



## CHAPTER 2.

An Act to provide for the division of the Testamentary Trusts of the late William Alexander Louis Stephen Duke of Hamilton Brandon and Chatelherault into two separate Trusts and for other purposes.

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[30th July 1918.]

**W**HEREAS the Most Noble William Alexander Louis Stephen Duke of Hamilton Brandon and Chatelherault K.T. (hereinafter referred to as "the Testator") was at the date of his death proprietor in fee simple of extensive and valuable estates in the counties of Lanark Linlithgow and Stirling the estates in the county of Lanark being known as and sometimes hereinafter referred to as "the Hamilton Estates" and the estates in the counties of Linlithgow and Stirling being known as and sometimes hereinafter referred to as "the Kinneil Estates":

And whereas the Testator was at the date aforesaid also proprietor in fee simple of the greater part of the island of Arran in the county of Bute in Scotland and of estates known as the Easton Estate and the Great Glemham Estate in the county of Suffolk in England:

And whereas the Testator was also at the said date proprietor of various rights of superiority in the counties of Lanark Linlithgow Stirling Peebles and Edinburgh created many years ago and of more modern rights of superiority included in the Hamilton Kinneil and Arran estates:

And whereas the Testator was on the tenth day of December one thousand eight hundred and seventy-three married to the Lady Mary Montagu now the Most Noble Mary Duchess of Hamilton:

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And whereas there was issue of the said marriage one child only namely the Lady Mary Louise Hamilton who was born on the first day of November one thousand eight hundred and eighty-four :

And whereas the said Lady Mary Louise Hamilton was married on the fourteenth day of June one thousand nine hundred and six to the Most Honourable James Graham commonly called Marquess of Graham and there has been issue of the said marriage three children and no more namely:—

The Honourable James Angus Graham commonly called the Earl of Kincardine who was born on the second day of May one thousand nine hundred and seven ;

The Honourable Mary Helen Alma Graham commonly called Lady Mary Helen Alma Graham who was born on the eleventh day of April one thousand nine hundred and nine ; and

The Honourable Ronald Malise Hamilton Graham commonly called Lord Ronald Malise Hamilton Graham who was born on the twentieth day of September one thousand nine hundred and twelve :

And whereas the Testator died on the sixteenth day of May one thousand eight hundred and ninety-five and was survived by his wife the said Mary Duchess of Hamilton and by the said Marchioness of Graham :

And whereas the Testator was succeeded in the title and dignity of Duke of Hamilton by his kinsman Alfred Douglas now Duke of Hamilton Brandon and Chatelherault (hereinafter referred to as "the present Duke") :

And whereas the present Duke was married on the fourth day of December one thousand nine hundred and one to Nina Mary Benita Poore daughter of Major Robert Poore and there has been issue of the said marriage seven children and no more namely:—

The Honourable Douglas Hamilton commonly called the Marquess of Douglas and Clydesdale who was born on the third day of February one thousand nine hundred and three ;

The Honourable Jean Douglas Hamilton commonly called Lady Jean Hamilton who was born on the eleventh day of June one thousand nine hundred and four ;

The Honourable George Nigel Douglas Hamilton commonly called Lord George Nigel Hamilton who was born on

the fourth day of January one thousand nine hundred and six; A.D. 1918.

The Honourable Margaret Douglas Hamilton commonly called Lady Margaret Hamilton who was born on the thirteenth day of October one thousand nine hundred and seven;

The Honourable Malcolm Avendale Douglas Hamilton commonly called Lord Malcolm Avendale Hamilton who was born on the twelfth day of November one thousand nine hundred and nine;

The Honourable David Douglas Hamilton commonly called Lord David Hamilton who was born on the eighth day of November one thousand nine hundred and twelve; and

The Honourable Mairi Nina Douglas Hamilton commonly called Lady Mairi Nina Hamilton who was born on the twenty-seventh day of August one thousand nine hundred and fourteen:

And whereas by his trust disposition and settlement dated the nineteenth day of January one thousand eight hundred and ninety-three the Testator gave granted assigned disposed devised legated and bequeathed to and in favour of James Auldjo Jamieson and George Dalziel both Writers to the Signet Edinburgh as Trustees to act in succession as thereafter mentioned whom failing to such other person or persons as he might thereafter name or as might be assumed in terms of law to act in the trust thereby created and to the acceptors or acceptor and survivors and last survivor accepting of the persons to be named or assumed as aforesaid as Trustees or Trustee for executing the trust thereby created whom all failing to the nearest heir male who should be major at the time of the last surviving and accepting Trustee Declaring that the said James Auldjo Jamieson should in the first place by himself alone without the consent or concurrence of the said George Dalziel have the sole power to manage and execute the trust thereby created in the same manner as if reciting presents had been granted in favour of the said James Auldjo Jamieson as sole Trustee and he should also have power at any time if he should see fit to assume the said George Dalziel as a Trustee under reciting presents to act along with and in succession to him with the same powers and privileges as if the said George Dalziel had been named by the

