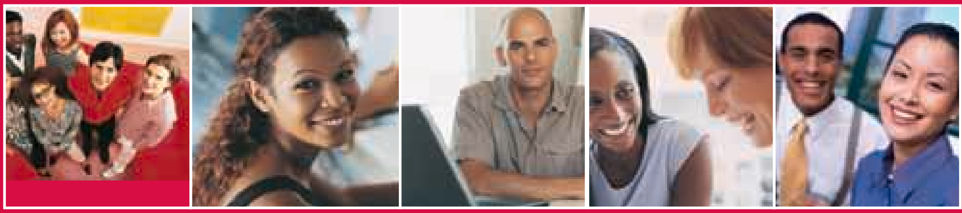

AMICUS THE UNION FOR YOU IN HSBC

THE NEW AGE LAWS AND REDUNDANCY PAYMENTS

This newsletter is designed to explain the impact of the new age laws on redundancy payments. It's also designed to gather feedback from members on the outcome of negotiations between the bank and Amicus on this issue.

PURPOSE OF THE LEGISLATION

The age legislation came into force on October 1st. Its main purpose is to outlaw discrimination in work based on age or perceived age. It comes after decades of lobbying by unions to bring an end to prejudice against the old and the young in employment and is welcomed by Amicus.

One outcome of the regulations is the need to review employment terms that give more or less to staff on grounds of their age. A key policy that does this is the Security of Employment Agreement (SEA).

WHAT IS THE SEA?

The SEA is a joint agreement between the union and the bank. It has two main goals: to set out the rules for consultation when redundancies are a possibility and to set out the terms on which employees are made redundant. The first of these is unaffected by the new law. The second has had to be reviewed jointly by the bank and Amicus. The main reason for this is the fact that the redundancy terms make extra payments to those in their forties.

Generally, redundancy payments are based on a number of weeks' pay per year of service (see Table One for existing payments). Under the existing scheme in HSBC, between age 40 and 50, redundant staff are given an extra payment on top of the scale of payments in column two of Table One overleaf.

EXISTING SCHEME EXTRA PAYMENTS PER YEAR OF SERVICE FOR OVER 40s

Age in years/months	No of weeks' pay
40 to 40/11	0.20
41 to 41/11	0.38
42 to 42/11	0.55
43 to 43/11	0.71
44 to 44/11	0.86
45 to 45/11	1.00
46 to 46/11	1.13
47 to 47/11	1.25
48 to 48/11	1.36
49 to 49/11	1.47

50 TO 60

Staff and managers who are made redundant in their fifties who have at least two years' service and are in the Defined Benefit pension scheme are currently entitled to the full existing payment (though tapered down for those within 22 months of the normal retirement age of 60) combined with a non-reduced pension. Those in this age group and in the Defined Contributions pension scheme receive only the existing payment.

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Bernadette Fisher, National Secretary **November 2006**

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TABLE ONE

Years of service	Existing payment	New payment	Reduced payment (50+ choice)
1	12	6	6
2	15	7	6
3	18	10.5	6
4	21	14	8
5	24	17.5	10
6	26	21	12
7	28	24.5	14
8	30	28	16
9	33	31.5	18
10	35	35	20
11	38	38.5	22
12	40	42	24
13	42	45.5	26
14	44	49	28
15	46	52.5	30
16	46	56	32
17	46	59.5	34
18	46	63	36
19	46	66.5	38
20	57	70	40
21	57	73.5	40
22	57	77	40
23	57	80.5	40
24	57	84	40
25	68	87.5	40
26	68	91	40
27	68	94.5	40
28	68	98	40
29	68	101.5	40
30	79	104	40
31	79	104	40
32	79	104	40
33	79	104	40
34	79	104	40
35	90	104	40
More than 35	90	104	40

NEGOTIATIONS

The bank and the union have been meeting on the age legislation since March and in formal negotiations since August. We have now reached the end of the negotiating process which culminated in talks at ACAS (the government's conciliation service) on October 9th and a further joint meeting on October 12th.

The final outcome of the negotiations is set out in the third and fourth columns of Table One as "New payment" and "Reduced payment (50 + choice)". The new payments are based on a scale of 3.5 weeks pay per year of service, with a 6 week minimum and a 104 week maximum payment. Those who are 50+ when made redundant and in the Defined Benefits pension scheme have the option of either a full new payment combined with either a reduced or deferred pension, or a reduced payment. The reduced payment is based on a scale of 2 weeks per year of service capped at 40 and means the member receives an immediate non-reduced pension.

This is the end of the negotiation process because the disputes' resolution procedure in our agreement with the bank has been exhausted.

In the negotiations, the union was able to move the bank's position as follows:

- away from an initial attempt to reduce the value of a week's pay (details of a week's pay are at Appendix 2 to the agreement)
- away from their proposal to remove payments for children in full-time education
- away from recommending to the trustees the total removal of the non-reduced pension for the over 50s
- towards giving the over 50s a choice so they could keep the non-reduced pension
- towards a higher scale and higher cap for the bank's initial proposal for the reduced payment (from 1.5 to 2 weeks per year and from a cap of 30 weeks to 40)
- towards introducing a minimum payment of 6 weeks for the full and reduced payments
- towards increasing the cap from 90 to 104 weeks for the full payment.

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WINNERS AND LOSERS

The winners and losers from the bank's final negotiating position in comparison to the existing terms and at the time of being made redundant are:

WINNERS

- those aged 58 – 60 by benefiting from the removal of the taper,
- those with more than 10 years' service who are under 40,
- those with over ten years' service who are aged 40 to 45 (approximately and depending on years of service),
- those with more than 10 years' service who are over 50 in the Defined Contributions scheme and who would benefit from the higher cap of 104 weeks because of long service.

