

**SPORTING INJURIES INSURANCE ACT, 1978, No. 141**

**New South Wales**



ANNO VICESIMO SEPTIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 141, 1978.**

An Act to establish a scheme for the payment of benefits in respect of deaths and certain injuries suffered by persons participating in certain sporting activities; to constitute a Sporting Injuries Committee and to confer on it powers, authorities, duties and functions with respect to the administration of the scheme; and for other purposes. [Assented to, 22nd December, 1978.]

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See also Workers' Compensation (Sporting Injuries) Amendment Act, 1978.

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Sporting Injuries Insurance Short title Act, 1978".

2. (1) Section 1, Part II, Part VI (other than section 36), Commence-  
Schedule 2 and this section shall commence on the date of assent<sup>ment.</sup>  
to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Arrange-  
ment.

PART I.—PRELIMINARY—ss. 1–6.

PART II.—SPORTING INJURIES COMMITTEE—ss. 7–10.

PART III.—FINANCIAL PROVISIONS—ss. 11–15.

PART IV.—PREMIUMS—ss. 16–18.

PART V.—BENEFITS—ss. 19–29.

PART VI.—MISCELLANEOUS—ss. 30–36.

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SCHEDULE 1.—BENEFIT TABLES.

SCHEDULE 2.—CONSTITUTION AND PROCEDURE OF  
SPORTING INJURIES COMMITTEE.

SCHEDULE 3.—PAYMENTS IN CERTAIN CASES OF  
HARDSHIP.

Interpreta-  
tion.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“authorised activity”, in relation to a sporting organisation, means an activity of a kind—

- (a) that is specified in relation to the organisation in the rules; and
- (b) that is, or is carried on in connection with, or is related to, the sporting or athletic activity in respect of which the organisation was declared under section 5 (1);

“Chairman” means the Chairman of the Committee;

“Commission” means the Workers’ Compensation Commission of New South Wales constituted under the Workers’ Compensation Act, 1926;

“Committee” means the Sporting Injuries Committee constituted under section 7;

“compensable injury” means an injury in respect of which an amount of money is prescribed in Schedule 1;

“function” includes power, authority and duty;

“Fund” means the Sporting Injuries Fund established under section 11 (1);

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“injury” means personal injury arising out of or in the course of an authorised activity of a sporting organisation, and includes a disease—

(a) contracted in the course of any such activity; and

(b) to which the activity was a contributing factor,

but does not include the aggravation, acceleration, exacerbation of, or deterioration resulting from, a disease;

“medical board” means a medical board appointed under section 6 (4);

“perform”, in relation to a function that is a power or an authority, means exercise the power or authority and, in relation to a duty, means discharge the duty;

“referee” means a person who is a referee under section 6 (1) or (2);

“registered player”, in relation to a sporting organisation, means a person who, in accordance with the rules, is to be treated as a registered player of the organisation for the purposes of this Act;

“regulations” means regulations made under this Act;

“rules” means rules made under this Act;

“sexual organs” means genitals and, in the case of a woman, includes breasts;

“sporting organisation”, in relation to any sporting or athletic activity, means an individual, a body corporate or an unincorporated association declared under section 5 (1) to be a sporting organisation, for the purposes of this Act, in respect of that activity;

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“sporting year”, in relation to a sporting organisation, means a period of 12 months determined under section 16 (1) (a) for the organisation.

(2) A reference in this Act to the due day in any sporting year for a sporting organisation is a reference to the due day determined under section 16 (1) (b) for the organisation.

Declara-  
tion of  
sporting  
organi-  
sations.

5. (1) The Minister may, by order published in the Gazette, declare an individual, a body corporate or an unincorporated association, who or which is concerned, directly or indirectly, in the regulation and conduct of any sporting or athletic activity, to be a sporting organisation in respect of that activity.

(2) An order made by the Minister under subsection (1) may, if, in the circumstances of the case, the Minister thinks fit, declare more than one individual, body corporate or unincorporated association, or any 2 or more of any of them, to be sporting organisations in respect of the same sporting or athletic activity.

Appoint-  
ment of  
referees  
and  
medical  
boards.

6. (1) A legally qualified medical practitioner appointed under section 50 (1) of the Workers' Compensation Act, 1926, to be a medical referee for the purposes of that Act shall be deemed to be a referee for the purposes of this Act.

(2) The Minister may appoint as referees for the purposes of this Act persons who he considers are qualified to assess a person's loss of mental capacity.

(3) A person may be appointed under subsection (2) whether or not he is a legally qualified medical practitioner.

(4) The Chairman may appoint 2 or more referees as a medical board for the purposes of this Act.

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(5) Referees shall be entitled to such remuneration from the Fund as the Minister considers fit in respect of anything done pursuant to this Act by them.

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PART II.

SPORTING INJURIES COMMITTEE.

7. (1) There is hereby constituted a corporation under the name of the "Sporting Injuries Committee".

Constitution of Sporting Injuries Committee.

(2) Schedule 2 has effect with respect to the constitution and procedure of the Committee.

8. The Committee shall—

Committee's functions.