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Testator as a Trustee under reciting presents to act along with the said James Auldjo Jamieson the Trustee or Trustees acting for the time being throughout reciting presents denominated or referred to as his Trustees or his said Trustees All and sundry the whole lands tenements leases rights of patronage and other heritages and heritable rights and heritable or real estate situated in Great Britain then belonging or that should happen to belong to the Testator at the time of his death or with reference to which he had the power of disposal or settlement and particularly without prejudice to the said generality All and whole the dukedom and regality of Hamilton and other lands lordships baronies and others in the counties of Lanark Linlithgow Stirling Bute Peebles Renfrew Edinburgh and Ayr and elsewhere in Scotland to which the Testator succeeded as heir of his father the late William Alexander Anthony Archibald Duke of Hamilton Brandon and Chatelherault or other ancestors under settlements then supposed to form entails thereof but which were then held by the Testator free of the fetters of the entails under which the same were supposed to have been settled and also all other lands and heritages belonging to the Testator in Scotland and also all and whole his whole lands tenements and heritable or real estate and leasehold and copyhold tenements and hereditaments in England to which he had succeeded or acquired right or might succeed or acquire right in any manner of way or which he was or might be entitled to settle dispose of or convey as also all lands and heritages of every description situated abroad then belonging or that should happen to belong to him at the time of his death as also his whole goods gear debts and sums of money and in general the whole moveable and personal estate of every description and wherever situated presently belonging or addebted or that should belong or be addebted to him at the time of his death with the writs titles vouchers and instructions of his said heritable and moveable and real and personal estate thereby conveyed and the Testator also nominated and appointed his Trustees to be his sole executors or executor with all the powers competent to executors by law But it was thereby declared that the property estate and effects thereby conveyed should be held by the Testator's Trustees in trust for the uses ends and purposes after mentioned viz. In the first place Subject to the directions thereafter given regarding the payment of the debts affecting Testator's landed estates in Great Britain for payment of his debts (other than the debts before referred to)

and funeral expenses and the costs charges and expenses connected with the execution of the trust thereby created In the second place For payment out of the income and revenue of the lands and other estate and effects heritable and moveable real and personal conveyed to the Trustees (except the landed estates thereafter directed to be held for Testator's daughter and her issue) or out of his other funds coming into their hands from any source from time to time of all expenses incurred or to be incurred from time to time in connexion with his estates (other than the estates to be held for his daughter and her issue as aforesaid) and in managing and improving the same ascertaining and developing the resources mineral and otherwise thereof and maintaining and upholding Hamilton Palace (so long as his Trustees in their sole discretion should think proper to maintain and uphold the same) and the contents thereof and also in paying all public burdens government duties repairs insurance interests on loans and debts and meeting any other outgoings and payments which his Trustees might consider should be met from income and with reference to all such expenses and payments as well as to the managing and improving and developing of the resources of his said estates and with reference also to the outgoings and payments which his Trustees might consider should be made from income the Testator thereby expressly declared and provided that his Trustees should be and they were thereby made the sole judges of the payments which should be made under this direction out of income and also the sole judges of the improvements which should be made and of the expenses which should be incurred in ascertaining and developing the resources of his said estates In the third place the Testator directed his Trustees in the event of any person other than an heir of his body succeeding or becoming entitled before the termination of the trust thereby created to the residue of his estates under reciting presents (which event happened) but in that event only to make payment to the child or children procreated or that might be procreated of his body and the lawful issue of any child or children who might have predeceased leaving lawful issue of the sum of one hundred thousand pounds under deduction of the sum provided by him to the younger child or younger children of the marriage between the Testator and his said wife by a bond of annuity and provision executed by him of date the ninth day of December one thousand eight hundred and seventy-three and with warrant of registration thereon recorded in the divisions of the General

A.D. 1918. Register of Sasines applicable to the counties of Lanark Linlithgow Stirling Bute Renfrew and Edinburgh and also in the books of Council and Session for preservation the twelfth day of January one thousand eight hundred and seventy-four but the said provision of one hundred thousand pounds should be in addition to the provisions to which his younger child or children would be entitled at his death from the lands and estate of Pardovan and others in the county of Linlithgow presently held by him under a deed of entail In the fourth place the Testator directed his Trustees to make payment of certain legacies not material to be here recited In the fifth place the Testator directed his Trustees to hold his whole real and heritable estates in England (including any house belonging to him in London) and his estates in the island of Arran in Scotland and all household furniture and plenishing and other moveable effects belonging to him at the time of his death at Easton Park Glemham House Brodick Castle and the lodges and also the furnishings and contents of his yacht if not otherwise disposed of (but excepting all horses carriages and farm stock and other effects not actually required for his daughter's personal use which excepted articles and effects and also his said yacht if not previously disposed of should be sold by his Trustees and the proceeds thereof applied towards paying off the debts on the said estate of Easton Park) and that during the life of his said daughter and until the whole debts affecting the said estates at the date of his decease were paid off by his Trustees as thereafter provided his Trustees should pay over to his said daughter for her alimentary use during her life and exclusive of any husband she might marry the free annual income and produce of the said estates and others or permit her to uplift and receive the same and to occupy any house on the said estates And on the death of his said daughter in the event of the whole of the said debts being paid off during her life or upon the whole of the said debts being paid off after her death his Trustees should convey and make over the said estates and others to or divide the same among any one or more of the issue of his said daughter then alive in such way and manner and if more than one child in such shares and proportions and subject to such trusts and conditions (including the restriction of any child's share to a life rent) as she might appoint by will or other testamentary writing and failing such appointment or division the said estates and others should be conveyed to and be divided among her children or issue of children then alive equally per stirpes and failing issue of his said daughter

