



# Australian Sports Commission Act 1989

No. 12 of 1989

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# Australian Sports Commission Act 1989

No. 12 of 1989

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## An Act to establish the Australian Sports Commission, and for related purposes

[Assented to 16 March 1989]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Australian Sports Commission Act 1989*.

#### Commencement

2. This Act commences on a day to be fixed by Proclamation.

### **Interpretation**

3. In this Act, unless the contrary intention appears:

“Australia” includes the external Territories;

“Australian Sports Foundation” means the company referred to in section 10;

“Chairperson” means the Chairperson of the Commission;

“Commission” means the Australian Sports Commission established by this Act;

“Deputy Chairperson” means the Deputy Chairperson of the Commission;

“Director” means the Director of the Institute;

“Executive Director” means the Executive Director of the Commission;

“Institute” means the Australian Institute of Sport referred to in section 9;

“member” means a member of the Commission and includes the Chairperson and the Deputy Chairperson.

### **Extension to external Territories**

4. This Act extends to all external Territories.

## **PART II—ESTABLISHMENT, OBJECTS, FUNCTIONS AND POWERS OF THE COMMISSION**

### **Establishment**

5. (1) There is established by this Act a Commission by the name of the Australian Sports Commission.

(2) The Commission:

(a) is a body corporate with perpetual succession;

(b) shall have a common seal; and

(c) may sue and be sued.

(3) All courts, judges and persons acting judicially shall take notice of the imprint of the common seal of the Commission appearing on a document and shall presume that the document was duly sealed.

### **Objects**

6. (1) The objects of the establishment of the Commission are:

(a) to provide leadership in the development of sport in Australia;

(b) to encourage increased participation and improved performance by Australians in sport;

(c) to provide resources, services and facilities to enable Australians to pursue and achieve excellence in sport while also furthering their educational and vocational skills and other aspects of their personal development;

(d) to improve the sporting abilities of Australians generally through the improvement of the standard of sports coaches;

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- (e) to foster co-operation in sport between Australia and other countries through the provision of access to resources, services and facilities related to sport; and
- (f) to encourage the private sector to contribute to the funding of sport to supplement assistance by the Commonwealth.

(2) In this section, a reference to “Australians” includes a reference to persons who are ordinarily resident in Australia.

**Functions**

7. (1) The functions of the Commission are:
- (a) to advise the Minister in relation to the development of sport;
  - (b) to co-ordinate activities in Australia for the development of sport;
  - (c) to develop and implement programs that promote equality of access to, and participation in, sport by all Australians;
  - (d) to develop and implement programs for the recognition and development of:
    - (i) persons who excel, or who have the potential to excel, in sport; and
    - (ii) persons who have achieved, or who have the potential to achieve, standards of excellence as sports coaches, umpires, referees or officials essential to the conduct of sport;
  - (e) to initiate, encourage and facilitate research and development in relation to sport;
  - (f) to undertake research and development related to sports science and sports medicine;
  - (g) to provide sports medicine services and sports science services to persons participating in programs of the Commission;
  - (h) to establish, manage, develop and maintain facilities for the purposes of the Commission;
  - (j) to collect and distribute information, and provide advice, on matters related to the activities of the Commission;
  - (k) for the purpose of fostering co-operation in sport between Australia and other countries, to provide access to persons from other countries to the resources, services and facilities of the Commission;
  - (m) to raise money through the Australian Sports Foundation, or by other means, for the purposes of the Commission;
  - (n) to administer and expend money appropriated by the Parliament, or raised in accordance with paragraph (m), for the purposes of the Commission;
  - (p) to consult and co-operate with appropriate authorities of the Commonwealth, of the States and of the Territories, and with other persons, associations and organisations, on matters related to the activities of the Commission; and

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(q) to provide advice on matters related to sport to the Australian Olympic Federation or other persons, bodies or associations.

(2) The functions of the Commission may be performed within or outside Australia.

(3) The Commission may perform any of its functions in co-operation with a State or Territory or any person, association or organisation.

(4) Subject to section 11, the function of the Commission under paragraph (1) (q) may be performed at the discretion of the Commission.

