

**STATUTORY AND OTHER OFFICES REMUNERATION TRIBUNAL
REPORT AND DETERMINATION PURSUANT TO CLAUSE 3 OF SCHEDULE 6 OF
THE STATUTORY AND OTHER OFFICES REMUNERATION ACT 1975 (AMENDED)**

REPORT

1. On 2 June 2014 the Premier requested the Statutory and Other Offices Remuneration Tribunal (the Tribunal) to make a determination in respect of the remuneration payable to the office of the Governor of New South Wales (the Governor).
2. The Premier advised that the *Constitution Amendment (Governor's Salary) Act 2003* (the Governor's Salary Act) will amend the *Constitution Act 1902* (the Constitution Act) and the *Statutory and Other Offices Remuneration Act 1975* (the SOOR Act) to allow the Tribunal to determine the remuneration of the Governor commencing with the incoming Governor.
3. The Governor's Salary Act commences once the incoming Governor assumes office and, in accordance with section 26 of the *Interpretation Act 1987*, the Tribunal can make the determination prior to the commencement of the Governor's Salary Act. The determination will only have effect on or after the date on which the Governor's Salary Act commences.
4. The constitutional arrangements for the Commonwealth of Australia as a sovereign, independent and federal nation are prescribed in the *Australia Act 1986 (Cwlth)*. Section 7 provides for a Governor in each State to act as Her Majesty's representative, exercising all powers and functions of Her Majesty in respect of the State, on the tendering of advice by the Premier of the State to Her Majesty:

"Section 7 Powers and functions of Her Majesty and Governors in respect of States

- (1) Her Majesty's representative in each State shall be the Governor.*
- (2) Subject to subsections (3) and (4) below, all powers and functions of Her Majesty in respect of a State are exercisable only by the Governor of the State.*
- (3) Subsection (2) above does not apply in relation to the power to appoint, and the power to terminate the appointment of, the Governor of a State.*

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- (4) *While Her Majesty is personally present in a State, Her Majesty is not precluded from exercising any of Her powers and functions in respect of the State that are the subject of subsection (2) above.*
- (5) *The advice to Her Majesty in relation to the exercise of the powers and functions of Her Majesty in respect of a State shall be tendered by the Premier of the State.”*

5. The constitutional arrangements for the Government of NSW are prescribed in the Constitution Act. Section 9A provides for the appointment of the Governor by Commission at Her Majesty’s pleasure, and requires the taking of the Oath/Affirmation of Allegiance and Oath/Affirmation of Office before assuming office:

“Section 9A Appointment of Governor

- (1) *There shall continue to be a Governor of the State.*
- (2) *The appointment of a person to the office of Governor shall be during Her Majesty’s pleasure by Commission under Her Majesty’s Sign Manual and the Public Seal of the State.*
- (3) *Before assuming office, a person appointed to be Governor shall take the Oath or Affirmation of Allegiance and the Oath or Affirmation of Office in the presence of the Chief Justice or another Judge of the Supreme Court.”*

6. Section 35B of the Constitution Act establishes the Executive Council to ‘*advise the Governor in the government of the State*’. The Governor appoints members of the Executive Council at his/her pleasure and presides over the Executive Council meetings.

7. The Governor’s principal powers and functions are specified in the Constitution Act and include the following:

- to determine the dates of sessions of Parliament
- to dissolve Parliament and issue writs for a general election
- to assent bills passed by both houses of the Parliament

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- to appoint the Premier, Ministers of the Crown, judges and senior office holders
 - to allocate to Ministers the administration of Acts and other portfolio responsibilities
 - to approve Standing Rules and Orders for both houses of Parliament
 - to issue regulations and proclamations under existing laws
 - to provide, use and keep the Public Seal of the State.
8. The Governor exercises his/her powers on the advice from the Executive Council, Premier and Ministers. Special provisions in the Constitution Act enable the Governor to act without or contrary to advice from the Executive Council or Ministers, if such action is in accordance with established constitutional conventions. This would occur in certain circumstances such as the appointment or dismissal of the Premier and the dissolution of Parliament.
9. The Governor also performs many important ceremonial duties including:
- the formal Opening of Parliament
 - the Swearing-In of the Premier and Ministers, and investitures under the Australian honours system
 - taking the salute at military and other major parades such as on Anzac Day and Reserve Forces Day
 - commemorations such as Remembrance Day, Victory in the Pacific Day and memorials for Australians who lost their lives in wars
 - receiving foreign dignitaries including Heads of State and Government, Ministers, trade and parliamentary delegations and Ambassadors and High Commissioners
 - representing the State from time to time on official visits overseas.
10. The Governor has a significant role in reaching out to the NSW community, travelling widely across the State, by participating in conferences, events, speaking engagements and serving as Patron to many community organisations. The Governor also uses Government House for functions and events which

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acknowledge the achievements of outstanding individuals and organizations from all over the State.

11. In determining the remuneration for Governor the Tribunal has had regard to relevant comparators. The Tribunal is of the view that the Governor should receive an annual salary of \$445,100 and so determines.
12. The SOOR Act does not require that an annual determination in respect of the Governor's salary take effect from 1 July. On that basis, the Tribunal considers it appropriate that future increases take effect from the anniversary of the commencement of this determination.

DETERMINATION

Pursuant to clause 3 of Schedule 6 of the *Statutory and Other Offices Remuneration Act 1975* (amended) the Tribunal determines that the office of the Governor of New South Wales receive a salary of \$445,100 per annum, with effect on or after the commencement date of the *Constitution Amendment (Governor's Salary) Act 2003*.

**Statutory and Other Offices
Remuneration Tribunal**

(Signed)

Helen Wright
5 June 2014