LOSERS

- those with up to 10 years' service,
- those aged 46 (approximately and depending on years of service) – 50,
- those in the Defined Benefits scheme aged 50+ who have to opt for the lower payment in order to keep the non-reduced pension.

(Note: we cannot advise on every individual's position in relation to the terms so you should check the detail to see what they mean to you. You can find the SEA on the HSBC UK Intranet > HR Procedure Manual A-Z > Redeployment and Redundancy. You will then see: main procedures, SEA agreement and your questions answered sub sections.)

TABLE TWO – SOME EXAMPLES

Example one joined the bank at age 19 and is made redundant after:

- **5 years –** would receive 24 weeks' pay under the existing terms v 17.5 under the new terms.
- **10 years –** 35 weeks' pay under both existing and new terms.
- **15 years –** 46 under the existing v 52.5 weeks under the new.
- **20 years –** 57 under the existing v 70 under the new.
- **25 years (age 44) –** 68 + 21.5 = 89.5 under existing terms v 87.5 under the new.
- **30 years (age 49) –** 79 + 44.1 = 123.1 under the existing terms v 104 under the new.
- **35 years (age 54) –** 90 plus a non-reduced pension (if in the Defined Benefits scheme) under existing terms v either 104 weeks' pay and a deferred or reduced pension or 40 weeks' pay and a non-reduced pension. If in the defined contribution scheme, 90 weeks under the existing terms v 104 weeks under the new.
- **40 years (age 59) –** 45 (90 x 6/12ths due to the taper) plus a non-reduced pension (if in the Defined Benefits scheme) under existing terms v either 104 weeks' pay and a deferred or reduced pension or 40 weeks' pay and a non-reduced pension under the new terms. If in the defined contribution scheme, 45 weeks under the existing terms and 104 under the new.

Example two joined the bank age 30 and is made redundant after:

- **5 years –** 24 weeks' pay under the existing terms v 17.5 under the new.
- **10 years (age 40) –** 35 + 2 = 37 under existing terms v 35 under the new.
- **15 years (age 45) –** 46 + 15 = 61 under existing terms v 52.5 under the new.
- **20 years (age 50) –** 57 weeks' pay plus a non-reduced pension (if in the Defined Benefits scheme) under existing terms v either 70 weeks' pay and a deferred or reduced pension or 40 weeks' pay and a non-reduced pension under the new terms. If in the defined contribution scheme, 57 weeks under the existing terms and 70 weeks under the new.
- **25 years (age 55) –** 68 weeks' pay plus a non-reduced pension (if in the Defined Benefits scheme) under existing terms v either 87.5 weeks' pay and a deferred or reduced pension or 40 weeks' pay and a non-reduced pension under the new terms. If in the defined contribution scheme, 68 weeks under the existing scheme and 87.5 weeks under the new.
- **30 years (age 60) –** retirement on a non-reduced pension with no redundancy payment under the existing terms v 104 weeks and a non-reduced pension under the new.

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HERE TO HELP

You need to consider your own circumstances carefully and, if you consider you would be worse off under the HSBC new terms you should object to their imposition without delay, otherwise you may be taken to have accepted them.

To do this you should contact your local union rep (or our helpline on 020 7253 9642) for advice on how to object to the change to your contract. This service is only open to Amicus members.

It may be difficult to work out whether you would be better or worse off under the new terms because you will not necessarily know how old you would be, or how much service you would have, if you were made redundant at some time in the future. Unfortunately, you are unlikely to be able to change your mind at some later date as to whether or not you accept the new terms.

COST

The bank maintains that the changes to SEA terms are cost neutral. They state that by lifting the cap for the full payment to 104 weeks, some of the potential saving to them from the reduced payment option for the over 50s is lost. The cost of a non-reduced pension is born by the pension fund and any savings to that fund depend on the numbers over 50 choosing the higher payment.

AMICUS' INTERPRETATION OF THE NEW LAW

OBJECTIVE JUSTIFICATION

The union believes that the existing scheme (including higher payments for the over 40s) could be objectively justified and therefore lawful. The government has reviewed the redundancy payments' scheme which sets out the minimum statutory redundancy terms, in light of the age legislation. It has concluded that higher payments for the over 40s should continue. It states "Older workers are much more likely to become long-term unemployed, and to experience a substantial fall in pay when finding a new job." (DTI website)

RIGHT TO RETAIN EXISTING CONTRACTUAL TERMS

The age discrimination legislation provides protection for members' existing contractual benefits. What is more, there is nothing in the regulations that obliges the employer to change pension terms for existing staff in the 50+ group. The bank wanted to remove the non-reduced pension originally (and has now conceded the choice for this group) not because of the change in the law but because it believes that retirement at 50 with a non-reduced pension should be a thing of the past. It believes older workers can more easily find alternative work if they are made redundant now than in previous years.

The union has had to bear in mind, however, that the non-reduced pension at 50+ may not be contained within the contractual terms of the Security of Employment Agreement and can be changed if agreed by the trustees of the pension fund.

THE BANK'S FINAL POSITION

Amicus is pleased with the fact that it was able to improve on the bank's original proposals through the negotiations. However, we believe the bank has amended its terms to a greater extent than most of the other major banks. Nevertheless, we recognise that the new terms offered by the major banks are now roughly similar.

We have not reached a collective agreement between the bank and the union and the new terms are being imposed by the bank. Nothing has been agreed by the union which changes or has the effect of causing detriment to the terms and conditions of individual members of the union.

Don't forget to vote in the consultation on this critical issue and complete and return the audit form.