



Finance and Public Administration Committee
Australian Senate

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

Dear Committee

Thank you for the opportunity to provide a submission on the Governor-General Amendment (Cessation of Allowances in the Public Interest) Bill 2023.

Beyond Abuse fully supports the policy objectives and reforms proposed by the bill; we fully support the relevant thresholds and mechanisms proposed by the bill.

Beyond Abuse asks all Senators and Members of Parliament on all sides of politics to support this reform bill. We observe that the Senate has already as a majority supported that the *Governor General Act 1974* is deficient for not having these reforms.

The reforms proposed by the bill are sensible, relevant and urgent for two main reasons, which will be detailed further in this submission:

- General reasons – the reform fixes an unintended oversight of the original legislation; the proposed reform should have been part of the original legislation from 1974; in this respect the reform proposed by the bill is simply ‘good law’ and should be entirely uncontroversial;
- Specific reasons – misconduct (both alleged and proven) by a former Governor General; that conduct being contrary to community expectations of a fit and proper person to receive on-going substantial tax payer subsidy.

About Beyond Abuse

Beyond Abuse is a registered charity providing support to victims of child abuse. For twenty years our organisation has: provided direct peer to peer support for victims to seek justice in the criminal and civil courts, worked with governments on important law reforms, contributed to official inquiries (including evidence and submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse and the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings); briefing media on matters relevant to survivors, among other activities. CEO Steve Fisher sits on a policy and legislation advisory body to the Tasmanian Government.

General Reasons Why the Reform is Necessary

The proposed reform is simply 'good law'. It plugs a gap created by accident when Parliament first passed the *Governor General Act 1974* creating the 'entitlements for life' but failing to include any mechanism to cease these payments should it become appropriate that payments be ceased.

Essentially, in 1974 the Australian Parliament built a car with an accelerator but no brake.

This reform bill installs the brake. The paragraphs proposed by this bill should have been part of the original legislation. It is as simple as that.

The Australian Senate has already agreed that the existing *Governor General Act 1974* is fundamentally flawed for not having the provisions proposed by this bill. In 2018, the Senate passed Senate Motion 1124 which stated:

17 October 2018

Motion 1124

That the Senate –

(c) expresses concern that there are currently no mechanisms within the *Governor General Act 1974* to cease the pensions or ongoing payments to former Governors-General where such a payment is no longer in the interest of the public, for instance when unconscionable or illegal behaviour is committed;

President of the Senate:

I now put the question on clause (c) of that motion.

Question agreed to.

Given that the Senate have already agreed that the current legislation is broken due to not having a provision to allow Parliament to cease payments, the obvious next step is that the Australian Senate (and House of Representatives) pass amending legislation to insert a provision to allow Parliament to cease payments.

The previous Morrison Government inexplicably failed to embrace the opportunity for reform when a bill was introduced to the Senate in 2019. This was a blunder on their part and a betrayal of the Australian people and tax payers. Let us not repeat that mistake now.

This is a straight forward amendment with broad support from Australian tax payers, particularly at a time when ordinary Australians are struggling with cost of living issues. It is anachronistic that this sort of largesse, a legacy from a bygone era and the product of a legislative blind-spot, continues today in 2023 where the ordinary tax payers are funding captains of industry with wealthy luxury payments for life in return for no or questionable 'service' and including where there is overt wrong doing, misconduct or even criminality.

Australia is accumulating former Governors-General, with a tendency toward 5 year tenures, and they are placing increasing burden on the tax payer. Former Governors-General are independently wealthy prior to taking up the office, holding senior executive positions (Archbishop, business, military Generals, etc) at the pinnacle or end of their primary careers.

They are paid a salary while in office and enjoy the perks of 5 years free luxury accommodation, free luxury travel, chef catered meals, etc. That should be sufficient remuneration for their 'service' while in office. They are issued an Order of Australia Medal (if they don't already have one) and are rewarded in other non-financial ways for their 5 years of 'service'.

It should be sufficient reward that they are trusted to 'serve the nation' in the role, if their motives were purely to serve Australia, and not to line their own pockets in the meantime. Remuneration while in office is sufficiently generous; ongoing 'life time' remuneration is entirely unnecessary and over the top. The 'entitlements' are not like a superannuation scheme; the Governor General has not paid a 'contribution' to a fund which is then matured back to them in retirement.

A fitting replacement for the current 'cash for life' scheme might be to simply have a superannuation scheme like every other Australian, for example the Commonwealth Superannuation Scheme used by Public Servants, and the Governor General could make contributions and receive employer contributions during their term of office, and when they depart office any life time payments are paid out of that modest 5 year fund until depleted.

If that is good enough for ordinary working Australians, all of whom are also 'serving Australia' through their daily labours, it should be good enough for a Governor General who claims to hold office to 'serve Australia', not themselves.

This 'cash for life' is exposed as inappropriate given that the Australian public never gets a say in the appointment of a Governor General. They are political appointments inside the Canberra bubble. The Australian people might be less concerned about this if the salary was paid only while in office and not beyond; and certainly if payments were not paid where an individual has acted grossly contrary to the public standards or public interests.

