

**SPORTING INJURIES INSURANCE (AMENDMENT) ACT, 1981,
No. 116**

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 116, 1981.

An Act to amend the Sporting Injuries Insurance Act, 1978, so as to vary the scheme established by that Act; to validate certain matters; and for certain other purposes. [Assented to, 18th December, 1981.]

Sporting Injuries Insurance (Amendment).

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:—

Short title.

1. This Act may be cited as the "Sporting Injuries Insurance (Amendment) Act, 1981".

Commencement.

2. (1) Except as provided in subsections (2)–(5), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–4, commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced.

(3) Schedule 2 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.

(4) Schedule 3 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.

(5) Schedule 4 shall be deemed to have commenced on 16th February, 1979.

Principal Act.

3. The Sporting Injuries Insurance Act, 1978, is referred to in this Act as the Principal Act.

Sporting Injuries Insurance (Amendment).

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BENEFITS.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE APPROVAL OF RULES.

SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 5.—TRANSITIONAL AND VALIDATION PROVISIONS AND SAVINGS.

Amendment of Act No. 141, 1978.

5. The Principal Act is amended in the manner set forth in Schedules 1–4.

Transitional and validation provisions, etc.

6. Schedule 5 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BENEFITS.

(1) Section 3—

Omit the matter relating to Schedule 3, insert instead:—

SCHEDULE 3.—PAYMENT OF BENEFITS SUBJECT TO DISCRETION
IN CERTAIN CASES.

*Sporting Injuries Insurance (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BENEFITS—*continued.*

(2) Section 30 (2), (3)—

At the end of section 30, insert:—

(2) A regulation making a prescription for the purpose of any provision of *Table A* of Schedule 1 may prescribe different percentages for the purpose of that provision with respect to injuries which arise out of or in the course of sporting or athletic activities which take place during different periods of time.

(3) Notwithstanding section 41 (1) (b) of the Interpretation Act, 1897, a regulation prescribing a percentage for the purpose of any provision of *Table A* of Schedule 1, being a percentage which is smaller than that prescribed for the purpose of that provision with respect to injuries which arise out of or in the course of sporting or athletic activities which take place immediately before the regulation takes effect, may be made so as to have effect on and from a date specified in the regulation which is an earlier date than that on which the regulation is published in the Gazette.

(3) Schedule 1, Part 4 of *Table A*—

After item 2, insert:—

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3. Permanent and total loss of the use of—	
(a) both kidneys (or of one kidney, if it was the only functioning kidney)	25,000
(b) one kidney, if it was not the only functioning kidney	3,000
(c) spleen	3,000

Sporting Injuries Insurance (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BENEFITS—*continued.*

(4) (a) Schedule 3, headings—

Omit the headings, insert instead:—

SCHEDULE 3.

PAYMENT OF BENEFITS SUBJECT TO DISCRETION IN CERTAIN
CASES.

(b) Schedule 3, clause 1 (1)—

Omit the subclause, insert instead:—

(1) In this Schedule—

“appointed day” means the date of assent to the Sporting
Injuries Insurance (Amendment) Act, 1981;“injury” means personal injury arising out of or in the
course of a sporting or athletic activity, 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.

(c) Schedule 3, clause 2 (a)—

Omit “before the period of 6 months commencing on the
appointed day expires”, insert instead “on or before 15th August,
1979”.

(d) Schedule 3, clause 2 (a)—

Omit “becomes, during that period of 6 months”, insert instead
“is or has been, at any time before the period of 2 months
commencing with the appointed day expires”.

Sporting Injuries Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BENEFITS—*continued.*

(e) Schedule 3, clause 2—

Omit “when the amount is paid or that period of 6 months expires, whichever first occurs”, insert instead “on 16th February, 1979”.

