

Frequently Asked Questions About the Office of Governor-General

The 24th and the tenth Australian-born Governor-General was sworn in on 11 August 2003. This Research Note provides brief answers to questions frequently asked about the office of Governor-General.

What is the Governor-General's Official Title?

The official title is: Governor-General of the Commonwealth of Australia. The additional role of Commander-in-Chief of the Defence Force is essentially a titular one as the Governor-General cannot 'exercise a command function independently of Ministerial advice'.¹

How is the Governor-General Selected?

Since 1930 the Prime Minister has, in effect, selected the Governor-General. Although there are no barriers to the Prime Minister seeking advice he/she is under no obligation to consult Cabinet, the Opposition or the Parliament on the appointment.

The resignation of Governor-General Dr Peter Hollingworth in May 2003 resulted in calls for a broader consultation process before the appointment. Suggestions included using a short list compiled by a selection panel,² taking nominations from across the Australian community,³ adopting the model used to appoint the Queensland Governor⁴ and using a combination of parliamentary and community consultation.⁵

Constitutional monarchists have warned against a public selection process claiming it would politicise the post⁶ and give the office a political mandate.

The current debate mirrors earlier ones on the selection of the Governor-General. The 1999 Referendum on the Republic was lost partly because voters would not support the appointment of a President by a two-thirds majority of

the members of the Commonwealth Parliament. In 1930 when the first Australian-born Governor-General was appointed conservative organisations and sections of the press attacked the appointment of Sir Isaac Isaacs and claimed that it was an attempt to alter the system.⁷ Similarly the appointment of Sir William McKell, a serving politician, to the office in 1947 was attacked by the press, the Opposition and the large section of the Australian community that regarded Britain as 'home'.⁸

Who Appoints the Governor-General?

The Constitution and convention provide the only guidelines on the appointment of the Governor-General. The Constitution (s. 2) states that 'A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth'. The Governor-General is appointed by the Sovereign on the advice of the Australian Prime Minister. This convention has been in place since 1930 when Prime Minister James Scullin established the right of an Australian Prime Minister to submit a name to the Sovereign.

How is the Governor-General Appointed?

The Letters Patent of 21 August 1984 state that the appointment of the Governor-General 'shall be during Our pleasure by Commission under Our Sign Manual and the Great Seal of Australia'.⁹ The Letters also direct that 'each Commission appointing a Governor-General or person to administer the Government of the Commonwealth of Australia shall be published in the official gazette of the Commonwealth'.

The Commission authorises the Governor-General to exercise powers including the 'powers and directions contained in the Letters Patent'.¹⁰ It is not a contract. Before the commission

takes effect the Governor-General must take the prescribed oaths of office. The oaths are performed by the Chief Justice or another Justice of the High Court. The Governor-General then issues a proclamation assuming office.

What were the Previous Occupations of Australia's Governors-General?

The following table shows the previous occupations¹¹ of Governors-General.

Previous occupation	
Aristocracy/politics	10
Politics since 1947	5
Law	5
Military	3
Church	1

How is the Governor-General Dismissed?

There are no criteria for the dismissal of the Governor-General and to date no Australian Governor-General has ever been dismissed. The dismissal of a Governor-General would occur in accordance with the Constitution (s. 2), the Letters Patent and convention. The process would involve the withdrawal of the Governor-General's commission by the Queen on the advice of the Prime Minister. Commentators have noted that the lack of public process is 'inconsistent with the rules that govern other public offices'.¹²

How is the Governor-General's Tenure Decided?

The Constitution (s. 2) states that the Governor-General holds office 'during the Queen's pleasure'. By convention the term is five years¹³ although since 1901 some Governors-General have had their terms extended¹⁴ while others have not served their full term.¹⁵ In the first decade after Federation the terms served were shorter—an average of two–three years. The current Governor-General, Major General Michael Jeffery, will serve a term of three years, which is the balance of Dr Hollingworth's five year term.

What are the Letters Patent?