So it could well be argued that no Governor General should receive any public funding once they leave office, however at the very least, it should be a no-brainer that the Parliament have the power to cease payments to a former Governor-General where they are culpable of inappropriate conduct contrary to the public interest.

Under the current legislation (without amendment) a former Governor General could:

- conceal child sexual abuse and protect known child molesters;
- perpetrate child sexual abuse;
- commit a crime such as murder or fraud;
- lie to formal bodies of inquiry / give false evidence to formal inquiries;
- become a mouth piece for a foreign government (Russia, China, etc);
- or any range of conduct that might reasonably be considered, by the Australian people and by the Australian Parliament, to be 'contrary to the public interest'

and the tax payer is obliged to keep paying that former Governor General over \$600 000 every year for life (and also their spouse) including \$1000 per day cash payment and luxury CBD office space with staff and luxury travel and chauffeur driven luxury vehicle.

That is not a sound system in its current form and the need for change is obvious.

Threshold test in the proposed bill is the appropriate standard

The bill gets the balance right and has the appropriate threshold test for cessation of a former Governor General's ongoing taxpayer funded allowances.

The test in the proposed amendment is "serious misconduct".

Advocacy organisations are satisfied that this is the appropriate threshold. Advocacy groups oppose the threshold being too high, for example "conviction for a criminal offence" because:

- There can be many types of serious misconduct which are not represented in a criminal statute but which the public consider egregious and would trigger public opinion that ongoing payment of taxpayer funded gifts to a person perpetrating that misconduct is inappropriate;
- Criminal prosecution may not be commenced by the relevant authorities, even in the presence of overwhelming evidence of guilt, due to routine prosecution guideline factors, such as a guilty person's advanced age and the likely cost of prosecution to the department;
- Decisions whether or not to commence criminal proceedings can be subject to a range of influences including undue influence, particularly when the subject of the potential prosecution is high profile, wealthy, or a politically connected person;
- Prosecutions do not always result in conviction even though the person may in fact have perpetrated the conduct, due to a range of factors, including technical and legal loopholes – this increases when the individual is wealthy with access to senior lawyers and has the financial capacity to drag out legal processes, or the person is politically connected;
- The threshold is proportionate to the outcome of the proposed decision, which is simply cessation of an ongoing gift. The gift should not be an "entitlement". It is a gift requiring the ongoing goodwill of the Australian public. The person subject to the finding of serious misconduct is not being sent to jail, they are not losing their liberty, they are not having any criminal sanction or record placed upon them. They simply do not continue to receive a free gift, having proven themselves unworthy for that gift;
- It is appropriate that the payment of taxpayer money to an individual, which is occurring after leaving office (the individual is not rendering any service for the money) have caveats of standards of good conduct imposed as a condition of ongoing payment. This is simply proper and proportionate. It is improper that this is not already a requirement.

Mechanism in the proposed bill is appropriate

Advocacy organisations are satisfied that the reform proposed by the bill offers sensible and reasonable mechanisms for the cessation of ongoing payment in appropriate cases:

- Ministerial declaration
- Resolution of the Parliament

Both of these mechanisms are subject to a range of accountabilities to ensure appropriate exercise of the power and prevent over-reach. For example, any declaration or resolution will be accountable to the Australian public, and the relevant Minister or Members of Parliament / Senators will be able to make the case for the action known to the Australian public.

In cases where the conduct of the individual is sufficiently egregious as to constitute 'serious misconduct' and to have caused the Australian public to have lost confidence in continuing to fund the annual allowances of that individual, the Minister and relevant Members of Parliament / Senators, would know that they have the full support of the Australian public in taking the appropriate action.

This can be achieved through the existing standard consultation and feedback mechanisms which already exist and are deemed satisfactory on a day to day basis in Parliament.

The Ministerial discretion is consistent with existing Ministerial discretions in other areas of public policy (and indeed is more conservative than existing Ministerial discretions in certain policy areas).

Advocacy organisations oppose the establishment of complex bureaucracy or formalised processes for the cessation of public funding of a former Governor General found to have engaged in serious misconduct – because such mechanisms have a tendency to being 'gamed' by the guilty party who then uses their wealth, lawyers and political influence to navigate the system to their advantage and avoid appropriate accountability.

It must be remembered that this is in the broader context that all that is being proposed as an outcome of the Ministerial discretion or Parliamentary resolution is that an individual, guilty of serious misconduct, who is no longer in office and is not performing any public service, cease receiving what are already disproportionately generous taxpayer funded allowances and expenses. That is all.

By definition, Governors General are usually 'captains of industry', leaders in their pre-office field, already independently wealthy and in receipt of generous pension or superannuation from their former career. They do not actually need any Governor General related after office funding. Also, the funding is 100% 'gift' from the tax payer – the person has not in any way 'contributed', such as with superannuation.

Therefore, it would be disproportionate to have an unwieldy, cumbersome, labyrinthine complaint, decision and appeal process. The money is given away easily enough under the Act, it should be able to be ceased with similar ease.