

Institute of Sport Act 1995

As at 3 October 2003

Does not include amendments by:

Institute of Sport Amendment Act 2003 No 46 (not commenced)

Long Title

An Act to constitute the New South Wales Institute of Sport as a statutory body to promote excellence in sport; and for other purposes.

Part 1 - Preliminary

1 Name of Act

This Act is the *Institute of Sport Act 1995* .

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

In this Act:

Board means the Board of the Institute established under this Act.

Director means the Director of the Institute holding office as such under Part 2 of the *Public Sector Management Act 1988* .

exercise a function includes perform a duty.

function includes a power, authority or duty.

Fund means the New South Wales Institute of Sport Fund established under this Act.

Institute means the New South Wales Institute of Sport constituted by this Act.

member means a member of the Board.

Part 2 - Constitution and objects of New South Wales Institute of Sport

4 Constitution of Institute

(1) There is constituted by this Act a body corporate with the corporate name of the New South Wales Institute of Sport.

(2) The Institute is, for the purposes of any Act, a statutory body representing the Crown.

5 Objects of Institute

The principal objects of the Institute are as follows:

(a) to provide resources, services and facilities to enable New South Wales sportspeople to pursue and achieve excellence in sport while also furthering their educational,

- vocational and personal development,
- (b) to foster the development and co-ordination of high performance and talent development programs for New South Wales sportspeople,
- (c) to assist the development of Australian sporting performance at international levels through co-operatively developed, and complementary, national programs.

Part 3 - Constitution and functions of Board

6 Establishment of Board

- (1) There is to be a Board of the Institute.
- (2) The Board is to consist of:
 - (a) 8 people, each with relevant expertise, appointed by the Minister, and
 - (b) the Director-General of the Department of Sport and Recreation.
- (3) Of the members appointed by the Minister, one is to be appointed Chairperson of the Board and another is to be appointed Deputy Chairperson of the Board, whether in and by the relevant instrument of appointment as a member or in and by some other instrument executed by the Minister.
- (4) Schedule 1 has effect with respect to the members and procedure of the Board.

7 Board to determine policies and strategic plans

The Board has the function of determining the policies and strategic plans of the Institute.

8 Board to report to Minister

The Board must give the Minister any information about the exercise of the Board's functions that the Minister requests.

9 Committees

- (1) The Board may establish committees to give advice and assistance to the Board in connection with any particular matter or function of the Board.
- (2) It does not matter that some or all of the members of any committee are not members of the Board.

10 Corporate plan

- (1) The Board is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of the Institute, a draft corporate plan for the financial year.
- (2) The Board:
 - (a) must consider any comments on the draft corporate plan that are made by the Minister within 2 months after the plan is delivered to the Minister, and
 - (b) must deliver the completed corporate plan to the Minister before the beginning of the financial year concerned.
- (3) The Institute is, as far as practicable, to exercise its functions in accordance with the relevant corporate plan.
- (4) A corporate plan must specify:
 - (a) the objectives of the activities of the Institute for the financial year concerned and for such future financial years as the Minister directs, and
 - (b) the strategies, policies and budgets for achieving those objectives, and
 - (c) targets and criteria for assessing the performance of the Institute.
- (5) This section is subject to the requirements of any Act or other law, including the requirements of a direction of the Minister under this Act.

Part 4 - Functions of Institute

11 General functions

- (1) The Institute has the functions conferred or imposed on the Institute by or under this

or any other Act or law.

(2) The Institute has the following functions in order to further its objects:

- (a) to devise and implement programs for the development and recognition of persons who have the potential to excel in sport, including elite training squad programs and programs for coaches,
- (b) to provide sport science, sport medicine, sports management, career, education and program support services to persons in Institute programs,
- (c) to establish, manage, develop and maintain facilities, or access to facilities, for the purposes of the Institute,
- (d) to enter into commercial or co-operative ventures relating to research into sport, including sports medicine and sports technology,
- (e) to provide scholarships to individual New South Wales sportspeople who have the potential to excel in sport,
- (f) to raise money for the purposes of the Institute by appropriate means, having regard to the proper performance of the other functions of the Institute,
- (g) to enter into commercial arrangements for the training of sportspeople from another State or from a Territory or from any other country.

12 Conduct of sporting events

In devising and implementing programs for the development and recognition of persons, the Institute may conduct sporting events for the purpose of providing opportunities for persons participating in those programs to compete in sport against each other.

13 Co-operation in sport

- (1) For the purpose of fostering co-operation in sport between New South Wales and the other States and Territories, the Institute may provide access to persons from other States and Territories to the resources, services and facilities of the Institute.
- (2) The Institute may, in performing its functions, consult and co-operate with, and enter into agreements with, appropriate authorities of the Commonwealth, the States or the Territories, or with other persons, associations and organisations, whether within or outside New South Wales.