(f) Schedule 3, clause 2 (2)—

At the end of clause 2, insert:—

(2) Subject to clause 4, where—

(a) a person suffered an injury in the circumstances specified in subclause (1) (a); and

(b) the Committee is satisfied—

(i) that the injury resulted in the person’s death;
and

(ii) that an amount may not be paid under subclause (1) in respect of that death,

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, on 16th February, 1979, would or might have been payable under section 27 if the injury had been suffered in the course of an authorised activity for a sporting organisation by a registered player of that organisation who was under the age of 18 years.

(g) Schedule 3, clause 3 (b)—

Omit the paragraph, insert instead:—

(b) where the amount is not paid under clause 2 (2) and the Committee considers it appropriate to pay the amount by instalments, by such annual or other periodic instalments of such amounts,

Sporting Injuries Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BENEFITS—*continued.*

(h) Schedule 3, clause 4 (a)—

Omit the paragraph, insert instead:—

- (a) for payment of an amount under this Schedule, later than 3 months after the appointed day; or

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS.

(1) Section 3—

From the matter relating to Part IV, omit “18”, insert instead “18B”.

(2) (a) Section 4 (1), definition of “sporting year”—

Omit the definition.

(b) Section 4 (2)—

Omit the subsection, insert instead:—

- (2) A reference in this Act to the due day for payment of a premium is a reference to the day specified under section 17 (1) (a) (v) in a notice served under section 17 (1) on a sporting organisation and requiring payment of the premium.

(3) Part IV—

Omit the Part, insert instead:—

PART IV.

PREMIUMS.

Determination of premiums.

16. (1) The Committee shall, from time to time, determine premiums for each sporting organisation.

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS—
continued.

(2) The Committee shall, under subsection (1), determine premiums for a sporting organisation which to it seem equitable, taking into account—

- (a) the nature of the organisation's authorised activities or authorised activity in relation to which each of the premiums is being determined;
- (b) the period with respect to which each of the premiums will be required to be paid;
- (c) any adjustment which it considers should be made by reason of—
 - (i) the amounts of the previous premiums, if any, paid by the organisation; and
 - (ii) any amount that has been paid pursuant to, or that is, or in the opinion of the Committee will be, required to be paid by, an adjustment notice served on the organisation under section 18A (2); and
- (d) such other criteria as the Committee considers appropriate.

(3) The Committee may determine a uniform amount to be paid in respect of every person it estimates will participate as a registered player in the authorised activities of a sporting organisation during a particular period and determine the premium for the sporting organisation in respect of that period as the total of the amounts to be paid by all of those persons or calculate the premium in any other manner it considers appropriate.

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS—
continued.

(4) Notwithstanding subsections (2) and (3), the Committee shall, when discharging its duty under subsection (1), so determine premiums 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.

Notice to pay premium.

17. (1) Where the Committee has determined a premium for a sporting organisation, it shall serve on the organisation a notice—

- (a) setting forth—
 - (i) the name of the sporting organisation;
 - (ii) the amount of the premium and particulars of the calculation pursuant to which the premium was determined;
 - (iii) the authorised activity or authorised activities of the organisation to which the premium relates;
 - (iv) the period with respect to which the premium is payable; and
 - (v) the day on or before which the premium should be paid, being a day occurring not less than 21 days after the date on which the notice is served and occurring before the expiration of the period specified in the notice pursuant to subparagraph (iv); and
- (b) requiring the organisation to pay the premium to the Committee on or before the due day for payment of the premium at the place specified in the notice.

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS—
continued.

(2) Where, after the Committee has served a notice on a sporting organisation under subsection (1) specifying the due day for payment of a premium determined for the organisation, the Committee considers that the premium should be reduced for any reason, the Committee may, before that due day, serve on the organisation a notice under this subsection specifying that the premium required to be paid by the former notice shall be the reduced premium specified in the notice served under this subsection, instead of the premium specified in the former notice.

(3) A notice served under subsection (2) on a sporting organisation shall have effect according to its tenor.

Failure of organisation to pay premiums.

