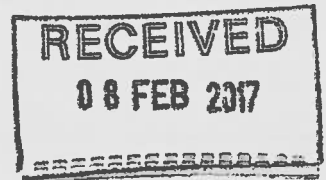


**Upper Tribunal (Tax & Chancery Chamber)**



**Applicant; R.P.Medplant Ltd**

**Respondent; The Pensions Regulator**

**Decision reference No; C87222146**

**The Applicant is not presently represented. In accordance with the guidance, an address for service in the UK is provided as follows;**

**K.Cox**

**9 Asprey Mews**

**Beckenham**

**Kent**

**BR3 3DX**

**Dated; 8<sup>th</sup> February 2017**

**Upper Tribunal  
(Tax and Chancery Chamber)**

**Reference notice  
(Financial Services)**



Use this form to make a reference or appeal to the Upper Tribunal disputing a decision of the Financial Conduct Authority, the Prudential Regulation Authority, the Pensions Regulator, the Bank of England or an Independent Valuer under the Banking (Special Provisions) Act 2008 (BSPA) or the Banking Act 2009 (BA).

**Please** Use black ink and complete the form in **CAPITALS** or in typewriting.  
Use another sheet of paper if there is not enough space for you to say everything.  
Please put your full name at the top of any additional sheets.

**A Type of decision being referred (we use 'refer' and 'reference' to include 'appeal')**

Please specify, by ticking the appropriate box, whether your reference relates to a decision by:

The Financial Conduct Authority	<input type="checkbox"/>	The Pensions Regulator	<input checked="" type="checkbox"/>
The Bank of England	<input type="checkbox"/>	An Independent Valuer	<input type="checkbox"/>
The Prudential Regulation Authority	<input type="checkbox"/>		

**B About the applicant**

Are you the person to whom the decision was addressed? (Tick one box only)

Person to whom decision was ☒ Person affected by decision ☐

Title Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other

Surname, or name of company, firm or organisation

Other names

Address

Postcode

Telephone number

Email address

Do you have a solicitor or other representative?

No ☒

Yes ☐

If yes please give your representative's details below

Name of  
representative

Status (solicitor, barrister etc.)

Organisation  
(if any)

Address

Postcode

Telephone number

Email address

Reference number  
(if any)

**C**

### About the respondent's decision

By "Respondent" we mean the body or person which made the decision you are referring to the Upper Tribunal. Please give details of the decision below.

What was the date of the decision?

12 January 2017

What was the respondent's reference number?  
(This will be on all correspondence.)

C87222146

**D**

### Late applications

Are you making your application to the Upper Tribunal out of time  
(ie more than 28 days after the date of the decision)?

No ☐

Yes ☒

If the answer is "yes", please apply for an extension of time by giving your reasons for the delay, and any other reason why you think you should be given an extension, here

The Applicant considers it has made its application within time but if this is a late application the Applicant says that, because the Determination was sent by post to Cyprus, it was delayed in coming to the notice of the Applicant (being received 17th January 2017).

(Cont on next page)

E

**Reasons for referring the decision to the Upper Tribunal**

Please state why you are referring the decision to the Upper Tribunal. You should also state what decision you think should have been made.

The Determination in respect of the Capita Oak Pension Scheme and the Westminster Pension Scheme (the "Schemes") was ultra vires the powers of the Pensions Regulator ("tPR"). tPR has exercised its power under s.7(3)(b) Pensions Act 1995. Section 7(3) provides power to "appoint a trustee of a trust scheme.....". Neither of the Schemes is a trust scheme. No decision regarding an appointment of a trustee should have been made nor was a decision possible.

If you want to say more, please use another sheet of paper

**F**

**Supplementary applications. Complete this box only if it is necessary in your case.  
(Use additional sheets of paper if necessary).**

☐

I apply for a direction that, although I am not a person to whom the decision is addressed, I may be permitted to refer the matter to the Upper Tribunal as I am affected by the notice because:

☒

I apply for a direction suspending the effect of the decision on the following grounds:

That the decision made by the Pensions Regulator is ultra vires and not capable of having effect.

