
STATUTORY INSTRUMENTS

2009 No. 2425

The Companies (Authorised Minimum) Regulations 2009

Determination of exchange rates by the court in certain proceedings

- 6.—(1) This regulation applies to—
- (a) proceedings against a public company or any officer of a public company for an offence under section 667 ; and
 - (b) proceedings under section 757 or 758 or Part 30.
- (2) Where the circumstances in paragraph (3) exist, the court may make a determination referred to in paragraph (4) in the proceedings.
- (3) The circumstances are that—
- (a) in proceedings under section 667 it is alleged that, or in proceedings referred to in paragraph (1)(b) the question arises whether, the effect of a cancellation of the company's shares and diminution of the amount of the company's share capital under section 662(2) (a) was that the nominal value of the company's allotted share capital was brought below the authorised minimum; and
 - (b) as a result of that cancellation and diminution the company had (or continued to have) allotted share capital denominated in more than one currency.
- (4) The court may make such determination as it thinks fit as to the exchange rate to be applied to a currency conversion referred to in regulation 3(6) and (7) where—
- (a) the Financial Times did not publish, on or before the reference date, an exchange rate referred to in regulation 4(2) relevant to that currency conversion; or
 - (b) the Financial Times published, on or before the reference date, what appears to be an exchange rate referred to in regulation 4(2) relevant to that currency conversion but the company or officer of the company (as the case may be) can show that there was a publication error; or
 - (c) there is no evidence of what (if any) was the exchange rate referred to in regulation 4(2) as published on or before the reference date by the Financial Times relevant to that currency conversion,
- and there has not been produced to the court in the proceedings a copy of a certificate referred to in regulation 4(3) in respect of that currency conversion.
- (5) In this regulation, "the court" in relation to proceedings referred to in paragraph (1)(a) means the court of criminal jurisdiction in which the proceedings are brought.