- (a) compile and maintain such statistics with respect to the incidence of injuries resulting from sporting or athletic activities as the Committee considers would assist it in the performance of the functions given to it by or under this or any other Act;
- (b) co-operate with organisations concerned in the regulation and conduct of sporting or athletic activities and the Department of Sport and Recreation for the purpose of initiating, developing, encouraging and implementing such policies as are likely to eliminate or reduce the incidence of injuries resulting from sporting or athletic activities;
- (c) when requested by the Minister to do so, examine and report to the Minister on the desirability of extending the scheme provided by this Act; and
- (d) perform such other functions as are given to it by or under this or any other Act.

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Administra-  
tive  
assistance.

9. For the purpose of carrying out the functions given to it by or under this or any other Act, the Committee may, with the approval of the Minister of the department concerned, make use of the services of any of the officers and employees of the Public Service.

Delegation.

10. (1) The Committee may, by instrument in writing—

(a) delegate to any member of the Committee or any person whose services are made use of under section 9 the performance of such of the functions of the Committee (other than this power of delegation) as are specified in the instrument; and

(b) wholly or partly revoke any such delegation.

(2) A delegation under this section may be made subject to such conditions or limitations as to the performance of any function delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(3) A function the performance of which has been delegated under this section may, while the delegation remains unrevoked, be performed from time to time in accordance with the terms of the delegation.

(4) Notwithstanding any delegation under this section, the Committee may continue to perform any function delegated.

(5) Anything done or suffered or omitted to be done or suffered by a delegate acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered or omitted to be done or suffered by the Committee and shall be deemed to have been done or suffered or omitted to be done or suffered by the Committee.

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(6) An instrument purporting to have been signed by a person in his capacity as a delegate of the Committee shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Committee and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Committee.

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PART III.

FINANCIAL PROVISIONS.

11. (1) The Committee shall establish, administer and control a fund, to be called the "Sporting Injuries Fund".

Establishment of Sporting Injuries Fund.

(2) The Fund shall be comprised of all money paid to the Committee and all other assets of the Committee, including any gifts made to it and any investments made by it under section 12.

(3) There shall be paid from the Fund—

- (a) the costs of administering this Act, including the cost of meeting any claims for benefits under this Act;
- (b) any money required to repay any borrowing by the Committee under this Act; and
- (c) such grants for clinical and research work and other activities associated with the prevention and treatment of injuries that result from sporting or athletic activities as the Committee, with the approval of the Minister, may make.

12. The Committee may invest any money in the Fund in any manner for the time being authorised by section 14 (2) of the Trustee Act, 1925.



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**Accounts.**      **13.** (1) The Committee shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Committee shall, as soon as practicable, but within 6 months, after the end of each financial year, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall be in a form approved by the Auditor-General, shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Committee.

(4) The Committee shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Committee relating to the relevant financial year, shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) In this section, "financial year" means a year commencing on 1st July.

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**14.** (1) The Treasurer may, on the application of the Committee and on such terms and conditions as the Treasurer thinks fit, lend money to the Committee. **Borrowing powers of Committee.**

(2) The Committee may, for the purpose of obtaining temporary financial accommodation, borrow by way of overdraft from any bank to such extent as may be approved by the Governor on the recommendation of the Treasurer.

**15.** (1) The accounts and records of financial transactions of the Committee, and the records relating to assets of or in the custody of the Committee, shall be inspected and audited by the Auditor-General. **Audit.**

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Committee and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a member of the Committee or a person whose services are made use of under section 9, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty : \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

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(5) The Auditor-General shall report to the Committee and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed by the regulations.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Committee shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

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PART IV.

PREMIUMS.

- Payment of premiums by sporting organisations.
- 16.** (1) The Committee shall, in respect of each sporting organisation, determine—
- (a) a period of 12 months, commencing on the same day in every year, as the sporting year for that organisation; and
  - (b) the due day in each sporting year for the organisation, being—
    - (i) a day occurring not later than 2 months after the commencement of the sporting year; and
    - (ii) the day on or before which payment by the organisation is to be required of the amount to be specified in the notice to be served on it under subsection (3) (b) for the sporting year in which it occurs.

(2) Not more than one determination may be made under subsection (1) in respect of a sporting organisation.

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(3) Not later than the prescribed period before the due day in any sporting year for a sporting organisation, the Committee shall—

- (a) determine, on such basis as to the Committee seems equitable, the premiums to be paid in respect of persons who participate in the authorised activities of the organisation during that year; and
- (b) subject to section 18 (1) (b) (i), serve on the organisation a notice requiring it to pay to the Committee, on or before that due day, an amount that would result if the premiums determined under paragraph (a) were to be charged in respect of each of the persons who, the Committee estimates, will participate in the authorised activities of the organisation during that year.

(4) The Committee may, for the purposes of subsection (3) (a), determine a uniform premium to be paid in respect of every person participating in authorised activities of a sporting organisation or of sporting organisations of any class prescribed by the rules or different premiums in respect of different classes of persons so participating, as may be specified in the determination.

(5) The Committee shall, when discharging its duty under subsection (3) (a), so determine premiums to be paid in respect of the persons participating in the authorised activities of sporting organisations that those premiums and the income of the Fund are sufficient to meet the liabilities that are or may be required to be met from time to time by the Fund.

