

# FOCUS ON RIGHTS

British Australian Pensioner Association newsletter No 26 - February 2007

Our aim is 'parity, not charity'

We only want what is ours

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Quote from Tony Blair, UK Prime Minister: 29 January 2007, BBC Daily news.

"There is no place in our society for discrimination"

## THE ECHR CASE

The case was lodged as "Jackson and others", but the Court preferred to call it "Carson and others", because it follows on from the Carson case in the UK courts.

Most of the litigants are from Canada, but the DWP has chosen to deal only with Carson's details.

Papers have been lodged with the Court by both sides, and replies have been going to and fro. It had been hoped that the Court would consider the case entirely on the papers, without the barristers having to appear at Court. This could have resulted in a decision in March this year.

Our lawyers also offered a compromise - a friendly settlement - but the government refused to consider it.

But the government have put a kibosh on this by demanding an oral hearing. Not only will this delay the decision, but it could give the government side the opportunity to slip in arguments for which our lawyer has had no time to prepare.

Perhaps Court rules would not permit this, but I am cynical enough to believe that they will try anything to stop us getting our money.

There is another possibility that could defeat us, and that is the power of "precedent". I suspect that the ECHR will be more bound by precedent than even the UK courts are, and that they will fall back on decisions made in the ECmHR (the Commission which preceded the Court).

There was a case in 1982 and another in 1984. Both pensioners lost.

In the meantime we continue with our other activities, lobbying, research and publicity.

## LOBBYING

A Member of Parliament prepared a draft Early Day Motion for consideration. Unfortunately it was flawed in many ways. For example, it would have given only limited indexation with no parity. An elderly pensioner with a 'full' basic pension frozen at £10 per week might have received an increase of 30 pence.

Think what the British Government might do at the ECHR if they thought they might get away with this. If the Court imposed it as a compromise, we might forever be banned from seeking parity.

The draft was replaced, but the new EDM 856 is ambivalent on this point. We must lobby MPs to abandon this approach, and make it clear to them that parity is our priority.

Other flaws might have restricted the indexation to people who had made mandatory contributions all their working life. This would have excluded some of the litigants in the ECHR case, even Annette Carson!

On behalf of all BAPA members we would like to thank John Markham for his efforts in London while representing the Consortium over the "Frozen Pension" issue. John has made many useful contacts that may well pave the way to a successful conclusion over the pension issue. Well done John!

## RESEARCH *Brian Havard*

An Appeal to the Senior Law Lord

Most of you will know that the pensioner application for judicial review of the policy which freezes our pensions was ultimately turned down when a panel of five Lords of Appeal voted against us by 4 to 1. The most senior of the Law Lords (he did not hear the *Carson* appeal) is a Lord Bingham who came to my notice when in a speech to the Law Faculty at Cambridge University he proposed eight principles which define the 'Rule of Law':

1. The Law must be accessible and intelligible
2. Resolution by law and not by the exercise of discretion
3. Laws should apply equally to all save to the extent that objective differences justify differentiation
4. The Law must afford adequate protection of fundamental human rights
5. The means must be provided of resolving civil disputes without prohibitive cost
6. Ministers must exercise their powers reasonably, in good faith
7. That adjudicative procedures provided by the state should be fair
8. Rule of Law requires state compliance with its obligations under international law

I wrote to Lord Bingham and told him that, in rejecting the *Carson* application, the English courts had breached every one of his eight principles! He sent me a prompt, friendly response but said that he could not intervene in

court proceedings. I have followed up with another letter saying I understand fully that he cannot engage publicly in our dispute but that he might have a quiet word with the Lord Chancellor to have the Human Rights Act amended so that a Carson-type fiasco can be avoided in future. I doubt anything will happen but at least our issue has been brought to the notice of the highest lawyer in the land.

Anyone wishing to see the correspondence should email me; see list at end. *Brian Havard*

## **PUBLICITY**

One of our aims should be to educate the British public. Most do not even know about our case. National daily papers are not interested except when some news breaks. The Weekly Telegraph and similar newspapers mostly circulate among expatriates, so are never seen by the home readership. Even our friends and relatives who know about it are not always on side with us. They say: "You left the country for your own good, so live with the consequences"

That's the attitude of the "reasonable man". But hear George Bernard Shaw.

"The reasonable man adapts himself to the world; the unreasonable one persists in trying to adapt the world to himself. Therefore all progress depends on the unreasonable man."