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the same should revert to and form part of the residue of his trust estate and be dealt with in terms of the directions thereafter written. And after the death of his said daughter the Testator directed his Trustees to pay over the free annual income and produce of the said estates and others to the child or children presumptively entitled thereto until the period of payment or division of the fee or capital should arrive. And the Testator provided and declared that his said daughter should have power to grant annuities of such amounts as she should think proper to any husband she might marry payable during her life and after her death out of the income of the said estates to be held for her and her issue during the life of such husband or for such shorter period as she might direct and she should also have power to grant provisions in favour of any child or children she might have of such amounts as she should think proper out of the said estates and payable to the said children at such time or times as she might direct either during her life or at her death and under such conditions as she might prescribe and failing any such directions then upon her death and at majority in the case of sons and at majority or marriage in the case of daughters. But it was declared that the Trustees should have power in their discretion notwithstanding any of the above directions to sell the estate of Glemham under the powers thereafter written and to apply the proceeds of such sale in paying off the debts on the estate of Easton Park. In the sixth place With reference to his estates other than those to be held for his daughter and her issue as aforesaid the Testator directed his Trustees to apply the free annual income and produce thereof after implementing the prior directions regarding the said income as follows (First) In the event of his leaving an heir male or heirs male of his body (which event did not happen) in making provision for the maintenance education and upbringing of such heir and upon any of such heirs who should have succeeded to the title of Duke of Hamilton during pupilarity or minority attaining the age of twenty-one years before Testator's said estates had been made over to them as thereafter provided or upon any such heir of the full age of twenty-one years complete or upon a person of the said age of twenty-one years not being an heir male of his body succeeding to the title and dignity of Duke of Hamilton either in consequence of his not having left an heir male of his body or upon the subsequent failure of the heirs male of his body during the subsistence of the trust his Trustees should in their sole discretion allow such heir so succeeding to and enjoying the title of Duke of Hamilton successively during their

A.D. 1918. — respective lives and whilst his said estates were under the management of his Trustees to occupy and enjoy any residence belonging to the Testator and not otherwise disposed of along with such household furniture plate and other articles of household use and also along with such shootings (if any) in connexion with the said residence free of rent as his said Trustees might think proper And the Testator directed his Trustees out of the said free income to pay to the heir for the time (he having attained majority) enjoying the title of Duke of Hamilton during his life and the continuation of the trust thereby created such a sum annually as should along with the free income (if any) to be derived by him from any estates to which he might succeed upon the Testator's death or upon the death of any subsequent heir as heir of entail or to which he might otherwise acquire right make up to him such a free yearly sum as the Trustees should in their absolute and uncontrolled discretion think proper not exceeding the yearly sum of ten thousand pounds (Second) After implementing the above directions the Testator directed his said Trustees from time to time as they should see fit to apply the remainder of the free yearly income and proceeds of his estates other than those directed to be held for his daughter and her issue so long as they continued to be so held in and towards the reduction of the debts which might affect the estates to be held for his daughter and her issue at the time of his death in so far as the same should not have been paid off out of any residue of his personal estate and the proceeds of any other estate belonging to him not otherwise disposed of which they should have power and were thereby directed to apply for that purpose until the whole of the said debts were paid off and extinguished Provided always that in the event of the death of his said daughter without leaving issue or in the event of the subsequent failure of all such issue before the said debts were fully paid off and extinguished his Trustees should apply the free income of the said estates and others to be held for his daughter and her issue and the free income of the remainder of his estates (so far as not previously applied) all in the manner thereafter directed and (Third) The Testator thereby directed his Trustees as to the remainder of the free income of his said estates other than the estates to be held for his said daughter and her issue so long as the same continued to be so held accruing during the subsistence of the trust after the foregoing purposes had been fulfilled that the same should be applied by his Trustees in each year in or towards the payment of the whole debts



affecting the remainder of his estates at the time of his death other than those to be held for his daughter and her issue so long as the same continued to be so held and in the event of the said estates ceasing to be so held and becoming part of the residue of his trust estate as above provided the free income thereof should be applied along with the free income from the remainder of his estates in or towards payment of the whole debts affecting his estates in Great Britain at the time of his death until the whole of the said debts were paid off In the seventh place the Testator empowered the heir who should for the time be in possession of the title and dignity of Duke of Hamilton at any time during his life and the subsistence of the trust to appoint by any deed or writing under his hand to any wife he might marry or might have married an annuity or annual sum payable by way of pin money during the joint lives of himself and his wife not exceeding (with such sum as the income of any estates to which he might be entitled as heir of entail or otherwise would warrant on the footing of the income of those estates contributing a proportion of such pin money corresponding to their income as compared with the income of his real estates falling under this trust other than the estates to be held for his daughter and her issue so long as the same continued to be so held) two thousand pounds yearly and in like manner by any deed or writing inter vivos or by will or testamentary disposition to appoint to any such wife during her life or any less time after his death an annuity not exceeding (together with the proportion which properly should be payable on the footing above mentioned out of any estates belonging to him as heir of entail or otherwise as aforesaid) four thousand pounds yearly by way of jointure and which several annuities should so far as payable by his Trustees be paid out of the income of his said estates before ascertaining the surplus available for paying off the debts on his estates as above provided And the Testator further empowered the heir who should for the time be in possession of the title and dignity of Duke of Hamilton at any time during his life and the subsistence of the trust by any deed or writing inter vivos or will or testamentary disposition to appoint and direct the payment out of his estates other than those to be held for his daughter and her issue so long as the same continued to be so held for the portion or portions of his child or children (other than the eldest or only son who should become entitled to the title and dignity of Duke of Hamilton) of any sum or sums of money not exceeding in

