



CHAPTER iii.

An Act to amend the Nitrate Railways Company Limited (Conversion of Shares) Act 1891 and the Nitrate Railways Company Limited Act 1901 and for other purposes. A.D. 1918.
[16th May 1918.]

WHEREAS by the Nitrate Railways Company Limited (Conversion of Shares) Act 1891 (hereinafter called "the Act of 1891") it was amongst other things provided that the Nitrate Railways Company Limited (hereinafter called "the Company") upon application as therein mentioned might and should from time to time convert its ordinary shares into preferred converted ordinary shares and deferred converted ordinary shares and create and issue such converted shares subject to the provisions and with the incidents therein mentioned:

And whereas one of the provisions aforesaid was that the converted shares should in each year together be entitled to the same dividend as that to which the ordinary shares in substitution for which such converted shares were issued would but for the conversion have been entitled and such dividend should be apportioned between the converted shares in the following manner in so far as the same should be sufficient for that purpose (that is to say) first in payment of a dividend for that year at the rate of seven per centum per annum to the holders of preferred converted ordinary shares and secondly in payment of any balance to the holders of deferred converted ordinary shares according to the amount of their respective holdings:

And whereas by section 5 of the Act of 1891 it was further enacted that if the Company should be wound up the holders of

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A.D. 1918. — the preferred converted ordinary shares and of the deferred converted ordinary shares should as between them and the holders of any other shares in the capital of the Company be entitled collectively to such portion of the surplus assets divisible among the members as such holders of the said converted shares would but for the conversion have been entitled to as holders of the ordinary shares in substitution for which such converted shares were issued but as between the holders of the preferred converted ordinary shares and the deferred converted ordinary shares such portion of surplus assets should be applicable first in or towards paying off *pari passu* the amount of the preferred converted ordinary shares secondly in paying the dividend attached thereto up to the commencement of the winding up in so far as the same should not previously have been paid or satisfied and thirdly the residue (if any) should be divided among the holders of the deferred converted ordinary shares in proportion to the amount of such deferred converted ordinary shares held by them respectively :

And whereas at the date of the passing of the Act of 1891 the Company was making large profits :

And whereas at that date the share capital of the Company consisted of twenty-seven thousand six hundred shares of ten pounds each (which carried a preferential dividend at the rate of seven per centum per annum up to the thirty-first December one thousand eight hundred and ninety-three after which date they were to be treated in all respects as ordinary shares) and one hundred and thirty-eight thousand ordinary shares of ten pounds each and the Company had a mortgage bond debt of one million nine hundred and twenty-five thousand one hundred pounds being the amount remaining outstanding of an original mortgage bond debt of two million pounds sterling :

And whereas prior to the passing of the Act hereinafter recited seventy-one thousand two hundred and eighty-five ordinary shares of the Company of ten pounds each had in accordance with the provisions of the Act of 1891 been converted into a like number of preferred converted ordinary shares of ten pounds each and a like number of deferred converted ordinary shares of ten pounds each :

And whereas at the date of the Act hereinafter recited the Company was not earning sufficient to pay any dividend on its deferred converted ordinary shares :

And whereas by the Nitrate Railways Company Limited Act 1901 (hereinafter called "the Act of 1901") it was amongst other things provided that the Company might and should from time to time reconvert any portion of the said converted shares into ordinary shares and consolidate and reissue such ordinary shares subject to the following amongst other provisions (namely) that any holder of preferred converted ordinary shares who should hold also deferred converted ordinary shares might at any time by application in writing require the Company to reconvert the whole or any portion of such shares held by him and being an equal number of each class into ordinary shares and to issue the same to him as ordinary shares and that the shares so issued should be deemed for all purposes to be fully paid-up shares and that such ordinary shares should only be issued in substitution for an amount of preferred converted ordinary shares and of deferred converted ordinary shares each equal to the amount of ordinary shares so to be issued:

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And whereas since the passing of the Act of 1901 the bulk of the said preferred converted ordinary shares and deferred converted ordinary shares have from time to time been reconverted into ordinary shares under the powers conferred by that Act and on the thirty-first December one thousand nine hundred and sixteen the share capital of the Company was represented by one hundred and forty-eight thousand five hundred and thirty-four ordinary shares seventeen thousand and sixty-six preferred converted ordinary shares and seventeen thousand and sixty-six deferred converted ordinary shares all of the nominal value of ten pounds each:

And whereas the process of reconversion under the Act of 1901 is still going on but it is apprehended that in the ordinary course the reconversion of the whole of the converted share capital of the Company cannot and will not take place:

And whereas the said mortgage bond debt has been extinguished:

