



Constitution Amendment (Governors Salary) Bill.

Second Reading

The Hon. CARMEL TEBBUTT (Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Youth) [10.01 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The main purpose of this Bill is to amend the *Constitution Act 1902* and the *Statutory and Other Offices Remuneration Act 1975* to provide for the Statutory and Other Offices Remuneration Tribunal to determine the remuneration of future Governors of New South Wales.

On 22 April 2001, the Prime Minister wrote to the Premier advising that he proposed to amend the Commonwealth's *Income Tax Assessment Act*.

The Prime Minister proposed changes that will require income tax to be paid on the income earned by vice regal representatives, including the NSW Governor.

The income tax exemption for vice-regal representatives was first introduced in 1922 when vice-regal appointments were drawn from the United Kingdom.

At that time the Crown paid no tax.

Much has changed since that time. All vice-regal representatives are now invariably Australian citizens. Since 1993 the Queen has voluntarily paid income and capital gains tax.

As a result of these changes, the Commonwealth Parliament passed the *Governor-General Legislation Amendment Act* which removes the tax free status of vice-regal representatives throughout Australia.

The income tax amendments took effect at the Commonwealth level on 29 June 2001 with the appointment of the previous Governor-General.

The Governor-General's salary is now expressed as a gross amount inclusive of income tax.

The proposed changes do not take effect for State Governors until a new appointment is made.

These changes do not affect the current Governor in New South Wales.

As a result of this change in Commonwealth policy it will be necessary to increase the salary for future Governors by an amount at least equal to the income tax to be paid.

A failure to increase the salary would substantially reduce the Governor's net salary.

When the Governor's salary increases, it is important to note that the Commonwealth Government (rather than the future Governor) will receive most of the benefit of this increase.

These changes have also provided an opportunity to reform the current arrangements for determining the Governor's salary.

The Governor's salary is currently prescribed by Regulation.

This leaves the Governor in the position where he or she may be seen by some to effectively determine his or her own salary, even though this would be done on the advice of the Government of the day.

This Bill provides for the Statutory and Other Offices Remuneration Tribunal to determine the remuneration of all future Governors.

These amendments will ensure that the remuneration of the Governor is determined by an independent Tribunal.

The Tribunal already determines remuneration for Judges and Magistrates, public office holders and the Chief and Senior Executive Services.

Including the Governor's remuneration within the Tribunal's jurisdiction will provide a transparent and independent process, which is used for many other public office holders in this State.

The Tribunal will be asked to take into account the payment of income tax and any necessary superannuation contributions when it makes its determination.

I now turn to the key provisions of the Bill.

The Bill amends the *Constitution Act 1902* and the *Statutory and Other Offices Remuneration Act 1975* to provide for the Statutory and Other Offices Remuneration Tribunal to determine the remuneration of the Governor.

The Bill will commence on the appointment of the next Governor. The salary of Her Excellency Professor Marie Bashir AC will continue to be determined pursuant to the *Governor's Salary Regulation 1990*.

The office of Governor is to be included in Schedule 1 of the *Statutory and Other Offices Remuneration Act 1975*.

The Governor's salary will receive the protection of section 21, which is afforded to other office holders specified in Schedule 1, such as Judges and Magistrates. This means that the Governor's salary can only be reduced by Parliament, and not by a new determination of the Tribunal.

Pursuant to section 26 of the *Interpretation Act 1987* the Statutory and Other Offices Remuneration Tribunal will be able to make a determination in advance of the appointment of the next Governor.

That determination will then take effect on the day that the next Governor is appointed.

I commend the Bill to the House.

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