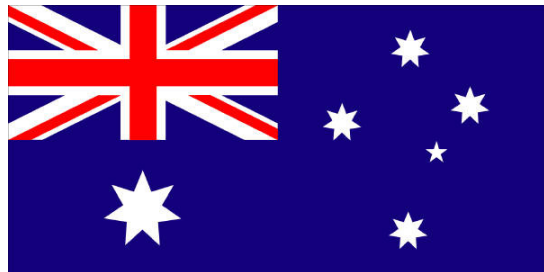


**British Australian
Pensioner
Association Inc**



NEWSLETTER Number 32 AUTUMN 2010

FIGHT ON

PRESIDENT'S REPORT

ECHR

Well—we have lost the final appeal to the Grand Chamber of the European Court of Human Rights (ECHR) in Strasbourg. Many of us feel that the case was decided on a wrong interpretation of the actual facts by the 11 out of 17 judges who found against us. However there is no further right to appeal, so that particular avenue of legal remedy is closed to us.

ARTICLE 8

The way has been left open for a possible further challenge on Article 8 of the Human Rights Charter relating to enjoyment of family and the treatment of people such as grandparents trying to be re-united with their children and grandchildren who live in a frozen overseas country. We are looking for candidates who have been adversely affected by this issue. However, success is not expected to be great and it is yet to be decided whether it is worth the investment in time, money and lawyers.

PR

There was an international telephone conference between the ICBP partners in Australia, Canada, South Africa and the UK following the results of the UK General Election in May 2010. We decided that we would continue to engage the services of the London based Public Relations firm called Champollion which facilitated a lot of good newspaper, TV and radio coverage post ECHR Judgment and in the lead up to the election. There is now a changed focus away from the legal pathway and more involvement with the political lobbying side of the campaign.

Peter Morris 11 June 2010

LIB DEMS

In the past we have had the general support of the Liberal Democrats in our campaign and they have offered sympathy in the past as well as proposing and supporting a number of Early Day Motions (EDMs) in the House of Commons in the past. Now disgraced Lib Dem MP David Laws even tabled our paper based petition to the House of Commons several years ago when no other MP came forward. We are yet to discover how their past support will translate as part of the new Conservative/Liberal Democrat coalition government in Westminster although with the extreme financial pressures facing the UK the outcome does not look good.

PARTY CONFERENCES

The three main political party conferences are due to be held in September and October of this year and we are planning to attend those to continue the momentum gained over the past year or two by John Markham, the Director of Parliamentary Affairs for the ICBP.

MEMBERSHIP

Our membership numbers and membership enquiries were swelled recently as a result of the very good international newspaper coverage we received following our loss at the ECHR, so the outcome was not all bad.

SUMMARY

In closing I would like to thank all members who have supported us in the past and note that we will continue to work to win the right to fairness, equality and fair play from the British Government.

FIGHTING ON

We lost—11-6

We were all stunned at our loss in the European Court of Human Rights. We had thought that this was the time when we would win. Our hopes had been boosted by the fact that the court had approved our request to refer the matter to the Grand Chamber of 17 judges. As someone has pointed out, if three of the judges who voted against us had voted for us, we would have won by 9-8. Hardly a soothing balm to our sense of hurt and disappointment. What do we do? The answer

is simple. pick ourselves up, dust ourselves off, start all over again. Well of course, there is no use trying to go further with the court case, as that was our last right of appeal.

But what can we do to make a more determined effort to sway the consciences of the UK government. We call it a “hearts and minds” campaign. The more cynical among us think that politicians are hard hearted and have closed minds! Maybe the new government will be more sympathetic, because they did not organize and underwrite our

legal opposition. Besides there are those in the Liberal Democrat camp who have supported us in the past. Some of these, but not all, will be in Cabinet, and therefore bound by convention not to support us in some of our activities, such as Early Day Motions (EDM).

To this end, the International Consortium of British Pensioners has engaged the services of a London based Public Relations firm to advise us, and to introduce us to possible supporters both in Parliament and elsewhere.

