



British Australian  
Pensioner  
Association Inc



## NEWSLETTER Number 27

### FOCUS ON EQUALITY

#### FROM THE PRESIDENT

There is no fresh news on the ECHR case. We were expecting the hearing to be in the Northern summer, which is now past. We just must still wait.

Meanwhile, we are not by any means inactive.

Lobbying of MPs continues. Late in the year the parliament will be prorogued and all existing Early Day Motions will expire. Nevertheless we will press on assisting our supporters to lodge fresh EDMs. The existing one (856) lodged by Michael Connarty is not as strong as we would have liked, but at least not as weak as what was proposed by the Liberal Democrats. We have to emphasize to the LDs that our stand is for parity—immediate parity. Any indexation taking off from the present frozen level simply would not solve the injustice and inequity.

Our petition at <http://tinyurl.com/yumuo5> is still open, and has now reached over 4000 signatures.

We have been supported in this by other members of the Consortium. If you have not signed it, please log on and sign. You do not need a UK postcode, just select “Expatriate” from the drop down box. Remember what we said last time: 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. So encourage your contacts in the UK to read and sign.

Our video on Youtube has been well received <http://tinyurl.com/yz6ns8>. The video is rated by viewers as 4 1/2 stars out of 5. Just the other day we found it on a Canadian site in Montreal. To make it easier for you to find this site, here it is as a [tinyurl](http://tinyurl.com/26osqx).

Just make sure you get the characters after the slash right. Notice that the “o” is a letter o, not the figure 0. Copies of and references to the video turn up all over the place.

There have been some worthwhile

developments relating to Public Sector Pensions. One of our members who came to Australia on retirement 20 years ago had never been told that the teacher’s pension should have its Guaranteed Minimum component indexed. She wrote to the pension agency, and they fixed it up fairly promptly. Her pension will now be increased and indexed, and she has received a large lump sum in back pay, plus interest.

If you have a teacher’s pension and want to find out if you are affected write to

[TPMail@capita.co.uk](mailto:TPMail@capita.co.uk)  
We got good coverage for this subject in a recent issue of the Weekly Telegraph. Following this we have had numerous enquiries from other parts of the world. The DWP try to pretend that the system is working well, but we know it is not. Your pension is from a public sector scheme if you were a civil servant, a teacher, a member of the armed forces, a doctor or nurse in the NHS, a local government employee—and lots more.

Unfortunately the ordinary state pension is still not indexed for anyone living in Australia, and neither is the GMP component if you were employed in the private sector.

**James Nelson, President**

#### BAPA executive Committee and e-mail addresses

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Vice President Peter Morris  
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## ADOPT an MP

When corresponding with MP's we found that some are still not aware of the true facts about the frozen pension so one of our initiatives this year has been to start "Adopt an MP"

The idea behind this is to allocate a specific member to a specific MP and cover as many MP's as possible rather than have a number of people writing to the same MP. This MP will then be yours for life and if he/she loses his/her seat you adopt

## LOBBYING IN LONDON

Early in October a delegation of heads of frozen pensioners organizations plan to meet in London, with the objective of lobbying ministers, shadow ministers, MPs, journalists and others to put our case for ending freezing of pensioners, prior to the long-awaited

the winner of that seat. You try to get to know him/her and hopefully change attitudes, there are always the ones who just will not listen but you never take no for an answer. The great advantage of this will be that if we want to get an important message to all MPs all it will take is one e-mail.

At present we have more than 300 covered and we are doing well but if you have not yet joined please contact me for your "special" MP and have a look at our website, all the information you need is there.

Anyone out there want Gerry Adams!!!

Thank you to everyone who sent in

generous donations, and to those who could not afford to contribute but still sent in letters thanking us for our efforts. This is so important to your voluntary committee who are all motivated amateurs. If anyone feels they can help us in any way we would be happy to hear from you.

Please let me know if you change your address or e-mail.

Congratulations to our new editor for the Newsletter. Ann Warren is ably helped by her husband Roger. We hope you enjoy the new format.

**Barbara Mather**

# Focus on Equality

decision of the European Court of Human Rights.

As our President, James Nelson, is unable to go because of family

commitments, BAPA will be represented by our Vice-President, Peter Morris.

There is some doubt over the project at present because of persistent rumours that Gordon Brown will call an election soon.

