

# Institute of Sport Act 1995 No 52

[1995-52]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2015 No 58](#) (not commenced — to commence on 15.1.2016)

### Authorisation

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# Institute of Sport Act 1995 No 52



New South Wales

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

(1) In this Act:

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

**chief executive officer** means the chief executive officer of the Institute holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

**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.

(2) Notes included in this Act do not form part of this Act.

## **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) no fewer than 5 and no more than 8 people, each with relevant expertise, appointed by the Minister, and
  - (b) the Director-General of Communities NSW or a member of staff of Communities NSW nominated by the Director-General.
- (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.
- (4) However, the Institute cannot employ any staff.

**Note—**

Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Institute to exercise 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 Chief executive officer**

- (1), (2) (Repealed)
- (3) The chief executive officer is responsible for the day-to-day management of the Institute subject to and in accordance with the policies and other decisions of the Board and subject to any direction of the Minister.
- (4) Any act, matter or thing done in the name of, or on behalf of, the Institute by the chief executive officer is taken to have been done by the Institute.

### **18 Regulations relating to certain staff**

- (1) This section applies to such staff as are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service (other than a Department within the meaning of that Act) to enable the



Institute to exercise its functions.

- (2) The regulations may make provision for or with respect to the employment of staff to which this section applies, including the conditions of employment and the discipline of any such staff.

## **19 (Repealed)**

## **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 chief executive officer 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 of members of the Board and certain other persons**

A matter or thing done or omitted to be done by:

- (a) the Institute, or
- (b) a member of staff of the Institute, or

- (c) the Board or a committee of the Board, or
- (d) a member of the Board, a member of a committee of the Board or any person acting under the direction of the Board or of a committee of the Board,

does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this Act, subject 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 chief executive officer and must be affixed to a document only:

- (a) in the presence of the chief executive officer or a member of the staff of the Institute authorised in that behalf by the chief executive officer, and
- (b) with an attestation by the signature of the chief executive officer 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, 34 (Repealed)**

## 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 member referred to in section 6 (2) (b).

**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 Chapter 5 of the *Public Sector Employment and Management Act 2002*, 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) Chapter 2 of the *Public Sector Employment and Management Act 2002* 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 a majority of the members for the time being.

### **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 (Repealed)**

### **Schedule 2 Savings, transitional and other provisions**

#### **Part 1 Provision consequent on enactment of [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2010](#)**

##### **1 Continuation of office of appointed members**

The amendment to section 6 made by the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2010](#) does not affect the appointment of any appointed member of the Board holding office as such immediately before the commencement of that amendment. Any such member continues, subject to Schedule 1, to hold office for the balance of his or her term of office.