(5) The Commission may perform its functions to the extent only that they are not in excess of the functions that may be conferred on it by virtue of any of the legislative powers of the Parliament, and, in particular, may perform its functions:

- (a) by way of expenditure of money that is available for the purposes of the Commission in accordance with an appropriation made by the Parliament;
- (b) for purposes related to the collection of statistics;
- (c) for purposes related to external affairs; and
- (d) for purposes in relation to a Territory.

(6) In this section, "Australian Olympic Federation" means the Australian Olympic Federation Incorporated, being an association incorporated on 24 April 1985 under the *Associations Incorporation Act 1985* of Victoria.

**Powers**

8. (1) The Commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, may:

- (a) enter into contracts;
- (b) acquire, hold and dispose of real or personal property;
- (c) occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Commission;
- (d) make grants or lend money, and provide scholarships or like benefits;
- (e) appoint agents and attorneys, and act as an agent for other persons;
- (f) engage persons to perform services for the Commission;
- (g) accept gifts, grants, bequests and devises made to the Commission (whether on trust or otherwise) and act as trustee of money or other property vested in the Commission on trust;
- (h) erect buildings and structures and carry out works;
- (j) obtain commercial sponsorship for the Commission and participate in marketing arrangements involving the endorsement by the Commission of products and services associated with sport;

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- (k) arrange for the manufacture of, and distribute (whether by way of sale or otherwise), any article or thing bearing a mark, symbol or writing that is associated with the Commission;
- (m) provide (whether by sale or otherwise) goods and services to persons using, or otherwise attending at, facilities of the Commission; and
- (n) do anything incidental to any of its powers.

(2) The Commission may charge such fees, or impose such charges, as are reasonable in respect of:

- (a) access to, or use of, any of the resources or facilities of the Commission;
- (b) the provision of programs, services, information or advice by the Commission; and
- (c) the admission of persons to events and activities conducted by the Commission.

(3) The powers of the Commission may be exercised within or outside Australia.

**Commission to operate under the name Australian Institute of Sport when performing certain functions**

9. The Commission shall, in connection with the performance of:

- (a) its functions under paragraphs 7 (1) (d), (f), (g) and (h); and
- (b) such other of its functions (if any) as it considers appropriate;

operate under the name "Australian Institute of Sport".

**Australian Sports Foundation**

10. (1) As soon as practicable after the commencement of this Act, the Commission shall arrange for the name of the company known as the "Australian Sports Aid Foundation" (being the company that was incorporated in the Australian Capital Territory on 18 February 1986 under the *Companies Act 1981* for the purpose of section 8 of the *Australian Sports Commission Act 1985*) to be changed to the "Australian Sports Foundation".

(2) After the change of name of the company in accordance with subsection (1) the company is not authorised to change its name.

(3) The purpose of the company is to raise money for the development of sport in Australia.

(4) Except to the extent necessary for the performance of its functions in relation to the Commission, the company is not empowered to do anything that the Commission is not empowered to do.



**Minister may give directions**

**11. (1)** Subject to subsection (2), the Minister may give written directions to the Commission with respect to the policies and practices to be followed by the Commission in the performance of its functions, and the exercise of its powers, and the Commission shall comply with the directions.

**(2)** The Minister shall not give a direction to the Commission under subsection (1) unless the Minister:

- (a) has informed the Commission, in writing, that the Minister is considering giving the direction; and
- (b) has given the Chairperson an opportunity to discuss the need for the proposed direction with the Minister.

**(3)** The Minister shall cause a copy of each direction given under subsection (1):

- (a) to be published in the *Gazette* as soon as practicable after giving the direction; and
- (b) to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction.

**Access to facilities by individuals and community groups**

**12.** The Commission shall, to the extent that it is practicable to do so having regard to the objects for which it was established and its functions, allow individuals and groups within the community to have access to, and to make use of, the resources, services and facilities of the Commission, whether or not for purposes related to sport.

**PART III—CONSTITUTION AND MEETINGS OF THE COMMISSION**

**Membership of Commission**

**13. (1)** The Commission shall consist of:

- (a) the Chairperson;
- (b) the Deputy Chairperson; and
- (c) not fewer than 5 nor more than 10 other members.

**(2)** A member shall be appointed by the Minister.

**(3)** A member referred to in paragraph (1) (a) or (b):

- (a) may be appointed on a full-time or part-time basis; and
- (b) holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

**(4)** A member referred to in paragraph (1) (c):

- (a) shall be appointed on a part-time basis; and
- (b) holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(5) A person who has attained the age of 65 years shall not be appointed as a full-time member and a person shall not be appointed as a full-time member for a period that extends beyond the day on which the person will attain the age of 65 years.

