

Insurance Commission of Western Australia Amendment Bill 2013

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Western Australia

LEGISLATIVE ASSEMBLY

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

A Bill for

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

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

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

4 **2. Commencement**

5 This Act comes into operation as follows —

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

9 **3. Act amended**

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

12 **4. Part II Division 4 Subdivision D inserted**

13 After section 27 insert:
14

15 **Subdivision D — Dividends to State**

16 **28. Interim dividend**

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

- 1 (c) recommends —
- 2 (i) whether the Commission should pay the
3 State an interim dividend for that
4 financial year; and
- 5 (ii) the amount of the interim dividend (if
6 any).
- 7 (2) The profit forecast and recommendation may take into
8 account any factors or circumstances that in the
9 Commission's opinion may have a material effect on
10 the Commission's financial position (either positively
11 or negatively) as at the end of that financial year.
- 12 (3) On receiving a report under subsection (1), the Minister
13 must —
- 14 (a) with the Treasurer's concurrence, either —
- 15 (i) accept the report's recommendation on
16 the amount of the interim dividend; or
- 17 (ii) after consulting the Commission, reject
18 the report's recommendation and fix a
19 different amount (which may be a nil
20 amount) as the amount of the interim
21 dividend;
- 22 and
- 23 (b) notify the Commission of the Minister's
24 decision and the amount of the interim dividend
25 (if any) payable by the Commission.
- 26 (4) On receiving a notice under subsection (3)(b), the
27 Commission must pay to the State the amount of the
28 interim dividend (if any) notified to the Commission —
- 29 (a) as soon as practicable; but
- 30 (b) in any event before the end of the financial year
31 concerned.

- 1 **29. Annual dividend**
- 2 (1) A dividend under this section must be calculated with
- 3 respect to the Commission's net profits for a financial
- 4 year, after first taking into account —
- 5 (a) any amount paid or payable to the Treasurer
- 6 under the *State Enterprises (Commonwealth*
- 7 *Tax Equivalents) Act 1996* for the year; and
- 8 (b) the amount of any interim dividend for the year
- 9 paid or payable under section 28.
- 10 (2) As soon as practicable after the end of each financial
- 11 year, the Commission must give the Minister a written
- 12 report that recommends —
- 13 (a) whether the Commission should pay the State a
- 14 dividend for that financial year; and
- 15 (b) the amount of the dividend (if any).
- 16 (3) On receiving a report under subsection (2), the Minister
- 17 must —
- 18 (a) with the Treasurer's concurrence, either —
- 19 (i) accept the report's recommendation on
- 20 the amount of the dividend; or
- 21 (ii) after consulting the Commission, reject
- 22 the report's recommendation and fix a
- 23 different amount (which may be a nil
- 24 amount) as the amount of the dividend;
- 25 and
- 26 (b) notify the Commission of the Minister's
- 27 decision and the amount of the dividend (if
- 28 any) payable by the Commission.
- 29 (4) On receiving a notice under subsection (3)(b), the
- 30 Commission must pay to the State the amount of the
- 31 dividend (if any) notified to the Commission —
- 32 (a) as soon as practicable; but

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

6 **30. Provisions for s. 28 and 29**

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

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

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

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- 1 or after 1 March and before the close of 30 June in a
2 financial year, section 28 applies in respect of that
3 financial year with the following modifications —
- 4 (a) the Commission must give the Minister the
5 report referred to in section 28(1) not later than
6 14 days after section 4 of that Act comes into
7 operation;
- 8 (b) the Minister must notify the Commission in
9 accordance with section 28(3)(b) as soon as
10 practicable after receiving that report;
- 11 (c) the Commission must pay to the State the
12 amount of the interim dividend (if any) notified
13 to the Commission in accordance with
14 section 28(3)(b) —
- 15 (i) as soon as practicable; but
16 (ii) in any event not later than a date
17 determined by the Treasurer and
18 notified to the Commission.
- 19 (3) If the *Insurance Commission of Western Australia*
20 *Amendment Act 2013* section 4 comes into operation on
21 or after 1 July and before 1 September in a financial
22 year, section 28 also applies in respect of the previous
23 financial year with the following modifications —
- 24 (a) the Commission must give the Minister the
25 report referred to in section 28(1) not later than
26 14 days after section 4 of that Act comes into
27 operation;
- 28 (b) the Minister must notify the Commission in
29 accordance with section 28(3)(b) as soon as
30 practicable after receiving that report;
- 31 (c) the Commission must pay to the State the
32 amount of the interim dividend (if any) notified

- 1 to the Commission in accordance with
2 section 28(3)(b) —
3 (i) as soon as practicable; but
4 (ii) in any event not later than a date
5 determined by the Treasurer and
6 notified to the Commission.

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

- 10 (1) Section 29 applies in respect of the financial year
11 immediately before the financial year in which the
12 *Insurance Commission of Western Australia*
13 *Amendment Act 2013* section 4 comes into operation,
14 the financial year in which section 4 of that Act comes
15 into operation, and subsequent financial years, subject
16 to subsections (2) and (3).
- 17 (2) If the *Insurance Commission of Western Australia*
18 *Amendment Act 2013* section 4 comes into operation on
19 or after 1 September and before the close of 30 June in
20 a financial year (the ***current financial year***),
21 sections 29 and 30(1) apply in respect of the previous
22 financial year with the following modifications —
- 23 (a) the Commission must give the Minister the
24 report referred to in section 29(2) as soon as
25 practicable after section 4 of that Act comes
26 into operation;
- 27 (b) on receiving a notice under section 29(3)(b) in
28 respect of that report, the Commission must pay
29 to the State the amount of the dividend (if any)
30 notified to the Commission —
- 31 (i) as soon as practicable; but

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

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