Gender equality ruling on pensions may cost British firms £20bn

Jonathan Ames, Legal Correspondent
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A High Court judge ordered yesterday that Lloyds Bank's pension trustee must amend the schemes TOBY MELVILLE/REUTERS

Three women pensioners have won a court battle against Lloyds that will force the bank to ensure that men and women have the same benefits under its pensions scheme in a ruling that could cost British businesses £20 billion.

A High Court judge ordered yesterday that the bank's pension trustee must equalise payouts on gender grounds. The judgment is likely to land the bank with a pensions bill of up to £150 million but experts predicted the judgment would have far-reaching ramifications for British employers.

The case affects about 230,000 members of the bank's pension schemes. Officials at the BTU union argued that it could have implications for as many as 7.8 million people in thousands of other schemes across the country, with the cost of equalising all affected pensions put at up to £20 billion. While it is estimated that Lloyds will face a bill of between £100 million and £150 million, it will escape a higher charge based on a method of calculation that had been pushed for by unions but which the court ruled out.

In the High Court yesterday, Mr Justice Morgan ruled that the bank's pension trustee "is under a duty to amend the schemes in order to equalise benefits for men and women so as to alter the result which is at present produced in relation to guaranteed minimum pensions". Other pension schemes face potentially similar issues around the guaranteed minimum plans that have been calculated differently for men and women.

Mr Justice Morgan found that the payment of guaranteed minimum pensions on an unequal basis is contrary to a legal principle that was established in a case handed down in 1990. The Barber case determined that men and women should receive equal pay for equal work.

This is despite the fact that guaranteed minimum pensions are inherently linked to the state retirement pension, which does not as yet have to be provided on an equal basis. Disparities in pension payouts for men and women were allowed to continue after the 1990 ruling in private sector top-up schemes because they mirrored the difference in mandatory state retirement ages of 65 for men and 60 for women. Mr Justice Morgan established parameters for the method of equalisation but did not prescribe a single method.

Chantal Thompson, a pensions partner at the law firm Baker McKenzie, said it was "time now for trustees and their advisers to roll up their sleeves and start to assess the implications and possible remedial actions".

She said that the rules on calculating guaranteed minimum pensions remained "highly complex" and that the court ruling was likely to require that amendments are made to schemes.

"It also means that there will be additional funding costs for schemes, if they have not already reserved for this eventuality," she added. Anna Rogers, a partner at ARC Pensions Law, said that there was "a range of permissible methods" to equalise the effect of guaranteed minimum pensions. She warned that schemes will "have to pay interest on arrears, which is important, given that the relevant service dates back over 20 years". Commentators predicted that scheme members who have received unequal pensions will be entitled to interest of 1 per cent above base rate on those arrears.

Responding to the ruling, a Lloyds spokeswoman said: "The hearing focused on what is a complex and longstanding industry-wide issue. The group welcomes the decision made by the court and the clarity it provides.

"The group and the pension scheme trustee will be working through the details in order to implement the court's decision."