☐

I apply for a direction that the Register contain no particulars of the Reference on the following grounds:

☐

I am referring a Financial Conduct Authority decision imposing a penalty for market abuse and I apply for the legal assistance regarding this Reference

☐

Other applications

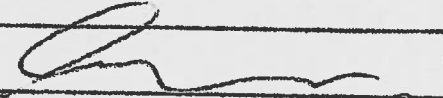
**G****Statement of Truth and representative authorisation**

**I believe (the applicant believes) that the facts stated in this notice are true.**

**I authorise my representative named in Part A above to act on my behalf in all proceedings before the Upper Tribunal.\***

(\* Delete if you have no representative or you are a solicitor filling in this form on behalf of a client)

Applicant or representative  
signature



Date

8<sup>th</sup> 2 2017

After you have filled in the form please send it to the address below:

Upper Tribunal (Tax and Chancery Chamber)  
Fifth Floor  
Rolls Building  
Fetter Lane  
London  
EC4A 1NL

DX: 180042 Strand 4

If you live in Scotland you may send the form to the London office or you may send it to:

The Upper Tribunal (Tax and Chancery Chamber)  
George House  
126 George Street  
Edinburgh  
EH2 4HH

**You MUST enclose a copy of the decision issued by the respondent with this form. If you do not do so your application may be delayed or not be admitted.**

**You MUST also send a copy of this Reference notice to the respondent.**

The office will let you know when they have received this form. Contact the office if you are not told within a week that the form has been received.

**The Pensions  
Regulator**

**DETERMINATION NOTICE**  
under section 96(2)(d) of the  
Pensions Act 2004 (the "2004 Act")  
in respect of

**The Pensions  
Regulator enquiry  
reference:**

**C87222146**

- (1) The Westminster Pension Scheme
- (2) The Capita Oak Pension Scheme
- (3) The Henley Retirement Benefit Scheme

**on 12 January 2017**

**1. Regulatory action**

The Pensions Regulator (the "**Regulator**") has considered whether to take the regulatory action to appoint a trustee under section 7(3)(b) of the Pensions Act 1995 (the "1995 Act") (the "**Regulatory Action**") in respect of the Schemes, and if so, whether the appointment order should:

- include a determination of the appropriate number of trustees for the proper administration of the Schemes under section 7(5)(a) of the 1995 Act;
- provide for the removal or replacement of such a trustee under section 7(5)(c) of the 1995 Act;
- provide for any fees and expenses of the appointed trustee to be paid by the employer or out of the resources of the Schemes, or to be paid partly by the employer and partly out of the resources of the Schemes pursuant to section 8(1) of the 1995 Act ; and
- provide for restricting the powers or duties of a trustee so appointed or for powers or duties to be exercisable by a trustee so appointed to the exclusion of other trustees under section 8(4) of the 1995 Act.

**2. Directly affected parties**

# The Pensions Regulator

## Order

appointing a trustee pursuant to  
section 7(3)(b) of the Pensions Act  
1995 (the "1995 Act") in respect of

The Pensions  
Regulator Enquiry  
reference:  
C67222146

- (1) The Westminster Pension Scheme
- (2) The Capita Oak Pension Scheme
- (3) The Henley Retirement Benefit Scheme

on 21 January 2017

### 1. Order

The Pensions Regulator, having regard to the facts and matters set out in the Determination Notice dated 8 December 2016 in relation to the Schemes hereby orders that:

- Dalriada Trustees Limited of 46 New Broad Street, London EC2M 1JH, of be appointed as trustee of the Schemes with immediate effect;
- Dalriada's fees and expenses be paid out of the Schemes' resources pursuant to section 8(1)(b) of the 1995 Act on a conditional fee basis, but that such fees and expenses shall pursuant to section 8(2) of the 1995 Act be treated for all purposes as a debt due from the employer to the Schemes.
- that the appropriate number of trustees for the proper administration of the Schemes is one, pursuant to section 7(5)(a) of the 1995 Act, and
- the appointment of Dalriada Trustees Limited may be terminated or Dalriada Trustees Limited may be replaced, at the expiration of 28 days notice from the Regulator to Dalriada Trustees Limited, pursuant to section 7(5)(c) of the 1995 Act.

### 2. Effect of Order

By virtue of section 96(6)(m) of the Pensions Act 2004 this Order will take immediate effect.

