

Police (Medical and Other Expenses for Former Officers) Bill 2008

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Western Australia

LEGISLATIVE ASSEMBLY

**Police (Medical and Other Expenses for Former
Officers) Bill 2008**

A Bill for

An Act —

- **to provide for the payment of medical and other expenses incurred by former police officers and former Aboriginal police liaison officers in respect of employment-related injuries; and**
 - **to provide for the resolution of disputes in connection with claims for payment of amounts, or liability to pay amounts, under this Act; and**
 - **to provide for the management of claims for payment of amounts under this Act,**
- and for related purposes.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Police (Medical and Other Expenses for Former Officers) Act 2008*.

5 **2. Commencement**

This Act comes into operation as follows —

- 10 (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Terms used in this Act

- (1) In this Act, unless the contrary intention appears —
- APLO* has the meaning given in the *Police Act 1892* section 38A;

15 *appropriate changes*, to the WC&IM Act, has the meaning given in section 14;

claim means a claim for payment of an amount under section 4(1);

20 *former officer* means a person who has ceased (whether before or after the commencement of section 4(1)) to be —

- (a) a police officer; or
- (b) an APLO;

injury has the meaning given in the WC&IM Act section 5(1);

25 *Police Commissioner* means the Commissioner of Police appointed under the *Police Act 1892* section 5;

WC&IM Act means the *Workers' Compensation and Injury Management Act 1981*.

(2) For the purpose of applying a provision of the WC&IM Act under this Act —

- (a) a reference in the WC&IM Act to a worker is read as a reference to a former officer; and
- 5 (b) a reference in the WC&IM Act to a worker's employer is read as a reference to the Police Commissioner; and
- (c) a reference in the WC&IM Act to a worker's employment is read as a reference to a former officer's employment as a police officer or APLO.

Part 2 — Liability to pay amounts for medical and other expenses

4. Police Commissioner liable

- 5 (1) The Police Commissioner is liable to pay an amount for medical and other expenses incurred or likely to be incurred by a former officer on or after 1 July 2007 as a result of an injury to the officer.
- (2) The amount is payable in accordance with section 5.
- 10 (3) The Police Commissioner is not liable to pay an amount under subsection (1) in respect of an injury if the injury is attributable to —
- 15 (a) the officer’s voluntary consumption of alcohol or a drug of addiction within the meaning given in the *Poisons Act 1964* section 5(1), or both, that impaired the proper functioning of the officer’s faculties; or
- (b) the officer’s failure without reasonable excuse (proof of which is on the officer) to use protective equipment, clothing or accessories provided by the Police Commissioner for the officer’s use; or
- 20 (c) other serious and wilful misconduct of the officer,
- unless the injury has serious and permanent effects or results in death.

5. Calculating amount payable

- 25 (1) The amount payable under section 4(1) is calculated in accordance with the WC&IM Act Schedule 1 clause 17 (other than subclauses (1aa), (1a) and (6)) and clause 19, and that Act (with the appropriate changes) applies accordingly.
- (2) To avoid doubt, the amount payable under section 4(1) in respect of an injury does not include any amount in respect of
- 30 the injury that became payable by the Police Commissioner before the former officer ceased to be a police officer or APLO.

6. Person not to be paid twice

(1) An amount is not payable under section 4(1) for medical or other expenses to the extent of —

- 5 (a) any amount received for those medical or other expenses under the laws of a place outside the State; or
- (b) the amount of any judgment for those medical or other expenses obtained independently of this Act; or
- 10 (c) the amount received in compromise of any claim for those medical or other expenses made independently of this Act; or
- (d) any amount received for those medical or other expenses as an act of grace payment.

(2) If a person receives an amount under section 4(1) for medical or other expenses and subsequently —

- 15 (a) receives an amount for those medical or other expenses under the laws of a place outside the State; or
- (b) obtains judgment for an amount for those medical or other expenses independently of this Act; or
- 20 (c) receives an amount in compromise of any claim for those medical or other expenses made independently of this Act; or
- (d) receives an amount for those medical or other expenses as an act of grace payment,

25 the amount specified in subsection (3) is recoverable in a court of competent jurisdiction as a debt due from the person to the Police Commissioner.

(3) The amount recoverable under subsection (2) is the lesser of —

- (a) the amount paid under section 4(1); and
- 30 (b) the amount received or for which judgment was obtained.

Part 3 — Dispute resolution

7. Procedure under WC&IM Act applies

5 The WC&IM Act applies (with the appropriate changes) in relation to the determination of a dispute in connection with a claim, or liability to pay an amount under section 4(1), as if the dispute were a dispute within the meaning given in the WC&IM Act section 176(1).

8. Time limits under WC&IM Act do not apply

10 Despite section 7, the following provisions of the WC&IM Act do not apply in relation to a claim or the recovery of an amount under section 4(1) —

- (a) sections 178(1)(b), 231(2)(a) and 241(2)(a);
- (b) Schedule 1 clause 18B.

9. Arbitrator's decision not final for other proceedings

15 Despite the WC&IM Act section 187, for the purposes of an action for damages brought independently of this Act, a decision of an arbitrator in relation to a dispute referred to in section 7 is not final or binding on the parties to the dispute.

Part 4 — Claims management

10. Terms used in this Part

In this Part —

5 *claims management period* means the period for which an arrangement entered into under section 11 or 12(1)(b) or (3) will be in force;

Insurance Commission means the Insurance Commission of Western Australia continued under the *Insurance Commission of Western Australia Act 1986* section 4(1).

10 11. Insurance Commission to manage claims for first 3 years

15 The Insurance Commission will manage claims on the Police Commissioner's behalf for the period of 3 years beginning on the day on which section 4(1) commences in accordance with the terms to be agreed before that day between the Police Commissioner and the Insurance Commission.

12. Management of claims after first 3 years

(1) Before the end of a claims management period, the Police Commissioner must —

- 20 (a) review the arrangement for the management of claims on the Police Commissioner's behalf; and
- (b) enter into a new arrangement for that management with the Insurance Commission or another person for the period (not less than 12 months) from the end of the claims management period that is specified in the new arrangement.
- 25

(2) Subsection (1) does not prevent an arrangement for the management of claims being terminated before the end of a claims management period in accordance with the terms of the arrangement.

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- 5 (3) If an arrangement is terminated as described in subsection (2),
 the Police Commissioner must enter into a new arrangement for
 the management of claims on the Police Commissioner's behalf
 with the Insurance Commission or another person for the period
 (not less than 12 months) that is specified in the new
 arrangement.

13. Police Commissioner is public authority

10 For the purpose of an arrangement with the Insurance
 Commission entered into under section 11 or 12(1)(b) or (3), the
 Police Commissioner is a public authority within the meaning
 given in the *Insurance Commission of Western Australia*
 Act 1986 section 3.

Part 5 — Miscellaneous matters

14. Appropriate changes to WC&IM Act

Appropriate changes to the WC&IM Act are —

- 5
- (a) any changes to that Act that are prescribed by the regulations; and
 - (b) any other changes to that Act that are necessary or convenient to give effect to this Act.

15. Regulations

The Governor may make regulations prescribing matters —

- 10
- (a) required or permitted to be prescribed by this Act; or
 - (b) necessary or convenient to be prescribed for giving effect to this Act.

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