(6) The appointment of a member is not invalid because of a defect or irregularity in connection with the member's appointment.

(7) The exercise of the powers, or the performance of the functions, of the Commission is not affected merely because:

- (a) there is a vacancy in the office of Chairperson or Deputy Chairperson; or
- (b) the number of persons appointed under paragraph (1) (c) falls below 5 for not longer than 3 months.

(8) A member holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined in writing by the Minister.

#### **Leave of absence**

14. (1) The Minister may grant leave of absence to the Chairperson on such terms and conditions as to remuneration or otherwise as the Minister considers appropriate.

(2) The Chairperson may grant leave of absence to another member on such terms and conditions as to remuneration or otherwise as the Chairperson considers appropriate.

#### **Resignation**

15. (1) The Chairperson may resign the office of Chairperson by writing signed by the Chairperson and delivered to the Minister.

(2) The Deputy Chairperson may resign the office of Deputy Chairperson by writing signed by the Deputy Chairperson and delivered to the Minister.

(3) A member (other than the Chairperson or Deputy Chairperson) may resign his or her office by writing signed by the member and delivered to the Minister.

#### **Outside employment**

16. (1) A member appointed on a full-time basis shall not, except with the approval of the Minister, engage in paid employment outside the duties of the office of the member.

(2) A member appointed on a part-time basis shall not engage in any paid employment that, in the opinion of the Minister, conflicts with the proper performance of the functions of the member.

**Remuneration and allowances**

17. (1) The Chairperson, the Deputy Chairperson and the other members shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, a member shall be paid such remuneration as is prescribed.

(2) A member shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

**Disclosure of interests**

18. (1) A member who has a direct or indirect pecuniary interest in a matter being considered by the Commission shall, 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 Commission.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Commission and the member shall not, unless the Minister or the Commission otherwise determines:

- (a) be present during any deliberation of the Commission with respect to that matter; or
- (b) take any part in any decision of the Commission with respect to that matter.

(3) For the purposes of the making of a determination by the Commission under subsection (2) in relation to a member who has made a disclosure under subsection (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not:

- (a) be present during any deliberation of the Commission for the purposes of making the determination; or
- (b) take part in the making by the Commission of the determination.

**Termination of appointment**

19. (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

(2) If a member:

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for the benefit of those creditors;
- (b) fails, without reasonable excuse, to comply with an obligation imposed by section 18;
- (c) is absent, except on leave of absence granted under section 14, from 3 consecutive meetings of the Commission;
- (d) being a member appointed on a full-time basis, engages, without the approval of the Minister, in any paid employment outside the duties of the office of the member; or

- (e) being a member appointed on a part-time basis, engages in any paid employment that, in the opinion of the Minister, conflicts with the proper performance of the functions of the member;

the Minister shall terminate the appointment of the member.

**Acting appointments**

**20. (1)** The Minister may appoint the Deputy Chairperson, or the member appointed to act as Deputy Chairperson, to act as Chairperson:

- (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office of Chairperson;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

**(2)** The Minister may appoint a member to act as Deputy Chairperson:

- (a) during a vacancy in the office of Deputy Chairperson, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from Australia or is, for any reason (including the reason that the Deputy Chairperson is acting as the Chairperson), unable to perform the duties of the office of Deputy Chairperson;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

**(3)** The Minister may appoint a person to act as a member other than the Chairperson or Deputy Chairperson:

- (a) during a vacancy in the office of that member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when that member is absent from duty or from Australia or is, for any reason (including the reason that the member is acting as the Chairperson or Deputy Chairperson), unable to perform the duties of the office of member;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

**(4)** Anything done by or in relation to a person purporting to act under subsection (1), (2) or (3) is not invalid because:

- (a) the occasion for the person's appointment had not arisen;
- (b) there was a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

**Meetings of Commission**

**21. (1)** The Commission shall hold such meetings as are necessary for the efficient performance of its functions.

**(2)** The Chairperson:

- (a)** may, at any time, convene a meeting of the Commission; and
- (b)** shall, on receipt of a written request signed by not less than 3 other members, convene a meeting of the Commission.

