

# Employment, Pensions and Employee Benefits

## PENSION SCHEMES: TRUSTEE TRAINING OBLIGATIONS

Did you know that trustees of pension schemes must undergo trustee training and that each employer who sponsors a pension scheme must ensure that the scheme's trustees are appropriately trained?

If you are such a trustee and fail to comply with these requirements you may be fined or have to go to court and face more serious sanctions. An employer that sponsors a pension scheme who fails to arrange appropriate trustee training may face a court appearance and significant sanctions.

Trustees appointed since 1 February 2010 had to be trained within six months of their appointment and must undergo further training every two years thereafter.

The training deadline approaches for trustees that were appointed prior to 1 February 2010.

Since 1 February 2010 section 59AA of the Pensions Act 1990 (the Pensions Act), obliges employers that sponsor occupational pension schemes and retirement trust schemes (these are pensions vehicles for the self-employed that are sponsored by the relevant industry association) to arrange that the trustees of these arrangements receive appropriate training within certain timescales. A failure to comply with these obligations by the relevant dates set out in the legislation will incur sanctions.

Section 59(1)(ca) of the Pensions Act generally obliges such trustees to undergo training in accordance with section 59AA.

Where an employer is non compliant this can result in a prosecution with a maximum fine of €25,000 and imprisonment for up to two years for both the employer and its officers (where it is a corporate body) under section 3 of the Pensions Act.

A breach by a trustee can result in an on-the-spot fine (of up to €5,000) issued by the Pensions Board under section 3A of the Pensions Act, which, if not complied with, can result in a prosecution under section 3 that carries a maximum fine of €25,000 and imprisonment of up to two years.

Fines imposed may not be paid out of the resources of the scheme.

Trustees appointed before 1 February 2010, must have training arranged for a date prior to 1 February 2012 and every two years thereafter.

Trustees appointed after 1 February 2010, must have training arranged within six months of their appointment and every two years thereafter. If a trustee (or employer) is late in undergoing (or arranging) the training, it would be a good idea to take steps immediately to remedy this.

The Pensions Board provides free online training at <http://trusteetraining.pensionsboard.ie>. The course is modular and designed to take about nine hours to complete. Nine lessons are each divided into topics taking ten minutes each and may be completed in different sessions. A certificate is issued on completion. Alternatively, trustee training may be provided by a registered trainer listed on the Pensions Board's



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website. Typically, training on either Defined Benefit or Defined Contribution schemes last four to five hours.

The Pensions Board has indicated that other means of appropriate training is acceptable and single member schemes may provide trustees with a training booklet. Certification is not required, but proof should be kept of training in case of an audit by the Pensions Board. A declaration of compliance must be made in a scheme's annual report and costs of training can be met from resources of the scheme if it is allowed for in the scheme's rules.

Limited exceptions to the above obligations apply to pensioner trustees and professional trustees (as defined). A pensioner trustee is a trustee that acts as a professional trustee of a small self administered pension scheme as approved by the Revenue Commissioners under the Taxes Consolidation Act 1997. A professional trustee is a person who claims knowledge, skill and expertise with respect to pension trusts and in the course of a profession or business provides trustee services to pension trusts.

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#### About LK Shields Solicitors

LK Shields Solicitors is one of the leading law firms in Ireland. Founded in 1988, we have consistently grown and we now have upwards of 130 staff. We enjoy and take pride in our work and offer clear commercial advice to our clients. We ably meet the full legal services needs of both international and national businesses across a large range of industry and service sectors.

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