

# Senate Finance and Public Administration Legislation Committee

Inquiry into Governor-General Amendment (Cessation of Allowances in the Public Interest) Bill 2023

## Department of Finance

### Response to Question on Notice

Hearing of 21 July 2023

#### Question on Notice 1

**Senator SHOEBRIDGE:** How many former governors-general are currently entitled to receive a payment under the Governor-General's Act?

**Mr Robertson:** There are six pensioners under that scheme.

**Senator SHOEBRIDGE:** Can you name them?

**Mr Robertson:** We can get that information for you. We don't have that immediately to hand. Possibly we can take that on notice.

#### Response

As at 30 June 2023, there were six individuals in receipt of allowances from the *Governor-General Act 1974*:

- The Honourable Dame Quentin Bryce AD CVO;
- General the Honourable Sir Peter Cosgrove AK CVO MC;
- The Honourable Sir William Deane AC KBE KC;
- The Honourable William Hayden AC;
- Right Reverend the Honourable Dr Peter Hollingworth AC OBE; and
- Mrs Marlena Jeffery – spouse of the late Major General the Honourable Michael Jeffery AC AO (Mil) CVO MC (Retd).

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#### **Question on Notice 2**

**Senator SHOEBRIDGE:** Thank you. How much has been paid, and in what form, to each of those governors-general since they left office?

**Mr Robertson:** To each of them? Senator, so it's clear: you're asking for each pension payment to each particular individual? There may or may not be spouses involved. A feature of these pensions, as well, is that they will potentially change between governors-general because where an individual is in receipt of a Commonwealth payment, be it a military pension or a judicial pension or a Public Service pension, there's an offset. That's just to highlight that there will be differences for individuals, but we could take that on notice.

#### **Response**

For privacy reasons, the Department of Finance does not provide details on the superannuation benefit entitlements of particular individuals.

Retirement and spouse allowances of \$1.419 million (before taxation) were payable to individuals in 2021-22 under the *Governor-General Act 1974*. The average payment was \$202,712 (before taxation).

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### Response to Question on Notice

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#### Question on Notice 3

**Senator SHOEBRIDGE:** Thanks very much. Do you know how much was paid in the last financial year in total as pension and other entitlement payments to former governors-general?

**Mr Dilley:** The total we would take on notice as part of that cumulative amount that you've just asked us about. The maximum pension payable—noting my colleague's comments about offsets for other sources of income from the Commonwealth and such arrangements—is 60 per cent of the salary of a chief justice of the High Court.

**Mr Robertson:** They are published in our annual reports. I just don't have one with me at the moment, I'm afraid, but the actual pensions—the total amounts and the special appropriations—are published in our annual report. We can get that readily, but we just don't have it with us at the moment.

#### Response

The Department of Finance's responsibilities relate to the payment of pension entitlements to former Governors-General and reversionary entitlements to spouses. Page 181 of the department's Annual Report 2021-22 discloses 2021-22 pension related payments of \$1.419 million (before taxation) under the *Governor-General Act 1974*.

Questions about any other entitlements or payments should be directed to the Department of the Prime Minister and Cabinet or the Office of Official Secretary to the Governor-General.

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### **Response to Question on Notice**

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#### **Question on Notice 4**

**Senator SHOEBRIDGE:** You're not in a position to tell us the gross payments made to former governor-general Hollingworth, for example? Do you have a figure to hand?

**Mr Dilley:** We will take on notice any particular individual.

**Senator SHOEBRIDGE:** I've asked about all of them, so I'm hoping you'll enumerate each of them. I asked that previously, and I think you said you'd take that on notice.

**Mr Dilley:** Yes.

**Senator SHOEBRIDGE:** I'm asking specifically about former Governor-General Hollingworth.

**Mr Dilley:** In relation to particular Governors-General, as we've outlined, their particular circumstances and their payments would be determined by those factors, including other income sources. We will take on notice and need to consider whether to disclose private information as opposed to aggregate figures, perhaps some averages and a range without necessarily identifying individual circumstances.

**Senator SHOEBRIDGE:** Are you suggesting the public doesn't have a right to know how many hundreds of thousands or millions of dollars are being paid to each individual former Governor-General in the years or decades since their office? Are you suggesting privacy would prevent you providing that information on the public record?

**Mr Dilley:** It's something I'd like to take the opportunity to consider. Because of the interaction of other income sources and other arrangements, it does go to an individual's particular circumstances as opposed to only being contained to the amount of their particular pension. We'd be able to provide the total of the pension payable, but that's not the same as the actual pension paid when you've taken into account those circumstances of offsetting arrangements which are unrelated to their Governor-General pension.

## **Response**

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#### **Question on Notice 5**

**Senator DEAN SMITH:** Thank you very much to officials for making themselves available for the hearing. Were you privy to the evidence given Mrs Johnston, Ms Gregory and Mr Fisher when they were asked about the primary purpose of the bill?

**Mr Dilley:** I'm not across that evidence. Is that your question?

**Senator DEAN SMITH:** So you didn't hear the evidence or specifically the response provided by them to my question about what the primary purpose of the bill should be or is?

**Mr Dilley:** No, we didn't hear that, unfortunately.

**Senator DEAN SMITH:** Can you please review that? My question arising from that is: from your perspective, what are the deficiencies in this bill when assessed against what Mrs Johnston, Ms Gregory and Mr Fisher described as primary objectives of the bill? More broadly, what have the Department of Finance and the Attorney-General's Department identified as the legal deficiencies or shortcomings of the draft legislation that's before the committee?

**Mr Dilley:** The first part of your question I will take on notice so that we can consider the evidence. In terms of some of the things that we would consider in relation to the bill and questions—we don't have a policy view on the bill as such, of course—we would consider the existing frameworks that we've outlined, noting they may or may not apply to governors-general, and the threshold court decision if there had been a court that had found guilt and the nature of that offence or a lesser body that had considered it.

**CHAIR:** In this case, the bill is drafted such that it's a consideration of government to consider that misconduct. Therefore, I think you could—

**Senator DEAN SMITH:** I think you might have interrupted the official's contribution. Perhaps we could just let the official speak. He identified the existing frameworks and the thresholds of decision, and then senators can ask further questions.

**CHAIR:** Yes.

**Mr Dilley:** And there is whether it was a court or another forum that had found misconduct, misbehaviour or some other offence. I've outlined the threshold of the term of imprisonment under the superannuation crimes bill to be 12 months or greater. It's also relevant as to whether or not the superannuation pension after a period of service and during retirement—countenancing whether the Governor-General is still serving; we're making the assumption that they are not—would be an asset in the same way that regular superannuation, housing wealth, cash in the bank et cetera would be an asset of the individual and need consideration. They're some of the questions we might have to weigh. Those are probably the main points that I would flag as being elements that we turn our mind to in this circumstance.

**Senator DEAN SMITH:** On notice, would you please provide an answer to the question I have just asked, perhaps in a more fulsome and thorough manner than your oral response?

### **Response**

The Department of Finance notes the legal considerations raised during the hearing. The Department of Finance has not sought legal advice on the Bill.