## **DOCUDRAMA\***

\* A docudrama is a presentation in dramatic form of real life events or situations.

Peter Morris came up with a good idea while watching BBC Telly one night. We passed the assignment to Barbara Lassiter. Here is her account of what happened

An unusual email popped up on my computer in early December 2006. It was from James Nelson, President of BAPA, asking if I could make a 2 minute film about the Frozen Pension policy scandal. It was intended for a UK, BBC competition for the current affairs programme "Newsnight". If we could not meet the competition date we might try the free video website, "YouTube".

James supplied a script and it was my job to find the actors. After much head-scratching it was finally decided that my husband, Graham ("Bob"), and our friend, Peter ("Ron"), who is around our age, would suit.

This was a golden opportunity to try out my new camcorder - a bad move! Whilst it worked beautifully I soon realised we could not meet the Newsnight deadline, and would have to turn to "YouTube". This meant re-shooting the film using low-resolution format on a standard width film.

Refilming was not successful..so I fished out my old faithful camcorder and had a third go! Thank goodness for the patience of our friend.

The setting was our living room, with Peter and Graham on separate sofas, to convey different locations. We wrote

long sentences on "idiot" boards, enabling each character to face the camera throughout.

I edited with titles and music. The first showing was very successful, but an incorrect spelling called for a final re-editing!

As I write, the first attempt has had 678 viewings and the revised version 2,230, so the message is getting out there. *Barbara Lassiter*

Tell your friends in the UK to have a look at the video on <http://tinyurl.com/yz6ns8> You must get the code after the slash right or else you will be taken to something quite different.

The script of the docudrama is printed elsewhere in this issue. After your friends have seen and understood, they can sign the petition.

## **EPETITION**

Another "tiny" URL for you,

<http://tinyurl.com/yumu05>

Someone said that a petition is about as useful as an ashtray on a motor bike. He was only using literal thinking, when what was needed was lateral thinking. He forgot that a motor bike could have a sidecar passenger for whom the ashtray could be very useful!

What then does lateral thinking tell us? The purpose of a petition may not be only to reach the person petitioned - in this case the Prime Minister - but to teach people who read the petition what it is all about.

Last year we presented a paper petition to parliament. This is what happened to *Barbara Mather* when she was collecting signatures: A guy said, "when you came to Australia you must have known about freezing so just live with it" .But when I explained that pensioners in the USA and other countries received the uplift he said "give me the paper I'll sign it now, that is discrimination against Australia"

Once your friends get this message they may be ready to sign.

This is another of Peter's bright ideas to assist you, the BAPA members, in convincing your friends and relatives that our case is a good one. And

## **EMIGRATE MAGAZINE**

BAPA has placed an advertisement in *Emigrate*, a magazine directed solely towards people interested in migrating to Australia, Canada, New Zealand and the USA. For more information, see:

<http://www.outboundpublishing.com/cgi-bin/search.cgi?location=000003&showitem=000001>

Each year, there are a number of migration fairs held around the UK and they are very popular.

The audience is over 50,000 people and the magazine is provided free to people attending the fairs at Sandown, Edinburgh and Belfast and several other major centres.

We are hoping to obtain publicity for the frozen pensions cause and hopefully sign up some new members, although that is not the main focus of the advertisement.

The advertisement also contains details of our website, our contact email address and a telephone number in the UK for those people interested in this issue.

Later in the year, we will provide feedback about the results we get from this idea. *Peter Morris*

## **LOCAL NEWSPAPERS**

National dailies are not really interested, but local newspapers might be willing to give space to an item from a former local resident giving a picture of what life is like in your part of the world. Tell them a bit about yourself, where you went to school, why you emigrated and other interesting titbits.

But make a point also of mentioning the frozen pension regime and the fact that it is applied in a discriminatory manner. Don't forget to include references to the YouTube video and the petition.

What we would be trying to do here is to get the editor interested in the hope that he might invite you to write an article. Don't be afraid of this, because there are plenty of people on your committee who are skilled writers.

Another possible strategy would be to ask your local MP to introduce you to the editor of your local paper. Or maybe ask your cousin for the name of the MP or the contact details for the newspaper.

## **UK SUPPORT**

Our cause collects support wherever we can. Have a look at

<http://www.seniornetwork.co.uk/campaigns/index.htm>

<http://www.maturetimes.co.uk/taxonomy/menu/22/205>

Both of these organisations take material from our web site and news letters and reproduce them with encouraging comment.

