EXPLANATORY MEMORANDUM TO

THE COMPANIES (AUTHORISED MINIMUM) REGULATIONS 2009

2009 No. 2425

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations provide a euro equivalent for the £50,000 minimum capital requirement for public limited companies under the Companies Act 2006. And they provide rules for judging whether companies whose capital is denominated in more than one currency meet the minimum capital requirement.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Regulations provide a euro figure and rules necessary for certain provisions of the Companies Act 2006, which refer to the "authorised minimum" share capital requirement for public companies. The euro figure replaces the one currently fixed in the Companies (Authorised Minimum) Regulations 2008 (SI 2008/729), and the rules correspond to those provided in those Regulations for provisions in the Companies Act 1985 and the Companies (Northern Ireland) Order 1986.

5. Territorial Extent and Application

5.1 This instrument applies throughout the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 Company law provides a minimum level for the nominal value of allotted share capital that a public limited company must have in order to obtain a trading certificate from Companies House. The same minimum applies to a private company that wishes to re-register as a public company. The minimum for either of these can be met with capital denominated in sterling or in euro, and the sterling minimum is

fixed at £50,000. These regulations provide an updated euro limit to replace the one set in April 2008.

7.2 In certain circumstances where a public company changes its capital, the Companies Act 2006 requires a check that the new capital is still no lower than the minimum level. This requirement can be met in any currency or in any combination of currencies. These regulations provide that for a company whose capital is denominated in more than one currency, the requirement is met if the capital meets either the sterling or euro minimum when converted; and it defines the way in which conversion should be done into sterling and euros for this purpose. These rules are the same as those provided in the Companies (Authorised Minimum) Regulations 2008 for corresponding provisions in the Companies Act 1985 and the Companies (Northern Ireland) Order 1986.

7.3 Transitional provisions in the Regulations provide for the previous euro figure to apply, rather than the new one, in certain circumstances.

8. Consultation outcome

8.1 The Companies (Authorised Minimum) Regulations were based on consultation in 2007 and subsequent contributions from stakeholders. A draft of the current instrument was published on the Department's (then BERR) website in April 2008.

9. Guidance

9.1 Guidance on the minimum capital requirement is available on the Companies House website.

10. Impact

10.1 The fact that the new euro equivalent is lower than the previous figure will make it slightly easier for a new public company to be formed with its currency denominated in euro.

10.2 The remainder of the Regulations will continue for Companies Act 2006 provisions the system for comparing capital denominated in a mixture of currencies that the 2008 Regulations set out for the corresponding Companies Act 1985 and Companies (Northern Ireland) Order 1986 provisions.

10.3 As these Regulations impose no burdens, no Impact Assessment has been prepared.

11. Regulating small business

11.1 These Regulations will affect all businesses, large or small, that are or want to be registered as public limited companies.

11.2 No special provision has been made for small businesses.

12. Monitoring & review

12.1 This instrument will be reviewed from 2011, as part of the Companies Act 2006 evaluation.

13. Contact

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