14 Powers of Institute

- (1) The Institute has the power to do all things necessary for carrying out its objects.
- (2) Without limiting any other function conferred or imposed on it, the Institute may do any of the following:
 - (a) make and enter into contracts,
 - (b) acquire and develop any land,
 - (c) occupy, use and control any land or building owned or held under lease by the State and made available for the purposes of the Institute,
 - (d) erect buildings and structures and carry out works,
 - (e) appoint agents, and act as an agent for other persons.
- (3) The Institute may do all things that are supplemental or incidental to the exercise of its functions.

15 Delegation of functions

- (1) The Institute may delegate to an authorised person any of the functions of the Institute, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Institute if the delegate is authorised in writing to do so by the Institute.
- (3) In this section, **authorised person** means a member of staff of the Institute or any person of a class prescribed by the regulations or approved by the Minister.

Part 5 - Management of Institute

16 Ministerial control of Institute

The Institute is, in the exercise of its functions, subject to the control and direction of the Minister.

17 Director to manage and control affairs of Institute

(1) The affairs of the Institute are to be managed and controlled by the Director in accordance with the policies and strategic plans determined by the Board, but subject to any direction of the Minister.

(2) Any act, matter or thing done in the name of, or on behalf of, the Institute by the Director is taken to have been done by the Institute.

18 Staff of Institute

(1) The Director of the Institute and such other staff as necessary are (subject to this section) to be employed under Part 2 of the *Public Sector Management Act 1988*.

(2) A person is not to be appointed as Director unless the Board has first been consulted in relation to that appointment. However, if an appointment is made before the Minister has appointed the members of the Board, such sporting organisations or other bodies or persons as are determined by the Minister are to be consulted instead.

(3) The Institute may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a Government agency. For the purposes of this Act, a person whose services are made use of under this section is a member of the staff of the Institute.

(4) The Institute may, with the approval of the Minister, employ persons for the purposes of the Institute.

(5) The Institute may engage consultants for the purposes of getting expert advice.

19 Sporting Development Advisory Committee

(1) There is constituted by this section a committee called the Sporting Development Advisory Committee.

(2) The Advisory Committee is to advise the Board and the Director on matters that are relevant to the functions of the Institute.

(3) The Institute is to provide the Advisory Committee with such reports or information about the exercise of its functions as the Minister determines from time to time.

(4) The Advisory Committee is to consist of:

(a) 5 persons who are sportspeople, appointed by the Minister to represent sports assisted by the Institute, and

(b) 2 persons who are coaches, appointed by the Minister to represent sports assisted by the Institute, and

(c) 2 persons who are administrators of sports, appointed by the Minister to represent sports assisted by the Institute.

(5) The Minister must endeavour to ensure that at any time the Advisory Committee does not include more than one person representing a particular sport.

(6) The Minister is to appoint one of the persons referred to in subsection (4) (a) to be Chairperson of the Advisory Committee.

(7) The regulations may make provision with respect to the constitution and procedure of the Advisory Committee.

Part 6 - Financial provisions relating to Institute

20 Financial powers of Institute

The Institute may:

(a) obtain commercial sponsorship for the Institute and participate in marketing arrangements involving the endorsement by the Institute of products and services associated with sport, and

(b) arrange for the manufacture and distribution (whether by way of sale or otherwise) of

any article or thing bearing a mark, symbol or writing that is associated with the Institute, and

(c) provide (whether by way of sale or otherwise) goods and services to persons using, or otherwise attending, facilities of the Institute, and

(d) charge such fees, or impose such charges, as are reasonable in respect of access to, or use of, any of the resources, facilities, programs or services of the Institute, and

(e) borrow money in accordance with the *Public Authorities (Financial Arrangements) Act 1987*.

21 Institute may accept gifts, devises or bequests

(1) The Institute has power to acquire by gift, devise or bequest, any property for the purposes of this Act.

(2) The Institute may agree to the condition to which any such gift, devise or bequest is subject.

(3) The rule of law relating to perpetuities does not apply to any condition to which the Institute has agreed under this section.

22 Establishment of New South Wales Institute of Sport Fund

There is established a fund to be called the New South Wales Institute of Sport Fund.

23 Payments into Fund

There is payable into the Fund:

(a) all money received by or on account of the Institute, and

(b) all interest received in respect of the investment of money belonging to the Fund, and

(c) all money borrowed by or advanced to the Institute, and

(d) all money appropriated by Parliament for the purposes of the Institute, and

(e) all money directed to be paid into the Fund by or under this or any other Act.