And whereas concessions under which the Company works its undertaking in Chile will in the ordinary course expire at various dates commencing in one thousand nine hundred and thirty-six and the Company is desirous of making provision for the case in which they may be in the position of repaying their paid-up capital to the shareholders before such expiry but although provision is made in the Act of 1891 for defining the

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A.D. 1918. — rights of all the shareholders of the Company in the event of a liquidation of the Company no provision is made by the Act of 1891 or by the Act of 1901 for defining or protecting the rights of the ordinary shareholders if a return of capital to the extent of ten pounds per share were made to them and to the holders of any outstanding preferred converted ordinary shares at a time when the Company will continue to carry on its business and it would accordingly be difficult if not impossible to take advantage of the provisions of the Companies (Consolidation) Act 1908 for the purpose of effecting such a return of capital without statutory provision being made for securing that in the event of such a return of capital being made as aforesaid the holders of the ordinary shares shall in respect of each ordinary share held by them respectively have reserved to them the same rights as they would have had if each such ordinary share had been converted into one preferred converted ordinary share and one deferred converted ordinary share under the provisions of the Act of 1891 and such converted shares had not been reconverted under the provisions of the Act of 1901:

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

May it therefore please 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:—

Short title.

1. This Act may be cited as the Nitrate Railways Company Limited Act 1918.

Rights of
shareholders
on reduction
of capital.

2. If and whenever the Company shall pursuant to any order made under section 50 of the Companies (Consolidation) Act 1908 or any other statutory provision for the time being in force reduce its share capital by paying off any of its paid-up capital the amounts so paid off shall be distributed rateably amongst the holders of the ordinary shares and the preferred converted ordinary shares for the time being forming part of the capital of the Company according to the amounts paid up or credited as paid up on such shares respectively until the whole of the said amounts shall have been paid off If and so soon as the whole of the said amounts shall have been so paid off the preferred converted ordinary shares shall be extinguished

and the holders thereof shall cease as such holders to be members of the Company but the said ordinary shares and the deferred converted ordinary shares shall continue to subsist and shall confer on the registered holders thereof respectively all the rights of members of the Company and shall for all the purposes of voting participation in profits return of capital and in all other respects rank equally and *pari passu* as if the same were shares paid up to the same extent and all of such shares whether ordinary shares or deferred converted ordinary shares shall thereafter be called and known as ordinary shares and certificates shall be issued to the holders thereof accordingly in exchange for their existing share certificates which shall forthwith be surrendered for cancellation.

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3. If and whenever the share capital of the Company shall be reduced by paying off part of the capital paid up on the ordinary and preferred converted ordinary shares for the time being forming part of the capital of the Company the preferred converted ordinary shares and deferred converted ordinary shares then forming part of the capital of the Company shall thereafter (but subject to the provisions of the section of this Act of which the marginal note is "Rights of shareholders on reduction of capital") be entitled to dividend and to participate in the surplus assets divisible among the members as if the amounts paid off the said preferred converted ordinary shares had been paid off the ordinary shares in substitution for which the said converted shares were issued before the date of their conversion and subsection (4) of section 3 and section 5 of the Act of 1891 shall be construed and have effect accordingly and in the event of any reconversion of preferred converted ordinary shares and deferred converted ordinary shares into ordinary shares taking place under the Act of 1901 after any such payment off the resulting ordinary shares shall be of the same nominal amount as the preferred converted ordinary shares so reconverted and in subsection (2) of section 1 of the Act of 1901 the word "amount" shall mean "number."

Rights of
shareholders
to dividends
and surplus
assets.

4. The Company shall deliver to the Registrar of Joint Stock Companies a printed copy of this Act and he shall retain and register the same and if such copy is not so delivered within three months from the passing of this Act the Company shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the

Copy of
Act to be
registered.

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A.D. 1918. — default continues and any director or manager of the Company who knowingly and wilfully authorises such default shall incur the like penalty Every penalty under this section shall be recoverable summarily.

There shall be paid to the registrar by the Company on such copy being registered the like fee as is for the time being payable under the Companies (Consolidation) Act 1908 on registration of any document other than the memorandum or the abstract required to be filed with the registrar by a receiver or manager or the statement required to be sent to the registrar by the liquidator in a winding up in England.

Copy of
Act to be
supplied to
members on
request.

5. 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 18 of the Companies (Consolidation) Act 1908 or any statute for the time being in force amending or re-enacting the same there shall be annexed a copy of this Act which for the purposes of that section or of any such statute as last aforesaid shall be treated as part of the memorandum and articles of association of the Company.

Costs of Act.

6. All 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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