(6) Where, before the due day in any sporting year for a sporting organisation, the Committee considers that the amount required to be paid by the organisation on or before that due day by a notice served on the organisation under subsection (3) (b) should be reduced for any reason, the Committee may, before that due day, serve on the organisation a further notice requiring the organisation to pay to the Committee, on or before that due day, a lesser amount determined by it in accordance with the principles set forth in the preceding provisions of this section and specified in the further notice.

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(7) Where a further notice is served on a sporting organisation under subsection (6), the amount specified in the notice—

- (a) served on the organisation under subsection (3) (b);  
and
- (b) in respect of which the lesser amount specified in the further notice was determined,

shall be deemed, for the purposes of sections 17 and 18, not to be required to be paid by the notice so served under subsection (3) (b).

(8) In subsection (3), “prescribed period” means 2 months or, where a shorter period is prescribed by the regulations in respect of a notice to be served on a sporting organisation under subsection (3) (b), that shorter period in respect of that notice.

Failure  
of  
sporting  
organisa-  
tion to  
pay  
premium.

17. (1) Where the amount required to be paid by a sporting organisation on or before the due day in any sporting year for the organisation by a notice or a further notice served on the organisation under section 16 (3) (b) or (6), as the case may be, has not been paid on or before that due day, then, while it is unpaid, paragraph (g) of the definition of “Worker” in section 6 (1) of the Workers’ Compensation Act, 1926, as in force for the time being, does not apply and shall be deemed not to have applied to or in respect of any person who, but for that paragraph, would be a worker within the meaning of that Act while he is or was, at any time during that year, participating in any authorised activity of the organisation or doing anything that, although not such an authorised activity, is or was done in connection with, or related to, such an authorised activity, and the organisation shall be deemed to be or to have been his employer at that time, as the case may require.

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(2) Where the amount required to be paid by a sporting organisation on or before the due day in any sporting year for the organisation by a notice or a further notice served on the organisation under section 16 (3) (b) or (6), as the case may be, is unpaid, a person who suffers an injury while participating in an authorised activity of the organisation during that year is not, for the purposes of section 19 (1) or (2), a registered player of the organisation until the amount is paid but, if the amount is paid before the end of that year, whether before, on or after that due day, any person who would, if this subsection had not been enacted, have been a registered player of the organisation at a time occurring during that year but before payment of the amount shall, for the purposes of section 19 (1) and (2), be treated as if he had been a registered player of the organisation at that time.

**18.** (1) If, at the conclusion of any sporting year for a sporting organisation, it appears to the Committee that the amount required to be paid by the organisation by the notice or further notice served on the organisation under section 16 (3) (b) or (6), as the case may be, in respect of that year—

- (a) is less than it would have been if it had been calculated by reference to the number and classes of persons who, it appears to the Committee, actually participated as registered players of the organisation in the authorised activities of the organisation during that year, the Committee may serve on the organisation a notice requiring it to pay the difference to the Committee within such period as may be specified in the notice; or
- (b) is greater than it would have been if it had been calculated by reference to the number and classes of persons referred to in paragraph (a), the Committee shall—
  - (i) where a notice is to be served on the organisation under section 16 (3) (b) in respect of the next succeeding sporting year for the organisation— in such manner as it thinks fit, make an

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appropriate reduction in the amount that would, if this subparagraph had not been enacted, be required under section 16 to be paid by the organisation in respect of that next succeeding year so as to reflect the difference; or

- (ii) where such a notice is not to be served—repay the difference to the organisation or, if there is no such organisation to which the payment may be made, retain the difference in the Fund.

(2) If the amount required to be paid under subsection (1) (a) is not paid within the period specified in the notice served under subsection (1) (a) or within such further period as the Committee, by instrument in writing, may allow, the amount required by that notice to be paid by the sporting organisation thereupon becomes a debt recoverable, in any court of competent jurisdiction, by the Committee from the organisation or, where the organisation is—

- (a) a body corporate—from any person who was, when that notice was served on the body corporate, a director, within the meaning of the Companies Act, 1961, of the body corporate; or
- (b) an unincorporated association—from any person who was, when that notice was served on the unincorporated association, a member of the governing body of that association.

(3) Where, as a consequence of proceedings brought by the Committee under subsection (2) in respect of an unincorporated association, judgment for an amount is given by a court against a member of the governing body of the association, the court may make such orders as it thinks fit for recovery of the amount, or any part thereof, out of any money held by the member or by any person on behalf of, or in trust for, the association or its members or for the sale of any such property and for the recovery of the amount, or any part thereof, out of the proceeds of the sale.

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(4) Where a debt referred to in subsection (2) is recovered—

- (a) wholly or partly from the sporting organisation or under subsection (3), the liability imposed on any person under subsection (2) (a) or (b) is correspondingly reduced; or
- (b) from a person referred to in subsection (2) (a) or (b), that person is entitled to recover in any court of competent jurisdiction, as contribution from each of the other directors of the body corporate or members of the governing body of the unincorporated association, as the case may be, an amount equal to the dividend obtained by dividing the amount recovered by the number, at the time the notice under subsection (1) (a) was served, of directors of that body corporate or of members of the governing body of that association, as the case may be.