WHY WE LOST IN EUROPE

The pensioner case failed when 11 of the 17 judges in the Strasbourg Grand Chamber abjectly followed the adverse judgment of Lord Hoffmann, even to citing the very words he used. It evidently did not occur to them that Hoffmann might have been wrong—as he was, both in many of his “facts” and especially in his interpretation of what Article 6 of the European Convention on Human Rights requires for a court hearing to be described as fair.

Hoffmann along with the reactionary judges Burnton in the High Court and Lord Justice Laws in the Appeals Court were determined that

the judiciary would not take the decision about disbursing 500 million sterling to

FIGHT ON

pay our uprating, whatever the Human Rights Act might say. What is worse is that the then Lord Chancellor Falconer, a government minister and therefore the defendant in the action, revealed a written report that the Government expected that the judiciary would show such deference. An “understanding” between judiciary and defendant is totally contrary to what Arti-

cle 6 says:

“You have the right to a fair trial. This is a key feature of a democratic society, and includes: the right to a hearing before an independent and impartial tribunal.....

Similarly members of the court must be impartial, and not show prejudice or bias or give you any grounds for legitimately doubting whether they are being impartial”.

The legal procedure in the English Courts was a miscarriage of justice, and as the hostile Strasbourg majority relied on the English findings as summed up by Hoffmann, the Strasbourg judgment was a Miscarriage of Justice too. Brian Havard

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RECIPROCAL AGREEMENTS

The recent ECHR judgment was a bitter blow to BAPA after struggling for 25 years to overcome the UK government's opposition to universal indexation. However, there was a major aspect of the judgment which firmly established the requirement for a reciprocal agreement to be in place in order to achieve pension indexation, but it is patently obvious that due to the intransigency of the UK government, who after the final of the ECHR judgment can now

proudly proclaim that they are not acting illegally, a new agreement will not be achieved unless the Federal government takes the initiative to restart further negotiations with the UK government. Some degree of compromise regarding the agreement as a whole, which previously items such as Unemployment, Sickness and Invalidity Benefits, Retirement pension, Widows benefits, Guardians Allowance and Income Support, will obviously

have to be put on the negotiating table. I have therefore written to the Federal Minister, Jenny Macklin along those lines to highlight the need for a new reciprocal agreement. Hopefully she will take the necessary steps to implement a new agreement which will include pension parity in line with those UK pensioners living overseas that already receive indexation via reciprocal agreements.

CHOGM

I have also written to Jenny Macklin regarding placing the frozen pension issue into the Commonwealth Heads of Government Meeting agenda which will be held during 2011 in Perth. The frozen pension issue has not been deemed to be a suitable topic to be discussed at the previous meetings but now Australia has become a member of the Commonwealth Ministerial Action Group (CMAG) it presents a golden opportunity for the

Federal government to take a positive stance towards eliminating the completely illogical, unfair and discriminatory practice of selective indexation in all but three of the old loyal Commonwealth countries and yet indexation is granted to non Commonwealth countries such as USA, Serbia, Israel, Turkey and the

Phillipines. CHOGM would be an ideal venue for this matter to be openly discussed amongst other affected government representatives.

Although it is a long way down the track HM the Queen is expected to attend so at least there is a possibility that she will have a positive awareness of our plight.

Jack Stoner, Hon Secretary

FIGHT ON

UK TAX ALLOWANCES

This comment from a member is useful.

I have only been eligible for my UK state pension for 3 years and have received regular tax code notices. On checking it would appear that although classed as "Ordinary non-resident" (and therefore not entitled to an increase) my allowances have automatically been based on the annual increase in State Benefit.

I have emailed

non-residents@hmrc.gov.uk

who confirm that the wrong codes and allowances have been used and I am entitled to a repayment. It may be worth members checking their allowances and codes given?

T.B. BAPA member

This is a problem that affects people who still have income in the UK other than state pension. If you are a perma-

nent resident of Australia then you are protected from UK tax by a Double Tax relief treaty. But the UK revenue people have been making serious mistakes since they installed a new computer system. And this mistake could effect people who are still subject to UK taxation.

If they think that our pensions are being indexed do they know something we don't?

CHANGES IN STATE PENSION RULES FROM 6 APRIL 2010

Mostly these changes do not affect people who reached retirement age before April 2010.

