

# EXPLANATORY MEMORANDUM

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

### Clause 1. Short title

Cites the short title of the Act as the *Police (Medical and Other Expenses for Former Officers) Act 2008*.

### Clause 2. Commencement

This clause provides for the Act to come into operation in two parts. Sections 1 and 2 are to come into operation on the day the Act receives Royal Assent. The rest of the Act will come in by proclamation, as there may be a requirement for lead in time to allow for the creation of procedures in relation to the acceptance and settlement of claims and any resolution of disputes that may arise.

### Clause 3. Terms used in this Act

This clause defines terms used in the Bill. Sub-clause (2) allows terms used in the *Workers' Compensation and Injury Management Act 1981* to be applied to provisions in this Bill.

### Clause 4. Police Commissioner liable

Sub-clause (1) provides that the Police Commissioner is the responsible party for the payment of medical and other expenses incurred or likely to be incurred by former officers on or after 1 July 2007, in relation to an injury arising out of their former duties as police officers or APLO's. This is similar to the responsibility the Police Commissioner has for medical expenses incurred by serving officers under regulation 1306 of the *Police Force Regulations 1979*.

Sub-clause (3) limits liability for payments when an officer has engaged in serious or wilful misconduct, has voluntarily consumed alcohol or drugs of addiction, or without reasonable excuse failed to use protective equipment, clothing or accessories provided to them, unless the injury has serious and permanent effects or results in death. This mirrors the test applied to other workers under section 22 of the *Workers' Compensation and Injury Management Act 1981*.

## **Clause 5. Calculating amount payable**

This clause applies provisions of Schedule 1 clauses 17 and 19 of the *Workers' Compensation and Injury Management Act 1981*. Clause 17 relates to medical expenses and caps the amount payable under this scheme to the same as would be applicable for other workers for similar expenses. Subclauses 17(1aa), (1a) and (6) are excluded as they relate to payments that are not considered medical expenses. Clause 19 allows payments for travel expenses when required to travel to seek medical treatment. The above amounts are not affected by any payments required to be made whilst an officer was still a serving member.

## **Clause 6. Person not to be paid twice**

This clause ensures where a payment has been made to an officer that includes allowance for past or future medical expenses, no further payments are made under this scheme, and any inclusive past payments may be recovered by the Police Commissioner.

## **Clause 7. Procedure under WC&IM Act applies**

The effect of clause 7 will be to apply the dispute resolution processes under the *Workers' Compensation and Injury Management Act 1981* only so far as they are relevant to disputes about medical and other expenses incurred under the Bill.

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

The effect of this clause is to ensure applications under this scheme are not subject to the time limit applicable under sections 178(1)(b), 231(2)(a) and 241(2)(a) or Schedule 1 clause 18B of the *Workers' Compensation and Injury Management Act 1981*. This will ensure officers with injuries arising from incidents that occurred 12 months or more before they make application are not excluded from this scheme.

## **Clause 9. Arbitrator's decision not final for other proceedings**

This does not allow decisions made by an arbitrator about disputes under this scheme to be binding on parties in support of a damages claim in a court. This is because the *Evidence Act 1906* does not apply to proceedings before an arbitrator and an arbitrator is not bound by the rules of evidence or any practice or procedure applicable to a court unless Dispute Resolution Directorate Rules make them apply..

## **Clause 10. Terms used in this Part**

This clause defines the terms used relating to claims management.

### **Clause 11. Insurance Commission to manage claims for first 3 years**

This clause confers the responsibility for managing claims on the Insurance Commission of Western Australia for the first three years

### **Clause 12. Management of claims after first 3 years**

This clause requires the Police Commissioner to review the claims management arrangement and enter into a new arrangement prior to the ending of the claims management period. The claims management period may be terminated before the end of the period if in accordance with an arrangement.

### **Clause 13. Police Commissioner is public authority**

This clause stipulates the Police Commissioner is a “public authority” for the purpose of the Insurance Commission of Western Australia Act 1986. This is solely for the purpose of enabling the Police Commissioner to enter into a claims arrangement with the Insurance Commission.

### **Clause 14. Appropriate changes to WC&IM Act**

This clause will allow regulations under this Bill to prescribe any adjustments to provisions of the *Workers' Compensation and Injury Management Act 1981* that need to be made to give effect to this Bill. This will mean no actual changes to the *Workers' Compensation and Injury Management Act 1981* are made, however provisions of the *Workers' Compensation and Injury Management Act 1981* will apply as if those changes had been made.

### **Clause 15. Regulations**

This clause will allow the Governor to make regulations that are required, permitted, necessary or convenient to be made for giving effect to the Act.