

	<p><b>DETERMINATION NOTICE</b>  <b>under section 96(2)(d) of the</b>  <b>Pensions Act 2004 (“the Act”)</b></p> <p><b>Prudential Corporate Pensions</b>  <b>Trustee Limited</b>  <b>(“the Trustee”)</b></p>	<p>The Pensions  Regulator  case ref:</p> <p><b>TM7662</b></p>
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1. The Determinations Panel, on behalf of the Pensions Regulator, met on 26 April 2010 to decide whether to exercise a reserved regulatory function in relation to the issues in the Warning Notice dated 2 March 2010. The Pensions Regulator considered under section 10(2) of the Pensions Act 2004 that the exercise of a reserved regulatory function was appropriate.

2. **Matter to be determined:**

The function the Panel was asked to exercise was the application made by the Regulator for an order to be issued under section 11(1)(c) of the Pensions Act 1995 to wind up a large number of occupational pension schemes listed at **Appendix 3**.

3. **Parties**

The Warning Notice specified the following parties as being directly affected by the regulatory action outlined in the Warning Notice:

(a) Prudential Corporate Pensions Trustee Limited (“the Trustee”).

4. **Background**

(a) On 9 January 2008, the Regulator received an application from the Trustee which asked, in respect of 108 Schemes listed in Appendix 3 that the Regulator:

- appoint it as trustee for the sole purpose of winding up the Schemes; and
- make an order under Section 11 of the 1995 Act to trigger the wind-up of the Schemes.

(b) On 3 June 2008, the Regulator appointed the Trustee as trustee to the schemes listed Appendix 3.

(c) The Schemes are all earmarked, fully insured defined contribution schemes and are paid up. There was no trustee to represent the interests of the members of the Schemes, due to the sponsoring employer of each of the schemes being dissolved, deceased or untraceable. No provision exists in the rules of the Schemes to facilitate their wind up.

(d) The Trustee confirmed that the wind up of the Schemes can be completed without detriment to the members.

## 5. **Decision**

The Panel granted the application for an order to be issued under Section 11(1)(c) of the Pensions Act 1995. The Panel determined that an order be issued in the following terms:

The Pensions Regulator hereby orders that:

- i. That the Schemes (listed at Appendix 3) should commence wind up proceedings with effect from 27 April 2010 subject to the provisions of Section 96(5)(a) of the Pensions Act 2004.
- ii. This order is made because the Pensions Regulator is satisfied that it is necessary in order to protect the interests of the generality of the members of the Scheme that it would be wound up pursuant to Section 11(1)(c) of the Pensions Act 1995.
- iii. In accordance with Section 11 (4) of the Pensions Act 1995, the Pensions Regulator directs that the Scheme be wound up subject to the following provisions:
  - the scheme be wound up in accordance with the provisions of sections 73 – 75 of the Pensions Act 1995 (as modified by the Occupational Pension Schemes (Winding Up) Regulations 1996) and any relevant provisions of those regulations, or such other statutory provisions and regulations as may be in force from time to time may be applicable to winding up the Scheme.

## 6. **Submissions of the parties**

In making the determination the Panel took into account the evidence and submissions from the Regulator and the Trustee included in the Warning Notice.

## 7. **Statutory issues**

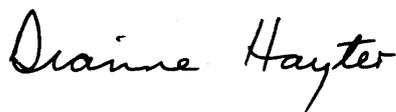
In making their decision the Panel had regard to the objectives of the Regulator as set out in section 5 of the Pensions Act 2004 and to the matters mentioned in Section 100, as set out in **Appendix 1**.

8. **Reasons for decision**

The reasons given by the Panel for its decision were:

- (a) The Panel found that, in order to protect the generality of the interest of the Schemes' members, the Schemes should be wound up. This would be undertaken by the Trustee at no cost to the Schemes and would save the Schemes' annual management charges.
- (b) The Schemes' rules did not provide the provision for wind up and therefore wind up could not be achieved through any other means.
- (c) The Panel agreed that wind up of the Schemes should commence as soon as the 28 day time limit for appeal had expired in order to prevent further depletion of the scheme assets.

9. **Appendix 2** to this Determination Notice contains important information about the rights of appeal of the parties against this decision.



