CHAPTER xviii.

An Act to provide for the incorporation under the Companies (Consolidation) Act 1908 of a Company to take over the investments securities property and assets of the Birkbeck Share and Debenture Trust and for other purposes. [25th June 1912.] A.D. 1912.

WHEREAS by an indenture dated the eighteenth day of June one thousand eight hundred and eighty-eight and made between John Runtz George Grosvenor Daniel Leggatt and Horatio Ravenscroft (thereinafter called "the trustees") of the one part and John Paul Poncione of the other part the Birkbeck Share and Debenture Trust (in this Act called "the trust") was constituted and it was by the said indenture recited that it was intended—

(A) That the sum of five hundred thousand pounds should be subscribed for the purchase by the said trustees of stocks shares bonds obligations debentures and other securities of the descriptions in the said indenture mentioned; and

(B) That the said sum of five hundred thousand pounds should be raised by the issue of fifty thousand provisional certificates of ten pounds each which on the whole thereof being paid in full were to be converted into twenty-five thousand debentures twelve thousand five hundred preferred certificates twelve thousand four hundred and ninety deferred certificates and ten founders' certificates all of the value of ten pounds each which debentures and certificates were to be in the forms set forth in the schedule to the said

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indenture and to each of which there were to be attached coupons for interest for twenty-five years and were all to pass by delivery:

And whereas the said indenture of the eighteenth day of June one thousand eight hundred and eighty-eight provided that the trust should be conducted by a board of management (thereinafter and hereinafter referred to as "the Board") consisting of the trustees appointed under the said indenture and not more than five other persons and that the qualification for the office of trustee or of members of the Board should be the continuing ownership of fifty debentures or certificates and one founders' certificate and that if any trustee or other member of the Board should resign or cease to hold debentures or certificates as aforesaid or should die or become incapable to act or become bankrupt or insane the office so held by him should become vacant and that in every such case the Board should appoint another duly qualified person to act in his place:

And whereas the said indenture also provided—

(A) That all moneys paid in respect of the said provisional certificates should be received by the said trustees and after making certain payments in the said indenture mentioned should be applied in the purchase by them of securities of the nature thereinbefore mentioned and that all purchases sales and variation of investments should be made with the sanction of the Board:

(B) That the said trustees should apply the interest dividends and income of the securities purchased as well as any profit arising on the sale of securities or from drawn securities—

First In payment of interest at the rate of four pounds per centum per annum to the holders of the said debentures;

Second In payment of the expenses of management;

Third In payment of interest at the rate of five pounds per centum per annum to the holders of the preferred certificates;

Fourth In payment of interest at such rate (not exceeding six pounds per centum per

annum) as the profits of the trust should allow in any year to the holders of the deferred certificates and of the founders' certificates;

Fifth In payment of the balance of the profits realised in any year (after certain additions to the reserve fund) as follows One half to the holders of the deferred certificates and the other half to the holders of the founders' certificates:

(c) That at the expiration of twenty-five years from the first of January one thousand eight hundred and ninety being the first of January one thousand nine hundred and fifteen or as soon thereafter as the Board might determine the whole of the securities should be sold and converted into money by the trustees of the said indenture dated the eighteenth day of June one thousand eight hundred and eighty-eight under the direction of the Board and the balance of the proceeds thereof after payment of the debentures and of the certificates at the rate of ten pounds each should be divided one half to the holders of the deferred certificates and the other half to the holders of the founders' certificates:

And whereas the whole of the said debentures and certificates of the trust have been issued and paid in full and are now outstanding:

And whereas the value of the investments of the trust at cost price less amounts written off was at the date of the balance sheet of the thirty-first day of December one thousand nine hundred and ten five hundred thousand two hundred and seven pounds five shillings and twopence:

And whereas a considerable depreciation exists in the investments of the trust and it is unlikely that such depreciation will be made good before the first day of January one thousand nine hundred and fifteen:

And whereas the debentures and certificates issued by the trust are not readily marketable and can only be sold at a heavy discount:

And whereas in the event of the trust coming to an end and it being necessary to realise the securities thereof at the

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expiration of twenty-five years from the first day of January one thousand eight hundred and ninety or as soon thereafter as the Board may determine as provided by the said indenture dated the eighteenth day of June one thousand eight hundred and eighty-eight it may happen that the holders of the debentures preferred deferred and founders' certificates issued by the trust may suffer by reason of its becoming necessary to realise all the securities of the trust within a limited period:

And whereas by reason of the provisions of the said indenture of the eighteenth day of June one thousand eight hundred and eighty-eight the holders of the debentures and certificates issued by the trust have no voice in the management of the trust or the appointment of the trustees or members of the Board and the management of the trust is cumbersome and inconvenient and causes unnecessary delay and expense and in view of there being only ten founders' certificates there is difficulty in finding any one qualified to be a trustee or member of the Board:

And whereas it is expedient in the interests of the holders of the debentures and certificates of the trust—

(A) That the trust should cease and that its investments securities assets and property should be transferred to and vested in a company limited by shares under the Companies (Consolidation) Act 1908;

(B) That the said debentures and certificates should be cancelled;

(C) That the holders of the said debentures should receive in exchange therefor four per cent. first debenture stock of the said company at par;

(D) That the holders of the said preferred certificates should receive in exchange therefor one fully paid preferred share of ten pounds of the said company for each preferred certificate;

(E) That the holders of the said deferred certificates should receive in exchange therefor one fully paid ordinary share of ten pounds of the said company for each deferred certificate; and

(F) That the holders of the said founders' certificates should receive in exchange therefor five fully paid ordinary shares of the said company of ten pounds each for each founders' certificate:

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And whereas the proposals contained in the Bill for this Act have been approved by resolution passed at separate meetings of the holders of debentures preferred certificates deferred certificates and founders' certificates respectively:

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 (that is to say):—

Short title.

1. This Act may be cited as the Birkbeck Share and Debenture Trust Act 1912.

Interpretation.

2. In this Act unless the context otherwise requires—

"The trust" means the Birkbeck Share and Debenture Trust created by the said indenture dated the eighteenth day of June one thousand eight hundred and eighty-eight;

"The trust deed" means the said indenture dated the eighteenth day of June one thousand eight hundred and eighty-eight;

"The debentures" means the twenty-five thousand debentures for ten pounds each issued by the trust and now outstanding;

"The preferred certificates" means the twelve thousand five hundred preferred certificates for ten pounds each issued by the trust and now outstanding;

"The deferred certificates" means the twelve thousand four hundred and ninety deferred certificates for ten pounds each issued by the trust and now outstanding;

"The founders' certificates" means the ten founders' certificates for ten pounds each issued by the trust and now outstanding;

"The certificates" means the preferred certificates the deferred certificates and the founders' certificates;

"The Board" means the board of management of the trust appointed under the provisions of the trust deed;

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"The trustees" means the trustees under the trust deed;

"The company" means the company to be formed as hereinafter provided.

Registration of company.

3. The Board shall before such day not being later than the first day of January one thousand nine hundred and thirteen as may be fixed by resolution of the Board (hereinafter called "the appointed date") procure to be incorporated a company (with such name or designation as the Board may hereafter determine and as may be approved by the Registrar of Joint Stock Companies) limited by shares under the Companies (Consolidation) Act 1908 with a capital of two hundred and fifty thousand four hundred pounds divided into twelve thousand five hundred five per cent. cumulative preference shares of ten pounds each and twelve thousand five hundred and forty ordinary shares of ten pounds each and with memorandum and articles of association in the form which has been already prepared and has been signed for the purpose of identification by two of the members of the Board.

Qualification of directors.

4. As from the date of the holding of the first general meeting of the company after the passing of this Act the qualification of a director shall be the holding of shares of the nominal value of at least two hundred pounds in the capital of the company.

Debenture stock trust deed.

5. The company shall create an issue of two hundred and fifty thousand pounds of four per cent. debenture stock which shall be constituted and secured by a trust deed to be executed by the company as a first floating charge on the undertaking of the company and all its property and assets for the time being both present and future including its uncalled capital power being reserved to the company to issue further debenture stock ranking pari passu with the said two hundred and fifty thousand pounds stock to be issued to the holders of the debentures to such an amount as in the aggregate shall not together with the said two hundred and fifty thousand pounds stock exceed the amount of the issued capital of the company for the time being Such trust deed shall be in the form of the draft which has been already prepared and has been signed for the purpose of identification by two of the members of the Board.

Cessation of trust.