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**PART V.**

**BENEFITS.**

**19.** (1) Subject to sections 17 (2) and 20, a person who, when he is a registered player of a sporting organisation, suffers a compensable injury, whether within or outside New South Wales, while participating in an authorised activity of the organisation may apply to the Committee for a benefit under this Act. <sup>Applicants for benefits.</sup>

(2) Subject to sections 17 (2) and 20, where as a consequence of an injury suffered by him, whether within or outside New South Wales, while participating in an authorised activity of a sporting organisation as a registered player of the organisation, a person dies, the legal personal representative of that person may apply to the Committee for a benefit under this Act.



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Certain  
applica-  
tions pro-  
hibited.

**20.** An application may not be made under section 19 unless—

- (a) before the application is made, notice of the injury to which it relates was given in accordance with the rules; or
- (b) the Committee considers that notice of the injury was not so given as a consequence of ignorance, mistake, absence from New South Wales, the nature of the injury to which the application relates or other reasonable excuse.

Applications  
for  
benefits.

**21.** (1) An application under section 19 shall—

- (a) be made in or to the effect of a form prescribed by the rules;
- (b) contain the particulars that are required to be inserted in it by the rules;
- (c) be accompanied by such certificates, reports and other information as are required by the rules; and
- (d) within 12 months after the injury or death to which it relates was suffered, be lodged at the place prescribed by the rules.

(2) Notwithstanding subsection (1) (d), an application under section 19 may be lodged more than 12 months after the injury or death to which it relates was suffered if the Committee considers that—

- (a) failure to lodge the application within that period of 12 months was occasioned by ignorance, mistake, absence from New South Wales, the nature of the injury, the circumstances of the death or other reasonable excuse; and
- (b) in the circumstances of the case, the application was lodged within a reasonable time after that period of 12 months.

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**22.** (1) The Committee may, by notice served on a person by whom an application is made under section 19, require him to furnish to it, by a date specified in the notice, information with respect to such further matters, relating to his entitlement to be an applicant for a benefit under this Act, as may be specified in the notice. Further information.

(2) If a person fails to comply with the requirements of a notice served on him under subsection (1) or, in purported compliance with a notice so served, furnishes information that the Committee decides is inadequate, the Committee may refuse to give further consideration to his application and, if it does so, shall cause a notice of its refusal to be served on the person.

**23.** If the Committee finds that a person who made an application under section 19 was not entitled to make the application, it shall refuse the application and shall cause a notice of its refusal to be served on the person. Refusal of certain applications.

**24.** (1) Where the Committee receives an application under section 19, the Committee may refer the application and any notice of injury to which it relates to a medical board or a referee— Assessment of injuries.

(a) in any case—for a report in respect of the injury or death to which the application relates; and

(b) in the case of an application under section 19 (1)—for an assessment under subsection (4).

(2) The Committee may, by notice served on an applicant for a benefit under section 25, require the applicant to attend before a medical board or referee, at a time and place specified in the notice, for the purpose of his being examined by the medical board or referee.

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(3) An applicant who—

- (a) without reasonable excuse, fails to comply with the requirements of a notice served on him under subsection (2); or
- (b) in the course of his being examined by a medical board or referee, obstructs the medical board or any of its members or the referee, as the case may be,

shall, for the purposes of subsection (4), be deemed not to have made himself available for examination by a medical board or referee and to have withdrawn his application.

(4) When an applicant for a benefit under this Act makes himself available for examination by a medical board or referee to which or whom his application has been referred under subsection (1), the medical board or referee shall—

- (a) make an assessment that specifies—
  - (i) the nature of the injury in respect of which the application was made; and
  - (ii) where the injury is described in Table A of Schedule 1 by reference to a prescribed percentage or is described in Part 1 of Table B of that Schedule—the degree, having regard to subsection (5), of the permanent loss, expressed in terms of a percentage, of any use or other capacity, referred to in that Schedule, suffered by the applicant as a consequence of the injury; and
- (b) forward the assessment to the Committee.

(5) In making an assessment under subsection (4), the medical board or referee shall—

- (a) assess any loss of use or other capacity suffered by the applicant as a percentage of the relevant use or other capacity enjoyed by the applicant immediately before the injury was suffered, whether or not he then was, or might have been, subject to any disability; and

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- (b) report in the assessment upon any relevant disability to which, in the opinion of the medical board or referee, as the case may be, the person was, or may have been, subject immediately before the injury was suffered.

(6) An applicant who attends before a medical board or referee in compliance with a notice served on him under subsection (2) is entitled to be paid by the Committee—

- (a) the amount of any wages lost by him; and
- (b) the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him,

by reason of his attending before the medical board or referee, as the case may be.

(7) For the purposes of this Act, an assessment under subsection (4) by a medical board of the degree of an injury in respect of which an amount of money is prescribed in Table A of Schedule 1 shall be conclusive.

