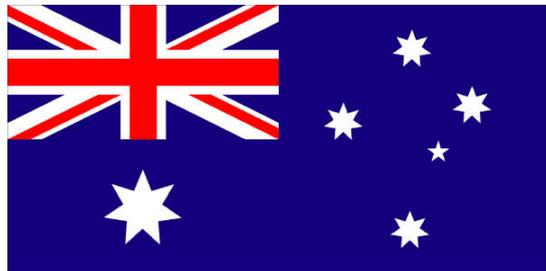


**British Australian  
Pensioner  
Association Inc**



## **NEWSLETTER Number 31 SPRING 2009**

### **FOCUS ON ECHR**

#### **FROM THE PRESIDENT**

##### **Membership**

The current membership shows that we have 2,350 members with a small number residing outside of Australia. We continue to retain a one off only membership fee and rely to a large extent on the generosity of our members through donations

##### **Committee**

See page three and four. Due to the nature of our geographical spread our communications are performed, through necessity, almost entirely by email.

##### **ECHR Case**

As I am based in the UK, I attended the Carson Case Appeal (or more correctly review by) the Grand Chamber of 17 judges of the European Court of Human Rights held on 2nd September 2009 in Strasbourg, France. The hearing was through submission of papers (over 500 pages from each side) and a 30 minute oral submission for each side on the day. Then followed questions from judges and following a short break, responses from each side in answer to the

questions. The well thought out questions from several judges lean towards some hope that previous poor court decisions might just be overturned. Attending the hearing in person was a very useful and positive exercise seeing 10 out of the 13 applicants attending the court and being acknowledged by the President of the Court at the beginning of the hearing. I also met Annette Carson and found we had a common interest in the well being of animals, especially dogs.

##### **ICBP**

BAPA has joined with four other British pensioner organizations (in Australia, Canada and South Africa) that form the International Consortium of British Pensioners (ICBP). The next aim of the ICBP is to coordinate and support the legal challenge Carson test case set through the ECHR with a view to achieving pension parity for all British state pensioners living outside the UK.

##### **Political Party Conferences**

Following the limited success of last year's attendance at both the Labour and Conservative

conferences with fringe events, it was decided to attend all three in 2009 but this time to host a stall in the main exhibition areas at each conference. John and Elizabeth Markham and Ted Henderson and his wife attended all three conferences and the exposure to people of influence was far greater this year.

##### **Lobbying in London**

John Markham has spent some time in London lobbying various organizations including Government and Opposition MPs, Aged Concern and Help the Aged and Trade Union bodies etc.

##### **Pension Parity Website**

David Waterhouse has been working on updating this website designed to be useful for all members of the ICBP bodies and their membership. It has been recently updated with details of the 2008/09 numbers and amounts of annual state pension payments made by the British Government to pensioners living in overseas countries around the world.

##### **BAPA Website**

## PRESIDENT Contd.

This website continues to be updated and holds a wealth of information about the issues, historical information and the most recent issues detailed.

### Other Activities

Richard Lane, one of the newer committee members has been active in identifying articles in on-line British newspapers and contributing comments to try to ensure that the right facts are

put across.

### Freedom of information Act

I have been active in obtaining relevant and up to date information from government departments, for example, the Department of Work and Pensions, Government Actuary Department, Debt Management Office, etc. This information contributes to our understanding of government

finances and pension numbers and costs, some of which have been posted on the Pension Parity website referred to above.

I would like to thank all members for their support now and over the years. With some luck we hope to have a positive outcome from the ECHR before the end of March 2010

## THE ECHR— INITIAL REACTION

(This is John Markham's initial reaction to his attendance at the ECHR with a group of frozen pensioners. He was writing after the LibDem conference at Bournemouth)

The Strasbourg exercise went well, and I did manage to keep all my hair intact, although I would never work as a tour guide!! I am sure that you have

all seen the various reports and messages, which indicate the excellent job that Tim Otty did. I think that we all felt that our

**FOCUS ON ECHR**

chances of success were now better than 50-50, but one can never tell with Judges and

we don't know what pressures HMG will try to bring to bear.