6. As and from the appointed date the trust shall by virtue of this Act cease and the debentures and the certificates shall

by virtue of this Act be cancelled but without prejudice to the rights of the holders thereof to receive interest thereon in accordance with the terms of the trust deed down to the date of such cancellation.

Substitution of stock and shares of company for interests in trust.

7. Forthwith after the appointed date the directors of the company shall issue debenture stock and shares of the company as follows:—

(A) To the holders of the debentures in exchange therefor fully paid four per cent. debenture stock of the company at the rate of ten pounds of such stock for every debenture held by such holders respectively:

(B) To the holders of the preferred certificates in exchange therefor one fully paid preference share of the company of ten pounds for every preferred certificate held by such holders respectively:

(C) To the holders of the deferred certificates in exchange therefor one fully paid ordinary share of the company of ten pounds for every deferred certificate held by such holders respectively:

(D) To the holders of the founders' certificates in exchange therefor five fully paid ordinary shares of the company of ten pounds each for every founders' certificate held by such holders respectively.

Vesting of trust property in company.

8. Forthwith after the trust has ceased and the company is prepared to issue the debenture stock and shares to be issued to the holders of the debentures and of the certificates as hereinbefore provided the Board and the trustees and any other body or person by whom there may be held or in whom there may be vested any investments securities property or assets of the trust shall transfer to and vest in the company or as it may direct all such investments securities property and assets of the trust freed from any trusts or liabilities created by the trust deed after making in the cases of the Board and the trustees provision for the costs charges and expenses hereinafter directed to be paid by the Board and the trustees and the Board and all such other bodies and persons are hereby empowered to execute and do and shall execute and do all such acts deeds and assurances as may be necessary or expedient for effecting and completing such transfer and vesting of the said investments securities property and assets in the company.

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Trustees &c. to accept substituted stocks and shares.

9. Trustees executors administrators and all other holders in any representative or fiduciary character of the debentures or the certificates are hereby expressly authorised and required to accept and hold any debenture stock or shares as the case may be issued in exchange for the debentures or the certificates now held by them and are hereby indemnified in respect of all acts bonâ fide done by them in pursuance of the provisions of this Act.

As to trusts &c.

10. The debenture stock or shares as the case may be to be issued to the holders of the debentures and the certificates shall be respectively held in the same rights on the same trusts and subject to the same powers provisions charges and liabilities as those in on or subject to which the debentures or the certificates as the case may be in respect of which such debenture stock or shares are issued were held and so as to give effect to and not to revoke any deed will or other instrument or testamentary or other disposition disposing of or affecting the debentures or the certificates and every such deed will or other instrument or testamentary or other disposition shall in so far take effect with reference to the whole or a proportionate part as the case may be of the debentures or the certificates and the debenture stock or shares as the case may be issued in respect thereof.

As to exchange of certificates.

11. No holder of any of the debentures or of the certificates shall be entitled to any debenture stock of the company or to any certificate of shares of the company to which he is entitled under the provisions of this Act until he shall have delivered up to the company to be cancelled the debentures or the certificates held by him or shall have proved to the reasonable satisfaction of the directors of the company the loss thereof and shall have given such indemnity with or without security in respect thereof as the directors of the company may require.

Increase of capital.

12. Nothing herein contained shall interfere with the powers of the company and its directors under the articles of association of the company relating to the increase of its capital or to vary its memorandum and articles of association under the powers conferred by the Companies (Consolidation) Act 1908.

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Copy of Act to be registered.

13. A printed copy of this Act shall on or before the appointed date be filed by the company with the Registrar of Joint Stock Companies who shall receive and file the same and if such copy shall not be delivered to the Registrar by such date the company shall incur a penalty not exceeding two pounds for every day after the appointed date during which the company shall omit to deliver the said copy and every director and manager of the company who shall knowingly and wilfully authorise or permit such default shall incur the like penalty and 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 a memorandum of association 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.

Costs of Act.

14. All costs charges and expenses of the trust the trustees the Board and the company of and incident to the preparing for obtaining and passing of this Act the preparation and execution of the trust deed to secure the said debenture stock and the exchange of the debenture stock and shares of the company for the debentures and the certificates respectively the transfers and vesting in the company of the investments securities property and assets of the trust or otherwise in relation to the carrying out of the objects of this Act shall be paid by the Board out of the funds of the trust.

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