

## Explanatory Statement

### *Territories Legislation (Applied Laws) Amendment Ordinance 2013 (No. 1)*

#### *Overview and Background*

The purpose of this Ordinance is to amend the *Applied Laws (Implementation) Ordinance 1992* (CI) and (CKI) (the Ordinances) to ensure that the Insurance Commission of Western Australia can operate in and with respect to the Territory of Christmas Island to provide compulsory third party motor vehicle insurance services.

Christmas Island and the Cocos (Keeling) Island are territories that have been acquired by the Commonwealth under section 122 of the Australian Constitution. The Commonwealth accepted these territories through the *Christmas Island Act 1958* and the *Cocos (Keeling) Islands Act 1955*.

The current legal framework in these territories was established by the *Territories Law Reform Act 1992* which provided a body of modern state laws to replace the colonial laws which operated prior to 1992. This was achieved by inserting section 8A into the *Christmas Island Act 1958* and the *Cocos (Keeling) Islands Act 1955*. Section 8A applies the laws in force in Western Australia from time to time to Christmas Island and the Cocos (Keeling) Islands, which in turn provides a body of applied law for these territories with the status of subordinate Commonwealth law. Subsection 8A(2) of the Acts provides that Western Australian laws in force can be amended or repealed by an Ordinance.

Section 3 of *Applied Laws (Implementation) Ordinance 1992* (CI) and (CKI) provides that the applied laws in Schedule 1 are amended as set out in that Schedule. Section 6 provides that the applied laws in Schedule 4 are repealed.

The Administrator, acting for the Governor-General, has made this Ordinance in accordance with the power granted her under subsection 9(1) of the *Christmas Island Act 1958* and subsection 12(1) of the *Cocos (Keeling) Islands Act 1955*, to make Ordinances for the peace, order and good government of these territories.

This Ordinance amends the *Applied Laws (Implementation) Ordinance 1992* (CI) and (CKI) by removing the *State Government Insurance Commission Act 1986* (WA)(CI)(CKI) from the list of repealed WA legislation in Schedule 4.

The Commonwealth Government ensures the provision of third party motor vehicle insurance in the Territories of Christmas Island and the Cocos (Keeling) Islands, as there is no State government to provide this service. Compulsory third party insurance services have been provided in the Territories by the Northern Territory Insurance Office since 2002; however, it no longer wishes to provide these services. The Department of Regional Australia, Local Government, Arts and Sport has sourced the Insurance Commission of Western Australia (the Commission) as an appropriate alternative, and it has agreed to provide these insurance services to the Territories.

The *State Government Insurance Commission Act 1986* (WA)(CI)(CKI), which establishes the Commission and its powers and functions, was repealed in the Territories of Christmas Island and the Cocos (Keeling) Islands in 1992 to allow other insurance providers to provide

third party compulsory motor vehicle insurance services in these Territories without any ambiguity as to whether the Commission would also operate within these Territories. The Act was also renamed the *Insurance Commission of Western Australia Act 1986* in 1996, however, this title has not been updated in the Ordinance.

Now that the Commission will be providing compulsory third party insurance services, the WA State Government has requested that the Commission's enabling legislation be applied again in the Territories of Christmas Island and the Cocos (Keeling) Islands, which will be achieved by removing the Act from the list of repealed WA legislation in Schedule 4 of the *Applied Laws (Implementation) Ordinance 1992 (CI)(CKI)*. This will ensure that the Commission's enabling legislation is in effect in the Territories, and the Commission has the authority to operate in and with respect to the Territories.

The Ordinance is a legislative instrument for the purpose of the *Legislative Instruments Act 2003*.

#### Statement of Compatibility with Human Rights

This has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*, and does not raise any human rights issues.

#### Consultation

In preparing this Ordinance, officers of the responsible department undertook consultation with Western Australian Government agencies that are involved with or affected by the Ordinance.

#### Detailed description of the Ordinance

##### Part 1 – Preliminary

##### **Section 1 Explanation - Name of Ordinance**

This is the formal section titling the Ordinance.

##### **Section 2 Explanation – Commencement**

This section provides that the Ordinance is to commence on the day after it is registered on the Federal Register of Legislative Instruments.

##### **Section 3 Explanation – Authority**

This section cites the Acts granting the authority to make the Ordinance.

##### **Schedule 1 Explanation – Schedules**

This section provides that the Schedules to the Ordinance amend the instruments specified as set out in the Schedules.

## **Schedule 1- *Amendments of laws of Christmas Island***

### **Item 1 Explanation**

Item 1 of the Schedule amends Schedule 4 of the *Applied Laws (Implementation) Ordinance 1992 (CI)* by omitting ‘*State Government Insurance Commission Act 1986 (WA)(CI)*’ from the Schedule of repealed acts. This has the effect of allowing the *State Government Insurance Commission Act 1986 (WA)(CI)* (now called the *Insurance Commission of Western Australia Act 1986*) to apply in the Territory of Christmas Island. This enables the Insurance Commission of Western Australia to operate in and with respect to the Territory to provide third party compulsory motor vehicle insurance services.

## **Schedule 2 - *Amendments of laws of the Cocos (Keeling) Islands***

### **Item 1 Explanation**

Item 1 of the Schedule amends Schedule 4 of the *Applied Laws (Implementation) Ordinance 1992 (CKI)* by omitting ‘*State Government Insurance Commission Act 1986 (WA)(CKI)*’ from the Schedule of repealed acts. This has the effect of allowing the *State Government Insurance Commission Act 1986 (WA)(CKI)* (now called the *Insurance Commission of Western Australia Act 1986*) to apply in the Territory of the Cocos (Keeling) Islands. This enables the Insurance Commission of Western Australia to operate in and with respect to the Territory to provide third party compulsory motor vehicle insurance services.