Mature Times, in its January Newspaper, published an article based on material supplied by James Nelson, David Laws MP, and Tony Bockman of CABP. The editor says 'We've got over 400,000 readers in the UK.'

Guardian Weekend had an article about living abroad, but it did not mention pension freezing. A sharp-eyed member in London had a letter published, as follows:

"You made no mention of the UK's discriminatory state pension policy. Brits who retire to Australia, New Zealand and South Africa, to mention the main countries affected, have their pensions frozen at the amount they were getting when they left the UK. However, retirees to the US and other countries, have theirs uprated in line with inflation. They paid the same contributions when they worked in the UK, so should get the same pensions." *Julia Johnson*

The more publicity we get in Britain the better. And we must make sure we draw the contrast between pensioner treatment in USA and AUS!

An insert with this letter is suitable for you to use by sending copies to your friends and relations in the UK, or to your British Member of Parliament

## **BUREAUCRATS**

Beware bureaucrats; they can be unbending in applying the rules, as the following examples show. They always try to tell you it was your own fault! They will use fancy language, but that's what it amounts to - it is your fault.

## **DWP**

From time to time, DWP will send you a 'Life Certificate'. The purpose of this is to make sure you are still alive. If the certificate is not returned to them, duly completed, they will assume you are dead, and they will stop paying your pension.

The first sign could be that your pension no longer appears in your bank account. One old lady who was beginning to suffer from dementia did not notice that her pension had been stopped for two years. Centrelink continued to pay her Australian pension as if her UK pension was still coming in.

It could happen to you even if you have all your marbles. If you have changed your address and not told DWP the Life Certificate could be sent to your old address, long after your redirect order has expired. So keep DWP informed.

DWP Pensions Service, International Pension Centre, Tyneview Park, Newcastle upon Tyne, NE98 1BA, UK.

## **CENTRELINK**

From time to time they will want to know details of your assets and income, including the British pension. A pensioner reported the correct weekly amount in pounds, but Centrelink recorded this as the monthly amount. As a result his Australian pension was overpaid for several years before it was noticed. Centrelink cut his pension to the correct amount, and then asked for a refund of the amount overpaid. Since it was their fault and not his, he objected and appealed. He won, and the debt was waived by a tribunal. Nevertheless, it caused him great grief.

There were two similar cases in the same area, and there could be more. One of these two won, and the other had a partial win.

## **DWP AGAIN**

One of our members has had a significant win in a tussle with DWP.

She has a pension from a public sector source, a County Council. Because she now lives in a frozen country part of her pension from the Council is frozen by DWP. In this situation, DWP is supposed to tell the pension fund to make up the difference.

While she was trying to get justice on this matter, DWP batted it about from department to department. But now after long months and many emails she has won.

There is a standard procedure for this situation, but nobody in DWP seemed to know about it. Fortunately

for her, we did. She had to knock a few heads together - metaphorically, though I am sure she could have done so literally, given the chance.

Now here is the lesson.

If you have a pension from the public sector derived from employment between 1978 and 1997, you may also be affected - and you will not be aware of it.

Public sector covers civil service, local government service, armed forces, police and other emergency services, National Health Service, teaching service, and of course, MPs and judges.

### **N.I.F. ACCOUNTS**

Here for your entertainment are some of the items that caused losses in the National Insurance Fund last year.

Cause	£million
Loss on Sale of investments	65
Unpaid contributions written off	420
Redundancy debt written off	240
Actual Benefit fraud	42
Estimated additional fraud	250
Total of above	1017

The total of the losses was 2.5 times what it would need to uprate our pensions. But nevertheless the fund increased its surplus by £5 billion to £34 billion. The auditor thought that the estimated additional fraud was not enough to warrant checking!

### **VETERANS' BADGE**

*Derrick Prance* suggests you might be eligible for a Veterans' badge. Details can be found at:

David Waterhouse

Our worthy NL editor has found it necessary to retire from this job because of ill health. Our thanks and best wishes go to David, and also to his wife, Joy, for supporting him all these years.