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amount than fifty thousand pounds and that the Act Fifth George Fourth Chapter 87 should not be applicable to the trusts thereby created or his said trust estates but should be applicable to the entail or entails thereafter directed to be executed by his Trustees In the eighth place In the event of the person (not being an heir male of Testator's body) who should be entitled at the time to the title and dignity of Duke of Hamilton being under age while his Trustees continued to act under the trust thereby created then and in that case the Testator thereby directed his Trustees to apply so much of the sum which might be payable to such person on his attaining majority in terms of the directions contained in reciting presents as they might think prudent and advisable for his education and maintenance and for fitting him to discharge the duties of his position any balance of the sum directed to be paid to such person if he had been major being applied by Testator's Trustees for the purpose of further reduction of the debt affecting his estates in terms of the therein above written directions And in the last place upon the whole of the debts affecting Testator's estates being paid off and extinguished in terms of the therein above directions and in the event of the said debts being paid off in the lifetime of the person then next in succession to the title and dignity of Duke of Hamilton then after the death of such person (if the law would permit his Trustees to hold the estates till after his death) and upon his Trustees being relieved of all liabilities incurred by them as Trustees under reciting presents and after executing the other purposes of this trust they should at the sight of the Lord Advocate for Scotland for the time being prepare and execute a disposition and deed of strict entail or otherwise an entail or settlement of Testator's estates in Scotland other than the estates directed to be held for his daughter and her issue in the event of her leaving issue who should take a vested interest under reciting presents but including those estates if they should become part of the residue of the trust thereby created as therein above provided all as then held by them as Trustees aforesaid in terms as strict as regards succession in the persons of those entitled to hold the title of Dukes of Hamilton as the law at the time would permit in favour of the heir entitled for the time being to succeed to or in possession of the title and dignity of Duke of Hamilton and the said entail or settlement should contain such a destination as would secure so far as the law at the time would permit the continuance of the title of Duke of Hamilton and the title of the said estates in the same persons in succession with a destination to Testator's own heirs and assignees whomsoever on

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and dignity of Duke of Hamilton the amount of which free income and annual produce should be sufficiently ascertained and constituted by accounts under the hands of his Trustees without the necessity of any voucher And the Testator thereby provided that no right or interest should be held to vest in any person under reciting presents as institute or heir of entail until the arrival of the time by the payment and extinction of the whole debts and liabilities affecting his said estates as aforesaid at which his Trustees should be bound subject to the directions of reciting presents to execute the said deed of entail or settlement in favour of the person then entitled to the title and dignity of Duke of Hamilton And the Testator directed that on or before executing such entail any annuity which might be payable at the time should be charged and secured upon his said estates and that by bond of annuity or such other writ and deed as his Trustees might consider necessary or expedient for the purpose his said Trustees not being bound to retain the said estates until any such annuity which formed a charge on the income thereof should lapse and be extinguished by the death of the annuitant And with reference to his estates in England including his house in London in case his said daughter should die without leaving issue who should take a vested interest therein under reciting presents the Testator thereby directed that his Trustees should execute an entail or settlement thereof as nearly similar in effect to the entail of his estates in Scotland thereinbefore provided for as the law of England with reference to such settlements would permit and subject to the liferent thereby provided to his said wife if then alive and which entail or settlement should be executed at the sight of the Attorney-General of England in the same manner as the entail of his estates in Scotland was directed to be settled by the Lord Advocate And with reference to any moveable or personal estate in the hands or under the management of his Trustees at the time when the said entail or entails fell to be executed and not otherwise disposed of including the contents of any houses upon the estates to be entailed as aforesaid and the silver plate deposited in bank and any accumulations of income from his heritable and real estate the Testator thereby directed his Trustees to pay and make over the same to the institute or heir of entail to whom the said entail or entails were granted and delivered and that for his own absolute use and behoof and the Testator thereby gave to his Trustees the fullest and most ample powers of administration and management with reference to the estates thereby conveyed to them to the end that they

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might be enabled to exercise every power of administration and management competent to the proprietor of the said estates or which would have been competent to him or to his heirs or successors if reciting presents had not been granted and in particular and without prejudice to the powers and privileges belonging or competent by law to Trustees or to the general powers of administration and management above mentioned the Testator gave to his Trustees the powers more particularly set forth in the said trust disposition and settlement and conferred on them the rights and immunities therein also set forth And the Testator thereby revoked all wills and testamentary dispositions and writings executed by him at any time theretofore with reference to any part of his estates and property thereby conveyed :

