

**CHAPTER ix.**

An Act to enable the Edinburgh American Land Mortgage Company Limited to convert their present uncalled Capital into Preference Stock and for other purposes.

A.D. 1897.

[8th April 1897.]

WHEREAS the Edinburgh American Land Mortgage Company Limited (in this Act called "the Company") was incorporated in the year one thousand eight hundred and seventy-eight under the Companies Acts 1862 and 1867 as a company limited by shares having its registered office in Scotland :

And whereas the nominal capital of the Company is five hundred thousand pounds divided into one hundred thousand shares of five pounds each whereof seventy-two thousand three hundred and eighty-five have been issued and one pound per share has been paid thereon :

And whereas it is expedient that the Company should be authorised to convert their present uncalled capital or some portion thereof into preference stock but there is no power in the memorandum of association of the Company enabling them to do so :

And whereas it is expedient that the memorandum of association of the Company should be extended as in this Act provided :

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen'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 (that is to say) :—

1. This Act may be cited as the Edinburgh American Land Mortgage Company Limited Act 1897. Short title.

[Price 6d.]

A.D. 1897.

Power to divide ordinary shares with preference as to a portion thereof.

2.—(1.) At any time when the directors of the Company in exercise of the powers vested in them by the articles of association of the Company make a call on the members in respect of the ordinary shares held by them respectively the directors by resolution may determine that each of the said ordinary shares shall be divided into two parts that is to say preference stock equal to the amount of the call which shall carry a cumulative preferential dividend and one ordinary share of a nominal value equal to the nominal value of the share so divided less the amount of the call and that the call so made shall be treated as payable in respect of such preference stock and that the amount at the time of division paid up on the ordinary share so divided shall be credited as paid up on the ordinary share of reduced amount resulting from such division and the directors shall by such resolution fix the rate per centum per annum of the dividend on such preference stock the date from which the same shall run the conditions if any on which such preference stock is to be issued whether such preference stock shall or shall not be convertible as herein-after provided by the section of this Act the marginal note of which is "Preference stock may be convertible" and if convertible the date after which the same may be converted.

(2.) A memorandum in writing under the common seal of the Company containing the particulars of such preference stock and the conditions to which the same is subject shall be filed with the registrar of Joint Stock Companies and the register of members of the Company shall thereupon be altered accordingly.

(3.) The certificates of the ordinary shares so divided shall be delivered up to the Company to be cancelled or the loss or destruction thereof proved to the satisfaction of the directors and new certificates shall be issued in respect of the ordinary shares and preference stock as the case may be.

Payments in advance of calls to be convertible into preference stock.

3. The directors of the Company may at any time and from time to time by resolution determine to offer to the holders of the ordinary shares or their nominees the option of paying up an aggregate specified amount in advance of calls on such shares and may accept the amount so paid in pursuance of such option and the same shall be converted into preference stock to be issued rateably to the said holders or their nominees paying up such amounts according to the amounts paid by them respectively and carrying a cumulative preferential dividend at the rate and from the date specified in such resolution and to be held subject to such conditions (if any) as shall be also specified in the same resolution and the nominal amount of each such ordinary share shall be reduced by a

sum equal to the amount so paid thereon and in the event of such determination the following provisions shall have effect (that is to say) :— A.D. 1897.

- (1.) Notice of the passing of such resolution shall be given to each of the holders of ordinary shares by letter posted at the General Post Office at Edinburgh to the registered address of such holder and shall state the rate per centum per annum of the preferential dividend to be attached to the preference stock and the place at which and the time or times when such payment may be made and the date from which such dividend is to run and whether such preference stock shall or shall not be convertible as herein-after provided and if convertible the date after which the same may be converted and the conditions if any upon which the stock is to be held :
- (2.) Each holder of ordinary shares shall be at liberty to intimate his intention to exercise the option as to all or any of his ordinary shares at any time within thirty days from the time when such notice shall have been posted to him and that by a writing under his hand delivered at the Edinburgh office of the Company or sent by registered letter to that office :
- (3.) If the aggregate of the sums which may be intimated by such holders as intended to be paid in exercise of the option offered by any resolution as aforesaid exceeds the amount specified in such resolution so much of such aggregate sum shall be declined as shall bring the amount to be accepted by the Company within the limit fixed by the said resolution and the sums so declined shall so far as possible be declined rateably in proportion to the sums so intimated by the said holders respectively :
- (4.) When and so soon as the directors shall have ascertained the amount of the payments made in exercise of the said option a memorandum in writing under the common seal of the Company containing particulars of the preference stock to be issued in respect of the amount so paid and the rate of preferential dividend attaching to the preference stock and the date from which the same shall run and the conditions (if any) on which the same is to be held shall be filed with the registrar of Joint Stock Companies and the register of members of the Company shall be altered accordingly :
- (5.) The certificates of the ordinary shares in respect of which such payments shall be made shall be delivered up to the Company to be cancelled or the loss or destruction thereof shall be proved to the satisfaction of the directors and new

A.D. 1897. certificates shall be issued of the preference stock and of the ordinary shares of reduced nominal amount.

