

## **Frozen UK Pensions, a Facts Sheet**

**Australia has now 242,200 residents whose UK non-means tested State pensions are frozen**; these represent about 46% of the 520,000 UK pensioners worldwide who do not receive regular inflation uprating to their UK pension. A further 150,000 living in Canada, 35,000 South Africa, and 34,000 in New Zealand are similarly affected.

We had an example of a 99 year old Sydney based lady who received just £4.50/week since arriving here in 1969 and was worried about paying for her funeral costs. The **Australian government in its generosity made good most of that pension deficiency, which amounted to over £60,000 since her arrival**. It should not have had to, that is a disgrace of which the UK government should be ashamed. The lady died recently.

The UK pension arises because everyone who has worked in the UK, for about 10 years for women and 11 for men, pay into the National Insurance (NI) fund each week and it is from this fund that today's contributors fund State pensions for today's pensioners.

Provision of any mean tested pension "top-up" by the Australian government is no longer available to British pensioners since March 2001; not until they have lived here for 10 years.

About 420000 UK expat pensioners do receive regular inflation adjustments, courtesy of bilateral agreements, These fortunate pensioners live in such countries as Turkey, The Philippines, USA, Israel and the EU countries, Barbados, Jamaica, Cyprus, Malta, Mauritius too. It is because of this "illogical" state of affairs that it is claimed the UK pensioners in Australia Canada etc, are being discriminated against on the basis of their country of domicile.

The UK government complains it "it does not wish to impose on current contributors the cost of £400M/year to uprate all pensions world -wide, contributions are for the pensioners at home". Currently this claim is a fabrication because the NI account has a forecast balance at 4/08 of £43.3 Billion. The actuary writes this, "***Is significantly above the required prudential balance***". This prudential balance should be about £11.7 Billion. The forecast of excess funds therefore approximates to £31.6 billion. £400M/year represents just about 0.53% of the total £75 Billion annual 2007/8 income from NI contributions, a mere fraction. Pension fraud costs the UK government many times this amount.

Moreover interest income for the NI fund approximates £1.6 billion per year, in a low interest and dividend environment.

Furthermore from the 30 million present NI contributors, it would cost each about 5 pence per day to provide that £400M each year, a very small amount having regards to the current level of wages and the cost of living in the UK.

By us expats living away from the UK almost £1 billion/annum in National Health costs are saved; significantly more than the cost of the indexed pensions we are trying to recover.

Moreover if all 520,000 of us expats with frozen pensions went back to the UK it would require about 250,000 to 300,000 dwellings in which to house us and we'd put many more cars on already overcrowded roads. Think how these issues would impact on the urban footprint as it encroaches even more into the UK's countryside.

This alleged discrimination is the subject of an ongoing legal case, which has now been heard and lost [May 2005] in the House of Lords. Our case was argued on behalf of a South Africa based British pensioner, Annette Carson, and funded by pensioners' contributions of £589,000 collected from around the world, by pensioner associations in Canada, S Africa, Australia and New Zealand. Four of their Lordships' found against us. One, Lord Carswell, dissented and was of the opinion "***There is no justification for paying some [pensioners] less than others***". This view of Lord Carswell's is very encouraging.

Failure by the Lords, to accept Annette Carson's appeal, has led lawyers to advise that having exhausted the UK legal system, which enables the issue to be taken directly to the European Court of Human Rights in Strasbourg. A composite case with 4 Australians, 7 Canadians and South Africa based Annette Carson was registered in November 2005 in the ECHR. All BPiA

members are now listed as secondary applicants. Our membership list is sent to the ECHR and updated each quarter with our new members.

It is in the ECHR Strasbourg that the United British pensioner associations believe we will receive a favourable outcome. This is because every nation in the EU except the UK pays its expat pensioners an inflation uprating to their pensions each year. Lord Goodhart in a House of Lords' debate recently opined "***we have a real chance of victory in Strasbourg***"

Expected funds required to pay for these future hearings is in excess of £200,000; this is on top of the approximately £589,000, which has been previously spent in the London High and Appeal Courts and Lords to get to this stage. These additional funds will have to come mainly from us pensioners' own pockets.

Eventual success in this composite case legal fight, in Europe should bring significant benefits to Australia. An annual foreign exchange inflow of about \$450M would arise from the additional UK pension, for which we are fighting.

Such additional income could be expected to generate some employment in Australia with the attendant reduction in dole payments and extra income tax revenue both from the newly employed and some existing pensioners. Australian pension "top-ups" will reduce by about \$100M/year and the net additional pension income will probably be spent generating more GST. The full beneficial impact on the Australian Treasury is estimated at \$150-200M minimum per annum.

In Australia we were requested some 3.5 years ago by the Canadian and South African associations to establish BPiA to help fund the ongoing legal costs of Mrs. Carson's case. Australia is home to the greatest number of British pensioner's by far, 242,000 of us [January 2007], but our contributions to the legal costs to date have been paltry, less than 10%. We need to be seen to be less lethargic, complacent and apathetic and more active.

The Carson case was brought against the UK government on the basis of their breach of the UK's own Human Rights Act, Articles 1 and 14, especially the latter article 14, our claim being their discrimination against us pensioners on the basis of our domicile. We also claim that the British government, in regards to our UK state pensions, "***do not practice what they preach***", i.e. they espouse even-handedness, fairness [The Rule of Law] and equality [CHOGM mission statement], but their pension legislation is neither fair nor does it treat all us Commonwealth residents equally nor with an even hand.

It is the view of our Canadian managing lawyer that according to all professionally accepted pension standards and practices, the UK pension is a trust, based on the fact it is designed to provide pensioners with a "return" in old age based on the value of their working contribution to the sponsor [the government]. This therefore makes the Government the trustee and fiduciary for the contributors and pensioners, and Common-Law [quite apart from the Convention on Human Right] requires trustees to treat beneficiaries with an "even hand"—a rule that actually originated in early British Common Law. The treatment of us expats in the major Commonwealth countries is not even handed; not by a long way.

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