**(3)** The Minister may, at any time, convene a meeting of the Commission.

**(4)** The Chairperson shall preside at all meetings of the Commission at which he or she is present.

**(5)** Where the Chairperson is not present at a meeting of the Commission, the Deputy Chairperson shall preside, or, if the Deputy Chairperson is not present, the members present shall appoint one of their number to preside at the meeting.

**(6)** Subject to this Act, the person presiding at a meeting may give directions regarding the procedure to be followed at or in connection with that meeting.

**(7)** At a meeting:

- (a)** 4 members constitute a quorum;
- (b)** all questions shall be decided by a majority of votes of the members present and voting; and
- (c)** the person presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**(8)** Where a majority of the members (being a majority of the members that includes the Chairperson) sign a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a duly constituted meeting of the Commission held on the day on which the document was signed, or, if the members sign the document on different days, on the last of those days.

**(9)** For the purposes of subsection (8), 2 or more separate documents containing statements in identical terms each of which is signed by one or more members shall together be taken to constitute one document containing a statement in those terms signed by those members on the respective days on which they signed the separate documents.

**(10)** A member shall not sign, under subsection (8), a document containing a statement in favour of a resolution if the resolution is in respect of a matter in which the member has a direct or indirect pecuniary interest.

**(11)** The Commission shall keep records of its meetings and records of resolutions taken to have been passed in accordance with subsection (8).

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(12) The Commission may invite a person to attend a meeting of the Commission for the purpose of advising or informing the Commission on any matter.

**Committees**

22. (1) The Commission may establish such committees as it thinks fit, and a committee shall assist the Commission as directed by the Commission.

(2) A committee shall be constituted wholly by members of the Commission or partly by members of the Commission and partly by other persons.

(3) Where a committee is constituted partly by members of the Commission and partly by other persons, the Chairperson of the committee shall be a person who is a member of the Commission.

(4) The number of members of a committee required to constitute a quorum at a meeting of that committee shall be as specified by the Commission.

(5) A member of a committee who is not also a member, or an employee, of the Commission shall be paid such remuneration and allowances (if any) as the Commission determines.

(6) The office of member of a committee is not a public office within the meaning of the *Remuneration Tribunals Act 1973*.

(7) Section 18 applies to a member of a committee as if:

- (a) a reference in that section to the Commission were a reference to the committee;
- (b) a reference in that section to a member were a reference to the member of the committee; and
- (c) a reference in that section to the Minister were a reference to the Commission.

**PART IV—STRATEGIC PLANS AND ANNUAL OPERATIONAL PLANS**

**Strategic plans**

23. (1) The Commission shall develop, and prepare in writing, for each successive period determined in accordance with subsection (2), a strategic plan setting out the manner in which it is proposed that its functions will be performed during that period.

(2) The first strategic plan prepared in accordance with this section shall be expressed to relate to a period of 4 years commencing on a day occurring within 12 months after the commencement of this Act and each subsequent strategic plan shall be expressed to relate to the period of 4 years commencing at the end of the period to which the immediately preceding strategic plan relates.

(3) Each strategic plan prepared in accordance with this section shall be laid before each House of the Parliament within 15 sitting days of that House after approval by the Minister of the plan.

#### **Approval and commencement of strategic plans**

**24.** A strategic plan prepared in accordance with section 23 shall be submitted to the Minister for approval not less than 3 months, or such lesser period as the Minister, in special circumstances, allows, before the day of commencement of the period to which the strategic plan relates and shall come into force on:

(a) the day on which it is approved by the Minister; or

(b) the day of commencement of the period to which it relates;

whichever is the later.

#### **Variation of strategic plans**

**25. (1)** The Commission shall, from time to time, during the period in respect of which a strategic plan prepared in accordance with section 23 is in force, consider whether a variation of the strategic plan is necessary.

(2) Where the Commission considers that a variation of a strategic plan is necessary, the Commission may, with the approval of the Minister, vary the strategic plan.

(3) Where a variation of a strategic plan is approved by the Minister the plan as so varied shall continue in force on and after the day on which the variation is so approved as if the plan had originally been approved by the Minister as so varied.