Ranking of preference stock.

4. The preference stock created under the last two preceding sections shall rank both as regards capital and dividend in priority to the ordinary shares and be entitled in a winding up to have the assets available for distribution among the members including uncalled capital applied accordingly but shall not be entitled to any further participation in the profits or surplus assets of the Company. All such preference stock shall rank *pari passu* inter se without any preference or priority by reason of the date of creation or issue or re-issue or conversion thereof or otherwise.

Preference stock may be convertible.

5.—(1.) Any preference stock from time to time to be created under the provisions of this Act may after the date specified in any resolution of the directors at the time of the creation of such stock as herein-before provided and after two months' previous notice be in the option of the directors converted into preference stock bearing a lower rate of dividend.

(2.) Such conversion may be carried into effect in one or other of the following methods or partly in one and partly in the other of such methods viz. :—

(A) By conversion of the preference stock into similar preference stock bearing a lower rate of dividend provided that such conversion shall only take place as regards such preference stock the holders of which for the time being shall have consented in writing to such conversion; or

(B) By a payment to the registered holders of such preference stock for the time being at the rate of one hundred pounds for each one hundred pounds nominal value of preference stock and the re-issue to such persons as the directors approve of an equivalent amount of preference stock bearing a lower rate of dividend and subject to such conditions as may be determined upon by the directors which conditions shall not be dissimilar to those which might have been legally imposed at the time of the creation of the preference stock under the provisions of this Act.

(3.) In the event of a part and not the whole of such preference stock being converted then the conversion shall be by lot in the way and manner which may be fixed by the directors in their resolution to convert or in any other resolution passed by them prior to such conversion.

(4.) In the event of any conversion taking place in terms of any resolution of the directors as aforesaid a memorandum in writing

under the common seal of the Company containing the particulars of such conversion and the manner of carrying out the same and the conditions relating to the converted or re-issued stock shall be filed with the registrar of Joint Stock Companies and the register of members of the Company shall be altered accordingly.

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(5.) Notice of the effect of this section shall be endorsed or stated on all certificates of preference stock.

6. Each holder of preference stock shall be entitled to one vote for every one hundred pounds nominal value of such stock held by him and a holder of less than one hundred pounds thereof shall not be entitled in respect thereof to any vote and each holder of ordinary shares for the time being shall be entitled to one vote for every one hundred pounds nominal value of ordinary shares held by him and a holder of less than one hundred pounds thereof shall not be entitled to any vote in respect thereof. The regulations of the Company as to votes of members in force for the time being shall *mutatis mutandis* apply to preference stock and receive effect subject to the provisions of this Act.

Voting
powers.

7. The Company shall forward to the registrar of Joint Stock Companies a copy of this Act which shall be filed by him and if such copy be not forwarded within three months after the passing of this Act or if any memorandum sealed pursuant to the provisions of this Act be not filed with the registrar aforesaid within fourteen days after it is so sealed the Company shall incur a penalty not exceeding two pounds for every day after the expiration of those three months or fourteen days as the case may be during which the copy or memorandum is omitted to be forwarded and every director and officer of the Company who knowingly and wilfully authorises or permits such default shall incur a like penalty and every penalty under this Act shall be recoverable summarily in the sheriff court of the Lothians and Peebles at Edinburgh.

Act and
memoranda
to be lodged
with
registrar.

8. For the purpose of giving effect to any deed will or other instrument the preference stock and ordinary shares into which any shares in the capital of the Company may be divided by virtue of this Act shall be in substitution for such ordinary shares and shall be liable to the same trusts powers provisions declarations agreements charges liens and incumbrances as affected the ordinary shares for which the same are substituted immediately before the division thereof and in any instrument executed before or after the passing of this Act references to the ordinary shares of the Company existing before the passing of this Act shall be construed as references to the preference stock and ordinary shares into which

Reference
to shares in
testamentary
instruments.

A.D. 1897. any ordinary shares may be divided under this Act and so as to give effect to and not to revoke any deed will or other instrument disposing of or affecting or purporting to dispose of or affect such ordinary shares and every such deed will or other instrument made before the passing of this Act and disposing of or affecting or purporting to dispose of or affect such ordinary shares shall take effect with reference to the preference stock and ordinary shares into which such ordinary shares may be divided under the provisions of this Act.

General
saving
clause.

9. Save and except as by this Act is specially enacted nothing herein contained shall prejudice alter or affect the memorandum or articles of association of the Company or shall be deemed to render valid or invalid any act done or proceeding pending by or against the Company before or at the date of the passing of this Act.

Copy of Act
to be
annexed to
articles of
association.

10. To every copy of the memorandum and articles of association of the Company supplied after the passing of this Act to any member under the provisions of section 19 of the Companies Act 1862 there shall be annexed a copy of this Act which for the purposes of that section shall be treated as part of the memorandum and articles of association of the Company.

Costs of
Act.

11. 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 Company.

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