And whereas the Testator made a codicil to his said trust disposition and settlement dated the seventeenth day of October one thousand eight hundred and ninety-four whereby in the first place he directed his Trustees out of the income and revenue of his estates in Scotland other than the Arran Estate directed by his said trust disposition and settlement to be held for his daughter to make payment to his said daughter of an annuity of seven thousand pounds sterling per annum Declaring that the said annuity should be in addition to the other provisions to which she would be entitled under his contract of marriage and the said trust disposition and settlement In the second place the Testator declared it to be his wish and intention that his said daughter or her issue should receive from his Trustees the rents and other income of his estates in England and in the island of Arran directed by his said trust disposition and settlement to be held for her and her issue without any deduction in respect of the interest on the debts or other annual charges affecting the said estates at the time of his death his intention being that in a question with his said daughter and her issue those estates should be held as having been freed and discharged of all such debts and charges from and after his death In the third place with reference to the directions contained in his said trust disposition and settlement regarding the payment of the debts affecting the estates directed to be held for his said daughter and her issue at the date of his death he thereby declared it to be his wish and intention that the surplus rents of his other estates in Scotland should be applied in payment of the debts affecting his whole estates in England and in the island of Arran in so far as those might not be paid out of the proceeds of parts of his moveable estate as provided in the said

trust disposition and settlement and it should be in the power of the Trustees at any time or from time to time during the subsistence of the trust if they in their sole discretion should think proper to do so to raise such sum or sums on the security of his other estates in Scotland as would enable them to pay off the debts affecting his said estates in England and in the island of Arran or any part thereof: A.D. 1918.

And whereas the Testator made a second codicil dated the thirteenth day of May one thousand eight hundred and ninety-five to his said trust disposition and settlement whereby (inter alia) he gave to his Trustees power in their sole discretion to purchase any lands in Arran not at present belonging to him and to make such lands over to his daughter along with his estate in that island and to pay off the prices of the lands so purchased by them out of the rents of his other estates in Scotland in the same way as he directed them to pay off the debt at present affecting his Arran Estate:

And whereas the Testator made a third codicil to his said trust disposition and settlement dated the fourteenth day of May one thousand eight hundred and ninety-five whereby he bequeathed an annuity of one hundred and fifty pounds to his valet to be provided out of his estates in Scotland other than his Arran Estate but did not in other respects alter his said trust disposition and settlement or the codicils thereto:

And whereas the said James Auldjo Jamieson accepted the office of Trustee of the said trust disposition and settlement and by deed of assumption dated the nineteenth and registered in the Books of Council and Session the twenty-sixth both days of July one thousand eight hundred and ninety-five the said James Auldjo Jamieson assumed the said George Dalziel Writer to the Signet Edinburgh as a Trustee of the said trust disposition and settlement:

And whereas by a deed of assumption and conveyance dated the twenty-fifth and registered in the Books of Council and Session the twenty-sixth both days of July one thousand eight hundred and ninety-five the said James Auldjo Jamieson and George Dalziel assumed the Most Noble Spencer Compton Cavendish Duke of Devonshire K.G. as a Trustee of the said trust disposition and settlement:

And whereas the said James Auldjo Jamieson died on the thirteenth day of November one thousand nine hundred and seven:

And whereas the said Spencer Compton Cavendish Duke of Devonshire died on the twenty-fourth day of March one thousand nine hundred and eight:

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And whereas by deed of assumption and conveyance dated the fifth and registered in the Books of Council and Session the sixth both days of May one thousand nine hundred and eight the said George Dalziel assumed George Francis Dalziel Writer to the Signet Edinburgh as a Trustee of the said trust disposition and settlement :

And whereas by a deed of assumption and conveyance dated the twenty-sixth day of June and the sixth and thirteenth both days of July one thousand nine hundred and eight and registered in the Books of Council and Session the fourteenth day of July one thousand nine hundred and eight the said George Dalziel and George Francis Dalziel assumed the present Duke and the said James Marquess of Graham as Trustees of the said trust disposition and settlement :

And whereas by minute of resignation dated the twentieth day of January and the twenty-first day of February one thousand nine hundred and seventeen and along with an acceptance of intimation contained therein registered in the Books of Council and Session the twenty-eighth day of February one thousand nine hundred and seventeen the said George Dalziel resigned the office of Trustee of the said trust disposition and settlement :

And whereas the estates belonging to the Testator were at the date of his death charged with debts of a large amount and in pursuance of the directions contained in the said trust disposition and settlement such debts were from time to time paid off by the Trustees and such payment off was completed on or about the first day of July one thousand nine hundred and eight and the present Duke thereupon entered into the enjoyment of and has since received the entire free income arising from the Hamilton and Kinneil Estates :

And whereas the said Marchioness of Graham is in receipt of the entire free income arising from the Arran Estate and the Easton Estate :

And whereas on the seventeenth day of June one thousand nine hundred and twelve the Great Glemham Estate was sold by the said Marchioness of Graham under the powers conferred on her by the Settled Land Acts 1882 to 1890 and the purchase money thereof was applied by the Trustees in making repayment of the cost of improvements which had been charged upon the Easton Estate and the Great Glemham Estate or could be so charged :



And whereas it is expedient in the interests of the beneficiaries and with a view to the avoidance of disputes and difficulties that the trust created by the testamentary writings of the late Duke should in future be administered by two separate and distinct bodies of Trustees one of which should administer the trust so far as relating to the Hamilton and Kinneil Estates and the other of which should administer the trust so far as relating to the Arran and Easton Estates and accordingly that separate trusts should be constituted in relation to the Hamilton and Kinneil Estates on the one hand and to the Arran and Easton Estates on the other hand in manner provided by this Act:

And whereas it is expedient that special provision should be made as contained in this Act in relation to the power to purchase lands in the island of Arran conferred by the Testator on his Trustees by the hereinbefore recited codicil of the thirteenth day of May one thousand eight hundred and ninety-five:

And whereas the present Duke and the said Marchioness of Graham are desirous that separate trusts should be so constituted as aforesaid in respect of the estates in which they are respectively primarily interested under the testamentary writings of the Testator and the present Trustees of the Testator are advised and believe that the constitution of such separate trusts is expedient and desirable:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

Wherefore Your Majesty's most dutiful and loyal subjects the said Alfred Douglas Duke of Hamilton Brandon and Chatelherault James Marquess of Graham Mary Louise Marchioness of Graham and George Francis Dalziel do most humbly beseech Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. This Act may be cited for all purposes as the *Hamilton Estates Act 1918.* Short title.

