

Western Australia

**Insurance Commission of Western Australia
Amendment Act 2013**

As at 19 Aug 2013

No. 7 of 2013

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Insurance Commission of Western Australia Amendment Act 2013

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Western Australia

Insurance Commission of Western Australia Amendment Act 2013

No. 7 of 2013

An Act to amend the *Insurance Commission of Western Australia Act 1986*.

[Assented to 19 August 2013]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Insurance Commission of Western Australia Amendment Act 2013*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *Insurance Commission of Western Australia Act 1986*.

4. Part II Division 4 Subdivision D inserted

After section 27 insert:

Subdivision D — Dividends to State

28. Interim dividend

- (1) Not later than the last day of February in each financial year, the Commission must give the Minister a written report that —
 - (a) sets out a forecast of the Commission's net profits for that financial year, prepared in accordance with generally accepted accounting practice; and
 - (b) states any factors or circumstances that the Commission has taken into account in accordance with subsection (2) in preparing the forecast and the report's recommendation; and

- (c) recommends —
 - (i) whether the Commission should pay the State an interim dividend for that financial year; and
 - (ii) the amount of the interim dividend (if any).
- (2) The profit forecast and recommendation may take into account any factors or circumstances that in the Commission's opinion may have a material effect on the Commission's financial position (either positively or negatively) as at the end of that financial year.
- (3) On receiving a report under subsection (1), the Minister must —
 - (a) with the Treasurer's concurrence, either —
 - (i) accept the report's recommendation on the amount of the interim dividend; or
 - (ii) after consulting the Commission, reject the report's recommendation and fix a different amount (which may be a nil amount) as the amount of the interim dividend;
 - and
 - (b) notify the Commission of the Minister's decision and the amount of the interim dividend (if any) payable by the Commission.
- (4) On receiving a notice under subsection (3)(b), the Commission must pay to the State the amount of the interim dividend (if any) notified to the Commission —
 - (a) as soon as practicable; but
 - (b) in any event before the end of the financial year concerned.

29. Annual dividend

- (1) A dividend under this section must be calculated with respect to the Commission's net profits for a financial year, after first taking into account —
 - (a) any amount paid or payable to the Treasurer under the *State Enterprises (Commonwealth Tax Equivalents) Act 1996* for the year; and
 - (b) the amount of any interim dividend for the year paid or payable under section 28.
- (2) As soon as practicable after the end of each financial year, the Commission must give the Minister a written report that recommends —
 - (a) whether the Commission should pay the State a dividend for that financial year; and
 - (b) the amount of the dividend (if any).
- (3) On receiving a report under subsection (2), the Minister must —
 - (a) with the Treasurer's concurrence, either —
 - (i) accept the report's recommendation on the amount of the dividend; or
 - (ii) after consulting the Commission, reject the report's recommendation and fix a different amount (which may be a nil amount) as the amount of the dividend;and
 - (b) notify the Commission of the Minister's decision and the amount of the dividend (if any) payable by the Commission.
- (4) On receiving a notice under subsection (3)(b), the Commission must pay to the State the amount of the dividend (if any) notified to the Commission —
 - (a) as soon as practicable; but

- (b) in any event not later than —
 - (i) 6 months after the end of the financial year concerned; or
 - (ii) any later time agreed on by the Treasurer and the Commission.

30. Provisions for s. 28 and 29

- (1) The accountable authority of the Commission under the *Financial Management Act 2006* must include the text of each notice given under section 28(3)(b) or 29(3)(b) in relation to a financial year in the annual report for that year submitted under Part 5 of that Act.
- (2) If under section 28(3)(b) or 29(3)(b) the Minister notifies the Commission that the Minister rejects a report's recommendation and fixes a different amount (other than a nil amount) as the amount of the interim dividend or dividend payable by the Commission, that notification is to be taken to be a direction by the Minister to the Commission for the purposes of the *Statutory Corporations (Liability of Directors) Act 1996*, and that Act applies accordingly.
- (3) Any interim dividend or dividend paid under section 28 or 29 must be credited to the Consolidated Account.

31. Transitional provisions for *Insurance Commission of Western Australia Amendment Act 2013*: interim dividends

- (1) Section 28 applies in respect of the financial year in which the *Insurance Commission of Western Australia Amendment Act 2013* section 4 comes into operation and subsequent financial years, subject to subsections (2) and (3).
- (2) If the *Insurance Commission of Western Australia Amendment Act 2013* section 4 comes into operation on

or after 1 March and before the close of 30 June in a financial year, section 28 applies in respect of that financial year with the following modifications —

- (a) the Commission must give the Minister the report referred to in section 28(1) not later than 14 days after section 4 of that Act comes into operation;
 - (b) the Minister must notify the Commission in accordance with section 28(3)(b) as soon as practicable after receiving that report;
 - (c) the Commission must pay to the State the amount of the interim dividend (if any) notified to the Commission in accordance with section 28(3)(b) —
 - (i) as soon as practicable; but
 - (ii) in any event not later than a date determined by the Treasurer and notified to the Commission.
- (3) If the *Insurance Commission of Western Australia Amendment Act 2013* section 4 comes into operation on or after 1 July and before 1 September in a financial year, section 28 also applies in respect of the previous financial year with the following modifications —
- (a) the Commission must give the Minister the report referred to in section 28(1) not later than 14 days after section 4 of that Act comes into operation;
 - (b) the Minister must notify the Commission in accordance with section 28(3)(b) as soon as practicable after receiving that report;
 - (c) the Commission must pay to the State the amount of the interim dividend (if any) notified

to the Commission in accordance with section 28(3)(b) —

- (i) as soon as practicable; but
- (ii) in any event not later than a date determined by the Treasurer and notified to the Commission.

32. Transitional provisions for *Insurance Commission of Western Australia Amendment Act 2013*: annual dividends

- (1) Section 29 applies in respect of the financial year immediately before the financial year in which the *Insurance Commission of Western Australia Amendment Act 2013* section 4 comes into operation, the financial year in which section 4 of that Act comes into operation, and subsequent financial years, subject to subsections (2) and (3).
- (2) If the *Insurance Commission of Western Australia Amendment Act 2013* section 4 comes into operation on or after 1 September and before the close of 30 June in a financial year (the **current financial year**), sections 29 and 30(1) apply in respect of the previous financial year with the following modifications —
 - (a) the Commission must give the Minister the report referred to in section 29(2) as soon as practicable after section 4 of that Act comes into operation;
 - (b) on receiving a notice under section 29(3)(b) in respect of that report, the Commission must pay to the State the amount of the dividend (if any) notified to the Commission —
 - (i) as soon as practicable; but

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- (ii) in any event not later than a date determined by the Treasurer and notified to the Commission;
 - (c) the accountable authority of the Commission under the *Financial Management Act 2006* must include the text of the notice referred to in paragraph (b) in the annual report for the current financial year submitted under Part 5 of that Act.
- (3) If the *Insurance Commission of Western Australia Amendment Act 2013* section 4 comes into operation before 1 July 2013, section 29 applies only in respect of the financial year ending on 30 June 2013 and subsequent financial years.

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