All we can do is travel hopefully. It is interesting to note

that several people here (Bournemouth) saw the

BBC coverage and a number of MPs have commented "you are bound to win because you are RIGHT:!! Fond Hope!

## THE ECHR - FORMAL PROCEDURE

Our recent case before the Grand Chamber of the ECHR followed certain standard procedural guidelines.

Firstly our barrister provided a written submission and so did the Government barrister. Then a short time before the meeting, each barrister provided a draft of a 20 minute address for presentation on the day of the hearing. This had to be provided in time for it to be translated into French or perhaps other languages for the benefit of the 17 judges.

Neither party saw the draft of the other's oral address prior to the hearing. The chairman of the judges panel called on Tim Otty to present his oral address on our behalf. He was not bound to deliver it word for word, but of course he had to stick to the points he had made in his draft. James Eadie, for the Government, then delivered his 30 minutes.

The judges were then invited to ask questions. Out of a panel of 8 men and 9 women,

only three female judges asked questions.

The session then adjourned for 15 minutes to give the barristers time to compose their answers and also their replies to what the other side had said. After these closing addresses the chairman declared the hearing closed and announced that the judgement would be made public some months later. We believe that will be April 2010 or thereabouts.

## LETTER TO STEPHEN SMITH

To: The Hon. Stephen Smith MP  
Australian Minister for Foreign  
Affairs

28th September 2009

Dear Minister,

I am writing to you regarding the subject of frozen UK state pensions, in the hope that you can use your influence to bring justice to former UK residents now living in Australia. It will also offer the opportunity of substantially increasing revenues for the Australian Treasury.

Just to give some background on this matter, in the UK both employers and employees make contributions to the National Insurance Scheme. After a share of this is supplied to the National Health Service, the balance goes into the National Insurance Fund for the purpose of paying state retirement pensions and some social security expenditure. The audited accounts of this fund shows that there is currently a surplus of more than 50 billion pounds or almost 100 million dollars.

Each April the weekly amount of state pensions is reviewed and increased for people in the UK, European Union and certain other countries such as the United States. People now living in those countries now re-

ceive an increase in the UK pension. However people in many other countries who have made the same contributions to the scheme do not receive the same increases but their UK state pension is frozen either at the rate applicable when first received or when they migrated.

This policy is discriminatory and unfair and defrauds both the retiree and the country to which they migrated of their proper entitlement. The countries which suffer the most

from the UK Government policy are Australia, Canada and South Africa.

In 2000 the UK Government refused a reasonable request by the Australian Government to provide the same uprating to UK contributors now retired in Australia as those in the USA, and as a result the reciprocal agreement between Australia and the UK was terminated in 2001. The Hon. Jenny Macklin in keeping with her election promise tried to negotiate several times with the UK Govt. but they said it was non-negotiable. However along with submissions from the Ca-

nadian Govt. she did provide evidence for use at the European Court of Human Rights in Strasbourg earlier this month on the same matter. A decision from the Grand Chamber is not expected for about six months.

It is noted that next month the new UK High Commissioner in Canberra will be Baroness Amos. She is known for her equality and human rights work and consulted the South African Govt. on these matters in 1995. It is ironic that South Africa and South African retirees are major sufferers from this inequality. I would ask you that you raise the above matters with her, and perhaps some of the proceeds of a successful outcome could be channeled to equality and human right causes.