- 25.** (1) Subject to this section, where the Committee—
- (a) receives an assessment made by a medical board or referee under section 24 (4) of a compensable injury; or
  - (b) is otherwise satisfied that an applicant for a benefit under this section has suffered a compensable injury,

Payment  
of bene-  
fits for  
injuries.

in respect of which an application under section 19 (1) has been duly made, the Committee shall—

- (c) if the injury is described in Table A of Schedule 1, pay to the applicant—
  - (i) where the injury is described in that Table by reference to a prescribed percentage—a proportion of the amount specified in that Table opposite the description of the injury, being either the proportion equivalent to the degree of

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the applicant's injury that is set forth in the assessment, if any, or, where an assessment of the injury has not been made under section 24 (4) by a medical board, that has been otherwise established to the satisfaction of the Committee; and

(ii) where the injury is otherwise described in that Table—the amount specified in that Table opposite the description of the injury; and

(d) if the injury is described in Table B of Schedule 1, pay to the applicant such amount (not exceeding the amount specified in that Table opposite the description of the injury) as the Committee thinks fit, having regard to the terms of the assessment, if any, or the degree of injury otherwise established to the satisfaction of the Committee.

(2) Subject to subsections (3), (4) and (5), where a person is entitled to a benefit under this section in respect of—

(a) a compensable injury consisting of the permanent loss of not less than the prescribed percentage of the use of both of his legs as a consequence of quadriplegia or paraplegia, the Committee shall pay him \$12,750 in addition to any other amount payable to him under this section; or

(b) a compensable injury consisting of the permanent and total loss of sight of one eye and also suffers permanent and serious diminution of sight of his other eye, as a consequence of a single incident, the Committee shall pay him not less than \$16,800.

(3) Not more than \$25,000 may be paid under this section in respect of compensable injuries suffered by an applicant for a benefit under this Act as a consequence of a single incident until 3 months have expired after the day on which the incident occurred.

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(4) Where a person suffers more than one compensable injury as a consequence of a single incident, he is entitled to a benefit under this section only in respect of the injuries so suffered that do not form part of any other compensable injury so suffered.

(5) Notwithstanding any other provision of this section, the maximum amount payable under this section to an applicant for a benefit under this Act in respect of all injuries suffered by the applicant as a consequence of a single incident is \$60,000.

26. (1) In this section—

Payment  
of bene-  
fits for  
deaths.

“child”, in relation to a deceased person, means a person—

- (a) who is a child or stepchild of the deceased person;  
or
- (b) to whom the deceased person stood in loco parentis immediately before his death,

and who is under the age of 16 years or who is of or above that age but under the age of 21 years and is a person receiving full time education at a school, college or university;

“dependant”, in relation to a deceased person, means—

- (a) in any case, the spouse or a child of the deceased person;
- (b) in the case of a deceased male person, a female person, not being his spouse—
  - (i) who lived with the deceased person as his wife on a permanent and bona fide domestic basis for the period of 3 years immediately preceding his death; or
  - (ii) who so lived with the deceased person for a lesser period immediately preceding his death and has borne a child or is pregnant to the deceased person; and

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(c) in the case of a deceased female person, a male person, not being her spouse—

- (i) who lived with the deceased person as her husband on a permanent and bona fide domestic basis for the period of 3 years immediately preceding her death; or
- (ii) who so lived with the deceased person for a lesser period immediately preceding her death and is the father of a child born to the deceased person.

(2) Subject to subsection (4), where an application under section 19 (2) has been duly made, the Committee, if the person in respect of whose death the application was made was, at the time of his death—

- (a) of or above the age of 18 years, shall pay \$25,000 and an additional \$1,000 in respect of each child, if any, of the deceased person who was, in the opinion of the Committee, wholly or partly dependent for support upon the deceased person immediately before his death; or
- (b) under the age of 18 years and had at least 1 dependant who was, in the opinion of the Committee, wholly or partly dependent for support upon the deceased person immediately before his death, may pay an amount not exceeding the amount that would be payable under paragraph (a) if the deceased person had died after attaining the age of 18 years.

(3) Any amount paid under subsection (2) (a) or (b) shall be paid to the legal personal representative of the deceased person in respect of whom it is paid and shall form part of the deceased person's estate.

(4) Notwithstanding any other provision of this section or section 25, the maximum amount payable under this section and section 25 in respect of all injuries suffered by a person as a

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consequence of a single incident and his death as a consequence of those injuries—is—

- (a) if he dies when, or within 3 months after, the incident occurred—
  - (i) the amount payable in respect of his death under subsection (2) (a); or
  - (ii) the maximum amount payable in respect of his death under subsection (2) (b),  
as the case may be; or
- (b) in any other case—\$60,000.

**27.** (1) Where, as a consequence of an injury suffered by him, whether within or outside New South Wales, while participating in an authorised activity of a sporting organisation, a person under the age of 18 years dies, the Committee shall, on application made to it by—

- (a) where the funeral expenses payable out of the deceased person's estate have been paid—the person who paid those expenses; or
- (b) where those expenses have not been paid—the legal personal representative of the deceased person,

pay to that person or to that legal personal representative the prescribed amount, if those expenses have not been paid or, if they have been paid, the prescribed amount or those expenses, whichever is the lesser.

(2) No amount is payable under subsection (1) in respect of the death of a person if any amount has previously been paid under section 26 to the legal personal representative of the person in respect of the death.

(3) In subsection (1), "prescribed amount" means \$850 or, where another amount is prescribed by the regulations for the purposes of this subsection, that other amount.



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Adminis-  
tration  
of amounts  
payable  
to minors.