### **BAPA executive Committee & Email Addresses**

President: James Nelson	<a href="mailto:ann33_james@bigpond.com">ann33_james@bigpond.com</a>	Web Address: <a href="http://www.britishpensions.org.au">www.britishpensions.org.au</a> Secretary Box 35, Christies Beach, SA 5165 Treasurer Mem Secretary PO Box 550, Burpengary, Qld. 4505
Vice. President: Peter Morris	<a href="mailto:petermorriscpa@btopenworld.com">petermorriscpa@btopenworld.com</a>	
Secretary: Jack Stoner	<a href="mailto:jstoner@iprimus.com.au">jstoner@iprimus.com.au</a>	
Treasurer/Mem/Sec: Barbara Mather	<a href="mailto:jimbarmather@dodo.com.au">jimbarmather@dodo.com.au</a>	
Brian Havard:	<a href="mailto:behavard@bigpond.net.au">behavard@bigpond.net.au</a>	
Derrick Prance	<a href="mailto:pranced@eon.net.au">pranced@eon.net.au</a>	

[http://www.veteransagency.mod.uk/vets\\_badge/vets\\_badge.htm](http://www.veteransagency.mod.uk/vets_badge/vets_badge.htm)

Postal address:

Veterans Agency, Thornton-Cleveleys, Lancashire, FY5 3WP

Fax: 01253 330561(UK Only)

+44 1253 330561 (Overseas)

Email: [help@veteransagency.gsi.gov.uk](mailto:help@veteransagency.gsi.gov.uk)

Freephone Helpline

Free: 0800 169 2277 (UK only)

Free: 0800 169 3458 (Minicom UK only)

+44 1253 866043 (Overseas)

If you give them your service details you should be able to get a badge

### **BAPA**

Brief financial statement at 31/12/06

Contributions	16720.72
Interest	1178.78
Income	17899.50
Consortium ECHR	25214.32
Expenses postage &c	3464.86
Bank Charges	156.05
Expenditure	28835.23
Brought fwd	62540.33
IncM less exp	-10935.73
Carried fwd	51604.60

Member of the International Consortium taking our case to Europe

Affiliated to PARITY & the National Pensioners Convention

# DOCUDRAMA SCRIPT

## “THE PENSION ANOMALY”

RON My name's Ron, I live in America – they call us 'limeys'.

BOB G'day, my name's Bob, I live in Australia – they call us 'poms'.

RON I retired seven years ago and moved to America for the lifestyle.

BOB I retired seven years ago and moved to Australia to be with my grandchildren.

RON America rebelled in 1776 and left the Commonwealth, but the UK still treats me as well as if I'd stayed in the UK. My pension is index linked.

BOB Australia is a member of the old Commonwealth. Many British pensioners come here to be with their families but the UK treats them like outcasts. Their pensions are frozen.

RON When I retired in 1999 my British pension was £66.75 per week.

BOB When I retired in 1999 my British pension was £66.75 per week

RON I now get £84.25 per week.

BOB I still get £66.75 per week. That's what I mean when I say that my pension is frozen

RON They claim that it would cost a lot of money to index all pensions

BOB Not a lot of money, less than one percent of the annual pensions budget.

Britain pays fully indexed pensions to half its expat pensioners – to the USA and the Philippines, the whole of the EU, including the new members from East Europe, Turkey, Israel, and Bosnia, but, although we all paid the same contributions, it withholds the up-rating of its pensioners in the Commonwealth – all to save less than one percent of the pensions budget.

There are people here in their 90's still getting less than ten pounds a week; the same as when they retired.

Where's the justice in that?

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This is a "docudrama", a fact-based presentation of a real world situation. The people playing the two characters are resident in Australia. The anomaly they discuss is a real result of the discrimination practised by the UK.

You can see and hear the docudrama at <http://tinyurl.com/yz6ns8> or <http://www.youtube.com/watch?v=-6ZdWFrNxe>

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## EPETITION

You can see and sign the epetition at <http://tinyurl.com/yumuo5> or <http://petitions.pm.gov.uk/unfreezepensions>

Here is the wording of the petition with an explanation.

We the undersigned petition the Prime Minister to remove the discrimination against British State pensioners who retire in certain overseas countries.

British State pensions are uprated in the following overseas countries: Austria, Barbados, Belgium, Bermuda, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Gibraltar, Guernsey, Hungary, Iceland, Ireland, Isle of Man, Israel, Italy, Jamaica, Jersey, Latvia, Lithuania, Luxembourg, Macedonia, Malta, Mauritius, Norway, Philippines, Poland, Portugal, Sark, Slovakia, Slovenia, Spain, Sweden, Switzerland, The Netherlands, Turkey, USA and Yugoslavia.

