DUTY AND REBATE INCENTIVES

- Clause 4:** - provides for a duty of the Government to pay the Local Company a cash rebate of 30% of the Qualifying Samoan Production Expenditure (QSPE). The cash rebate is payable within 7 working days after the airing of the first episode of the Survivor Samoa in Australia and not to exceed SAT\$5.7 million. It further provides for circumstances whereby at the airing of the first episode of the Survivor Samoa, the production and audits remain on-going. Exchange rate for accounting for QSPE is AUD \$1 = SAT\$0.5333.
- Clause 5:** - exempts a foreign employee of the Overseas Company and a person employed or contracted from outside Samoa to the Overseas Company. Exemption from income tax does not apply to a resident person.
- Clause 6:** - provides for the exemption of fees for work and immigration permits application by the Overseas Company or Local Company under the Labour and Employment Relations Act 2013 and the Immigration Act 2004. It also provides for the duty of the Overseas Company to provide its employee's details such as full names etc. to the Ministers responsible for the abovementioned Acts.
- Clause 7:** - exempts imported goods listed in Schedule 2 and provides for the power of the Minister for revenue to amend the list under that Schedule. The amendment does not affect the exemption applied to any imported goods removed as a result of the amendment.

PART 3 - MISCELLANEOUS

- Clause 8:** - restricts the sale or gift of imported goods unless with prior written approval of the Chief Executive Officer.
- Clause 9:** - provides for a duty of the Local Company to submit (at the end of every 2 weeks after the commencement of the production) an expenditure report to be audited by the Chief Executive Officer (CEO) and answer any questions relating to the report as audited by the CEO. It further provides for the duty of the CEO to prepare an audit report to show whether the Act has been complied with.
- Clause 10:** - provides for consequential amendments to be made to the Income Tax Act 2012 by amending Schedule 2 of that Act.
- Clause 11:** - empowers the Minister for revenue to nominate a date of expiry of the Act by Notice to be published in the Savali once the purpose of the proposed Act is completed and its provisions have been complied with. The amendment made to Schedule 2 of the Income Tax Act 2012 is repealed from the date of the expiry of the proposed Act.
- Schedule 1:** - provides for the list of special expenditures considered QSPE.
- Schedule 2:** - provides for the list of imported goods exempted.



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(Hon TIALAVEA Fea Leniu Tionisio Hunt)

MINISTER FOR REVENUE

LANDING LIMITED BILL 2016

SAMOA

Arrangement of Provisions

PART 1

PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Act binds Government

PART 2

TAX, DUTY AND REBATE INCENTIVES

4. Cash rebate
5. Income tax exemption
6. Exemption on fees for work and immigration permits
7. Exemption on imported goods

**PART 3
MISCELLANEOUS**

8. Restriction on the sale or gift of imported goods
9. Reports and accounts
10. Consequential amendment
11. Expiry of the Act

Schedules

2016, No.

A BILL INTITULED

AN ACT to provide for tax, duty and rebate incentives for the 2016 production in Samoa of the Australian Survivor Television Series 1 and for related purposes.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

PART 1 PRELIMINARY

1. **Short title and commencement:**

This Act may be cited as the Landing Limited Act 2016 and commences on 4 January 2016.

2. **Interpretation:**

In this Act, unless the context otherwise requires:

“Broadcast Network” means Network TEN Pty Limited (ABN 91 052 515 250), a company incorporated in Australia, of 1 Saunders Street, Pyrmont NSW 2009 Australia;

“Chief Executive Officer” means the Chief Executive Officer responsible for revenue and custom service;

“income tax” has the meaning in the Income Tax Act 2012;

“Local Company” means the company incorporated as the Landing Limited under the Companies Act 2001;

“Minister” means the Minister responsible for revenue and custom service;

“Overseas Company” means the company incorporated in Australia as Endemol Shine Australia Pty Limited;

“production” means the production in Samoa of the Australian Survivor Television Series 1;

“Qualifying Samoan Production Expenditure (QSPE)” means the Local Company or Overseas Company’s production expenditure on the production that is incurred for, or is reasonably attributable to:

- (a) land in Samoa used for location purposes for the making of the production;
- (b) goods or services that are located in Samoa used for the purpose of producing and making the television series;
- (c) foreign or non-Samoan goods or services that are incurred during the production period whilst in Samoa.

“resident person” has the meaning in the Income Tax Act 2012.

3. Act binds Government:

This Act binds the Government.

PART 2

TAX, DUTY AND REBATE INCENTIVES

4. **Cash rebate:**

- (1) The Government must pay the Local Company a cash rebate of 30% of the Qualifying Samoan Production Expenditure set out in Schedule 1.
- (2) The cash rebate under subsection (1):
 - (a) is payable within 7 working days after the airing of the first episode of the Australian Survivor Television Series 1 in Australia, produced in Samoa under this Act;
 - (b) if the first episode airs in a time that the production and audits remain on-going, then -
 - (i) the cumulative total approved pursuant to the completed audits at the time of the first episode airing is payable within 7 working days of the first episode airing; and
 - (ii) the balance is due and payable within 7 working days of each subsequent audit until such time that the production is completed or the total amount in paragraph (c) is fully paid; and
 - (c) is a rebate up to \$5.7 million paid in Samoan Tala.
- (3) The exchange rate for accounting for QSPE incurred in Australia is to be converted to Samoan Tala as follows: AUD \$1 = SAT \$0.5333.

- (4) Any expenditure for the cash rebate purposes is accounted on a value added goods and services tax (VAGST) inclusive basis.

