



2016 CHAPTER 1

PART 3

GENERAL CHANGES TO LEGISLATION ABOUT PENSION SCHEMES

Administration and governance

Duty to act in the best interests of members

37.—(1) Regulations may impose a duty on the managers of a relevant non-trust based scheme to act in the best interests of members when taking decisions of a specified description.

(2) In this section “relevant non-trust based scheme” means a non-trust based scheme that is—

- (a) a shared risk scheme, or
- (b) a defined contributions scheme under which any of the benefits that may be provided are collective benefits.

(3) Regulations under this section—

- (a) may provide for the duty to act in the best interests of members to override obligations that are inconsistent with that duty (including obligations imposed by any legislative provision, rule of law or provision of a scheme or other instrument), but
- (b) do not otherwise affect any duty that might arise apart from this section.

(4) Regulations under this section may provide for the consequences of a manager breaching (or threatening to breach) the duty to act in the best interests of members to be the same as the consequences of breaching (or threatening to

breach) a fiduciary duty owed by the manager to the members and, accordingly, for the duty to be enforceable in the same way as a fiduciary duty.

(5) In this section—

“collective benefit” has the meaning given by section 8;

“defined contributions scheme” has the meaning given by section 4;

“non-trust based scheme” means a scheme that is not established under a trust;

“shared risk scheme” has the meaning given by section 3.