



New South Wales

# Constitution Amendment (Governor's Salary) Bill 2003

## Explanatory note

[This explanatory note relates to this Bill as introduced into Parliament.](#)

## Overview of Bill

The object of this Bill is to provide for the Statutory and Other Offices Remuneration Tribunal to determine the salaries of future Governors of New South Wales. The Governor's salary is currently set by a regulation made under the *Constitution Act 1902*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the day on which the first person to be appointed to the office of Governor after the date of assent to the proposed Act is so appointed. Accordingly, the amendments made by the proposed Act will not apply in respect of the salary of the Governor who is in office when the proposed Act receives assent.

**Clause 3** is a formal provision that gives effect to the amendment to the *Constitution Act 1902* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Statutory and Other Offices Remuneration Act 1975* set out in Schedule 2.

**Clause 5** repeals the *Governor's Salary Regulation 1990*.

## **Schedule 1 Amendment of Constitution Act 1902**

**Schedule 1** repeals and re-enacts section 9I (Governor's salary) of the *Constitution Act 1902* so as to repeal the provisions of that section that:

- (a) provide for the Governor's salary to be determined by a regulation made under that Act, and
- (b) appropriate the Consolidated Fund to the extent necessary to pay that salary.

The new section 9I provides, instead, for the remuneration of the Governor to be determined by the Statutory and Other Offices Remuneration Tribunal (*the Tribunal*) under the *Statutory and Other Offices Remuneration Act 1975*. (See the matter below relating to the amendment of the latter Act in respect of the Consolidated Fund.)

Section 9I as re-enacted retains the current section 9I (6), which becomes section 9I (2). That subsection provides that remuneration is not payable under section 9I to a Governor for any period for which the Governor is entitled to remuneration from the Commonwealth in respect of the Governor's administration of the Government of the Commonwealth.

## **Schedule 2 Amendment of Statutory and Other Offices Remuneration Act 1975**

**Schedule 2 [1]** inserts "Governor" at the beginning of the list of offices in Schedule 1 (Public offices) to the *Statutory and Other Offices Remuneration Act 1975* (*the Act*) so as:

- (a) to enable the Tribunal to determine the remuneration to be paid to the holder of the office of Governor (see section 11 (1) of the Act), and
- (b) to appropriate the Consolidated Fund in respect of that remuneration (see section 11 (3) of the Act), and
- (c) to protect that remuneration from reduction (see section 21 of the Act).

**Schedule 2 [2]** inserts matter that will permit the making of savings and transitional regulations under the Act in consequence of the enactment of the proposed Act.

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**Schedule 2 [3]** inserts a transitional provision that provides for the making of the first determination under the Act in respect of the remuneration payable to the holder of the office of Governor.

Section 26 of the *Interpretation Act 1987* will permit the doing of anything necessary, before the commencement of the proposed Act, to have that determination come into effect, if it is so desired, on the commencement of the proposed Act.

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No. , 2003

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## A Bill for

An Act to amend the *Constitution Act 1902* and the *Statutory and Other Offices Remuneration Act 1975* with respect to the salary of the Governor.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Constitution Amendment (Governor's Salary) Act 2003</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the day on which the first person to be appointed to the office of Governor after the date of assent to this Act is so appointed.	6 7 8
<b>3 Amendment of Constitution Act 1902 No 32</b>	9
The <i>Constitution Act 1902</i> is amended as set out in Schedule 1.	10
<b>4 Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No 4)</b>	11 12
The <i>Statutory and Other Offices Remuneration Act 1975</i> is amended as set out in Schedule 2.	13 14
<b>5 Repeal</b>	15
The <i>Governor's Salary Regulation 1990</i> is repealed.	16



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**Schedule 1 Amendment of Constitution Act 1902**

(Section 3)

**Section 9I**

Omit the section. Insert instead:

**9I Governor's salary**

- (1) The Governor is entitled to be paid such remuneration as the Statutory and Other Offices Remuneration Tribunal may from time to time determine, under the *Statutory and Other Offices Remuneration Act 1975*, in respect of the office of Governor.
- (2) Remuneration is not payable under this section to a Governor for any period for which he or she is entitled to remuneration from the Commonwealth in respect of his or her administration of the Government of the Commonwealth.

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**Schedule 2 Amendment of Statutory and Other Offices  
Remuneration Act 1975**

(Section 4)

**[1] Schedule 1 Public offices**

Insert "Governor" at the beginning of the list of offices.

**[2] Schedule 6 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Constitution Amendment (Governor's Salary) Act 2003*

**[3] Schedule 6, clause 3**

Insert after clause 2:

**3 Governor's salary**

- (1) On, or as soon as practicable after, the commencement of the *Constitution Amendment (Governor's Salary) Act 2003*, the Tribunal is to make a determination of the remuneration to be paid to the holder of the office of Governor as on and from the day specified for that purpose in the determination (which may, but need not, be the day on which that Act commences).
- (2) A determination under this clause is taken to be a determination under section 13. However, sections 17 (2) and 20 (1) (b) do not apply to a determination under this clause.
- (3) A determination under this clause comes into force, or is taken to have come into force, on the day specified for that purpose in the determination (which may, but need not, be the day on which the *Constitution Amendment (Governor's Salary) Act 2003*) commences.