

The Pensions Regulator’s Professional Trustee Description Policy

The Pensions Regulator has revised its definition of a [professional trustee](#). It now defines a “professional trustee” as a trustee, whether an individual or a company, who acts as a trustee of the scheme in the course of the business of being a trustee.

The Regulator expects higher standards from professional trustees and will normally apply [higher penalties](#) for those professional trustees who fail to meet their duties.

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Who is a professional trustee?

An individual or company who acts in the course of the business of being a trustee is considered to be a professional trustee. That will be the case even if the trustee is not paid for being a trustee (e.g. acting pro bono).

However, a member of a pension scheme, or an employee or director of a participating employer of the scheme, who does not act, or offer to act, as a trustee in relation to an unrelated scheme, will not normally be viewed as a professional trustee, even if they receive some form of financial remuneration for being a trustee.

Long standing trustees will not be viewed as professional trustees simply because of their long tenure in the post. However, trustees representing or promoting themselves to one or more unrelated schemes as having expertise in trustee matters in general will be seen as acting in the course of a business and therefore be deemed to be professional trustees.

Once a trustee is a professional trustee in respect of one scheme then they will be considered to be a professional trustee in respect of all their appointments.

Scheme Returns

Those appointing a trustee to a pension scheme are expected to understand whether a trustee meets the definition of a professional trustee or not. Future scheme returns will require schemes to inform the Regulator whether or not they believe a trustee to be a professional trustee. The classification in the scheme return is not definitive, however, and the Regulator may take a contrary view.

Independent Trustees

The terms “independent trustee” and “professional trustee” have different meanings. Whilst a professional trustee is likely to also be an independent trustee this is not always the case. Moreover it is possible for an independent trustee to be a lay trustee.

Comment

The Regulator’s revised definition of a professional trustee provides some clarity and is generally to be welcomed. It is now clear that a typical member nominated trustees or typical employer selected trustees with one appointment, even where they have been trustees for some time, are highly unlikely to be viewed as professional trustees.

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