24 Payments from Fund

There is payable from the Fund:

(a) the remuneration (including allowances) of the members of the Board, the Director or other staff of the Institute and any person acting in the office of a member of the Board, and

(b) all payments made on account of the Institute or otherwise required to meet expenditure incurred in relation to the functions of the Institute, and

(c) all other payments required by or under this or any other Act to be paid from the Fund.

25 Powers of investment

The Institute may invest money in the Fund:

(a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or

(b) if that Act does not confer power to invest money held by the Institute, in accordance with and subject to the *Trustee Act 1925* and in any other manner approved by the Minister with the concurrence of the Treasurer.

26 Financial year of Institute

(1) The financial year of the Institute is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

Part 7 - Miscellaneous

27 Personal liability

A matter or thing done or omitted to be done by the Director, the Board, a member of the Board or any person acting under the direction of the Director or the Board does not, if the matter or thing was done or omitted in good faith for the purpose of executing this Act, subject the

Director, the member or a person so acting personally to any action, liability, claim or demand.

28 Service of documents on Institute

(1) A document may be served on the Institute by leaving it at, or by sending it by post to:

- (a) the office of the Institute, or
- (b) if it has more than one office, any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Institute in any other manner.

29 Custody and use of seal

The seal of the Institute must be kept by the Director and must be affixed to a document only:

- (a) in the presence of the Director or a member of the staff of the Institute authorised in that behalf by the Director, and
- (b) with an attestation by the signature of the Director or that member of staff of the fact of the affixing of the seal.

30 Recovery of money

Any charge, fee or money due to the Institute may be recovered as a debt in a court of competent jurisdiction.

31 Act binds Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

32 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

33 (Repealed)

34 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Provisions relating to members and procedure of Board

(Section 6 (4))

Division 1 - Members

1 Definitions

In this Schedule:

appointed member means a member of the Board other than the Director-General of the Department of Sport and Recreation.

member means any member of the Board.

2 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy:
 - (a) may, if available, act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is taken to be a member.
- (3) The deputy of a member who is Chairperson or Deputy Chairperson of the Board does not have the member's functions as Chairperson or Deputy Chairperson.
- (4) A person while acting in the place of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

3 Terms of office of appointed members

Subject to this Schedule, an appointed member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

4 Remuneration

An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

5 Vacancy in office of appointed members

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the *Public Sector Management Act 1988*, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office at any time.

6 Disclosure of pecuniary interests by members

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a member at a meeting of the Board that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be available at all reasonable hours for inspection by any person on payment of the fee determined by the Board.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Board otherwise determines:
- (a) be present during any deliberation of the Board with respect to the matter, or
 - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purpose of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.

7 Filling of vacancy in office of appointed member

If the office of any appointed member becomes vacant, a person may be appointed, subject to this Act, to fill the vacancy.

8 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of an appointed member.
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.
- (3) The office of an appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

Division 2 - Procedure

9 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

10 Quorum

The quorum for a meeting of the Board is 5 members.

11 Presiding members

- (1) A meeting of the Board is to be presided over by:
- (a) the Chairperson, or

- (b) in the absence of the Chairperson, the Deputy Chairperson, or
- (c) in the absence of the Chairperson and the Deputy Chairperson, a member elected by the members present at the meeting.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

12 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

13 Transaction of business outside meetings or by telephone

(1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if a member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

- (a) the approval of a resolution under subclause (1), or
- (b) a meeting held in accordance with subclause (2),

the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

14 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

Schedule 2 (Repealed)

Historical notes

Table of Acts *Institute of Sport Act 1995 No 52* . Assented to 20.11.1995. Date of commencement, 1.12.1995, sec 2 and GG No 145 of 1.12.1995, p 8118. This Act has been amended as follows:

Law (Miscellaneous Provisions) Act (No 2) 1998 . Assented to 26.11.1998. Date of commencement of Sch 1.24, assent, sec 2 (2).

Law (Miscellaneous Provisions) Act (No 2) 1999 . Assented to 3.12.1999. Date of commencement of Sch 4, assent, sec 2 (1).

Legislation Amendment (Sentencing) Act 1999 . Assented to 8.12.1999. Date of commencement of sec 7 and Sch 5, 1.1.2000, sec 2 (1) and GG No 144 of 24.12.1999, p

Table of amendments

98 No 120, Sch 1.24 [1].

99 No 85, Sch 4.

98 No 120, Sch 1.24 [2]; 1999 No 94, sec 7 (2) and Sch 5, Part 2.

99 No 85, Sch 4.