

Winding-up priority order regulations laid

1 BACKGROUND

Regulations amending the statutory priority order on the winding-up of an occupational pension scheme were laid on 19 April 2004 and will come into force on 10 May 2004.

The Government's Green Paper of 17 December 2002 put forward several options for achieving a fairer sharing of assets on the winding-up of a defined benefit scheme. This culminated in the publication of draft Regulations for consultation in October of last year.

2 THE CHANGES – A SUMMARY

The Regulations will introduce two main changes to the priority order on winding-up. Firstly, increases on pensions in payment will be pushed down the priority list to rank below non-pensioners' main benefits. Secondly, the existing priority granted to contracted-out benefits will disappear, with such benefits merely forming part of the member's main benefits.

The draft Regulations originally set out radical proposals affording non-pensioners a greater level of protection according to their length of pensionable service. Since the draft Regulations were published, the Government has abandoned this plan because of concerns that many schemes do not possess records which clearly identify the length of an individual's pensionable service.

3 PRIORITY ORDER – FROM 10 MAY 2004

The new priority order will apply to all defined benefit schemes which go into winding-up on or after 10 May 2004 and before the end of the transitional period under The Pensions Act 1995 (i.e. 6 April 2007). (Although there is every chance that the introduction of the Pension Protection Fund will result in further changes in this area.)

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From 10 May 2004, the new priority order will look, in essence, as follows:

- Additional voluntary contributions;
- Pensions in payment (excluding increases);
- Non-pensioner benefits (excluding increases);
- Increases on pensions in payment;
- Increases on non-pensioner benefits.