There is also the CHOGM meeting in Tobago in November, where the matter could be raised. You should get the support from all Commonwealth countries except for the three who are unaffected. In particular the Canadian ? Govt. have actively financed the fight for justice ,so should be very supportive of any moves to include this on the agenda

**Letter from Richard Lane**

## BAPA Non Executive Committee

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

## COMMONWEALTH HEADS OF GOVERNMENT MEETING (CHOGM)

Now that we await the outcome of the ECHR Grand Chamber hearing I have written to Jenny Macklin, the Minister for Families, Housing, Community Services and Indigenous Affairs requesting that the issue of non indexation be raised at the next CHOGM meeting to be held in Tobago in November in order to seek the support of other affected governments with the purpose of achieving a consolidated approach towards the

elimination of the discriminatory aspects of the selective indexation whereby non Commonwealth countries such as the USA, Serbia, Israel, Turkey and the Philippines receive an indexed pension and the Commonwealth countries with the exception of Jamaica, Bermuda and Barbados do not. It would be an ideal opportunity for the Australian government to promote a Commonwealth wide agreement on social security

matters similar to the existing social security agreement within the European Union. I have also made the point that with a huge surplus of 52 billion pounds sterling in the National Insurance Fund there is no valid reason why HMG should not adopt universal pension indexation and bring the UK into line with the rest of the western world.

**Jack Stoner Hon Sec**

## PENSION PARITY SITE

The Pension Parity UK web site received 3223 site visits from 281 Towns and 44 Countries during September 2009. The top three countries were Australia, Canada and the UK, in that order. At the end of September the site was off line for a couple of days for redesigning

now back again in a greatly improved format. Please take a look at [www.pension-parity-uk.com](http://www.pension-parity-uk.com) and see what YOU think.

This web site is totally

independent of all National associations and has the objective of supporting British Frozen Pensioners, World wide together with International Consortium of British Pensioners member Associations, in their fight for Pension Parity.

**Webmaster**

# FOCUS ON ECHR

## HOME RESPONSIBILITIES PROTECTION

When my wife first applied for a state pension forecast she was advised that it would be less than a pound a week., presumably only a second state pension. I rang the DWP to advise them of the HRP, which commenced 6 April 1978, and suddenly my

wife reached the magic 25% mark. Subsequently we paid voluntary contributions for 8 years to give her a state pension at 60 of 48%. When I reach 65, this will rise to 60% of last years rate, unless we are successful at Strasbourg when

it will be 60% of the basic pension at current rates.

**Richard Lane**

See page 6 for another report, which you can use to encourage a friend to join BAPA

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## THE NATIONAL INSURANCE FUND

### It's your money.

The National Insurance Fund is made up of contributions you and your employer paid in over your working life time. The money belongs to you, to provide your pension when you reach pension age. It is not government money to do anything they like with.

Some MPs think that we think the money is stuffed under the mattress, or held in a big vault in the basement of the Bank of England. They try to tell us that all the money has been spent, and there is nothing left.

The National Insurance Fund has not been *spent*; it has been *lent*. It is invested in government paper, and is used by the government for investment in useful infrastructure. But The managers of the fund can and do get the money back any time they need it; they only have to ask.

The National Insurance Fund can well cope with the extra cost of paying us our uprated pensions; it is a very small percentage of the total yearly pension bill.

### UNFREEZING.

When pensions are eventually unfrozen, pensioners living in the USA will not share in the fruits of our victory. Can you guess why? Answer below \*\*

### EMAIL GROUP

If you want to take part in the campaign for pension justice, you will find it easier if you have an active email address. You could start by joining the bep discussion group. Membership is free. To join in, send email to

[bep-subscribe@yahoogleroups.com](mailto:bep-subscribe@yahoogleroups.com)

Leave text blank, but make subject SUBSCRIBE

### HOME RESPONSIBILITIES PROTECTION.

This item is from an email sent in by a frozen pensioner.

Earlier this year the Pension Service stated that. A married woman who gave up work in the 1960/70s to have children could claim for this period missing stamps to be awarded towards her pension at no cost to her.

My wife did so and has now received word she has been awarded 640 pounds sterling in back pension plus 155 pounds sterling interest.

To claim contact the Pension Service and ask for the **HOME RESPONSIBILITIES PROTECTION form CF411**

### DID YOU KNOW?

If you are in the French Empire you get the increase

If you are in the American Empire, including the Philippines, you get the increase

If you are in the British Empire - stiff!!!!

\*\*Because they already have their pensions indexed every year.