#### **Annual operational plan**

**26. (1)** The Commission shall develop, and prepare in writing, in respect of each financial year ending after the commencement of this Act, an operational plan, setting out particulars of:

(a) the programs the Commission proposes to carry out; and

(b) the resources the Commission proposes to allocate to each such program;

during that year in giving effect to the strategic plan that relates, or the intended strategic plan that will relate, to a period that includes that year or a part of that year.

(2) If the Minister is of the opinion that an operational plan in relation to a financial year is inconsistent with the strategic plan relating to the period that includes that year or a part of that year, the Minister may, in writing, request the Commission to revise the operational plan.

(3) The Commission may, at any time, revise an operational plan, and shall revise the plan if the Minister requests it under subsection (2) to do so and gives written reasons for the request.

- (4) An operational plan, or a revision of an operational plan:
- (a) shall be submitted to the Minister as soon as practicable; and
  - (b) comes into force when it is approved, in writing, by the Minister.

(5) The Minister shall approve an operational plan, or a revision of an operational plan, unless the Minister is of the opinion that the plan, or the plan as proposed to be revised, as the case may be, is inconsistent with the strategic plan.

### **Compliance with plans**

27. To the extent that it is practicable to do so and subject to this Act, the Commission shall perform its functions and exercise its powers in a manner that is consistent with, and is designed to give effect to, any strategic plan and any operational plan that are in force.

## **PART V—EXECUTIVE DIRECTOR AND DIRECTOR OF INSTITUTE**

### **Executive Director**

28. (1) There shall be an Executive Director of the Commission who shall be appointed by the Commission.

(2) A person who has attained the age of 65 years shall not be appointed as Executive Director and a person shall not be appointed as Executive Director for a period that extends beyond the day on which the person will attain the age of 65 years.

(3) The Commission shall not appoint a member as Executive Director.

(4) The appointment of a person as Executive Director is not invalid because of a defect or irregularity in connection with the person's appointment.

### **Duties of Executive Director**

29. (1) The Executive Director shall manage the affairs of the Commission subject to the directions of, and in accordance with policies determined by, the Commission.

(2) All acts and things done in the name of, or on behalf of, the Commission by the Executive Director, for the purposes of this Act, shall be taken to have been done by the Commission.

### **Director**

30. (1) There shall be a Director of the Institute who shall be appointed by the Commission.

(2) A person who has attained the age of 65 years shall not be appointed as Director and a person shall not be appointed as Director for a period that extends beyond the day on which the person will attain the age of 65 years.

(3) The Commission shall not appoint a member as Director.



(4) The appointment of a person as Director is not invalid because of a defect or irregularity in connection with the person's appointment.

#### **Duties of Director**

31. (1) The Director shall, under the direction of the Executive Director and in accordance with policies determined by the Commission, conduct such of the affairs of the Commission as are relevant to the functions of the Commission referred to in section 9.

(2) All acts and things done in the name of, or on behalf of, the Commission by, or with the authority of, the Director, for the purposes of this Act, shall be taken to have been done by the Commission.

#### **Tenure of Executive Director**

32. The Executive Director shall hold office for such period, not exceeding 5 years, as is specified in the instrument of his or her appointment, but is eligible for re-appointment.

#### **Remuneration and allowances**

33. (1) The Executive Director shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no such determination of that remuneration by the Tribunal is in operation, the Executive Director shall be paid such remuneration as is prescribed.

(2) The Executive Director shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

#### **Outside employment**

34. The Executive Director shall not engage in paid employment outside the duties of his or her office except with the approval of the Commission.

#### **Leave of absence**

35. The Chairperson may grant leave of absence to the Executive Director on such terms and conditions as to remuneration or otherwise as are determined by the Commission.

#### **Resignation**

36. The Executive Director may resign office by writing signed and delivered to the Chairperson.

#### **Disclosure of interests**

37. The Executive Director shall give written notice to the Chairperson of all direct or indirect pecuniary interests that the Executive Director has or acquires in any business or in any body corporate carrying on any business.

**Terms and conditions of appointment not provided for by Act**

38. The Executive Director holds office on such terms and conditions (if any), in relation to matters not provided for by this Act, as are determined by the Commission.

**Acting Executive Director**

39. (1) The Commission may appoint a person (other than a member) to act as Executive Director:

- (a) during a vacancy in the office of Executive Director (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Executive Director is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) Anything done by or in relation to a person purporting to act as Executive Director is not invalid because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act as Executive Director had not arisen or had ceased.