18. (1) Where any premium required by a notice served on a sporting organisation under section 17 (1) to be paid to the Committee on or before the due day for payment of the premium has not been paid to the Committee on or before 30th June next following 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 the year commencing with 1st July immediately preceding that 30th June and ending with that 30th June, 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.

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS—
continued.**

(2) Where any premium required by a notice served on a sporting organisation under section 17 (1) to be paid to the Committee on or before the due day for payment of the premium is unpaid, a person who suffers an injury while participating in an authorised activity of the organisation during the period specified in the notice as the period with respect to which the premium is payable is not, for the purposes of section 19 (1) or (2) or 27 (1), a registered player of the organisation until the premium is paid but, if the premium is paid before the end of that period, 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 period but before payment of the amount shall, for the purposes of sections 19 (1) and (2) and 27 (1), be treated as if he had been a registered player of the organisation at that time.

Adjustment of certain premiums.

18A. (1) In this section—

“adjustment notice” means a notice served on a sporting organisation under subsection (2);

“prescribed variable” means—

(a) the number of—

- (i) registered players;
- (ii) teams or crews of registered players;
- (iii) vehicles ridden or driven by registered players; or
- (iv) vessels driven or sailed by registered players,

who or which will participate in authorised activities of sporting organisations; or

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS—
continued.

(b) any other variable prescribed by the regulations for the purposes of this definition.

(2) If, after the due day for payment of a premium specified in a notice served on a sporting organisation under section 17 (1), the Committee has reasonable grounds to believe that the premium is less than it would have been if an estimate of the quantity of a prescribed variable—

(a) used in the calculation pursuant to which the premium was determined; and

(b) specified in that notice pursuant to section 17 (1) (a) (ii), had been accurate, the Committee may serve on the organisation a notice requiring it to pay the difference to the Committee.

(3) An adjustment notice shall set forth—

(a) particulars of the notice served under section 17 (1) specifying the premium to which the adjustment notice relates;

(b) particulars of the manner in which the amount required to be paid by the adjustment notice is calculated; and

(c) the day on or before which that amount is payable, being a day occurring not less than 10 days after the date on which the notice is served.

(4) If the amount required to be paid by an adjustment notice is not paid on or before the day specified in the notice under subsection (3) (c) 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

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS—
continued.

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.

(5) Where, as a consequence of proceedings brought by the Committee under subsection (4) 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.

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

- (a) wholly or partly from the sporting organisation or under subsection (5), the liability imposed on any person under subsection (4) (a) or (b) is correspondingly reduced; or
- (b) from a person referred to in subsection (4) (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 adjustment notice was served, of directors of that body corporate or of members of the governing body of that association, as the case may be.

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PREMIUMS—
continued.

Repayments in certain cases.

18B. Where an individual, a body corporate or an unincorporated association (in this section referred to as “the former organisation”) ceases to be a sporting organisation for the purposes of this Act—

- (a) during a period specified under section 17 (1) (a) (iv) in a notice served on the former organisation under section 17 (1) or after the expiration of the period so specified in the last notice so served; and
- (b) after payment to the Committee of the premium required to be paid by the notice or the last notice, as the case may be,

the Committee may, if it considers it would be equitable to do so, repay from the Fund to the former organisation, if the former organisation continues to exist, an amount not exceeding the premium specified in that notice or that last notice.

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE APPROVAL
OF RULES.

- (1) Section 31 (1)—

Omit “, with the approval of the Minister,”.

- (2) Section 31 (4)—

Omit the subsection, insert instead:—

(4) A rule has no effect unless it has been approved by the Governor.

Sporting Injuries Insurance (Amendment).

SCHEDULE 4.

