

## STATUS OF PENSION CLAIMS ON BANKRUPTCY IN SELECTED COUNTRIES<sup>7</sup>

Country	Predominant Occupational Pension Arrangement	Status of Pension Claims on Bankruptcy	Pension Fund Guarantee Schemes
Australia	<ul style="list-style-type: none"> <li>Defined contribution pension plans</li> </ul>	<ul style="list-style-type: none"> <li>Pension contributions due but not paid are given priority over unsecured debts but rank behind secured creditors, liquidation expenses and unpaid wages</li> </ul>	<ul style="list-style-type: none"> <li>No pension fund guarantee scheme</li> </ul>
Canada	<ul style="list-style-type: none"> <li>Defined benefit/defined contribution pension plans</li> </ul>	<ul style="list-style-type: none"> <li>Contributions due but not paid to pension funds have a preferred status</li> <li>Pension deficit is treated as an unsecured debt.</li> </ul>	<ul style="list-style-type: none"> <li>The Pension Benefit Guarantee Fund (Ontario) guarantees pension benefits in the event of plan sponsor's bankruptcy (only up to certain limits)</li> </ul>
Denmark	<ul style="list-style-type: none"> <li>Defined contribution pension plans</li> </ul>	N/A	<ul style="list-style-type: none"> <li>No pension fund guarantee scheme</li> </ul>
Finland	<ul style="list-style-type: none"> <li>Mandatory defined benefit arrangement</li> </ul>	N/A	<ul style="list-style-type: none"> <li>There is a joint and collective guarantee system for certain plans</li> <li>The government guarantees all or part of the benefits under other plans</li> </ul>
France	<ul style="list-style-type: none"> <li>Limited number of occupational pension plans due to generous</li> </ul>	N/A	<ul style="list-style-type: none"> <li>No pension fund guarantee scheme</li> </ul>

<sup>7</sup> Information appearing in this table has been derived from the OECD publications listed at the end of the table. Please note that the table only provides a high level summary of the OECD publications. For a more detailed description please refer to the actual publications.

Country	Predominant Occupational Pension Arrangement	Status of Pension Claims on Bankruptcy	Pension Fund Guarantee Schemes
Germany	<p>state pension schemes</p> <ul style="list-style-type: none"> <li>• Occupational plans are mainly insured or savings plans</li> <li>• Defined benefit pension plans</li> </ul>	<ul style="list-style-type: none"> <li>• Pension obligations are treated as unsecured debts</li> </ul>	<p>Upon bankruptcy, the Pension Guarantee Fund (“PSVaG”) takes on obligations of plan sponsor (up to a certain level) and purchases annuities.</p> <p>About 2/3 of pension liabilities are covered by the PSVaG. The other third is held by insurers and “Pensionskassen” (these funds are being supervised as insurance funds and are subject to stringent solvency standards).</p>
Ireland	<ul style="list-style-type: none"> <li>• Defined benefit pension plans</li> </ul>	<ul style="list-style-type: none"> <li>• Unpaid pension contributions (up to certain limits) are given priority over floating secured creditors and unsecured creditors but rank behind fixed secured creditors and liquidation expenses</li> </ul>	<ul style="list-style-type: none"> <li>• Payment may be made out of the Social Insurance Fund in respect of unpaid contributions</li> </ul>
Italy	<ul style="list-style-type: none"> <li>• Severance pay or “Trattamento di Fine Rapporto” (“TFR”) (i.e. lump sum paid to an employee on termination of employment)</li> <li>• Defined contribution pension</li> </ul>	<ul style="list-style-type: none"> <li>• Salary owed to employees (incl. TFR) has priority over unsecured debts</li> <li>• Same priority status for contributions to public pension</li> </ul>	<ul style="list-style-type: none"> <li>• Protection Fund for unpaid contributions</li> </ul>