**Application of sections 32 to 39 to Director**

40. Sections 32 to 39 (both inclusive) apply to the Director as if any reference in those sections to the Executive Director were a reference to the Director.

**PART VI—STAFF AND CONSULTANTS**

**Employees**

41. (1) The Executive Director may, on behalf of the Commission, employ such persons as the Commission considers necessary for the performance of its functions and the exercise of its powers.

(2) The terms and conditions of employment of a person employed under subsection (1) are such as are determined by the Commission.

(3) The Executive Director may arrange with the Secretary of any Department of the Australian Public Service, or with a body established by an Act, for the services of officers or employees of that Department or of that body to be made available to the Commission.

**Consultants**

42. (1) The Commission may engage persons having suitable qualifications and experience as consultants to the Commission.

(2) The terms and conditions of engagement shall be determined by the Commission.

## **PART VII—FINANCE**

### **Appropriation of money**

**43. (1)** There is payable to the Commission such money as is appropriated by the Parliament for the purposes of the Commission.

**(2)** The Minister for Finance may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Commission.

### **Estimates**

**44. (1)** The Commission shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Commission for each financial year and, if the Minister so directs, for any other period specified by the Minister, and the Commission shall submit estimates so prepared to the Minister not later than such date as the Minister directs.

**(2)** Estimates referred to in subsection (1) shall not include estimates of receipts by the Commission of money to be held on trust or of expenditure by the Commission of money held on trust.

**(3)** The money of the Commission, other than money held on trust, shall not be expended otherwise than in accordance with estimates of expenditure approved by the Minister.

### **Application of money**

**45.** The money of the Commission shall be applied only:

- (a)** in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Commission in the performance of its functions and the exercise of its powers; and
- (b)** in payment of remuneration and allowances payable under this Act.

### **Borrowing from the Commonwealth**

**46. (1)** The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the Commission at such rates of interest and on such other terms and conditions as that Minister determines.

**(2)** The Commission shall not borrow money except in accordance with subsection (1).

**(3)** The Commission may give security over the whole or part of its assets for the repayment of amounts borrowed under subsection (1) and the payment of interest on amounts so borrowed.

### **Contracts**

**47. (1)** The Commission shall not, except with the written approval of the Minister:

- (a)** enter into a contract involving the payment or receipt by the Commission of an amount exceeding \$500,000; or

(b) enter into a lease of land for a period of 10 years or more.

(2) Paragraph (1) (a) does not apply to the investment of money by the Commission in accordance with subsection 49 (1).

#### **Application of Division 3 of Part XI of Audit Act**

**48. (1)** It is hereby declared that the Commission is a public authority to which Division 3 of Part XI of the *Audit Act 1901* applies.

(2) The Commission shall, in each report prepared pursuant to section 63M of the *Audit Act 1901* (as that section applies by virtue of subsection (1)):

- (a) include particulars of each direction given to it by the Minister under subsection 11 (1) that is applicable in relation to the financial year to which the report relates;
- (b) include an assessment of the extent to which its operations during the financial year to which the report relates have:
  - (i) achieved its objectives as stated in the relevant strategic plan; and
  - (ii) implemented the operational plan applicable to that financial year; and
- (c) include particulars of:
  - (i) significant capital works programs (if any) undertaken by the Commission during the financial year to which the report relates;
  - (ii) significant acquisitions and dispositions of real property by the Commission during that financial year; and
  - (iii) variations to the strategic plan and to the operational plan agreed to by the Minister during that financial year.

#### **Investment of money**

**49. (1)** The money of the Commission not immediately required for the purposes of the Commission may be invested:

- (a) on deposit with an approved bank;
- (b) in Commonwealth securities; or
- (c) in any other manner approved by the Treasurer.

(2) In subsection (1), "approved bank" means a trading bank as defined in subsection 5 (1) of the *Banking Act 1959* or another bank approved by the Treasurer or a person authorised by the Treasurer to give approvals under section 63E of the *Audit Act 1901*.

#### **Commission exempt from taxation**

**50. (1)** Subject to subsection (3), the income, property and transactions of the Commission are not subject to taxation (including taxation under the *Debts Tax Act 1982*) under the laws of the Commonwealth (other than laws relating to sales tax) or of a State or Territory.

