

## COMPANIES ACT 2006

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### EXPLANATORY NOTES

#### COMMENTARY

#### **Part 17: a Company's Share Capital**

#### *Chapter 8: Alteration of Share Capital*

#### *Section 619: Notice to registrar of sub-division or consolidation*

892. The section replaces a similar requirement to notify the registrar contained in section 122(1)(a) and (d) of the 1985 Act. Where a company sub-divides or consolidates its share capital under section 618, it will continue to be required to give notice of this alteration to its share capital to the registrar within one month. However, there is a new requirement to file a statement of capital (see *subsections (2) and (3)*), which is in essence a “snap-shot” of the company’s total share capital at a particular point in time: in this case following the consolidation/sub-division.
893. For public companies, the requirement for a statement of capital is linked to the abolition of authorised share capital: it implements Article 2 of the Second Company Law Directive (*77/91/EEC*) which states:
- ““the statutes or instruments of incorporation of the company shall always give at least the following information... (c) when the company has no authorized capital, the amount of the subscribed capital...””.
894. The statement of capital will require the following information to be provided:
- the total number of shares of the company,
  - the aggregate nominal value of those shares,
  - for each class of shares, prescribed particulars of the rights attached to the shares, the total number of shares of that class and the aggregate nominal value of shares of that class, and
  - the amount paid up and the amount (if any) unpaid on each share (whether on account of the nominal value of the share or by way of premium).
895. Whilst this Directive applies only to public companies it is important that the information on the public register is up-to-date. A statement of capital will, therefore, be required where it is proposed that a company formed under the Act will have a share capital on formation and, with limited exceptions (in particular, where there has been a variation of class rights which does not affect the company’s aggregate subscribed capital) whenever a limited company makes an alteration to its share capital. A statement of capital is also called for in certain circumstances where an unlimited company having a share capital makes a return to the registrar (see, section 856).
896. In making a statement of capital, a company is required to provide “prescribed particulars of the rights attached to the shares”. Here, and elsewhere in the Act where

*These notes refer to the Companies Act 2006 (c.46)  
which received Royal Assent on 8 November 2006*

a statement of capital is called for, “prescribed” means prescribed by the Secretary of State in regulations or by order made under the Act.

897. The power conferred on the Secretary of State under this section enables the Secretary of State to specify the particular detail of the information which he requires to be filed with the registrar by a company. A statutory instrument made pursuant to this power will not be subject to any form of Parliamentary scrutiny.
898. Criminal liability for any failure to comply with the procedural requirements as to notice is retained (see *subsection (4)*). The penalty for this offence is set out in *subsection (5)*.