2. In this Act the following expressions have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such meanings:— Interpretation.

The expression "the Testator" means the now deceased William Alexander Louis Stephen Duke of Hamilton Brandon and Chatelherault:

A.D. 1918.  
—

The expression "the testamentary writings" means the hereinbefore in part recited trust disposition and settlement and codicils of the Testator:

The expression "the Testator's Trustees" means the persons at the date of the passing of this Act acting as Trustees and in their capacity as such Trustees under the appointment of Trustees contained in the testamentary writings and the deeds of assumption of Trustees and conveyance which have followed thereon but does not include the Hamilton Trustees nor the Arran and Easton Trustees as hereinafter defined:

The expression "the Hamilton bequests" means the whole bequests and provisions so far as not already paid or satisfied made by the testamentary writings for the benefit of the present Duke and his present wife and any other wife whom he may marry and his issue and for the persons who may succeed after him to the title and dignity of Duke of Hamilton and their wives and issue and the annuities and provisions directed by the testamentary writings to be paid from the estates of the Testator other than those thereby directed to be held for the daughter of the Testator and her issue:

The expression "the Arran and Easton bequests" means the whole bequests and provisions so far as not already paid or satisfied made by the testamentary writings for the benefit of the said Mary Louise Marchioness of Graham and her present husband and any other husband whom she may marry and her issue but does not include the annuity of seven thousand pounds per annum directed to be paid to her by the hereinbefore in part recited codicil dated the seventeenth day of October one thousand eight hundred and ninety-four:

The expression "the Hamilton Trustees" means the persons who are to be nominated and assumed as provided in this Act as Trustees and in their capacity as such Trustees for carrying out and executing the testamentary writings in relation to the Hamilton bequests and the successors in office from time to time acting of the Trustees so nominated and assumed:

The expression "the Arran and Easton Trustees" means A.D. 1918.  
the persons who are to be nominated and assumed as provided in this Act as Trustees and in their capacity as such Trustees for carrying out and executing the testamentary writings in relation to the Arran and Easton bequests and the successors in office from time to time acting of the Trustees so nominated and assumed.

3. The Testator's Trustees shall forthwith after the passing of this Act nominate and assume by a deed or deeds of assumption and conveyance in or as nearly as may be in the form contained in Schedule (B) to the Trusts (Scotland) Act 1867 the five persons named in the First Schedule to this Act to be the Hamilton Trustees for carrying out and executing as a separate and distinct trust the testamentary writings relative to the Hamilton bequests and shall at the same time nominate and assume the four persons named in the Second Schedule to this Act to be the Arran and Easton Trustees for carrying out and executing as a separate and distinct trust the testamentary writings relative to the Arran and Easton bequests.

Appointment of separate sets of Trustees for Hamilton and Arran and Easton bequests.

4. Contemporaneously with the nomination and assumption of the Hamilton Trustees and the Arran and Easton Trustees in terms of the immediately preceding section the Testator's Trustees shall resign office and such resignation shall be evidenced by a minute or minutes of resignation in or as nearly as may be in the form contained in Schedule (A) to the Trusts (Scotland) Act 1867 and such minute or minutes shall be intimated by the Testator's Trustees to the Hamilton Trustees and the Arran and Easton Trustees and such intimation shall have the same effect as between the Testator's Trustees and the Hamilton Trustees and the Arran and Easton Trustees respectively as is provided by the said last-mentioned Act in relation to an intimation of resignation to a co-Trustee or co-Trustees.

Retirement of Testator's Trustees.

5.—(1) Subject as hereinafter provided the Hamilton Trustees shall have the same powers discretions privileges and immunities and be subject to the same duties and obligations in relation to the Hamilton bequests as are conferred and imposed by the testamentary writings upon the Testator's Trustees in relation to those bequests and all such other powers discretions privileges duties and obligations as are conferred and imposed on the Testator's Trustees by the testamentary writings other than powers discretions privileges

Powers of Hamilton and Arran and Easton Trustees.

A.D. 1918.

duties and obligations relating to the Arran and Easton bequests And the Arran and Easton Trustees shall in like manner have the same powers discretions privileges and immunities and be subject to the same duties and obligations in relation to the Arran and Easton bequests as are conferred and imposed by the testamentary writings upon the Testator's Trustees in relation to those bequests.

(2) The Hamilton Trustees and the Arran and Easton Trustees nominated and assumed under section 3 (Appointment of separate sets of Trustees for the Hamilton and Arran and Easton bequests) of this Act and accepting office and their respective successors in office may from time to time respectively nominate and assume new Hamilton Trustees and new Arran and Easton Trustees respectively as the case may be in like manner as is provided by the said section for the nomination and assumption by the Testator's Trustees of Hamilton Trustees and Arran and Easton Trustees and such new Trustees shall have all and the same powers discretions privileges and immunities and be subject to the same duties and obligations as the Trustees by whom they are so nominated and assumed provided that the number of Hamilton Trustees and the number of Arran and Easton Trustees shall not at any time exceed five in each case.