(2) Subject to subsection (3), the transactions of the Commission in respect of goods for use (whether as goods or in some other form), and not for sale, by the Commission are not subject to the laws of the Commonwealth relating to sales tax.

(3) The regulations may provide that subsection (1) or (2) does not apply in relation to taxation under a specified law.

**Foundation exempt from taxation**

51. (1) Subject to subsection (3), the income, property and transactions of the Australian Sports Foundation are not subject to taxation (including taxation under the *Debits Tax Act 1982*) under the laws of the Commonwealth (other than laws relating to sales tax) or of a State or Territory.

(2) Subject to subsection (3), the transactions of the Foundation in respect of goods for use (whether as goods or in some other form), and not for sale, by the Foundation are not subject to the laws of the Commonwealth relating to sales tax.

(3) The regulations may provide that subsection (1) or (2) does not apply in relation to taxation under a specified law.

**PART VIII—MISCELLANEOUS**

**Trust money**

52. (1) The Commission shall ensure that any money received or held by the Commission on trust is paid into an account, or more than one account, opened and maintained under section 63J of the *Audit Act 1901* (as that section applies by virtue of section 48 of this Act) that does not contain any money of the Commission not held on trust.

(2) Notwithstanding sections 44, 45, 48 and 49:

(a) money or other property held by the Commission on trust shall be applied or dealt with only in accordance with the powers and duties of the Commission as trustee; and

(b) money held by the Commission on trust may be invested:

(i) in any manner in which the Commission is authorised to invest that money by the terms of the trust; or

(ii) in any manner in which trust money may, for the time being, be invested under law;

but not otherwise.

(3) Section 63K of the *Audit Act 1901* (as that section applies by virtue of section 48 of this Act) has effect as if:

(a) the reference in that section to transactions and affairs included a reference to transactions and affairs relating to money or property received or held by the Commission on trust; and

- (b) the reference in that section to moneys or to assets included a reference to money, or assets, as the case may be, received or held by the Commission on trust.

(4) Section 63L of the *Audit Act 1901* (as that section applies by virtue of section 48 of this Act) has effect as if:

- (a) the reference in subsection 63L (1) to financial transactions included a reference to transactions relating to money received or held by the Commission on trust; and
- (b) the reference in subsection 63L (4) to moneys or to assets included a reference to money, or assets, as the case may be, received or held by the Commission on trust.

### **Reports to Minister**

53. The Commission shall:

- (a) from time to time inform the Minister concerning the general conduct of its activities; and
- (b) furnish to the Minister such information in relation to its activities as the Minister from time to time requires.

### **Delegation by Commission**

54. (1) The Commission may, by resolution, delegate to:

- (a) a member of the Commission;
- (b) a committee established under section 22;
- (c) the Executive Director;
- (d) the Director; or
- (e) a person employed under section 41;

all or any of the Commission's powers under this Act, other than the Commission's powers under sections 22, 23, 25 and 26 and subsections 28 (1), 29 (1), 30 (1) and 39 (1) (including the Commission's powers under subsection 39 (1) as that subsection applies by virtue of section 40).

(2) The delegate is, in the exercise of a power so delegated, subject to any directions given by the Commission.

### **Delegation by Executive Director**

55. (1) The Executive Director may, by signed instrument, delegate to:

- (a) the Director; or
- (b) a person employed under section 41;

all or any of his or her powers under this Act.

(2) The delegate is, in the exercise of a power delegated under subsection (1), subject to any directions given by the Executive Director.

**Delegation by Minister**

**56.** The Minister may, by signed instrument, delegate to:

- (a) the Commission;
- (b) a member of the Commission; or
- (c) the Executive Director;

all or any of the Minister's powers under this Act, other than the Minister's powers under section 11, subsection 13 (2) and sections 20, 24, 25, 26, 44 and 47.

**Protection from civil actions**

**57.** A member, the Executive Director or the Director is not liable to an action or other proceeding for damages for or in relation to an act done or omitted to be done in good faith in the performance or purported performance of any function, or in the exercise or purported exercise of any power, of the Commission.

**Regulations**

**58.** The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, may make regulations:

- (c) regulating, restricting or prohibiting the entry of persons onto or into any land or building owned by, or under the control of, the Commission, regulating the conduct of persons on or in any such land or building, and providing for the removal of persons from any such land or building;
- (d) prohibiting or regulating the use of any emblem, logo, design, mark, symbol or name that is associated with the Commission; and
- (e) prescribing penalties not exceeding a fine of \$500 for offences against the regulations.

