

2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**GOVERNOR-GENERAL AMENDMENT (SALARY AND
SUPERANNUATION) BILL 2008**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Prime Minister, the Hon Kevin Rudd MP)

GOVERNOR-GENERAL AMENDMENT (SALARY AND SUPERANNUATION) BILL 2008

OUTLINE

The Bill proposes an amendment to the *Governor-General Act 1974* to set the salary for the next Governor-General, Her Excellency Ms Quentin Bryce AC, prior to her swearing-in on 5 September 2008.

Section 3 of the Constitution provides that the salary of the Governor-General shall not be altered during their continuance in office. The Bill amends the *Governor-General Act 1974* to change the sum payable for the salary of the Governor-General from \$365,000 to \$394,000. The proposed salary has been set so that it moderately exceeds the estimated average salary of the Chief Justice of the High Court of Australia over the notional five year term of the appointment of the Governor-General. This is consistent with the convention that has applied since 1974. The salary figure has been reduced to take account of Ms Bryce's entitlement to a Commonwealth-funded pension from prior employment. The amendment will take effect on Royal Assent.

The Bill also removes references in the *Governor-General Act 1974* to the Superannuation Surcharge which was discontinued in 2005.

FINANCIAL IMPACT STATEMENT

There will be a financial cost from increasing the Governor-General's salary. The net financial impact of the new arrangements is unquantifiable as it is not possible to estimate the exact taxation liabilities, which will depend on the individual financial circumstances of the Governor-General and State Governors. However, the overall impact is expected to be negligible.

NOTES ON CLAUSES

Clause 1 – Short title

This clause provides for the Act to be cited as the *Governor-General Amendment (Salary and Superannuation) Act 2008*.

Clause 2 – Commencement

This clause provides for the Act to commence on Royal Assent.

Clause 3 – Schedule(s)

This clause provides that an Act specified in the Schedule to this Act is amended or repealed as set out in the Schedule, and that any other item in the Schedule operates according to its terms.

PART 1 — SALARY

Item 1

Section 3 of the *Governor-General Act 1974* (the Act) provides that the annual sum payable for the salary of the Governor-General shall be \$365,000.

Item 1 omits the annual sum of \$365,000 and substitutes a new annual sum of \$394,000.

Item 2

Item 2 is a transitional provision to ensure that the amendments do not apply during the continuance in office of the person holding office as Governor-General immediately before the commencement of this Part.

PART 2 — SUPERANNUATION

Items 3 to 10 repeal the definitions of various terms that relate to the superannuation surcharge provisions in the Act.

Item 3

Item 3 repeals the definition of *assessment* in subsection 2(A)(2) of the Act.

Item 4

Item 4 repeals the definition of *basic rate* in subsection 2(A)(2) of the Act.

Item 5

Repeals the definition of *notice of assessment* in subsection 2(A)(2) of the Act.

Item 6

Repeals the definition of *scheme* in subsection 2(A)(2) of the Act.

Item 7

Repeals the definition of *surcharge* in subsection 2(A)(2) of the Act.

Item 8

Repeals the definition of *surchargeable contributions* in subsection 2(A)(2) of the Act.

Item 9

Repeals the definition of *surcharge debt account* in subsection 2(A)(2) of the Act.

Item 10

Repeals the definition of *surcharge deduction* in subsection 2(A)(2) of the Act.

Item 11

Subsection 4(1) of the Act provides that a Governor-General is entitled, when he or she leaves office, to an allowance calculated in accordance with subsection 4(3) of the Act. Subsection 4(3) describes the impact of the superannuation surcharge on that allowance. Item 13 repeals subsections 4(3) and substitutes new paragraph 4(3)(a). Item 11 therefore omits the reference to subsection 4(3) and substitutes a reference to the new paragraph.

Item 12

Subsection 4(2) of the Act provides that an allowance is payable to the spouse of a former Governor-General in accordance with the formula set out in subsection 4(3A). The formula in subsection 4(3A) takes account of the superannuation surcharge. Item 13 repeals subsections 4(3)(A) and substitutes new paragraph 4(3)(b). Item 12 therefore omits the reference to subsection 4(3A) in subsection 4(2) and substitutes a reference to the new paragraph.

Item 13

Item 13 repeals subsections 4(3) to (7) and substitutes new paragraphs 4(3)(a) and (b) and new subsection 4(4). These new provisions set out the method of calculating the allowance payable to a former Governor-General.

New paragraph 4(3)(a) provides that the rate of allowance payable to a person who has held office as Governor-General will be 60% of the rate of the salary payable to the Chief Justice of the High Court of Australia at that time.

New paragraph 4(3)(b) provides that the rate of the allowance payable to a person who is a spouse of a deceased person who held office as Governor-General will be five-eighths, that is 62.5%, of the rate applicable under paragraph 4(3)(a) to a person who has held office as Governor-General.

New subsection 4(4) provides that the amount of the allowance that would otherwise be payable to a person under this section in respect of any period is reduced by the amount of any pension or retiring allowance payable to that person, whether by virtue of a law or otherwise, in respect of that period out of money provided in whole or in part by the Commonwealth, a State or a Territory.

Item 14

Section 4A of the Act deals with the situation where a former Governor-General dies leaving more than one spouse.

Item 14 repeals paragraph 4A(3)(b) of the Act, which provides that the aggregate of the allowances payable to the former spouses cannot exceed 100% of the allowance that was payable to the former Governor-General, and replaces it with a new paragraph. New paragraph 4A(3)(b) has the same effect as the repealed paragraph, but it recasts the provision and replaces the references to paragraph 4(3), which would be repealed by Item 13, with a reference to new paragraph 4(3)(a).

Item 15

Item 15 omits the reference in paragraph 4A(3)(c) to subsection 4(3A), which would be repealed by Item 13, and substitutes a reference to paragraph 4(3)(b), inserted by Item 14.

Item 16

Repeals section 5A, which specifies that the trustee of the scheme for the purposes of the *Superannuation Contributions Tax (Assessment and Collection) Act 199* to be the Secretary of the Department of the Prime Minister and Cabinet, or his or her nominee. With the abolition of the superannuation surcharge, this provision is no longer necessary.

Item 17

Item 17 ensures that the repeals and amendments made by Part 2 do not apply in relation to a person who held office as Governor-General at any time after 29 June 2001 and before the commencement of Part 2.