**28.** (1) Any amount that is to be paid under section 25 by the Committee to an applicant under the age of 18 years shall be paid to the Public Trustee to be held by him in trust for the applicant until he attains the age of 18 years.

(2) Where the Public Trustee has been paid an amount pursuant to subsection (1) and the applicant who would be entitled to the amount, or the residue thereof, when he attains the age of 18 years, dies before he attains that age, the Public Trustee shall pay the amount, or the residue thereof, and any accretions thereto, to the estate of the deceased applicant.

Determina-  
tions by  
Commission.

**29.** (1) An applicant for a benefit under this Act, other than Schedule 3, who is aggrieved by any decision made under this Part by the Committee, other than a decision under section 26 (2) (b) or 27, may apply to the Commission for a determination in relation to that decision.

(2) Not less than 21 days' notice of an application under this section shall be given by the applicant to the Commission and the Committee.

(3) The Committee is entitled to be represented at the hearing of an application under this section.

(4) The Commission, after considering an application under this section, may make a determination that the decision of the Committee in respect of which the application was made—

- (a) be confirmed; or
- (b) subject to section 24 (7), be set aside and replaced by a different decision made by the Commission.

(5) Where the Commission makes a decision referred to in subsection (4) (b), that decision shall, for the purposes of this Part, be deemed to have been made by the Committee and shall be carried into effect.

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(6) Subject to this section, the provisions of sections 34, 36 (1)–(3), 37 and 38 (a) and (b) of the Workers' Compensation Act, 1926, and of any rules made under section 38 (e) of that Act apply to and in respect of the Commission and its hearing of an application under this section as if—

- (a) a reference in section 34 of that Act to an inquiry, investigation or hearing under that Act were a reference to the hearing of an application under this section;
- (b) a reference in section 36 (1) of that Act to matters and questions arising under that Act were a reference to applications under this section; and
- (c) a reference in section 37 (1) and (2) of that Act to an award of the Commission were a reference to a determination of the Commission under subsection (4).

(7) The Commission, after hearing an application under this section, may assess the costs of the successful party to the application (including costs of representation and witness expenses, if any) and order that the costs so assessed or any part of them be paid to the successful party by any other party within a time specified in the order.

(8) Where costs assessed under subsection (7) are not paid within the time specified in the order made under that subsection in respect of them, the person in whose favour the order was made may recover the costs in a court of competent jurisdiction as a debt due to him by the person against whom the order was made.

(9) The functions given to the Commission by or under this section may be performed by a single member of the Commission.

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## PART VI.

## MISCELLANEOUS.

**Regulations.** 30. 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 by regulations or that is necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.

**Rules.** 31. (1) The Committee may, with the approval of the Minister, make rules, not inconsistent with this Act or the regulations, for or with respect to any matter that by this Act is required or permitted to be prescribed by rules or that is necessary or convenient to be prescribed by rules for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) specifying what are authorised activities of sporting organisations;
- (b) describing the persons who are to be treated as registered players of sporting organisations;
- (c) the keeping of registers of persons participating in any sporting or athletic activities and the furnishing to the Committee or to any other person or association of copies—
  - (i) of any such registers; and
  - (ii) of estimates of the numbers of persons who will participate in those activities;
- (d) the giving of notice of injuries suffered in the course of sporting or athletic activities and the keeping of records of any such injuries;
- (e) the furnishing to the Committee of—
  - (i) returns and other information relating to any sporting or athletic activities and injuries suffered in, or in connection with, any such activities; and

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(ii) particulars of any actual or intended change in the composition or name of a sporting organisation; and

(f) the making of applications for benefits under this Act.

(2) A provision of a rule may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

(b) apply differently according to different factors of a specified kind;

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body; or

(d) authorise the Committee to determine that a person who was not a registered player of a sporting organisation at a time or during a period before the determination is made shall be treated as a registered player of the sporting organisation at that time or during that period,

or may do any combination of those things.

(3) The rules may impose a penalty not exceeding \$200 for the breach of any of them.

(4) Sections 41 and 42 of the Interpretation Act, 1897, apply in respect of rules made under this section in the same way as those sections apply in respect of regulations and instruments referred to in those sections.

**32.** (1) Proceedings for an offence against this Act or the rules shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Proceedings for offences.

(2) Any such proceedings may be commenced by information laid within 12 months after the time when the offence is alleged to have been committed.

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False or misleading applications, etc.

**33.** A person shall not, in or in connection with an application under this Act or a return under the rules—

- (a) make a statement; or
- (b) furnish information,

that he knows, or has reasonable cause to suspect, is false or misleading in a material particular.

Penalty : \$500.

Service of notices.

**34.** A notice under this Act may be served on—

- (a) an individual, by—
  - (i) leaving it with him or with some person apparently of or above the age of 18 years, at his place of residence or business last known to the Committee; or
  - (ii) posting it to him by certified mail addressed to him at either of those places;
- (b) a body corporate, by leaving it at or by posting it by certified mail addressed to its registered office in New South Wales or its principal place of business; or
- (c) an unincorporated association, by serving it in any manner specified in paragraph (a) on any member of the governing body of the association.

Application of Stamp Duties Act, 1920.