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	plans	schemes and other forms of social protection (theoretically includes contributions to employer-sponsored plans)	
Japan	<ul style="list-style-type: none"> <li>• Severance pay</li> <li>• Defined benefit pension plans (“employee pension funds” or “EPFs” are large DB plans; there are also other types of DB arrangements)</li> </ul>	<ul style="list-style-type: none"> <li>• Severance pay ranks behind secured creditors but ahead of other preferential claims</li> <li>• Employer contributions to EPFs rank behind wages/taxes but ahead of unsecured creditors</li> <li>• Contributions to other pension arrangements are unsecured debts</li> </ul>	<ul style="list-style-type: none"> <li>• Pension guarantee program covers a portion of the pension benefits accrued by members of EPFs only</li> </ul>
Korea	<ul style="list-style-type: none"> <li>• Severance pay</li> <li>• Defined benefit pension plans</li> </ul>	<ul style="list-style-type: none"> <li>• Severance pay (up to certain limits) and contributions to defined benefits rank ahead of secured creditors</li> </ul>	<ul style="list-style-type: none"> <li>• No pension fund guarantee scheme</li> </ul>
Netherlands	<ul style="list-style-type: none"> <li>• Defined benefit pension plans</li> </ul>	<ul style="list-style-type: none"> <li>• Contributions to pension arrangements are unsecured debts (preferential status for unpaid contributions under consideration)</li> </ul>	<ul style="list-style-type: none"> <li>• No pension fund guarantee scheme but a special fund can pay contributions owed by sponsor (up to a maximum of one year of unpaid contributions)</li> </ul>
Norway	<ul style="list-style-type: none"> <li>• Mandatory defined benefit pension plans</li> </ul>		<ul style="list-style-type: none"> <li>• No pension fund guarantee scheme</li> </ul>

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Poland	<ul style="list-style-type: none"> <li>Mandatory defined contribution pension plans (with a guaranteed minimum rate of return)</li> </ul>	N/A	<ul style="list-style-type: none"> <li>A guarantee fund covers the deficit of a pension fund (i.e. where the rate of return is below the minimum rate) in case of bankruptcy</li> </ul>
Portugal	<ul style="list-style-type: none"> <li>Defined benefit pension plans</li> </ul>	<ul style="list-style-type: none"> <li>No priority or preferential status for pension-related claims</li> </ul>	<ul style="list-style-type: none"> <li>No pension fund guarantee scheme</li> </ul>
Spain	<ul style="list-style-type: none"> <li>Defined contribution pension plans</li> </ul>	N/A	<ul style="list-style-type: none"> <li>No pension fund guarantee scheme</li> </ul>
Sweden	<ul style="list-style-type: none"> <li>Defined contribution pension plans</li> </ul>	<ul style="list-style-type: none"> <li>Contributions to pension funds which are not covered under the pension guarantee scheme rank behind secured creditors and liquidation expenses but ahead of unsecured creditors</li> </ul>	<ul style="list-style-type: none"> <li>Pension Guarantee Mutual Insurance Company (only covers plans for white-collar workers)</li> </ul>
Switzerland	<ul style="list-style-type: none"> <li>Mandatory defined benefit pension plans and hybrid plans</li> </ul>	<ul style="list-style-type: none"> <li>Preferential treatment with respect to the portion of entitlements which is not covered by the guarantee fund</li> </ul>	<ul style="list-style-type: none"> <li>There is a guarantee fund which covers any shortfall up to a certain limit in case of bankruptcy</li> </ul>

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United Kingdom	<ul style="list-style-type: none"> <li>Defined benefit pension plans</li> </ul>	<ul style="list-style-type: none"> <li>Preferential status for unpaid contributions (the government ranks as the preferred creditor if it paid those contributions to the pension fund)</li> </ul>	<ul style="list-style-type: none"> <li>National Insurance Fund can pay employee contributions deducted as well as contributions owed by sponsor (up to certain limits)</li> <li>Pension Protection Fund provides compensation to members of eligible defined benefit plans in case of shortfalls</li> </ul>
United States	<ul style="list-style-type: none"> <li>A significant number of plans continue to have defined benefit obligations; a strong trend has been observed where employers either replace the DB plan with a DC plan or close the DB plan to new entrants</li> </ul>	<ul style="list-style-type: none"> <li>No priority or preferential status for pension-related claims</li> </ul>	<ul style="list-style-type: none"> <li>Pension Benefit Guarantee Corporation offers some protection of defined benefits if employer is unable to fund the plan</li> </ul>

Sources:

1. *Protecting Pensions: Policy Analysis and Examples from OECD Countries*, OECD, 2007 [Note: The OECD's report on priority pension claims in case of bankruptcy found that pension claims, (unlike wages), do not always receive priority over other creditors. Difficulties with providing such status come from problems with changing bankruptcy laws and potential impacts on the capital markets. The OECD's report concludes that priority rights should be given to unpaid and due contributions and care should be taken that pension beneficiaries be treated at least as well as other creditors in any bankruptcy or restructuring process (e.g. ensuring their representation on creditor committees).]