



NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS AND LEGISLATION COMMITTEE

REPORT

ON

**THE GOVERNORS-GENERAL (PENSIONS AND BENEFITS)
BILL 2007**

National Parliament Paper No. 22 of 2007

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TERMS OF REFERENCE

To examine and report to Parliament the Committee's observations and recommendations on:-

"The Governors-General (Pensions and Benefits) Bill 2007"

2. FUNCTIONS

In accordance with Section 62 of the Constitution as read with Section 71 of the Standing Orders, the Bills and Legislation Committee's functions in addition to the provisions in Standing Orders 50 and 55, shall be to:-

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.

3. **MEMBERSHIP**

The Membership of the Bills & Legislation Committee comprises the following four members:

Hon. Edward J. Huniehu, MP	-	Chairman
Hon. Peter Boyers, MP	-	Member
Hon. Seth Gukuna, MP	-	“
Hon. Laurie Chan, MP	-	“

4. **PURPOSE OF THE GOVERNORS-GENERAL (PENSIONS AND BENEFITS) BILL 2007**

The objects and reasons as stated in the Bill are to:

“Provide pensions and other benefits for persons who cease to hold the Office of the Governor-General and for their widows and children and to provide for matters incidental to the foregoing or connected therewith.”

5. **OBSERVATIONS**

The Bills and Legislation Committee met on Friday 2 February and Monday 5 February 2007 to examine and make its observations and recommendations on **“The Governors-General (Pensions and Benefits) Bill 2007”**.

The Committee welcomes the initiative taken by the current Government to bring the Bill to Parliament. However, it notes the following issues:

Costing

The Committee is concerned about the overall cost of the proposal and its impact on other areas of public service delivery. The Committee requested

that the Office of the Prime Minister furnish it with a summary of costs associated with the proposal to give the Committee a clear understanding of the financial impact of the Bill and to inform Members prior to the debate on the Bill in the House. The Office of the Prime Minister undertook to do this and has provided the Committee with the following information:

Table 1 – Budgetary Implications for 2007

1. Governor General:
Annual Salary - current incumbent

130,000.00 (tax free)

<i>Clause</i>	<i>Particulars</i>	<i>Amount(SBD)/yr</i>	<i>previousGG(total)/yr</i>
clause 5	pension - @ 60% of salary	78,000.00	312,000.00
clause 9 (1)	terminal grant or ex-gratia payment	75,000.00	375,000.00
clause 10	official residence - free of rent ¹	120,000.00	480,000.00
clause 10	water - paid by government ²	6,000.00	24,000.00
clause 10	gas - paid by government ³	3,600.00	14,400.00
clause 10	electricity - paid by government ⁴	6,000.00	24,000.00
clause 11	official vehicle - for normal duties ⁵	150,000.00	600,000.00
clause 12	medical treatment as prescribed for public servants ⁶	6,000.00	24,000.00
clause 13	protocols/courtesies/benefits ⁷	3,000.00	12,000.00
	TOTAL	447,600.00	1,865,400.00

2. Governor General Spouse:

<i>Clause</i>	<i>Particulars</i>	<i>Amount(SBD)/yr</i>
clause 6 (1)(b)	pension for widow - @ 40% of pension receivable by the pensioner	31,200.00
clause 9 (2)	ex-gratia payment for widow - @ 50% of payment received by GG	37,500.00

The committee notes that the figures relating to the pension provided for under clause 5 are based on the calculation of costs prospectively (2007 onwards) and don't provide the total retrospective costs on the consolidated fund.

¹ Accommodation is calculated at \$10,000.00 per month (consistent with rate for Ministers in PER 2006)

² Water bill is based on average usage of \$500.00 per month

³ Gas bill is based on average usage of \$300.00 per month

⁴ Electricity bill is based on average usage of \$500.00 per month

⁵ Cost of official vehicle is calculated at \$150,000.00 per vehicle

⁶ Medical treatment bill is estimated at \$500.00 per month

⁷ Cost of protocols, courtesies and benefits is estimated at \$250.00 per month

Precedence

The Committee is also concerned that the Bill may encourage other constitutional post holders to demand pensions and benefits of a similar nature. This may have serious consequences for government expenditure in the future.

Retrospectivity

A principle of law which the Bills and Legislation committee identified as a matter of concern is that the Bill encompasses retrospective legislation. Although in this case the Bill only provides a retrospective benefit, one of the key principles of law making is that laws are prospective, open and clear.

Retrospectivity literally means that the law 'looks backwards' by dealing with cases that came into existence in the past. This in effect changes the law as it applied to circumstances in the past. In other words, matters which were regulated by earlier law until the new law is passed are now subject to the new law.

None the less, the committee is of the view that "Parliament may authorize retrospective legislation, but this is an exception to the general principle that legislation should deal with future acts and not alter the character and past transactions lawfully carried out".

Gender

The Committee also noted that gender neutral legislation is not evident in the Bill's current drafting style, as there is continuous use of gender specific nouns. Whilst the Committee is aware that there are provisions for the interpretation of gender specific nouns in the Interpretation and General Provisions Act 1995, the Committee is of the view that legislation coming before Parliament should be drafted in plain English and be gender neutral.

Section 9 (1): Terminal Grant for Governors-General

The proposed subsection of the Bill provides for a terminal grant or ex-gratia payment of \$75,000.00 or such greater sum, equivalent to and payable to a Prime Minister under current Parliamentary Entitlements Commission Regulations for each term of office he served.

The Committee does not agree with the provisions of this section. Particularly, it is concerned that the linking of the Terminal Grant to the post of the Prime Minister potentially politicizes the matter at hand. The Committee is of the view that the post of the Governor-General is not comparable to the Prime Minister's post and therefore should not be referred to in the subsection. The Committee also sought clarification on how this amount was calculated. The Committee recommends that the government amend the Bill so that the terminal grant is equivalent to the current annual salary payable to the incumbent. This is a sensible and transparent way of providing the benefit and linking that benefit to future increases in the salary of the Governor General, which avoids the requirement of regular future amendments to update the benefit. While the proposal increases the amount of the benefit proposed in the Bill the committee is of the view that this is largely offset by its next recommendation for section 9 (2).

Section 9 (2): Terminal Grant for Spouse

This subsection provides for the spouse of the Governor-General to receive an ex-gratia payment equivalent to fifty percent of the payment received by the Governor-General pursuant to subsection 1. The Committee is of the view that there is no requirement for the spouse to receive an ex-gratia payment on the basis that terminal grants are usually awarded to post-holders for their service in office.

6. RECOMMENDATIONS

The Committee has reviewed the Bill and has expressed reservations in relation to the following matters:

- Costing
- Precedence
- Retrospectivity
- Terminal Grant

The Committee recommends that the following amendment be moved in Committee of the Whole House:

That the proposed section 9 be omitted and the following section be inserted instead:

“9. A Governor-General who ceases or has ceased to hold office shall be paid a terminal grant or ex-gratia payment **equivalent to the current annual salary payable to the incumbent.**”

Hon. Edward J. Huniehu

Chairman

Bills & Legislation Committee

14 February 2007