**35.** An instrument made out for the purpose only of acknowledging the receipt, deposit or payment of any amount paid or to be paid to the Committee under Part IV is not a policy of insurance for the purposes of the Stamp Duties Act, 1920, and section 88 of that Act does not apply to the Committee or any other person in respect of its or his receiving or taking credit for any such amount.

Payments in certain cases of hardship.

**36.** Schedule 3 has effect.

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## SCHEDULE 1.

Secs. 4 (1),  
25.

## BENEFIT TABLES.

## Table A.

## PART 1.

## INJURIES RELATED TO ARMS.

Permanent loss of not less than the percentage, prescribed by the regulations, of the use of—

	\$
(a) either arm or the greater part thereof .. .. .	18,400
(b) lower part of either arm, either hand or 4 fingers and thumb of either hand .. .. .	15,750
(c) thumb .. .. .	6,850
(d) index finger .. .. .	4,550
(e) middle, ring or little finger .. .. .	2,400

## PART 2.

## INJURIES RELATED TO LEGS.

Permanent loss of not less than the percentage, prescribed by the regulations, of the use of—

(a) either leg or the greater part thereof .. .. .	16,800
(b) lower part of either leg .. .. .	14,450
(c) foot .. .. .	14,000
(d) great toe .. .. .	4,550

## PART 3.

## INJURIES RELATED TO SIGHT.

1. Permanent and total loss of sight of both eyes (or of one eye, if it was the only sighted eye) .. .. . 23,650
2. Permanent loss of not less than the percentage, prescribed by the regulations, of the use of—
  - (a) one eye, if it was the only sighted eye .. .. . 16,800
  - (b) one eye, if it was not the only sighted eye .. .. . 9,800

## PART 4.

## MISCELLANEOUS INJURIES.

1. Permanent loss of not less than the percentage, prescribed by the regulations, of—
  - (a) hearing of both ears .. .. . 14,450
  - (b) power of speech .. .. . 14,450
2. Permanent loss of sighted eye .. .. . 5,250

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SCHEDULE 1—*continued.*BENEFIT TABLES—*continued.**Table B.*

## PART 1.

## INJURIES RELATED TO COGNITION.

Permanent loss of—		\$
(a) mental capacity .. .. .		60,000
(b) sense of smell .. .. .		3,950
(c) sense of taste .. .. .		3,950

## PART 2.

## PHYSICAL INJURIES.

Permanent loss of—		
(a) all sexual organs or part thereof .. .. .		12,750
(b) sightless eye .. .. .		5,250

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Sec. 7 (2).

## SCHEDULE 2.

## CONSTITUTION AND PROCEDURE OF SPORTING INJURIES COMMITTEE.

Interpretation. 1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

- “appointed member” means a member appointed under clause 2 (3);  
 “member” means a member of the Committee.

Composition of the Committee.

2. (1) The Committee shall consist of 5 members.  
 (2) One of the members shall be the Registrar of the Commission.  
 (3) The remaining 4 members shall be appointed by the Governor and of them—  
 (a) 1 shall be a person appointed on the nomination of the Minister for Sport and Recreation; and  
 (b) 3 shall be persons appointed on the nomination of the Minister to represent persons engaged in sporting or athletic activities.

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SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF SPORTING INJURIES COMMITTEE—  
*continued.*

(4) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a member under subclause (3) of this clause and an appointed member is not in his capacity as a member subject to the provisions of that Act during his term of office.

3. A person who is of or above the age of 70 years shall not be appointed under clause 2 (3) as a member or to act in the office of a member under clause 8. **Age of appointed members.**

4. An appointed member shall, subject to this Act, hold office for a term of 3 years and is not ineligible for re-appointment by reason only of his having previously been a member. **Terms of office of appointed members.**

5. (1) The member referred to in clause 2 (2) or, in respect of any period during which there is a vacancy in the office of Registrar of the Commission, an officer of the Public Service appointed as Chairman for that period by the Minister, shall be the Chairman of the Committee. **Chairman.**

(2) An officer of the Public Service appointed under subclause (1) of this clause shall be deemed to be a member for the period for which he is so appointed.

6. (1) Where, by or under any Act, a provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, the provision does not operate to disqualify him from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to an appointed member under clause 7. **Provisions relating to appointed members.**

(2) The office of an appointed member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

7. 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 him. **Remuneration of appointed members.**

8. (1) Subject to subclause (2) of this clause, the Minister may appoint any person, other than a member, to act in the office of a member while the member is absent from his office on leave or through illness or any other cause, and the person so appointed, while so acting, shall have and may perform the functions of, and shall be deemed to be, a member and, **Appointment of substitutes.**



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*Sporting Injuries Insurance.*


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 SCHEDULE 2—*continued.*

 CONSTITUTION AND PROCEDURE OF SPORTING INJURIES COMMITTEE—  
*continued.*

if he is appointed to act in the office of the member who is the Chairman, shall have and may perform the functions of, and shall be deemed to be, the Chairman.

(2) A person shall not be appointed under subclause (1) of this clause to act in the office of—

- (a) the Chairman, unless he is an officer of the Public Service; or
- (b) the member referred to in clause 2 (3) (a), unless he is nominated for appointment by the Minister for Sport and Recreation.