British State pensions are frozen in these countries: India, Pakistan, Bangladesh, Malaysia, Australia, Canada, New Zealand, South Africa, Zimbabwe and most other Commonwealth countries.

British State pensions are paid out of the National Insurance Contribution fund which, the Government's own Actuary Department stated in early 2006, has a surplus exceeding current requirements of over £30 billion and growing.

## FICTION AND FACT

There is a lot of misunderstanding about frozen pensions among Ministers and other MPs. Here we expose some of the fiction and correct them with the facts.

### FICTION

It would cost an awful lot of money to unfreeze the frozen pensions

Pensions are paid by the government out of taxpayers' money

You knew about pension freezing before you emigrated

Australian residents have their pension frozen because Australia terminated the reciprocal agreement

There is no fund. Benefits are paid out of current contributions

### FACT

Most recent figure is £400 million annually, which is less than 1% of the total annual outlay for pensions

Pensions are paid by the National Insurance Fund out of contributions to the fund; it is our money

Nobody told us. A few found out "on the gangplank" after they had committed to a decision to emigrate

Australia terminated the reciprocal agreement because Australian residents already had their pensions frozen, and Britain refused to negotiate

There is a huge and growing surplus every year. Surplus funds are invested, just like any other pension fund

### CAN WE HELP YOU?

We handle a lot of enquiries from pensioners in regard to their UK and Australian pensions. While neither BAPA nor its officers are licensed financial advisors we often have a good idea of the answers.

But we cannot do the work for you. We can only point you in the right direction, and it is then up to you to write or talk to the various government departments.

Help available for you or your friends.

Email: [contactus@britishpensions.org.au](mailto:contactus@britishpensions.org.au)

Or phone 03 5664 3207

This is not an office, and we try not to spend your money on phone calls, so please, if we are out, call again.

### BAPA Web site

The BAPA web site contains a vast archive of material arising from our many years in the campaign, including six Pension Guidelines covering:

No 1. "Do You Qualify for a British Pension?"

No 2. "The Australian Pension"

No 3. "Don't Miss Out"

No 4. "Voluntary Contributions"

No 5. "Rights while travelling"

No 6. How unfreezing would affect your pension

Our web address is:

[Http://www.britishpensions.org.au/](http://www.britishpensions.org.au/)

If you do not have access to the internet at home, you may be able to access it at your public library or Telecentre.

Or you could ask a friendly grandchild to help you!

### Hot news

If you are not receiving hot news from us by email and you would like to, then you need to join the bapanews mail group.

Send an email to:

[Bapaemail-subscribe@yahoogroups.com](mailto:Bapaemail-subscribe@yahoogroups.com) Make the subject line SUBSCRIBE but leave the message blank.

Emails from bapanews are not sent often, and only when some important news, mainly regarding promoting new material on the web site, needs to be broadcast.

### Discussion group

To join the bep discussion group, send an email to:

[Bep-subscribe@yahoogroups.com](mailto:Bep-subscribe@yahoogroups.com) Make the subject line SUBSCRIBE but leave the message blank.

**British Australian Pensioner Association Inc**  
**Box 35, Christies Beach, SA 5165**

# BAPA British Australian Pensioner Association Inc

Box 35, Christies Beach, South Australia, 5165

## Mailing List & Fighting Fund Contributions

A Consortium of five British Pensioner Associations has been formed to take our case to the European Court of Human Rights. The Consortium is being led by the Canadian Alliance of British Pensioners and includes the British Pensioners' Association of Western Canada, the South African Alliance of British Pensioners, British Pensions in Australia & ourselves.

We will need your support even more than previously so that we can pursue our political lobbying and research, whilst contributing to the legal costs of the Consortium in Europe.

Title: Mr / Mrs Etc.		Are you already on our mailing list?		In what year did you or will you first receive the UK pension?	
First name					
Last name					
Address line 1					
Address line 2					
City or Suburb					
State		Postcode			
Country if not Australia					
Telephone					
E-mail Address					
Professional and acquired skills					

I/we wish to be placed on the BAPA mailing list and enclose an initial contribution of \$20.00  
 I/we also wish to make a contribution to the Fighting Fund \$  
 Total enclosed \$

Signed ..... Date .... / .... / 20 .....

Please make your cheque out to British Australian Pensioner Association and send it with this form to:

**BAPA, PO Box 550, Burpengary, Queensland, 4505**