CHAPTER xxii.

An Act for creating a preference Stock of the American Mortgage Company of Scotland Limited and for other purposes relating thereto. [14th May 1895.]

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WHEREAS the American Mortgage Company of Scotland Limited (in this Act called "the Company") was incorporated in the year one thousand eight hundred and seventy-seven 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 one million pounds divided into one hundred thousand ordinary shares of ten pounds each whereof forty-two thousand eight hundred have been issued and two pounds per share have been paid thereon:

And whereas by the articles of association of the Company the management of the business of the Company is vested in and is to be conducted by the directors of the Company who are thereby empowered to make calls upon the members of the Company in respect of all moneys unpaid on their shares therein:

And whereas the Company is desirous and it is expedient that certain preferential rights should be authorised and such other provisions made as are herein-after contained in respect of the capital of the Company and the present and future holders thereof:

And whereas the purposes 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 American Mortgage Company of Scotland Limited Act 1895. Short title.

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Interpretation.

2. In this Act the expression "the directors" means the directors for the time being of the Company and includes any committee to which the powers or duties by this Act conferred on the directors may be delegated by them The expression "the regulations of the Company" means the articles of association or other regulations for the time being of the Company The expression "the ordinary shares" means the ordinary shares issued at the time of the passing of this Act and which shall be from time to time thereafter issued by virtue of the exercise of powers contained in the regulations of the Company and includes the ordinary shares as from time to time existing by virtue of any division or reduction under the provisions of this Act.

Directors may determine that shares shall be divided with preference to one portion.

3. If and whenever and as often as the directors in exercise of the powers vested in them by the regulations of the Company make a call on the members in respect of the ordinary shares held by them respectively the directors by a memorandum in writing under the common seal of the Company may determine that each of the said ordinary shares shall be divided into two shares (that is to say) One preference share equal to the amount of the call 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 share 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 Such memorandum shall fix the rate per centum per annum of preferential dividend the date from which the same shall run as regards the preference shares to which it relates the conditions if any on which the same are issued and whether such preference shares shall or shall not be convertible as herein-after provided by the section of this Act the marginal note of which is "Preference shares or preference stock may be convertible" and if convertible the date after which the same may be converted Every such memorandum shall be filed with the Registrar of Joint Stock Companies and the register of members of the Company shall thereupon be altered accordingly and as and when any of such preference shares are fully paid up they shall ipso facto be converted into stock to be called "preference stock" subject always to the conditions of the memorandum by which the division was made and by which the respective preference shares were created which shall equally apply to the respective portions of stock representing such shares to be from time to time created Whenever any such division is made the certificates of the shares so divided shall be delivered up to the

Preference shares when paid in full to be converted into preference stock.

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 shares or stock resulting from the division.

Provisions to be retrospective.

4. The provisions of the last preceding section shall be applicable not only as regards any call made after the passing of this Act but also as regards any call made subsequent to the eighth day of March one thousand eight hundred and ninety-five but before the passing of this Act and in the event of such call being made the directors if they so determine shall immediately after the passing of this Act affix the common seal of the Company to a memorandum as aforesaid and file the same with the Registrar of Joint Stock Companies.

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

5. The directors of the Company may subject always to the provisions of this Act at any time and from time to time by resolution determine to accept and may accept from holders of the ordinary shares or from their nominees a specified amount in advance of calls and to offer to the holders of the ordinary shares or their nominees the option of paying up in full all or any of the ordinary shares held by them respectively on the footing that the amount paid up shall in accordance with the provisions of this Act be converted into preference stock carrying a preferential dividend at a specified rate from a specified date and which may be subject to conditions which (if any) shall be also specified and that the nominal amount of the ordinary shares so paid up in full shall be reduced by a sum equal to the amount so paid up thereon and in the event of such determination the following provisions shall have effect (that is to say):—

Notice of resolution.

(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 attached to the preference stock mentioned in such resolution and the place at which and the date on or before which payment is to be made for such stock and the date from which such dividend is to run and whether such preference stock shall or shall not be convertible as hereinafter provided and if convertible the date after which the same may be converted and the conditions if any upon which the stock is issued:

Time within which option to be exercised.

(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

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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:

If preference stock over applied for surplus to be declined.

(3) If the aggregate of the sums which it is intimated are intended to be paid up in exercise of the option offered by any resolution as aforesaid exceeds the amount specified therein so much thereof shall be declined as shall bring the amount to be received within the limit fixed by the said resolution and the amount so received shall suffice to pay up in full a specified number of shares 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:

Directors to determine the specific shares in respect of which payments made.

