

**JOHN MACKINTOSH WILL
(VARIATION OF TRUSTS) ACT 2018**

Principal Act

Act. No. 2018-18

Commencement 2.8.2018

Assent 1.8.2018

Section

1. Title.
2. Commencement.
3. Variation of terms of the will and indemnity for trustees.

SCHEDULE

AN ACT TO VARY CERTAIN PROVISIONS CONTAINED IN THE WILL OF THE LATE JOHN MACKINTOSH.

WHEREAS BY A WILL DATED THE 6TH DAY OF MARCH 1938 JOHN MACKINTOSH (“THE WILL”) MADE PROVISION IN THE NATURE OF A PUBLIC TRUST AS SET OUT IN THE SCHEDULE TO THIS ACT FOR THE ADVANCEMENT OF EDUCATION IN GIBRALTAR;

AND WHEREAS THE SAID JOHN MACKINTOSH DIED ON THE 28TH DAY OF FEBRUARY 1940;

AND WHEREAS THE WILL WAS PROVED BEFORE THE SUPREME COURT ON THE 1ST APRIL 1940;

AND WHEREAS THE TRUST CREATED BY THE WILL WAS REGISTERED AS A CHARITABLE TRUST IN THE REGISTER OF CHARITIES ESTABLISHED UNDER THE CHARITIES ACT ON THE 1ST DECEMBER 1972;

AND WHEREAS THE TRUST PROPERTY INCLUDED A PIECE OF LAND ON WHICH A PUBLIC HALL KNOWN AS THE JOHN MACKINTOSH HALL WAS ERECTED AND SUCH PUBLIC HALL IS MAINTAINED AND USED FOR A WIDE RANGE OF PURPOSES NOT LIMITED TO EDUCATIONAL PURPOSES;

AND WHEREAS IT IS EXPEDIENT THAT THE PROVISION OF THE WILL SHOULD BE VARIED TO THE EXTENT SPECIFIED IN THIS ACT.

Title.

1. This Act may be cited as the John Mackintosh Will (Variation of Trusts) Act 2018.

Commencement.

2. This Act comes into operation on the day of publication.

Variation of terms of the will and indemnity for trustees.

3.(1) Notwithstanding anything contained in clause 22(b) (as set out in the Schedule) of the will of the late John Mackintosh dated 6th March 1938 (the “Will), in discharging the duty imposed upon the trustees of the fund under clause 22(b) the trustees shall have the power, and shall be deemed always to have had power, to maintain the public hall erected on trust property, known as the John Mackintosh Hall (“the John Mackintosh Hall”), and to

use or to allow the use of the John Mackintosh Hall as a public hall including without limitation for the following purposes-

- (a) the cultural development of Gibraltar including lectures, theatrical activities, concerts and plays; and
- (b) generally for the benefit of the public in Gibraltar including for professional and trade meetings, political activities such as rallies, meetings and general elections,

whether in the English language or otherwise.

(2) No act or thing done by a trustee or other person under the direction of such trustee shall, if the act or thing was done bona fide in the purported exercise of the extended power set out in this section, subject him personally to any liability, action, claim or demand whatsoever in respect of him.

(3) Nothing in this section shall affect the status of the trust under the Will as a registered charity under the Charities Act.

SCHEDULE

Section 3.

CLAUSE 22 (b) OF THE WILL OF JOHN MACKINTOSH.

MY TRUSTEES shall appropriate out of the balance of my residuary estate remaining after the appropriation of the fund mentioned in paragraph (a) of this Clause a fund of such value as my Trustees in their absolute and uncontrolled discretion consider expedient and shall vest the same in the names or under the legal control of such trustees as my Trustees in consultation with the Governor and Council for the time being of Gibraltar shall select to the intent that the fund so appropriated and the income thereof may be used in perpetuity for educational purposes for the benefit of children whose parents are resident in Gibraltar and in particular for the purpose of promoting the teaching in Gibraltar of the English language and of English history and literature and generally to promote and strengthen so far as practicable by educational means the ties between England and Gibraltar AND I DECLARE that it is my desire that such fund shall be applied and administered entirely on an undenominational basis and that the means by which the foregoing objects may be accomplished shall be left to the free discretion of the trustees for the time being of the said fund except that the purposes to which the fund is applied shall include the provision of at least six scholarships of a value of not less than two hundred pounds per annum each to be held by boys or girls resident in and attending any of the schools in (sic) Gibraltar (preferably the Public Elementary Schools) for such schools in England as the said Trustees shall select.