(Sec. 5.)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 4 (1), definition of "authorised activity"—

Omit the definition, insert instead:—

"authorised activity", in relation to a sporting organisation, means an activity of a kind that is—

(a) specified in relation to the organisation in the rules; or

(b) pursuant to the rules, deemed to be an authorised activity in relation to the organisation,

and that is, or is carried on in connection with, or is related to, a sporting or athletic activity in respect of which the organisation is for the time being declared under section 5;

(b) Section 4 (1), definition of "registered player"—

After "rules", insert "or a determination made under the rules".

(c) Section 4 (1), definition of "sporting organisation"—

Omit the definition, insert instead:—

"sporting organisation" 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;

(d) Section 4 (3)—

After section 4 (2), insert:—

(3) Where a sporting organisation changes its name, any reference in—

(a) an order made under section 5 (1);

(b) a rule; or

Sporting Injuries Insurance (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) a notice served on the organisation in accordance with section 34,

to the former name of the organisation shall be read and construed as a reference to the name as changed by the organisation, but nothing in this subsection affects an entitlement to a benefit under this Act that would have arisen if this subsection had not been enacted.

(2) (a) Section 5 (1)—

Omit the subsection, insert instead:—

(1) 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 or activities, may be declared, by an order made—

(a) by the Minister; or

(b) with the consent of the Minister, by the Chairman of the Committee,

to be a sporting organisation in respect of that activity or those activities.

(b) Section 5 (2)—

Omit “An order made by the Minister under subsection (1) may, if, in the circumstances of the case, the Minister thinks fit,”, insert instead “Orders made under subsection (1) may”.

(c) Section 5 (3)—

After section 5 (2), insert:—

(3) An order made under subsection (1) has effect when it is made and shall be published in the Gazette not later than 30 days after it has been made.

Sporting Injuries Insurance (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) (a) Section 16 (1) (b) (i)—

Omit “commencement of the sporting year”, insert instead “day on which the sporting year commences”.

(b) Section 16 (3) (a)—

Omit “participate”, insert instead “will participate as registered players”.

(c) Section 16 (3) (b)—

After “participate”, insert “as registered players”.

(4) Section 27 (1)—

After “sporting organisation”, insert “as a registered player of the organisation”.

(5) (a) Section 31 (1) (a)—

Omit “what are”, insert instead “, or providing for the determination of, the”.

(b) Section 31 (1) (b)—

After “describing”, insert “, or providing for the determination of,”.

(c) Section 31 (2) (d)—

Omit the paragraph, insert instead:—

(d) authorise the Committee to determine—

- (i) that an activity of a kind described by the Committee shall, for the purposes of this Act, be deemed to be an authorised activity of a sporting organisation specified by the Committee for a

Sporting Injuries Insurance (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

period so specified, which period may have wholly or partly occurred before the date of the determination; or

- (ii) 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

(d) Section 31 (2A)—

After section 31 (2), insert:—

(2A) Forthwith after the Committee makes a determination under a rule made pursuant to subsection (2) (d), it shall forward a notice setting out particulars of the determination to the sporting organisation to which the determination relates.

SCHEDULE 5.

(Sec. 6.)

TRANSITIONAL AND VALIDATION PROVISIONS AND SAVINGS.

Interpretation.

1. In this Schedule—

“Committee” has the meaning ascribed thereto by the Principal Act, as amended by this Act;

“sporting year” has the meaning ascribed thereto by the Principal Act, as amended by this Act (Schedule 2 excepted);

“the commencement” means the commencement of this Schedule.

Sporting Injuries Insurance (Amendment).

SCHEDULE 5—*continued.*TRANSITIONAL AND VALIDATION PROVISIONS AND SAVINGS—*continued.***Transitional provision relating to premiums.**

2. (1) Notwithstanding section 2 (3), where, immediately before the day appointed and notified pursuant to that subsection, an individual, a body corporate or an unincorporated association is a sporting organisation for the purposes of the Principal Act—

- (a) the amendments made to that Act by section 5 and Schedule 2 take effect with respect to the organisation immediately after the end of the sporting year for the organisation during which that day occurs; and
- (b) the Principal Act, as in force from time to time (the amendments made to that Act by section 5 and Schedule 2 excepted), shall apply to and in respect of the organisation on and from that day until the end of that sporting year.

