INSURANCE COMMISSION OF WESTERN AUSTRALIA AMENDMENT BILL 2013

EXPLANATORY MEMORANDUM

OVERVIEW

The Bill consists of 4 clauses that provide for the Insurance Commission of Western Australia to pay dividends. Payments will comprise an interim dividend, to be paid by 30 June of the year to which it relates and is based on a forecast end of year profit position, and a final dividend which is based on the actual end of year profit position reduced by the amount of the interim dividend paid.

The objective of the dividend provision is to align the Insurance Commission of Western Australia with the State's Policy on Competitive Neutrality (1996).

CLAUSE NOTES

Outlined below is a brief description of each clause of the Insurance Commission of Western Australia Amendment Bill 2013.

Clause 1: **Short Title**

When enacted, the Act will be cited as the *Insurance Commission of Western Australia Amendment Act 2013* (the Act).

Clause 2: **Commencement**

Provides for sections 1 and 2 of the Act to come into operation on the day on which the Act receives the Royal Assent. The rest of the Act comes into operation on the day after the Royal Assent.

Clause 3: **Act Amended**

Provides for this Act to amend the *Insurance Commission of Western Australia Act 1986*.

Clause 4: **Part II Division 4 Subdivision D Inserted**

This Bill inserts a new subdivision, Subdivision D, in Division 4 of Part II of the Act. The sections to be included in Subdivision D are explained below:

Section 28: Interim Dividend

Clause 28(1) requires the Commission to provide the Minister with a written report, no later than the last day of February each year that forecasts the Commission's profit for that financial year and recommends the amount, if any, of the interim dividend that is to be paid. The Commission is also required to advise the Minister of any factors or circumstances, in addition to forecast profit, that it

has taken into account when preparing the report's recommendation.

Clause 28(2) enables the Commission to take into account any factors or circumstances that are likely to arise before the end of the financial year, that may have a material impact on the Commission's financial position, when determining the profit forecast and interim dividend payable.

Clause 28(3) enables the Minister, with the concurrence of the Treasurer, to accept the value of the interim dividend recommended by the Commission or, after consulting with the Commission, nominate a different value. This clause also requires the Minister to notify the Commission of his/her decision and nominate the amount of the interim dividend payable.

Clause 28(4) requires the Commission to pay the amount of the interim dividend advised by the Minister to the State as soon as practicable after receiving notification from the Minister or before the end of the financial year concerned.

Section 29: Annual Dividend

Clause 29(1) requires the Commission to consider any amounts paid or payable under the *State Enterprises (Commonwealth Tax Equivalents) Act 1996* for the year and the value of any interim dividend paid when it calculates the annual dividend, i.e. the value of the dividend is to be based on net profit after tax and reduced by the value of any interim dividend paid.

Clause 29(2) requires the Commission to provide the Minister with a written report, as soon as practicable after the end of the financial year, recommending the amount of dividend that should be paid for that financial year.

Clause 29(3) enables the Minister, with the concurrence of the Treasurer, to accept the value of the dividend recommended by the Commission or, after consulting with the Commission, nominate a different amount to be paid. This clause requires the Minister to notify the Commission of his/her decision and the amount of the dividend payable.

Clause 29(4) requires the Commission to pay the amount of the dividend advised by the Minister to the State as soon as practicable after receiving notification from the Minister but not later than 6 months after the end of the financial year concerned, unless agreement has been reached between the Treasurer and the Commission.

Section 30: Provisions for s.28 and 29

Clause 30(1) requires the Commission to include the text of the notice sent from the Minister, notifying the Commission of the amount of the interim dividend and dividend payable, in the Commission's annual report for that year.

Clause 30(2) provides protection to Commissioners under the *Statutory Corporations (Liability of Directors) Act 1996* should the Minister notify the Commission to pay a dividend that varies from the Commission's recommendation. This is consistent with Section 10 of the *Insurance Commission of Western Australia Act 1986*, which provides Commissioners with the same protection if the Minister issues a written direction.

Clause 30(3) requires any interim dividend or dividend paid to be credited to the Consolidated Account.

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

Clause 31(1) applies the interim dividend provisions in cl.28 to the year in which they come into effect, subject to cl.31(2) and cl.31(3).

Clause 31(2) provides for an interim dividend to be paid in respect of a financial year if Section 4 of the Act comes into operation between 1 March and 30 June by changing the timing of the Commission providing the report outlined in cl.28(1) to the Minister.

Clause 31(3) provides for an interim dividend to be paid in respect of a previous financial year, if Section 4 of the Act comes into operation between 1 July and 1 September in a financial year by changing the timing of the Commission providing the report outlined in cl.28(1) to the Minister.

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

Clause 32(1) applies the dividend provisions in cl.29 to the financial year immediately before the financial year in which the Act comes into operation, the financial year in which it comes into operation and all subsequent years, subject to cl.32(2) and cl.32(3).

Clause 32(2) modifies provisions if the Act comes into operation between 1 September and 30 June in a financial year so that

dividends are still payable by changing the timing of the Commission providing the report outlined in cl.29(2) to the Minister.

Clause 32(3) provides that if the Act comes into operation before 1 July 2013, annual dividend provisions under cl.29 apply only in respect of the financial year ending 30 June 2013 and subsequent years by changing the timing of the Commission providing the report outlined in cl.29(2) to the Minister.