As to  
power to  
purchase  
lands in  
Arran.

6. Notwithstanding the provisions of the immediately preceding section of this Act (1) The power conferred upon the Testator's Trustees by the hereinbefore in part recited codicil of the thirteenth day of May one thousand eight hundred and ninety-five to purchase lands in Arran not then belonging to the Testator shall if and so long as it is or remains exerciseable be exercised by the Arran and Easton Trustees only if so agreed between the Hamilton Trustees and the Arran and Easton Trustees and if the Hamilton Trustees and the Arran and Easton Trustees fail to agree as to the existence of such power such difference shall be determined by the Court of Session in manner provided by the section of this Act of which the marginal note is "Determination of differences" Provided that nothing in this Act contained shall in any way prejudice or affect the before recited power if and so long as it remains exerciseable.

(2) In the event of it being admitted or decided that the said power still continues then in the event of any dispute arising between the Hamilton Trustees and the Arran and Easton Trustees as to the expediency of any proposed exercise of the said power such difference shall be determined by arbitration in

accordance with the Arbitration (Scotland) Act 1894 Provided A.D. 1918.  
 that for the purposes of this section the expression "the Court"  
 in that Act shall mean any Lord Ordinary of the Court of Session  
 and the expenses of the arbitration including the remuneration of  
 the arbiters and of the oversman if an oversman be appointed  
 shall be paid as may be awarded in the arbitration.

7. Upon the nomination and assumption by the Testator's Trustees under this Act of Hamilton Trustees and Arran and Easton Trustees the Testator's Trustees shall as soon as practicable after such nomination and assumption—

Vesting of  
 trust  
 property in  
 Hamilton  
 Trustees  
 and Arran  
 and Easton  
 Trustees.

(A) Convey to the Arran and Easton Trustees all property heritable and moveable real and personal held by the Testator's Trustees for the purposes of and in connection with the Arran and Easton bequests subject to such obligations liabilities burdens and charges as affect the same property but without prejudice to any right there may be under the testamentary writings to resort to the property subject to the trusts of the testamentary writings other than the property held for the purposes of the Arran and Easton bequests for the discharge of any such obligations liabilities burdens and charges and the property so transferred shall be held by the Arran and Easton Trustees for the Arran and Easton bequests in terms of the testamentary writings:

(B) Convey to the Hamilton Trustees all other property heritable and moveable real and personal vested in the Testator's Trustees under and for the purposes of the testamentary writings subject to such obligations liabilities burdens and charges as affect the same but without prejudice to any right there may be under the testamentary writings to resort to the property subject to the trusts of the testamentary writings other than the property held for the purposes of the Hamilton bequests for the discharge of any of such obligations liabilities burdens and charges properly payable out of such last-mentioned property or some part or parts thereof and such property to be conveyed as aforesaid shall be held by the Hamilton Trustees for the Hamilton bequests and for the other purposes to which the property of the Testator other than that comprised in the Arran and Easton bequests is required to be or may be applied under the testamentary writings.

A.D. 1918.  
Hamilton  
Trustees  
to provide  
purchase  
money for  
Arran lands  
if required.

8. In the event of the Arran and Easton Trustees exercising the power to purchase lands in Arran in terms of the section of this Act of which the marginal note is "As to power to purchase lands in Arran" the purchase money of such lands shall be provided by the Hamilton Trustees out of the property vested in them as such Trustees and shall be paid by them to the Arran and Easton Trustees as and when required.

Discharge  
of Tes-  
tator's  
Trustees.

9.—(1) So soon as conveniently may be after the Testator's Trustees shall have nominated and assumed Hamilton Trustees in pursuance of this Act they shall prepare an account of their intromissions to the date of such nomination and assumption in relation to the lands and other estate and effects heritable and moveable real and personal conveyed by the Testator to the Testator's Trustees except the property heritable and moveable real and personal directed by the testamentary writings to be held for the Testator's daughter and her present husband and any future husband and her issue and shall cause the same to be audited by a firm of accountants of standing to be agreed upon between the Testator's Trustees and the Hamilton Trustees and in default of agreement to be nominated by the President for the time being of the Institute of Chartered Accountants and if such accountants shall report that the Testator's Trustees have satisfactorily accounted for their intromissions as aforesaid and have conveyed to the Hamilton Trustees or have otherwise duly accounted for all the property properly constituting the Hamilton bequests the Hamilton Trustees shall forthwith grant to the Testator's Trustees a discharge and exoneration of their whole intromissions and actings under the testamentary writings up to the date of the aforesaid nomination and assumption and such discharge and exoneration shall effectually discharge and exoner the Testator's Trustees from such intromissions and actings. The expenses of the preparation and execution of the said discharge and exoneration and of the recording thereof in the Books of Council and Session shall be paid by the Hamilton Trustees out of the property held by them as such Trustees.

