AND

PRESENT

PENSION FUNDS ACT SECTION 37D WORKSHOP

1. WHAT IS THE ASISA ACADEMY?

The ASISA Academy, in partnership with the ASISA Foundation, makes available online a full series of Retirement Fund Trustee Education (RFTE) workshops at no cost to South African retirement funds and their trustees. The Academy is the preferred service provider for the ASISA Foundation which receives grant funding from sponsors for trustee education, thus allowing the workshops to be made available in this way. This pooled initiative ensures the independence of the education programme from the individual sponsors of the ASISA Foundation. Our workshops are aimed primarily at trustees and principal officers of retirement funds and are ideally run with individual funds but can also be delivered as multi-fund courses. Since inception we have delivered more than 400 workshops to more than 4,800 trustees and principal officers in South Africa, Botswana and Namibia, with highly favourable feedback.

In the wake of South Africa (and the world) experiencing its first lockdown during the Coronavirus pandemic, the team at the ASISA Academy reflected on how we could offer our Retirement Fund Trustee Education workshops online in live sessions using videoconference and for practical time periods instead of our traditional 1-day and ½-day face-to face workshops. We have therefore, adapted our content and composition of the RFTE programme into an online offering using either MS Teams or Zoom depending on your preference. Our preference is to use Zoom with its new enhanced security features.

2. PURPOSE OF THE WORKSHOP

The purpose of this workshop is to provide trustees with a clear understanding of the practical implications of applying Section 37D of the Pension Funds Act particularly in situations where trustees are required to exercise discretion. The session aims to equip trustees with the necessary knowledge to ensure compliant and ethical handling of retirement fund deductions, particularly in relation to housing loans, divorce settlements, maintenance payments and damages payable to an employer due to misconduct of a member. Delegates will also work through case studies to improve decision-making and support good governance in line with their fiduciary responsibilities.

3. ONLINE WORKSHOP LEARNING OUTCOMES

The following table summarises the Learning Areas and Learning Outcomes covered in this workshop:

PFA SECTION 37D (½ day – 3 hours)

Learning Area	Learning Outcomes By the end of the course successful participants will be able to…
Section 37A	• To understand the benefit protections offered in terms of section 37A;
Section 37B	• To understand the benefit protections offered in terms of section 37B;
Section 37D	• Discuss the circumstances under which deduction for damages caused to the employer are permitted. • Describe the process of initial withholding of benefits, criminal and civil proceedings, member and employer communications. • Discuss the central principle of "dishonesty" as a prerequisite to a deduction from members' benefits with reference to case law. • Explain the workings and requirements of a valid Admissions of Liability and relevant OPFA determinations. • Explain the board's responsibility when deciding to withhold and deduct pension benefits and balancing the respective rights of the employer to recoup a loss and member's right to payment of a benefit in terms of rules. • Consider the implications of deductions made and subsequently overturned by the OPFA with reference to relevant case law.
Objects of Section 37D	• To understand the purposive objects and interpretation of section 37D as regards withholding of payment of a benefit with reference to recent case law;
Maintenance and Divorce orders	• Explain how member benefits are treated in the case of valid maintenance orders and enforceable orders on divorce.
Clean break principle	• To understand the 'clean break' principle on divorce and the definition of 'pension interest'.
Arrear and future maintenance	• To understand the attachment of pension benefits for arrear and future maintenance with reference to case law and maintenance court practice.
Housing loan	• Discuss under which circumstances a fund can deduct an outstanding housing loan from the member's benefit.
Case studies	• Discuss practical case studies to illustrate how Section 37D is applied in real-world scenarios

4. OUR PRESENTERS

Tony Remas

Tony has been practising as a retirement funds compliance consultant since 2002. Prior to that he worked in legal services for various investment advisors. He is a highly regarded practitioner in the pension fund statutory and regulatory environment, specialising in trustee education and in particular death benefit.

5. FEEDBACK FROM PAST DELEGATES

"Today's session meant that I could consolidate everything that I had learnt over the days of the course. It has been very valuable. I am very excited about the knowledge I have gained. Great course!"

"Overall, it was definitely encouraging, and I learnt new things once again. The course would be a great tool for all our staff members."

"What an excellent day! Learnt a tremendous amount from the brilliant speakers today."

"Great lecturers from the industry that has a wealth of knowledge to share. Thoroughly enjoyed it!"

"The program has broadened my perspective in terms of the actual industry - I am learning so much. It has been a great experience so far."

"Programme is fantastic, makes you apply your mind, especially to the things you know but are ignorant of."

6. WORKSHOP CODE OF CONDUCT

Delegates, presenters and other Academy staff are all expected to engage in the following ways.

1. Delegates commit to learning on the course.
2. Delegates and Academy staff commit to signing in at least 10 minutes prior to the starting time so as not to delay the commencement of the session which puts pressure on the presenter and other delegates. The Zoom/ MS Teams room will open 10 minutes before the workshop is due to start. Please ensure that you have logged in and settled down comfortably by the starting time.
3. Academy staff commit to starting the workshop on time.
4. Delegates are requested to switch on their cameras at the start of the session. After introductions we request delegates to switch off their cameras in order to keep the platform stable and data usage optimised.
5. Delegates must ensure that their audio is muted throughout the session, except when participating in discussions or posing questions.
6. If delegates have questions or comments, they can use the chat platform or click the raised hand icon which can be located on the screen's "floating bar" in Microsoft Teams and by clicking on the "Participants" button in Zoom.
7. The presenter will agree a break time with delegates as part of the introductions.
8. When returning from the breaks, delegates are requested to switch on their microphones on re-entering the session so that the presenter can have an indication of the number of delegates that are back.
9. Delegates must advise the Academy if they are not able to make a session or if, for unavoidable reasons, they are going to be late.

7. MONITORING AND EVALUATION

The ASISA Foundation-sponsored Trustee Education workshops are formally monitored and evaluated (M&E) by an independent agency. This M&E process ensures our trustee education programmes are planned and presented in a manner which brings about effective knowledge transfer, with real improved governance and financial literacy amongst delegates for the ultimate benefit of fund members and beneficiaries. The context of our online workshops has required adaptation of the M&E process, as explained below.

DELEGATE INTAKE FORMS

Each delegate will be asked to complete and submit online intake forms before the commencement of the workshop, including details of their retirement fund, role in the fund board, email address and demographics. We are required by the Financial Sector Code in the context as a BEE Regulator to keep statistics based on demographics and gender, hence we request that all demographic and gender statistics should be completed.

ASSESSMENT FORMS

Delegates will receive an online link to a workshop assessment form at the end of a workshop on which they are required to score various aspects of the workshop and make compliments or suggestions for improvements. Comments made by delegates may be used in marketing material.

M&E FEEDBACK FORMS

A first set of online questions is supplied to delegates via an online link before the workshop which delegates are asked to complete before the workshop commences. A second set of the same questions will be supplied via an online link to delegates at the end of the workshop. Answers are completely anonymous.

ATTENDANCE CERTIFICATES

Delegates who have submitted all of the workshop documentation described above will receive emailed ASISA Academy attendance certificates which reflect 3 Batseta CPD points in respect of the half-day workshop. The fund remains responsible for ensuring that the CPD points awarded are updated on the Batseta database.

8. CONTACT INFORMATION

For course dates, venues and other information please contact the ASISA Academy on:

- Email: LEARN@asisaacademy.org.za
- Landline: +27 21 673 1627
- Website: https://www.asisa.org.za/academy/programmes/retirement-fund-trustee-education/