(4) When and so soon as the directors shall have ascertained the amounts of the payments made in exercise of the said option they shall by memorandum in writing under the common seal of the Company determine by numbers the shares in respect of which such payments have been made and that such shares shall be reduced in amount by a sum equal to the amount of the payments so made thereon and that fully paid preference stock shall be registered in the names of the holders of such shares or their nominees equal in nominal value to the amount so paid up Such memorandum shall also state the rate per centum per annum of preferential dividend the date from which the same shall run as regards the stock to which it relates the conditions (if any) on which the same is issued 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 register of members of the Company shall be altered accordingly:

Memorandum to be filed with Registrar.

(5) Every such memorandum shall be filed with the Registrar of Joint Stock Companies:

Share certificates to be surrendered and new certificates issued.

(6) The certificates of the said shares 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 certificates shall be issued of the stock and of the shares of reduced nominal amount.

Preferable rights of preference stock.

6. The preference stock created as aforesaid shall carry the right to a cumulative preferential dividend at such rate per centum per annum as regards each respective issue of stock and running from such date as may be fixed in the memorandum filed with the registrar as aforesaid relating to such issue (which date may be either before or subsequent to the date of said memorandum) and

subject to the provisions of this Act shall rank both as regards capital and dividend in priority to the ordinary shares and be entitled to have the surplus assets in a winding up 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 without any preference or priority by reason of the date of creation or issue or re-issue or conversion thereof or otherwise but the amount of such preference stock and of the preference shares (if any) shall not exceed in the aggregate an amount equal to two fifths of the issued capital of the Company for the time being including both ordinary shares at nominal value and preference shares and preference stock.

Preference shares or preference stock may be convertible.

7. The directors if they so resolve may subject to the provisions of this Act determine that the preference shares or preference stock from time to time to be created in terms of this Act may in the option of the directors and after two months previous notice be convertible by the Company after a date to be specified in the memorandum aforesaid when the directors shall create such shares by making a call or if the stock be created under the other provisions of this Act after a date to be specified in the resolution of the directors to offer the option aforesaid notice thereof and memorandum following thereon Such conversion may as the directors may from time to time determine be (1) by conversion of the existing preference shares or preference stock into similar preference shares or preference stock bearing a lower rate of dividend but such conversion shall be only with the consent in writing of the respective holders of such preference shares or preference stock for the time being whose shares or stock it is proposed shall be converted or (2) by payment to the registered holder of such preference shares or preference stock for the time being at the rate of one hundred pounds for each one hundred pounds of preference shares or preference stock nominal value and the re-issue to such persons as the directors approve of an equivalent amount of preference shares or 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 may be legally imposed at the creation of preference shares or preference stock in terms of this Act or otherwise or partly in one and partly in the other of such methods In the event of any conversion taking place in terms of any resolution of the directors the fact and details of such conversion and the manner of carrying out the same and the conditions of converted or re-issued shares or

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stock shall be specified in a memorandum which shall be prepared sealed and filed in like manner as nearly as may be as the memorandum provided for in the section of this Act the marginal note of which is "Payments in advance of calls to be convertible into preference stock" and in the event of a part and not the whole of such preference shares or 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. Notice of the effect of this section shall be endorsed on the certificates of all preference shares or stock to which the section may relate.

Voting powers.

8. Each holder of preference stock or preference shares shall be entitled to one vote for every fifty pounds of such stock or shares held by him and a holder of less than fifty 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 fifty pounds (nominal value) of ordinary shares held by him and a holder of less than fifty 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 or preference shares and receive effect subject to the provisions of this Act.

Act and memoranda to be lodged with registrar.

9. 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.

Reference to shares in testamentary instruments.

10. The preference and ordinary shares or stock into which any shares in the capital of the Company may be divided by virtue of this Act shall be in substitution for such shares and shall be liable to the same trusts powers provisions declarations agreements charges liens and incumbrances as affected the shares for which the same are substituted immediately before the division thereof and in any instrument executed before the passing of this Act references to

shares of the Company existing before the passing of this Act shall be construed as references to the ordinary shares and to the preference stock and preference shares of the Company and in the case of any testamentary instrument executed before the passing of this Act any disposition which but for the passing of this Act would have operated as a specific bequest of any such shares of the Company existing before the passing of this Act shall be construed as a specific bequest of the ordinary shares and preference stock and preference shares which may continue vested in the testator or of a proportionate part thereof as the case may be.

Saving as to preference shares and borrowing.

11. Nothing in this Act contained shall—

(1) Derogate from or abridge any power of the Company to create and issue any new series of preference shares ranking as regards dividend or capital or both in priority to or pari passu with the preference shares and preference stock aforesaid; or

(2) Alter or relax any limitation or condition as to the amount of the bonds debentures or obligations of the Company for the time being contained in the regulations of the Company.

General saving clause.

12. 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.

13. 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.

14. 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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