The Constitution provides for the office of Governor-General. The Letters Patent, signed by Queen Victoria on 29 October 1900, formally constituted that office, recited some of the Governor-General's powers and authorised the Governor-General to appoint deputies. A Commission was given to Lord Hopetoun on the same day appointing him as Australia's first Governor-General. Instructions were also issued by Queen Victoria covering a range of matters such as the oaths to be taken by the Governor-General. On 21 August 1984 the Letters Patent and Instructions were revoked and replaced by revised Letters Patent issued by Queen Elizabeth as Queen of Australia. The revision was designed 'to reflect the proper constitutional position and to remove the archaic way in which the old Letters Patent refer to and express the Governor-General's powers'.¹⁶ On 11 May 2003 the Letters Patent were amended to include revised circumstances in which an Administrator can be asked to take over from the Governor-General.¹⁷

What is the Governor-General's Salary and the Cost of the Governor-General's Office?

For information on these issues see the forthcoming Research Note 'Governors-General—Salary and Pension', by Leanne Manthorpe.

How is the Administrator of the Commonwealth Selected?

Apart from the appointment of a Governor-General the Letters Patent specify the appointment of a person as

Administrator of the Commonwealth and a person as a Deputy of the Governor-General. By convention, the longest serving State Governor is appointed as Administrator. The Queen appoints the Administrator on the advice of the Prime Minister. Dormant commissions for the office of Administrator are normally held by all State Governors, thus allowing an Administrator to be appointed in the event of the Governor-General's death, incapacity, removal or 'temporary absence for any reason'.

Under the Constitution and the Letters Patent the Administrator is empowered to exercise all the Governor-General's powers and functions.

Is the Governor-General Australia's Head of State?

The Constitution sets out the powers of the Governor-General. Section 2 states that 'A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth'. The former Chief Justice of the High Court, the Hon. Sir Anthony Mason, has rejected the description of the Governor-General as Australia's constitutional head of state. He stated that 'the Constitution makes the Queen our constitutional head of state and specifically provides that the Governor-General is "the Queen's representative"'.¹⁸ Many constitutional monarchists¹⁹ argue that the Governor-General is Australia's head of state or at least the de facto or effective head of state.

What are the Powers and Functions of the Governor-General?

While the Constitution appears to confer considerable powers on the Governor-General, the principles of responsible government mean that, except in very limited circumstances, he or she must act in accordance with Ministerial advice. The Governor-General's functions were defined by the Republic Advisory Committee as:

- those arising under Commonwealth legislation or under the Constitution in relation to which the Governor-General acts on Ministerial advice
- the so-called 'reserve powers' which allow the Governor-General to act as constitutional umpire, and
- ceremonial and representative.²⁰

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Endnotes

1. Constitutional Commission, Final Report, vol. 1, p. 350.
2. Scott Emerson and Megan Saunders, 'Leaders split on model to pick G-G', *Australian*, 27 May 2003.
3. George Williams, 'A Chance for all to choose head of state', *Australian*, 27 May 2003.
4. Emerson and Saunders, loc. cit. The nomination for Queensland Governor was put before the Queensland Parliament and required the support of two-thirds of members.
5. *ibid.* This model is supported by Senator Bob Brown and the Australian Republican Movement.
6. *ibid.* See comments by the convenor, Australians for Constitutional Monarchy.
7. See Christopher Cuneen, *Kings' Men*, Allen & Unwin, Sydney, 1983, pp. 173–82.
8. See Christopher Cuneen, *William John McKell*, UNSW Press, Sydney, 2000, pp. 197–8.
9. Letters Patent Relating to the Office of Governor-General of the Commonwealth of Australia, 21 August 1984, Part II(a).
10. Governor-General's commission is available at: http://www.gg.gov.au/html/fset_role.html.
11. The first category includes Governors-General who were members of the British Parliament, the aristocracy or both.
12. George Williams, *op. cit.*
13. On 23 January 1904 the *Australasian* noted that expectations were 'that the term of five years at least' would be served.
14. For example Rt Hon. Sir William McKell, Hon. William George Hayden and Hon. Sir William Deane.
15. The first Governor-General, Lord Hopetoun, asked to be recalled in May 1902.
16. Senator the Hon. Gareth Evans, Senate, *Debates*, Answer to Question without Notice, 3 November 1983, p. 2189.
17. The Letters Patent and the Amendment are available at: <http://www.gg.gov.au/>.
18. Sir Anthony Mason, 'The Republic and Australian constitutional development', 11 May 1998.
19. For example Sir David Smith, and Hon. Tony Abbott MP.
20. Republic Advisory Committee, *An Australian Republic: the option—an overview*, 1993, p. 7.