(2) So soon as conveniently may be after the Testator's Trustees shall have nominated and assumed Arran and Easton Trustees in pursuance of this Act they shall prepare an account of their intromissions to the date of such nomination and assumption in relation to the lands and other estate and effects heritable and moveable real and personal conveyed by the Testator to the Testator's Trustees except the property heritable and moveable

A.D. 1918.

by the testamentary writings directed to be held for the heir for the time in possession of the title and dignity of Duke of Hamilton or the person then next in succession to the title and dignity of Duke of Hamilton and after the death of such person in terms of the disposition and deed of strict entail or entail or settlement of the Testator's estates in Scotland (other than the estates directed to be held for his daughter and her present husband and any future husband and her issue) as directed to be executed by the testamentary writings and shall cause the same to be audited by a firm of accountants of standing to be agreed upon between the Testator's Trustees and the Arran and Easton Trustees and in default of agreement to be nominated by the President for the time being of the Institute of Chartered Accountants and if such accountants shall report that the Testator's Trustees have satisfactorily accounted for their intromissions as in this subsection aforesaid and have conveyed to the Arran and Easton Trustees or have otherwise duly accounted for all the property properly constituting the Arran and Easton bequests the Arran and Easton Trustees shall forthwith grant to the Testator's Trustees a discharge and exoneration of their whole intromissions and actings under the testamentary writings up to the date of the aforesaid nomination and assumption and such discharge and exoneration shall effectually discharge and exonerate the Testator's Trustees from such intromissions and actings. The expenses of the preparation and execution of the said discharge and exoneration and of the recording thereof in the Books of Council and Session shall be paid by the Arran and Easton Trustees out of the property held by them as such Trustees.

**10.** If any question shall arise between the Hamilton Trustees and the Arran and Easton Trustees in reference to the property funds money or rights falling to be conveyed to vested in and held by them respectively as such Trustees or in reference to their respective rights powers discretions or duties as such Trustees or the nature or extent of the debts burdens obligations liabilities or charges affecting the trust property vested in either of them or in reference to any other matter or thing arising under the testamentary writings or this Act such question shall except as in this Act otherwise provided and failing agreement be determined by the Court of Session either upon a special case or upon any application which may be made to the said Court by either party either in the Outer or Inner House as may be appropriate. Provided always that a decision of the Inner House

Determina-  
tion of  
differences.

A.D. 1918. of the Court of Session under subsection (1) of the section of this Act of which the marginal note is "As to power to purchase lands in Arran" shall be final and not subject to appeal.

Saving of  
testamen-  
tary  
writings.

**11.** Nothing contained in this Act shall be held or construed to alter innovate extend or defeat the testamentary writings or any of the purposes or provisions thereof excepting only in so far as may be necessary for carrying into effect the purposes of this Act and nothing in this Act shall affect or limit or in any way prejudice or restrict the rights powers and interests of the holder of any bond and disposition in security or other incumbrance over or affecting the estate of the Testator nor shall the passing of this Act or the exercise of the powers thereby conferred affect or alter the date which in terms of section 28 of the Entail Amendment Act 1848 would otherwise be held to be the date of an entail executed in pursuance of the testamentary writings.

General  
saving and  
exceptions.

**12.** Saving always and reserving to the King's most Excellent Majesty His heirs and successors and to all other persons and bodies politic or corporate their heirs and successors executors administrators and assigns all such estate right title interest claim and demand whatsoever in to or out of the estate of the Testator or any part thereof as they or any of them had before the passing of this Act or could or might have had if this Act had not been passed but excepting from the foregoing saving the following persons (namely):—

The Testator's Trustees :

The present Duke and the said Douglas Marquess of Douglas and Clydesdale Lady Jean Douglas Hamilton Lord George Nigel Douglas Hamilton Lady Margaret Douglas Hamilton Lord Malcolm Avendale Douglas Hamilton Lord David Douglas Hamilton and Lady Mairi Nina Douglas Hamilton his children and any other or others the heirs male or heirs female of the body of the present Duke who may hereafter be born :

Nina Mary Benita Duchess of Hamilton :

The said Mary Louise Marchioness of Graham and the said James Angus Earl of Kincardine Lady Mary Helen Alma Graham and Lord Ronald Malise Hamilton Graham her children and any other or others the heirs male or the heirs female of the body of the said Marchioness of Graham who may hereafter be born :



The said James Marquess of Graham:

A.D. 1918.

And all or any other person or persons entitled to or interested in or who may hereafter become entitled to or interested in the estate of the Testator under or in virtue of the testamentary writings or by intestacy or otherwise through or in right of the Testator or through or in right of any of the persons hereinbefore excepted.

**13.** The costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Testator's Trustees out of the property vested in them applicable to the Hamilton bequests.

Costs of Act.

**14.** This Act shall not be a public Act but shall be printed by the several printers to the King's most Excellent Majesty duly authorised to print the Statutes of the United Kingdom and a copy thereof so printed shall be admitted as evidence by all judges justices and others.

Act as printed by King's printers to be evidence.

A.D. 1918.

SCHEDULES referred to in the foregoing Act.

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FIRST SCHEDULE.

THE HAMILTON TRUSTEES.

The Lord Fisher.

Nina Mary Benita Duchess of Hamilton and Brandon.

Theodore Hamilton Hoste.

Lieutenant-Colonel John MacRae-Gilstrap.

Thomas Skene Esson.

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SECOND SCHEDULE.

THE ARRAN AND EASTON TRUSTEES.

James Marquess of Graham.

Mary Louise Marchioness of Graham.

Colonel Donald Walter Cameron of Lochiel.

George Francis Dalziel.

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