(3) A member shall, for the purposes of subclause (1) of this clause, be deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 10.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of the Chairman or any other member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by the Chairman or that other member, as the case may be.

**Vacation  
of office.**

9. (1) An appointed member shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his remuneration for their benefit;
- (c) if he is absent from 3 consecutive meetings of the Committee of which notice has been given to him personally or in the ordinary course of post and is not before the expiration of 6 weeks after the latest of those meetings excused by the Committee for his absence from those meetings;
- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment of 12 months or more, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;

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SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF SPORTING INJURIES COMMITTEE—  
*continued.*

- (f) if he resigns his office by writing under his hand addressed to the Governor;
  - (g) if he is removed from office by the Governor under subclause (2) of this clause; or
  - (h) upon his attaining the age of 70 years.
- (2) The Governor may for any cause which to him seems sufficient remove an appointed member from office.
10. On the occurrence of a vacancy in the office of an appointed member, the Governor may appoint a person to the vacant office for the balance of his predecessor's term of office. <sup>Filling of casual vacancies.</sup>
11. A quorum at any meeting of the Committee shall consist of the Chairman and 2 other members. <sup>Quorum.</sup>
12. (1) A duly convened meeting of the Committee at which a quorum is present shall be competent to transact any business of the Committee. <sup>Meetings.</sup>
- (2) Questions arising at a meeting of the Committee shall be determined by a majority of votes of the members present and voting.
- (3) The Chairman shall preside at all meetings of the Committee.
- (4) The Chairman has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
13. The Committee shall cause full and accurate minutes to be kept of its proceedings at meetings. <sup>Minutes.</sup>
14. (1) Subject to subclause (2) of this clause, the procedure for the calling of and for the conduct of business at, meetings of the Committee shall, subject to any procedure that is specified in this Act or prescribed by the regulations, be as determined by the Committee. <sup>General procedure.</sup>
- (2) The Minister shall call the first meeting of the Committee in such manner as he thinks fit.
15. No matter or thing done, and no contract entered into, by the Committee. and no matter or thing done by a member, shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act or the regulations or rules, subject a member personally to any action, liability, claim or demand. <sup>Protection from liability.</sup>

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*Sporting Injuries Insurance.*


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 SCHEDULE 2—*continued.*

 CONSTITUTION AND PROCEDURE OF SPORTING INJURIES COMMITTEE—  
*continued.*

 Presump-  
 tions.

16. In any proceedings by or against the Committee, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Committee;
- (b) the passing of any resolution by the Committee;
- (c) the appointment of any member; or
- (d) the presence of a quorum at any meeting of the Committee.

Sec. 36.

## SCHEDULE 3.

## PAYMENTS IN CERTAIN CASES OF HARDSHIP.

 Interpre-  
 tation.

1. (1) In this Schedule, "appointed day" means the day appointed and notified under section 2 (2).

(2) A reference in this Schedule to a person who is seriously disabled is a reference to a person who is a paraplegic or a quadriplegic.

 Power to  
 make  
 payments.

2. Subject to clause 4, where—

- (a) a person suffered an injury, whether within or outside New South Wales, on or after 22nd February, 1977, but before the period of 6 months commencing on the appointed day expires, in the course of an activity of a kind that the Committee considers to be similar to an activity that becomes, during that period of 6 months, an authorised activity of a sporting organisation;
- (b) the Committee is satisfied that the injury resulted in the person's death or in his having been permanently seriously disabled; and
- (c) the Committee considers that—
  - (i) where the person died—his death caused substantial and continuing financial hardship to his dependants, within the meaning of section 26; or
  - (ii) where the person has been permanently seriously disabled—his disability is causing him substantial and continuing financial hardship,

the Committee may, on application made to it and with the approval of the Minister, pay from the Fund an amount not exceeding the amount that, when the amount is paid or that period of 6 months expires, whichever

*Sporting Injuries Insurance.*SCHEDULE 3—*continued.*PAYMENTS IN CERTAIN CASES OF HARDSHIP—*continued.*

first occurs, would or might have been payable under section 25 or 26, as the case may be, if the injury had been suffered by a registered player of a sporting organisation in the course of an authorised activity for that organisation.

3. Any amount paid under this Schedule shall be paid—

- (a) to such person or persons and, if to more than one person, in such proportions; and
- (b) if the Committee so decides, by annual instalments of such amounts,

Designation of recipients, etc.

as the Committee, with the approval of the Minister, determines.

4. An application may not be made—

(a) for payment of an amount under this Schedule—

- (i) in respect of a permanent serious disability—later than 12 months after the appointed day or the date on which injury is suffered that results in the permanent serious disability, whichever occurs later; or
- (ii) in respect of a death—later than 12 months after the appointed day or the date of the death, whichever occurs later; or

(b) for payment of an amount under this Schedule and under Part V, in respect of any one death or injury.

Restriction on applications.

5. Section 28—

(a) applies to and in respect of an amount paid under this Schedule and the person who receives any such amount in the same way as it applies to and in respect of an amount paid under section 25 and the person who receives any such amount; and

(b) so applies as if the reference in section 28 (1) to section 25 were a reference to this Schedule.

Application of section 28.