Western Australia

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:

##### 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

(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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