Signed:

Chairman: Dianne Hayter

Dated: 7 May 2010

**Section 5 of the Pensions Act 2004**  
**Regulator's objectives**

- (1) The main objectives of the Regulator in exercising its functions are –
- (a) to protect the benefits under occupational pension schemes of, or in respect of, members of such schemes,
  - (b) to protect the benefits under personal pension schemes of, or in respect of, members of such schemes within subsection (2),
  - (c) to reduce the risk of situations arising which may lead to compensation being payable from the Pension Protection Fund (see Part 2), and
  - (d) to promote, and to improve understanding of, the good administration of work-based pension schemes.
- (2) For the purposes of subsection (1)(b) the members of personal pension schemes within this subsection are-
- (a) the members who are employees in respect of whom direct payment arrangements exist, and
  - (b) where the scheme is a stakeholder pension scheme, any other members.
- (3) In this section-
- “stakeholder pension scheme” means a personal pension scheme, which is or has been registered under section 2 of the Welfare Reform and Pensions Act 1999 (c.30)(register of stakeholder schemes);
- “work-based pension scheme” means-
- (a) an occupational pension scheme,
  - (b) a personal pensions scheme where direct payment arrangements exist in respect of one or more members of the scheme who are employees, or
  - (c) a stakeholder pension scheme.

**Section 100 of Pensions Act 2004**  
**Duty to have regard to the interests of members etc**

- (1) The Regulator must have regard to the matters mentioned in subsection (2) –
- (a) when determining whether to exercise a regulatory function –
    - (i) in a case where the requirements of the standard or special procedure apply, or
    - (i) on a review under section 99, and
  - (b) when exercising the regulatory function in question.
- (2) Those matters are –
- (a) the interests of the generality of the members of the scheme to which the exercise of the function relates, and
  - (b) the interests of such persons as appear to the Regulator to be directly affected by the exercise.

**Referral to the Tax and Chancery Chamber of the Upper Tribunal (“the Tribunal”)**

You have the right to refer the matter to which this Determination Notice relates to the Tribunal. Under section 103(1)(b) of the Pensions Act 2004 (“the Act”) you have 28 days from the date this Determination Notice is given to refer the matter to the Tribunal or such other period as specified in the Tribunal rules or as the Tribunal may allow. 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 is:

The Tax and Chancery Chamber of the Upper Tribunal  
15-19 Bedford Square  
London  
WC1B 3DN  
Tel: 020 7612 9649.

The detailed procedures for making a reference to the Tribunal are contained in section 103 of the Act and the Tribunal Rules.

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 Pensions Regulator. Any copy reference notice should be sent to:

Determinations Support  
The Pensions Regulator,  
Napier House  
Trafalgar Place  
Brighton  
BN1 4DW.

Tel: 01273 627698

1.	A Pearce & Co Ltd Company Pension Scheme
2.	Akroyd & Webb (Heating Engineers) Ltd Company Pension Scheme
3.	Ali Elephant Ltd Company Pensions Scheme
4.	Atlantic Tarpaulins Ltd Company Pension Scheme
5.	Bucklow & Stroud Ltd Company Pension Scheme
6.	Central Garage Limited Company Pension Scheme
7.	Charinglade Ltd Company Pension Scheme
8.	Charsleys of Basildon Ltd company Pension Scheme
9.	Church Paint & Varnish Co Ltd Pensions Scheme
10.	Corbeau Equipe Ltd Company Pension Scheme
11.	D & E Phillips & Co Ltd Company Pensions Scheme
12.	Douglas of Overtown Ltd Company Pension Scheme
13.	Everton and Summers Ltd Company Pension Scheme
14.	F Bailey & Sons (Plumbers) Company Pension Scheme
15.	G M S Marine Ltd Company Pension Scheme
16.	G & N Welding Fabrications Company Pension Scheme
17.	Graingers Dairy Kinsham Ltd Company Pension Scheme
18.	Heston Technical Services Ltd Company Pension Scheme
19.	J & M Durkin Ltd Company Pension Scheme
20.	J C P Denniss & Sons Ltd Company Pension Scheme
21.	J S Akroyd & Webb Ltd Company Pension Scheme
22.	James Bibby Ltd Company Pension Scheme
23.	John Baird (Transport) Ltd Company Pension Scheme
24.	Keighly Printers Ltd Company Pension Scheme
25.	Mallaber Partners Company Pension Scheme
26.	Medforth & Ralph Joinery Division Ltd Company Pension Scheme
27.	R A Cosham and Sons Ltd Company Pension Scheme
28.	R C F S (Discount Warehouse) Ltd Company Pension Scheme
29.	Rothervale Construction Co Limited Company Pension Scheme
30.	S S Heating Limited Company Pension Scheme
31.	Sandafloor Company Pension Scheme
32.	Sandown Contracting Co Ltd Company Pension Scheme
33.	Sertrol Controls Limited Company Pension Scheme
34.	Seyam Plumbing Services Ltd Company Pension Scheme
35.	Seymour & Sons Ltd Company Pension Scheme
36.	Shore Road Garage Ltd Company Pension Scheme
37.	South Herts Business Service Ltd Company Pension Scheme
38.	St Andrew Golf Co Ltd Company Pension Scheme
39.	Templeton Bros (Kilmamock) Ltd Company Pension Scheme
40.	Travel Centre (Potters Bar) Ltd Company Pension Scheme
41.	W Smith metals Ltd Company Pension Scheme
42.	W P Mitchell & Son Farmers Ltd Company Pension Scheme
43.	W S Doig (Bakers) Ltd Company Pension Scheme
44.	Westwood Heating Engineers Ltd Company Pension Scheme
45.	A G Docx Company Pension Scheme
46.	Alexander & Hay Company Pension Scheme
47.	Alfred Carr & Son Company Pension Scheme
48.	Atlas Garage Company Pension Scheme
49.	B & G V Hart Company Pension Scheme
50.	C Champion & Sons Company Pension Scheme
51.	Church Cottage Bakery Company Pension Scheme