## Reuter's Headline, Thursday 2nd August 2007

**Ref. "Inequality still deep despite anti-discrimination laws" Thu Aug 2 2007.**

One of our members replied to Reuters

I agree.

There is even discrimination and inequality in the treatment of British State Pensioners, can you believe it! After paying into the National Insurance Fund for their working lives in the UK, a small percentage of state pensioners living abroad, in some countries only, find that their pensions are frozen and they do not receive any indexing at all. They become poorer every year. This freezing of pensions does not apply to state pensioners who decide to retire to any of the European Union countries, the United States or several other lucky countries. State Pension freezing does, however apply to British Pensioners retiring to Australia, Canada, South Africa, New

Zealand and one or two other unlucky countries. Odd that they are mainly countries where English is spoken and from which military help has been given! Odd that they are countries to which old people may need to go to be with their grown children, thus removing part of this care burden from the state. Odd that UK governments (Labour and Conservative) have had no intention of putting this situation to rights despite a build-up of several billion pounds in the National Insurance Fund. Who paid this money into the fund? Odd to realize it was pensioners who are now having their pensions frozen as well as those whose pensions are indexed annually. Both lots paid identical dues, but some of them are not receiving their promised pensions. This is not equality, however one looks at it. It is discrimination and is set to continue whatever government happens to be in power in the UK. As they are all British, we can-

not call it racial discrimination! As they are both men and women, we cannot call it gender discrimination. It is blatant civil discrimination.

Remember: UK state pensions are indexed every year to all pensioners in the UK and to around 50% of the small percentage of state pensioners living abroad. It is the other 50% who have had their pensions frozen. All this will need is a 1% rise in expenditure to gain true equality. The reasons given for not doing anything at all to help are spurious and often misleading. In Westminster, more care has gone into discussing the loss of private pension funds and very little notice has been taken of the pensioners for whom parliament is responsible. The funds are there, but the will to use them for their original insurance goal is not.

**D. Elvin  
Long Hanborough  
Oxfordshire**

# NATIONAL INSURANCE FUND

The National Insurance Fund (NIF) represents the funds of the National Insurance Scheme, set up by the British Government following World War 2. It was designed as part of a universal insurance system for all British people.

The funds are held in the NIF, separate from Consolidated Revenue. Contributions are not "taxes" because they are not directly available for general expenditure by the government.

The income consists of contributions from employees, employers, and the self employed, plus interest on its investments. The NIF is used to pay for social security benefits such as state retirement pensions, but not for the means tested Minimum Income Guarantee and Tax Credits.

Each year there is a surplus of the order of 2 billion sterling. The surplus is lent to the government by way of investment in gilt-edged

securities, and interest on these investments is paid to the NIF as it falls due.

By the current government's "golden rule", borrowed money (which includes the NIF surplus) cannot be used to finance current expenditure. It can only be used for investment, mainly capital investment in infrastructure. The money in the NIF can only be used for the payment of benefits and administration expenses.

## PAYGO

PAYGO is an acronym for pay-as-you-go. The National Insurance Scheme was set up on a PAYGO basis, with each year's contributions set at a level which would cover the same year's benefit payments and expenses of administration. At the outset, contributions were the same for all irrespective of income and benefits were the same for all. Al-



though contributions are now related to income and benefits are related to contributions, the scheme is still regarded as a PAYGO scheme.

MPs use the PAYGO argument in an attempt to belittle us frozen pensioners. They think that we think that our contributions have built

up a little pot of money to which we are now entitled. We think no such thing. What we do think is that we paid in the past to provide other people's benefits. Now it is our turn. Other people can now PAY and it is our GO.

The annual income of the National Insurance Fund is always more than the annual outgo, and there is more than enough left over to unfreeze our pensions.

## WIKIPEDIA

Peter Morris discovered that anyone could compose an article for Wikipedia, and anyone could edit an existing article, subject only to a simple registration system. We have therefore composed articles on the National Insurance Fund and Frozen Pensions.

For the second of these we were advised that the article would be taken down because

it was an essay or a point of view. So we made major changes to make it more of a definition and explanation, including the fact that "frozen pensions has another meaning.

Wikipedia also has a discussion panel that any registered member can use. There is an existing article on National Insurance, in which the author

wrongly claims that NIF is just part of general revenue and expenditure. We were unsuccessful in making our editing changes stick, so we put a message in the discussion section refuting this false view.

