

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

CAUSE NO <sup>0480</sup> OF 2007

**IN THE MATTER** of The Goldielands Trust dated the 10<sup>th</sup> day of April 1970

**AND IN THE MATTER** of the Trusts Law (2007 Revision)

**AND IN THE MATTER** of the Perpetuities Law (1999 Revision)

**BETWEEN:**

**HSBC INTERNATIONAL TRUSTEE LTD**

Plaintiff

**AND**

**(1) THE REGISTRAR OF TRUSTS**

**(2) THE HONOURABLE WALTER JOHN MONTAGU  
DOUGLAS SCOTT, commonly known as the EARL OF  
DALKEITH**

**(3) HER MAJESTY'S ATTORNEY GENERAL FOR THE  
CAYMAN ISLANDS**

Defendants

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**ORIGINATING SUMMONS**

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**TO:**

(1) The Registrar of Trusts Citrus Grove, Ground Floor Goring Avenue George Town Grand Cayman, Cayman Islands	(2) The Honourable Walter John Montagu Douglas Scott, commonly known as the Earl of Dalkeith  c/o Bodden and Bodden 802 Grand Pavilion Commercial Centre West Bay Road Grand Cayman, Cayman Islands
(3) Her Majesty's Attorney General for the Cayman Islands Cayman Islands Government 1 <sup>st</sup> Floor Ansbacher House George Town Grand Cayman, Cayman Islands	

**LET THE DEFENDANTS**, within 14 days after service of this Summons upon them, counting the day of service, return the accompanying Acknowledgment of Service form to the Court Office, PO Box 495 GT, George Town, Grand Cayman.

By this Summons, which is issued on the application of the Plaintiff, HSBC International Trustee Limited of PO Box 1109 GT, Strathvale House, 2<sup>nd</sup> Floor, North Church Street, George Town Grand Cayman, Cayman Islands who is the trustee of the Goldielands Trust, the Plaintiff seeks the following Orders and Directions:

- 1 That it may be determined whether in any and if so in what respects the provisions of the Goldielands Trust may be liable at the suit of any Defendant hereunder to be rectified for the purpose of giving full effect to the same.
- 2 That it may be determined whether (if at all) and if so in what respects otherwise than under the law relating to perpetuities the provisions of the Goldielands Trust (subject to any such rectification which may be ordered as aforesaid) are invalid and in particular whether by virtue of any difference between the laws of charity in Scotland and in the Cayman Islands or otherwise howsoever the trusts of Clauses 5, 7, 8 and 10 of the Goldielands Trust (or any and if so which of them) are unenforceable but the trusts of Clause 11 are valid and of full effect subject only to questions of perpetuity, or in the alternative that it may be declared that subject as aforesaid the trusts of the Goldielands Trust are fully effective according to their terms.
- 3 That it may be determined whether there is any defect in the trusts of the Goldielands Trust arising under the law relating to perpetuity and in that event what is the nature and extent of any such defect and whether it ought to be remedied by reformation pursuant to section 14 of the Perpetuities Law as now in force.
- 4 That it may be determined if and in so far as any of the trusts powers and provisions of the Goldielands Trust are not ineffective in law or if and in so far as otherwise ineffective ought to be reformed as aforesaid it is expedient in the interests of the Trust that an Order should be made under section 63 of the Trusts Law or under the inherent jurisdiction of the Court permitting the following transaction to be effected in the administration of the

trusts namely the appointment as and when the Plaintiff company may think fit of the following person or persons to act in the trusteeship of the same and whether as to the whole or any part or parts of the property comprised in the trust namely:

4.1 one or more trustees not resident in the United Kingdom under the general law but deemed resident in the United Kingdom for the purposes of the law relating to income tax or capital gains tax;

or in the alternative

4.2 (notwithstanding the provisions of Clause 23 of the Goldielands Trust) one or more trustees resident in the United Kingdom under the general law.

5 That such further or other order may be made as to the execution of the Goldielands Trust whether under section 48 of the Trusts Law or otherwise as the Court may deem fit.

6 That an Order be made that the Second Defendant may for the purposes of these proceedings represent all persons claiming to be entitled to benefit under the trusts of the Goldielands Trust otherwise than as persons having purposes charitable under the laws of the Cayman Islands.

7 That the costs of this application may be provided for.

8 Such further and / or other relief as the Court may deem just.

If the Defendants do not acknowledge service, such judgment may be given or order made against or in relation to them as the Court may think just and expedient.

Dated this 10<sup>th</sup> day of October 2007

*Maples & Calder*

**MAPLES and CALDER**

NOTE – This Summons may not be served later than 4 calendar months (or, if leave is required to accept service out of the jurisdiction, 6 months) beginning with that date unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgment of Service are given in the accompanying form.

This Originating Summons is issued by Maples and Calder, Attorneys at Law for the Plaintiff, whose address for service is Ugland House, PO Box 309GT, George Town, Grand Cayman  
(Ref: ZZR/625906/12381170)

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF ORIGINATING SUMMONS**

The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Party or by the Party if acting in person. After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

**Notes for Guidance**

1. Each Party (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. For the purpose of calculating the period of 28 days for acknowledging service, a writ served on the Party personally is treated as having been served on the day it was delivered to him.
4. Where the Party is referred to in the Originating Summons in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "referred to as (the name stated on the Originating Summons)".
5. Where the Party is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
6. Where the Party is an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
7. Where the Party is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
8. Where the Party is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Party acting in person may obtain help in completing the form at the Courts Office.

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**B E T W E E N:**

**HSBC INTERNATIONAL TRUSTEE LTD**

Plaintiff

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- (1)     THE REGISTRAR OF TRUSTS**
- (2)     THE HONOURABLE WALTER JOHN MONTAGU  
         DOUGLAS SCOTT, commonly known as the EARL OF  
         DALKEITH**
- (3)     HER MAJESTY'S ATTORNEY GENERAL FOR THE  
         CAYMAN ISLANDS**

Defendants

**ACKNOWLEDGMENT OF SERVICE  
OF ORIGINATING SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form.  
If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

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1.        State the full name of the Party by whom or on whose behalf the service of the Originating Summons is being acknowledged.

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2.        State whether the Party intends to contest or otherwise participate in the proceedings (tick appropriate box)



yes



no

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Service of the Originating Summons is acknowledged accordingly

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Address for service:

Notes on address for service

Attorney: where the Party is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Party may not act by a foreign attorney.

Party in person: where the Party is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered principal office.

Indorsement by Applicant's Attorney (or by Applicant if acting in person) of his name, address and reference, if any, in the box below.

Maples and Calder  
P.O. Box 309  
George Town  
Grand Cayman  
Ref: ZZR/625906-01

Indorsement by Party's Attorney (or by Party if acting in person) of his name, address and reference, if any, in the box below.

[Empty box for indorsement]