52.	Cleveland Dental Co Company Pension Scheme
53.	Electric Baker Company Pension Scheme
54.	Ferguslea Garage Company Pension Scheme
55.	G Sampson Company Pension Scheme
56.	Henry Bernard Engineering Company Pension Scheme
57.	Houghton & Grear & Co Company Pension Scheme
58.	J & AS Mac Isaac Company Pension Scheme
59.	J & M McConnachie Company Pension Scheme
60.	J & T McWilliam (Engineers) Company Pension Scheme
61.	J Pitman & Son
62.	Jolly Fisherman Company Pension Scheme
63.	Kasvin Laundry Company Pension Scheme
64.	King Street Dairy Company Pension Scheme
65.	Liverpool House Bakery Company Pension Scheme
66.	Metcalfe Bros Company Pension Scheme
67.	Montgomery & Murdock Company Pension Scheme
68.	R H Black Company Pension Scheme
69.	R L Wood & Son Company Pension Scheme
70.	Smith Coaches Company Pension Scheme
71.	St Andrews Service Station Company Pension Scheme
72.	W & R Legg Company Pension Scheme
73.	W Bayliss & Son Company Pension Scheme
74.	Withers & Son Company Pension Scheme
75.	A G clapham Company Pension Scheme
76.	A R Thomas Company Pension Scheme
77.	Aberbeeb Service Station Company Pension Scheme
78.	Aborcraft Company Pension Scheme
79.	C A Burton Company Pension Scheme
80.	C M Cusson Company Pension Scheme
81.	Cherub Poultry Company Pension Scheme
82.	D W Buckler Company Pension Scheme
83.	Frank Ashely & Son Company Pension Scheme
84.	G A Harper & Son Company Pension Scheme
85.	G Mallen Company Pension Scheme
86.	Graham C Begg Company Pension Scheme
87.	I A A Paxton Company Pension Scheme
88.	J A Grayshon Company Pension Scheme
89.	J D Stewart Company Pension Scheme
90.	J Lazenby & Sons Company Pension Scheme
91.	J Sargent Company Pension Scheme
92.	J V Sharp Company Pension Scheme
93.	J W Waddell (Butcher) Company Pension Scheme
94.	James Keiller Company Pension Scheme
95.	James O Allison Company Pension Scheme
96.	K & E Motors Company Pension Scheme
97.	K Brooks Company Pension Scheme
98.	R Hawkins Company Pension Scheme
99.	Roundham Garage (Wey) Ltd Company Pension Scheme
100.	Sidney Thomas Bland Company Pension Scheme
101.	S Warren & Son Company Pension Scheme
102.	T P Williams Company Pension Scheme
103.	W H Jepson Company Pension Scheme

104.	Warwick Tools Company Pension Scheme
105.	Wells Plant Hire Company Pension Scheme
106.	Wimborne Service Station Company Pension Scheme
107.	Anchor Bowling Club Company Pension Scheme
108.	Rosebank convalescent Nursing Home Company Pension Scheme
109.	Corton Beach Executive Pension Savings Plan