(2) The reference in section 16 (2) (c) (i) of the Principal Act, as amended by this Act, to previous premiums paid by a sporting organisation includes a reference to any amount paid by the organisation pursuant to a notice or further notice served on the organisation under section 16 (3) (b) or (6) of that Act before the amendments made to that Act by section 5 and Schedule 2 take effect with respect to the organisation.

Validation of certain acts, etc.

3. (1) Any act, matter or thing—

- (a) which purports to have been done or omitted to be done before the commencement pursuant to the Principal Act or a rule made under that Act, whether or not it is a rule to which clause 5 applies; and
- (b) which could have lawfully been done or omitted to be done only if the amendments made to the Principal Act by section 5 and Schedules 1 and 4 and the Sporting Injuries Insurance Rules, 1981, had been in force when the act, matter or thing was done or omitted to be done,

is hereby validated.

(2) A reference in Schedule 3 to the Principal Act, as amended by this Act, to the appointed day shall, for the purposes only of the operation of subclause (1) with respect to an act, matter or thing done or omitted to be done before the date of assent to this Act, be deemed to be a reference to the day which is designated by that date, notwithstanding that that date might not have been capable of ascertainment when the act, matter or thing was done or omitted to be done.

Sporting Injuries Insurance (Amendment).

SCHEDULE 5—*continued.*

TRANSITIONAL AND VALIDATION PROVISIONS AND SAVINGS—*continued.*

(3) Any payment purporting to have been made under Schedule 3 to the Principal Act which could have been lawfully made only if the Sporting Injuries Insurance Regulation, 1980, had been in force on 16th February, 1979, is hereby validated.

Validation of certain applications.

4. Any application purporting to have been made under section 19 of the Principal Act before the commencement of the Sporting Injuries Insurance Rules, 1981, is not invalid by reason only that it was not made in or to the effect of the form, or in the manner, prescribed by rules made under that Act if it was made in or to the effect of the form and in the manner prescribed by the firstmentioned rules with respect to applications of a like nature.

Validation of certain rules.

5. Any rule which purports to have been made under section 31 of the Principal Act before the commencement shall, if it could have lawfully been made only if the amendments made to the Principal Act by section 5 and Schedule 4 had been in force when it purports to have been so made, be deemed to have been lawfully made at the time at which it purports to have been so made.

Certain amendments not to have retrospective effect.

6. A person is not entitled to a benefit under the Principal Act for a compensable injury referred to in item 3 of Part 4 of *Table A* in Schedule 1 to that Act, as amended by this Act, if the injury arose out of, or in the course of, an activity of a sporting organisation which occurred before the commencement.

Savings relating to orders.

7. (1) Any order made under section 5 (1) of the Principal Act and in force immediately before the commencement shall be deemed to have been made under section 5 (1) of the Principal Act, as amended by this Act.

(2) Any order—

(a) to which subclause (1) applies; or

(b) the making of which is validated by clause 3 (1),

shall be deemed to have taken effect when it was originally made.

Sporting Injuries Insurance (Amendment).

SCHEDULE 5—*continued.*TRANSITIONAL AND VALIDATION PROVISIONS AND SAVINGS—*continued.***Savings of certain rules.**

8. Any rule made under section 31 of the Principal Act with the approval of the Minister and in force immediately before the commencement shall, for the purposes of section 31 (4) of that Act, as amended by section 5 of and Schedule 3 to this Act, be deemed to have been approved by the Governor, but nothing in this clause requires the publication of any such rule in the Gazette if it had been so published before the commencement.

Savings effected by Interpretation Act, 1897.

9. Nothing in this Schedule affects the operation of section 8 of the Interpretation Act, 1897, with respect to this Act.