Reduction in qualifying to 30 years starting from the age of 16. A proportionate pension for shorter periods of contribution, but old minimum rules abolished, Men can claim category B

pension for their wives or civil partners contributions (but not de facto's) Women's statutory pension age starts to increase from 60 such that it will become 65 in 2020. However the new Government may accelerate this (a disadvantage to women) Adult Dependency Increase

(for those with partners under state pension age) is abolished for those claiming pension after the new rules commenced.

For those already getting ADI this will be frozen everywhere at around 58 pounds a week (including the UK) and cease on 5 April 2020.

Richard Lane

OCCUPATIONAL PENSIONS

People with pensions from their old employers get these pensions indexed, except that if you have a GMP component and are not in a public sector scheme then the GMP is frozen.

This year the whole occupational pension will be frozen, even if you are in a public sector scheme.

The reason for this is that state pensions other than basic pension are not being in-

creased this year. Occupational pensions get the same index increases as SERPS and other state pensions.

And why are these pensions not increased? Way back in 2000 the government got a lot of flack because the increase in pension that year

FIGHT ON

was 75p per week. The following year they put it up by 5 pounds per week and promised that the increase in the basic pension would never again be less than 2.5%. No such promise was made regarding other parts of the state pension. And since the inflation rate last year was actually negative there is no increase in SERPS nor in occupational pensions

HOME RESPONSIBILITIES PROTECTION

HRP = Home responsibilities Protection started on 6 April 1978 and counts towards basic state pension entitlement. HRP has been replaced in April 2010 with a system of credits, so this item is of interest to people who have already retired.

HRP provided compensation for people who spent time out of the work force caring for children or for elderly or disabled people. Mostly HRP was of benefit to women.

If you have retired and think you may be eligible for HRP it

is worth following up.

Roger says he found out about HRP late in 2008, his wife having reached 60 in 2002. Her pension amounted to the magnificent sum of 9 pence, being graduated retirement benefit from her employment before she left the workforce to bring up their children. Nobody in the pension service had told them about HRP, so they did not know they were eligible.

Once they enquired and were granted HRP, her pension increased to nearly 30 pounds,

and they got substantial back pay in a lump sum.

Richard has a similar story. HRP—it was only after calling the DWP that my wife reached the magic 25% because of HRP.

We paid additional contributions at the self employed rate for 8 years to bring it up to 48%. I paid additional contributions to get 100% pension next year (frozen of course) when my wife's pension will become 60% of the rate when she turned 60.

BAPA non executive committee

David Waterhouse (Website) Ann Warren (Newsletter) Dian Elvin (now based back in the UK) Richard Lane Mike Goodall

POLITICAL JOKES

No matter what your political persuasion, you can still laugh at political jokes. These two came in as cartoons. They say a picture is worth a thousand words, but you will have to use your imagination, because we need the space for a thousand words.

From Canada, Gordon has just advised HM that he is calling an election.

She says: "Do you think you will beat the other chap?"

He says: "It is my belief that the people of Britain will never accept a leader who was born into a life of privilege, wealth and upper class attitudes".

She now has a grumpy expression and he covers his face.

In the second one Gordon is a homeless peddler of "The Bigot Issue".

The caption says that already one Scot has lost his job and been turfed out of his house.

RATES OF EXCHANGE

The pound has been weakening

and as a result our pensions have been buying less and less dollars.

So far as we know, your pension is converted from pounds to dollars at a good rate of exchange—the bank to bank bulk rate. Once it gets into the Australian or subsidiary of the handling agent it is transferred to your account fee free through the banking network.

PETITION

Many of you have signed the petition on the ICBP website

<http://www.pension-parity-uk.com/>

In all, over 14,000 people signed. All MPs in the new parliament have by now

THE NATIONAL INSURANCE FUND

It is important to know that British state pensions are not paid from general revenue, but from a special fund called the National Insurance Fund. As originally planned by Beveridge, the author of British social welfare systems, the fund would only carry a running balance. This was at a time when contributions and benefits were unvarying. So benefits were paid on a pay-as-you-go system.

Over the years, with the emergence of contributions and pensions linked to earnings the National Insurance Fund has accrued huge surpluses, which are invested in safe government paper. It is not exposed to the vagaries of the stock market, unlike many private occupational pension funds. So the government can well afford to index our pensions at no cost to the taxpayer.