You can see the main page at [http://en.wikipedia.org/wiki/Main\\_Page](http://en.wikipedia.org/wiki/Main_Page) and use the search facility to find National Insurance Fund or Frozen Pensions

## Worst of Both Worlds

This letter, published in the Weekly Telegraph, exposes the way that holders of Visa class 410 are treated

Sir-In July 2006 the Australian tax office stopped taxing income from foreign pensions if you are a temporary resident. I have just received a ruling from HM Revenue and Cus-

toms telling me that such income will now be taxed in the UK instead. Our British old age pensions are frozen at the level when we left the UK and we are not entitled to National Health treat

ment if we return. We receive little or no benefit from the tax paid, so what are we paying for. Isn't this grossly unfair?

**Bob Swindle, Birchs Bay Tasmania**

# Holding the Government to its Promises

The English courts rejected the Carson application for judicial review of the policy of discriminating between expatriate pensioners on the basis of their country of residence primarily because they believed that decisions on the disbursement of public funds should be made by Parliament and not the courts. So we will do just that—hold the politicians to their promises.

The Human Rights Act, perhaps the most important legislation to have been enacted in recent years, provided a rare example of the Government seeking to make a complex act intelligible to the wider public when it published a comprehensive “Study Guide”. While a caveat insisted that the Guide was not legally enforceable, it was clearly a statement of the legislative intent.

At launch, HRA was a Home Office responsibility, and in a speech in St Paul’s Cathedral on the launch date the Home Secretary said “The Government’s aim is to build a modern civil society based on basic values of individual worth and equality of opportunity for all. Those values are directly reflected in the European Convention on Human Rights, which through the Human Rights Act, is now in our system of law. Basic values we can

all share... under the Human Rights Act, everyone gets the same set of basic guarantees from our public services, whoever we are and wherever we live”.

**The pension system being the most significant public service, frozen pensioners must therefore be accorded the same set of basic guarantees, no matter where they live.**

The Home Secretary together with the Chairman of the Bar Council of England and Wales Lord Brennan QC were equally forthright in the preface to the First Edition of a Study Guide to the Human Rights Act which explained the

legislative intent .

**“The Human Rights Act... marks a change in the constitutional relationship between citizens and the state... makes rights from the European Convention on Human Rights into a form of HIGHER LAW in the United Kingdom.. now all state bodies, including the courts... must act in accordance with the Convention rights when making decisions which affect you. If they interfere with these rights, they will have to be able to justify that interference in accordance with the new law”. NO credible justification was offered in Carson.**

**Any rational person would conclude that, where a court finds two acts are in conflict, HRA has precedence**

**over domestic law. This is how the most senior judge of the High Court, former Master of the Rolls, the late Lord Donaldson, interpreted HRA.**

Unfortunately, the Government has implemented the Straw undertakings and it is reasonable to call on the Lord Chancellor to explain why the intent set out in his speech and in the Study Guide has not been implemented

**—particularly as it was he, Jack Straw, who as Home Secretary gave the undertakings.**

As chair of the key Constitutional Affairs Cabinet Committee whose very relevant Terms of Reference are “To consider strategic issues relating to the Government’s constitutional reform policies”, Jack Straw is well placed to implement what he promised. Committee members include the Chancellor of the Exchequer and the Secretary of State for Work and Pensions.

**Every endeavour must be made to have the Lord Chancellor explain why the assurance he gave in his speech introducing the new Act, that under HRA EVERYONE GETS THE SAME SET OF BASIC GUARANTEES FROM OUR PUBLIC SERVICES, WHOEVER WE ARE AND WHEREVER WE LIVE, has not led to repeal of the discrimination targeting half the expatriate pensioners based on their country of residence.**

**Brian Havard**

**Focus on Equality**

## UK/AUSTRALIAN RECIPROCAL AGREEMENT

The Agreement was terminated by the Australian Government in 2001 due to the intransigence of the UK government to index the UK pension which they maintained was due to the perceived cost of 400 million sterling, but since then the National Insurance Fund surplus has reached 35 billion sterling and is expected to increase to 74 billion sterling by 2012. We felt that now is the time that we should initiate a campaign for the resumption of a new agreement which would include indexation, and to this end I sought the

support of the Federal Senators, which has resulted in an introductory letter from the Hon Mal Brough MP, Minister for Families, Community Services and Indigenous Affairs expressing his willingness to work with the Rt Hon Peter Hain, Secretary of State for Work and Pensions so that the long standing issue can be resolved. We await the outcome of this recent support from the Federal government which may bring

about a new reciprocal agreement which would include indexation and possibly any other appropriate fringe benefits such as the exemption of the ten year residency rule for new immigrants which was an integral part of the previous agreement. We are pleased to say we have given all our research to Mal Brough in the hope it will help him with his negotiations with HM Government.