5. Income tax exemption:

- (1) The following persons are exempt from liability for income tax under the laws of Samoa on any income earned in Samoa by those persons:
 - (a) a foreign employee of the Overseas Company or Broadcast Network; and
 - (b) a person contracted from outside Samoa to the Overseas Company or Broadcast Network, including any show host, contestant or executive.
- (2) Subsection (1) does not apply to a resident person employed or contracted by the Local Company or the Overseas Company.

6. Exemption on fees for work and immigration permits:

- (1) Without limiting section 79 of the Labour and Employment Relations Act 2013, the Minister responsible for labour and employment relations may exempt fees payable by the Overseas Company, Broadcast Network or Local Company under that Act for the application or issue of work permits.
- (2) Without limiting section 48 of the Immigration Act 2004, the Minister responsible for immigration may exempt fees payable by the Overseas Company, Broadcast Network or Local Company under that Act in regard to the application of issuing of temporary resident visas.

- (3) The Overseas Company must:
 - (a) specify the employees and persons by full name, together with their passport details and country of origin, in a timely manner to the Minister responsible for labour and employment relations; and
 - (b) specify the employees and persons by full name, together with their passport details and country of origin, in a timely manner to the Minister responsible for immigration.

7. Exemption on imported goods:

- (1) The Overseas Company and the Local Company are exempted from customs duty under the Customs Act 2014 for imported goods listed in Schedule 2.
- (2) The Minister may, by Notice in the Savali, amend the list of imported goods in Schedule 2.
- (3) The amendment to Schedule 2 under subsection (2) does not affect exemption of any imported goods removed from Schedule 2 as a result of the amendment.

PART 3

MISCELLANEOUS

8. Restriction on the sale or gift of imported goods:

No imported goods of the Overseas Company or the Local Company may be sold or given away unless, with prior written approval of the Chief Executive Officer:

- (a) the goods are given away for a charitable purpose; or
- (b) customs duty, as determined by the Chief Executive Officer, is paid on the value of the goods.

9. Reports and accounts:

- (1) The Local Company must, at the end of every 2 weeks after the commencement of the production, submit to the Chief Executive Officer an expenditure report to be audited by the Chief Executive Officer.
- (2) The Chief Executive Officer must prepare an audit report based on the expenditure submitted to show whether or not the provisions of this Act have been complied with.
- (3) The Local Company must answer all questions put to it by the Chief Executive Officer relevant to the report and accounts, and produce any other further document or information that may be required by the Chief Executive Officer.

10. Consequential amendment:

In subclause (1) of Part A of Schedule 2 of the Income Tax Act 2012, at the end of paragraph (zc) substitute the full stop with a semi colon, and after that paragraph insert:

- “(zd) a person exempted under section 5 of the Landing Limited Act 2016.”.

11. Expiry of the Act:

- (1) The Minister may, with the approval of Cabinet, by Notice published in the Savali nominate a date of expiry of this Act once the purpose of this Act is completed and its provisions have been complied with.
- (2) When this Act expires, paragraph (zd) of Part A of Schedule 2 of the Income Tax Act 2012 is repealed from the date of expiry.

SCHEDULE 1
(Section 2)

SPECIAL EXPENDITURES CONSIDERED QSPE

- 1. Development expenses:**
Expenditure on development such as location surveys, storyboarding, script writing, research that occurs within Samoa.
- 2. Copyright:**
The acquisition of copyright or licensing of copyright in a pre-existing work for use in the production if the copyright of the pre-existing work is held by a Samoan resident.
- 3. Insurance:**
Expenditure on insurance policies that are required for the making of the project where the service is provided in Samoa. For example, insurance for props, sets, wardrobe, marine, transport, aviation, miscellaneous equipment, public liability insurance.
- 4. Publicity:**
Publicity and promotion expenditure where it is incurred by the Overseas Company before completing the production and copyright in the publicity material is held by a Samoan resident and includes a resident company.
- 5. Legal Expenses:**
Incurred in respect of services performed by a law firm in Samoa during the making of the production. Such services would need to be integral to production activity, for example, setting up the Local Company, contracting employees, music and performance clearances, insurance and lease agreements.

6. Audit and Accounting:

Expenses incurred in respect of services performed by firms in Samoa during the making of the production.

7. Air fares:

100% of the cost of return air fares for all foreign cast and crew only for travel on Virgin Airlines. If foreign cast and crew are travelling on any aircraft not operated by Virgin Airlines then only 50% of the expenditure incurred on those return air fares is considered QSPE.

8. Freight:

Expenditure on freighting items to Samoa that is required for the making of the television series.

9. Costumes, make-up and set design:

Expenditure incurred on the purchasing of costumes, make-up and set design properties that will be used for the production.

10. Hiring of cameras and filming equipment:

Cost of hiring cameras and filming equipment from outside Samoa if the cameras and filming equipment are not available in Samoa.

11. Local Crew:

Cost of salaries for local residents employed or contracted by the Local Company for work or services performed in Samoa, including associated local labour costs (fringes).

12. International Crew:

Cost of crew employed or contracted by the Overseas Company for work or services performed in Samoa.

SCHEDULE 2
(Section 7)

IMPORTED GOODS

Consumables including camera expendables; batteries; specialised art department expendables such as model making chemicals, fixings glues, nail guns, ropes, hessian; some food items (those that are not available locally); specialised production stationery such as “write-in-the-rain” notebooks and pens, specific printer ink cartridges; contest buffs; filters and parts for shooting generators; electric expendables, miscellaneous specialised production expendables.