THE COMMON SEAL of the Pensions Regulator  
was affixed to this Order in the presence of:

Signature

Name Mike Birch

Date 12/01/2017

The following are the "Directly Affected Parties"):

- Dalriada Trustees Limited: 46 New Broad Street, London EC2M 1JH, as the Regulator's proposed independent trustee of the Schemes.
- The Insolvency Service: Public Interest Unit (North) 2<sup>nd</sup> Floor, 3 Piccadilly Place, London Road, Manchester M1 3BN as Official Receiver.
- RP Medplant Limited: Theodorou Kolokotroni 1<sup>st</sup>, Sonia Villa, Konia, Paphos, 8300, Cyprus as principal employer of the Westminster and Capita Oak Pension Schemes

They have been identified as persons directly affected by a determination to take the Regulatory Action and are being notified of this determination under the Regulator's standard procedure in accordance with sections 95 and 96(2)(d) of the 2004 Act.

### 3. Definitions

<b>Determinations Notice</b>	This notice including any Exhibits
<b>DPA</b>	The Data Protection Act 1998
<b>Employers</b>	The employers listed in section 2 of the Warning Notice dated 08.12.2016
<b>Regulator</b>	The Pensions Regulator
<b>Register</b>	The trustee register maintained by the Regulator as required by s23(4) of the 1995 Act
<b>Trustee</b>	Dalriada Trustees Limited

### 4. Procedure followed: Standard Procedure under section 96 of the Act

<b>4.1</b>	The Warning Notice issued by the Regulator to the Directly Affected Parties on 8.12.16, gave notice that the Regulator proposed to make a determination regarding the appointment of a trustee under section 7(3)(b) of the 1995 Act in respect of the Schemes.
<b>4.2</b>	The Warning Notice stated that the Directly Affected Parties had an opportunity to make written representations to the Regulator in response to it.
<b>4.3</b>	No representations were made by the Directly Affected Parties to the Regulator in response to

the Warning Notice.

**4.4** On the basis of the facts and matters described below, the Regulator has made its determination.

#### 5. Background

Please see the Warning Notice for a summary of the Scheme's details, relevant legislation and procedure, and the matters and facts relied upon by the Regulator in deciding whether or not to take the Regulatory Actions.

#### 6. Determination

In making this determination, the Regulator has relied on the information set out in the Warning Notice dated 8.12.16.

Having considered the factors it must consider in deciding whether it would be reasonable to take the Regulatory Action, the Regulator has determined to appoint a trustee under s.7(3)(b) of the 1995 Act to the Schemes in order to secure that the number of trustees is sufficient for the proper administration of the Schemes.

In making its determination the Regulator has also determined to exercise the following powers for the given reasons:

Power	Relevant section of 1995 Act	Recommendation	Reasons for recommending use / no use of discretionary power
To determine the appropriate number of trustees to administer the Schemes.	Section 7(5)(a)	That one is the appropriate number of trustees to administer the Schemes.	The Regulator considers that the appointment of more than one trustee would not be necessary or cost-effective.
To require the trustee appointed to be paid fees and expenses from the Schemes.	Section 8(1)(b)	That the trustee be paid their fees and expenses from the assets of the Schemes but that such fees and expenses may be reimbursed by the employer should the trustee determine that they are recoverable.	The Employers are likely to be unwilling or unable to pay the fees, but should the appointed trustee consider them capable of payment, it should have the right to reimbursement of fees by the Employers, so that scheme assets are preserved as far as possible.
To provide for the removal or replacement of the	Section 7(5)(c)	That the appointed trustee may be removed and replaced upon twenty-eight	It is in accordance with the Regulator's normal practice.

Scotland, the Tribunal's address is:

**Upper Tribunal (Tax and Chancery Chamber)**

George House

126 George Street

Edinburgh

EH2 4HH

Email: [taxappeals@hmcts.gsi.gov.uk](mailto:taxappeals@hmcts.gsi.gov.uk)

Telephone: 0131 271 433

The detailed procedure for making a reference to the Tribunal is contained in the Tribunal Rules. A guidance booklet and a form in which to make the reference can be found on the Government's website: [www.gov.uk/tax-upper-tribunal](http://www.gov.uk/tax-upper-tribunal).