**Jack Stoner, Hon Secretary**

## SERPS the way ahead

For many years as a BAPA committee member I have pursued the DWP with its specious attitude concerning the "freezing" of the State Earnings Related Pension Scheme

In 1988 I was given the opportunity to remain with or opt out of the SERP. My claim against the DWP has been its refusal to supply proof that they had informed me in 1988 that, should I retire to Australia, Canada, New Zealand or Africa it would be frozen the moment I left Britain's shores. A government inspired leaflet in 1988 had led me to believe that should I decide to remain with the SERP rather than opt out, it would be increased in line with inflation.

Since 1997, (when New Labour came into office) I have written to nine pensions ministers requesting the proof I needed to take them to task. Every one with the exception of Stephen Timms, gave the usual cloned reply. Stephen remarked that the DWP had felt it unnecessary to inform SERP recipients of the anomaly as it was considered to be a Category A pension. This is patently wrong for the following reason:

A Category A pension is the basic state pension for which there is compulsory member-

ship and compulsory premiums paid through NI contributions.

SERPS and its like have voluntary membership and have voluntary contributions plus alternative options eg If you wished you could opt out of the SERP but not the state pension. In my view it is difficult to say "they are the same" I approached the Parliamentary Ombudsman (all three of them) with this information and all three rejected it out of hand saying in their opinion there was an abundance of literature available on the subject and I should have been aware of the situation. This in spite of Ms

**Focus on Equality**

Ann Abraham (Ombudsman) claiming that DWP leaflets were inaccurate, incomplete, inconsistent and potentially misleading. She was referring to the recent Steel & Wire Workers case in the Private sector. Couple this with the National Audit Office scathing criticism pointing out that DWP leaflets concerning STATE PENSIONS were difficult to find and almost non-existent, then I think we have a case!

Successive governments will tell you that today's NI contributors pay for today's pensions. True. But not in the case of SERP because, when contributions began there was not a pensioner alive waiting in the wings to receive it. If you hadn't contrib-

uted towards it you didn't get it making the DWP statement illogical.

"Which" the consumer magazine confirmed this saying "We do not accept the response they have already given to you that "SERPS" is a pension funded by today's workers paying for today's pensioners". Whilst this is technically correct, today's pensioners have built up their entitlement to SERPS over their working life. We don't see that this entitlement should be frozen because of where pensioners choose to spend their retirement, irrespective who is actually paying for the pension! We cannot promise to bring this unfair practice to an end but we can at least question it!

I would like to see every pensioner who claims not to have been informed about freezing and who has access to a computer to send an e-mail to

[jennifer.elkeles@ombudsman.org.uk](mailto:jennifer.elkeles@ombudsman.org.uk)

giving her your story. Please do it now while our guns are smoking adding "for the attention of Margaret Vallance and Ann Abraham, Parliamentary Ombudsman".

Alternatively write to her at

Jennifer Elkeles  
Millbank Tower  
Millbank  
London SW1P 4QP

Thank you all

**Derrick Prance**

## Extracts from Lord Oakshott Speech 4th June 2007

There are particular problems affecting a small number which I ask the Minister to look carefully at. I refer to the small number of pensioners in the British overseas territories such as the Falklands and countries such as the British Virgin Islands, the Cayman Islands, Montserrat, Pitcairn and St Helena-dependencies with very close ties to Britain who get

no uprating. As I said, about half a million people are affected. We believe that almost half of those, about 240,000 are in Australia, some 150,000 in Canada, 46,000 in New Zealand and 37,000 in South Africa. Pensioners in a number of other countries, including Zimbabwe do not get the uprating. That is the scale of the problem. The amendment seeks to unfreeze

those pensions. We believe that that is affordable. I should like to give a flavour of how these people feel by reading from a frozen pensioner in Australia-if I can put it that way-who has just written to me. HE writes: (see e-mail on next page) The LADY who wrote the e-mail is also referred to as a GENTLEMAN. She finds it a quite a funny experience to be referred to as such in the House of Lords!