You should note that the Tribunal Rules provide that, at the same time as filing a reference notice with the Tribunal, you must send a copy of the reference notice to the Regulator. Any copy reference notice should be sent to:

**The Pensions Regulator**

Napier House

Trafalgar Place

Brighton

BN1 4DW

Ref: C87222146

Tel: 01273 628005

The Regulator reserves the right to vary or revoke this determination under section 101 of the 2004 Act.

**8. Information to recipients of this Determination Notice**

**Disclosure**

Information in this Determination Notice is disclosed to you for the purposes of sections 95 and 96 of the Act. This information may be "restricted" as defined in section 82 of the 2004 Act and therefore subject to the restrictions on its further use and disclosure set out in that section. Your attention is drawn in particular to the provisions of sections 82(1)(b) and 82(5) of the 2004 Act.

Onward disclosure of restricted information, other than in accordance with the 2004 Act, is a criminal offence. In any event, you should not use or disclose the information in this Determination Notice for any purposes other than those for which it has been supplied without first consulting the Regulator.

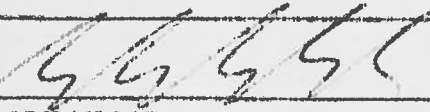
#### Data protection

Information in the Determination Notice that is 'personal data' for the purposes of the Data Protection Act 1998 ("DPA"), is disclosed to you for the purposes of sections 95 and 96 of the 2004 Act and section 96(2)(d) of the Pensions Act 2004 to the extent necessary for the performance of the Regulator's statutory functions.

The Regulator is a data controller for the purposes of the DPA. We hold and process personal data in accordance with the principles set out in the DPA in carrying out our statutory functions/duties.

#### Publication

Please also note that under section 89 of the 2004 Act, the Regulator may, if it considers it appropriate to do so, publish a report of the consideration given by it to the exercise of its functions and the results of that consideration.

Signed on behalf of the Pensions Regulator:	
Name	Mike Birch
Signature	
Date	12/01/2017

**Appendix 1 – Schemes to which this Order applies**

PSR	Scheme Name
12007081	(1) The Westminster Pension Scheme
12006487	(4) The Capita Oak Pension Scheme
12006826	(5) The Henley Retirement Benefit Scheme

appointed trustee.		days' notice.	
To allow for the powers or duties to be exercisable by the appointed trustee to the exclusion of other trustees.	Section 8(4)(b)	That the powers or duties be exercisable by the appointed trustee to the exclusion of other trustees.	To ensure that the appointed trustee can properly administer the Schemes.

On the evidence before it, the reasons given by the Regulator for its determination were:

- that it was appropriate to appoint a trustee to the Schemes because there were no trustees that were willing and competent to act as trustee to the Schemes and there were no employers that were willing or able to appoint a new trustee to the Schemes.
- that it was satisfied that the requirements in the relevant statutory provisions had been satisfied.

In accordance with sections 5 and 100 of the 2004 Act, when coming to its decision the Regulator also considered its statutory objectives and had regard to the interests of the generality of the Scheme's members and the Directly Affected Parties.

#### Important Notice:

This determination notice is issued pursuant to the Regulator's standard procedure in accordance with sections 95 and 96(2)(d) of the 2004 Act and with reference to section 7(3)(b) of the 1995 Act.

You have the right to refer the determination which is the subject-matter of this determination notice to the Tax and Chancery Chamber of the Upper Tribunal (the "Tribunal") in accordance with section 96(3) of the 2004 Act. Under paragraph 2(2) of schedule 3 to the Tribunal Procedure (Upper Tribunal) Rules (SI 2008/2698) (the "Tribunal Rules"), you have 28 days from the date this determination notice is given to you to refer the matter to the Tribunal. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this determination notice.

The Tribunal's address in England and Wales is:

**Upper Tribunal (Tax and Chancery Chamber)**

Fifth Floor

Rolls Building

Fetter Lane

London

EC4A 1NL

Email: [financeandtaxappeals@hmcts.gsi.gov.uk](mailto:financeandtaxappeals@hmcts.gsi.gov.uk)

Telephone: 020 7612 9700