## Extracts from a Letter to the Labour Party National Policy Forum

I have become more active in the cause to fight for inclusiveness, justice, fairness and equality for all British state pensioners no matter where they live.

The facts are that all British State pensioners, whether they live in the UK, the EU, the USA or any of the Commonwealth countries must have paid into the National Insurance Contributions fund (NIF) to be entitled to any state pension. In fact, contributions are mandatory. Everyone is treated the same when paying into the NIF. However, when receiving the benefits, it is a different story. All pensioners living in the UK receive an annual uprating for inflation. So do 470,000 pensioners living overseas in 36 countries, like USA, EU, The Philippines, Israel, Croatia, Macedonia, Switzerland, Bermuda, The Bahamas, Jamaica and a number of other countries.

There are a further 520,000 pensioners living in other overseas countries including Australia, Canada, New Zealand, South Africa and a whole host of mainly Commonwealth Countries who have their pensions frozen. Remember they were all compelled to pay in the same contributions in to

the NIF but they are treated differently when it comes time for the money to be paid out.

There are severe restrictions on what the NIF money can be used for—it is not part of Consolidated Revenue. The NIF lends its surplus to the Government through the issuing of Government Gilts and actually receives over 1.2 billion sterling per year in interest from the Government.

If it was decided to uprate all the pensions for everyone equally, it is estimated that it would cost about 420 million sterling per year. It can be seen that this could readily be paid out of just the annual interest on investing NIF surplus.

In any event, paying that uprating would have to come out of the NIF (like it does for all other state pensions) and reduce the surplus of 34 billion sterling to 420 million sterling—a drop in the ocean by comparison.

Now as the Government cannot use the NIF surplus for any other purpose other than the investment in gilts, the Government could easily borrow that money from other sources, like local government for instance. A recent issue of gilts was oversubscribed by over 1 billion sterling earlier this year,

so the capital would seem to be readily available from non NIF sources.

DWP Ministers, however, seem to ignore reality and insist they would have to take the money from schools or hospitals in order to uprate all pensions, which is simply not true. The NIF cannot be used to build hospitals or schools. They say that if they uprated pensions, they would have to increase taxation to pay for it—again, that is simply not true. Why would they need to replace what is now borrowings with taxation revenue when they could simply replace it with other borrowings?

I sometimes feel that the Labour Party should come clean and say that it does believe in inclusiveness, justice, fairness and equality for people living in the UK, for people living in Third World Countries, but not for half its own pensioners who happen to live overseas.

Is there any way that this issue can be placed on an agenda where something might stand a chance of being changed?

I fear that the mandarins have got the ears of the Ministers and bend the truth in the mis-intentioned view that it will save money.

**Peter Morris**

## E-mail from a Member

Lord Oakeshott of Seagrove Bay  
House of Lords  
London  
SW1A 0PW

Dear Lord Oakeshott of Seagrove Bay,

This e-mail comes to you from New South Wales, Australia. I am a British (FROZEN) Pensioner planning to move back to the UK (there is no place for an Australian address on this site).

I have been following the 14th May reading of the Pensions Bill and am extremely grateful to you for your understanding of the plight of my fellow state pensioners here in Australia (and others in Canada and

New Zealand etc). Many are now very old and have been battering their heads against the political brick wall set up in front of them for thirty years! They are wonderful battlers and are not being taken seriously by the MPs and civil servants they write to (with, of course, some understanding exceptions from all parties, but, it seems mainly from the Liberal Democrats). I joined their ranks a few years ago (as a member of BAPA) and have had the same mindless replies, cut and pasted from some dusty outdated reference material. Many of the replies are plainly WRONG. When this is pointed out to them by the tireless old battlers, they send more WRONG

replies. It is an insult to our intelligence! The idea that pensions are mainly for retirees living in Britain, and not for those “abroad” is just rubbish, as I am sure you agree. We can, after all, list many countries abroad where British pensions are indexed. We also remember the missing part of our pay packet which went into the NIF for our future indexed pensions whether we liked it or not.

My apologies, I meant just to say “Thank You” but found my anger taking over.

May Lord Jones recover his health. We have very few friends fighting for us.

Thank you again for your support.

Yours sincerely