**PART IX—TRANSITIONAL**

**Interpretation**

**59.** In this Part, unless the contrary intention appears:

“assets” means property of every kind and, without limiting the generality of the foregoing, includes:

- (a) choses in action; and
- (b) rights, interests and claims of every kind in or to property, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing;

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“authorised person” means:

- (a) the Minister;
- (b) the Executive Director, the Director, an acting Executive Director, or an acting Director; or
- (c) a person employed by the Commission;

“commencing day” means the day on which this Act commences;

“Institute Act” means the *Australian Institute of Sport Act 1986*;

“instrument” includes a contract, guarantee or agreement (whether express or implied and whether made or given orally or in writing), bond, authority, order, power of attorney, mortgage, transfer, conveyance or other assurance, charge, lien, bill of lading, bill of exchange, letter of credit or security;

“liabilities” means liabilities of every kind and, without limiting the generality of the foregoing, includes obligations of every kind, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing;

“previous Commission” means the Australian Sports Commission established by the *Australian Sports Commission Act 1985*;

“previous Commission Act” means the *Australian Sports Commission Act 1985*;

“previous Institute” means the Australian Institute of Sport established by section 4 of the *Australian Institute of Sport Act 1986*;

“relevant instrument” means an instrument:

- (a) to which the previous Commission or the previous Institute is a party;
- (b) that was given to or in favour of the previous Commission or the previous Institute;
- (c) in which a reference is made to the previous Commission or to the previous Institute; or
- (d) under which money is or may become payable, or any other property is to be, or may become liable to be, transferred, conveyed or assigned, to or by the previous Commission or the previous Institute;

being an instrument subsisting immediately before the commencing day.

## **Repeal**

**60.** The following Acts are repealed:

- (a) the *Australian Sports Commission Act 1985*;
- (b) the *Australian Institute of Sport Act 1986*;
- (c) the *Australian Institute of Sport (Consequential Provisions) Act 1986*.



**Application of Division 3 of Part XI of Audit Act in relation to year ending on 30 June 1989**

61. Division 3 of Part XI of the *Audit Act 1901* (as that Division applies by virtue of subsection 48 (1) of this Act) has effect in relation to the year ending on 30 June 1989 as if section 63M was omitted and the following section was substituted:

**Annual report and financial statements**

“63M. (1) The authority shall, as soon as practicable after 30 June 1989, prepare and submit to the appropriate Minister in relation to the authority a report of:

(a) the operations of:

- (i) the Australian Sports Commission (in this section called the ‘previous Commission’) established by the *Australian Sports Commission Act 1985*; and
- (ii) the Australian Institute of Sport (in this section called the ‘previous Institute’) established by section 4 of the *Australian Institute of Sport Act 1986*;

during the period (in this section called the ‘first period’) commencing on 1 July 1988 and ending immediately before the *Australian Sports Commission Act 1989* came into operation; and

(b) the operations of the authority during the period (in this section called the ‘second period’) commencing on the day on which the *Australian Sports Commission Act 1989* came into operation and ending on the expiration of 30 June 1989;

together with financial statements in respect of the year ending on 30 June 1989, in such form as the Minister administering this Act approves, that:

- (c) in so far as they are statements in respect of the first period—relate to the previous Commission and the previous Institute during that period; and
- (d) in so far as they are statements in respect of the second period—relate to the authority during that period.

“(1A) The report referred to in subsection (1) shall, in so far as it relates to the previous Commission and the previous Institute, be prepared by the authority having regard to:

- (a) such of the accounts and records of the previous Commission and the previous Institute as have become assets of the authority under section 62 of the *Australian Sports Commission Act 1989*; and
- (b) any information concerning the operation of the previous Commission and the previous Institute that is given to the authority by persons who were Commissioners of the previous Commission or staff of that Commission and persons who were members of the Board of the previous Institute or employees of that Institute.

“(1B) The financial statements referred to in subsection (1) shall, in so far as they relate to the previous Commission and the previous Institute, be

based on the accounts and records referred to in paragraph (1A) (a) of this section.

“(2) Before submitting financial statements to the appropriate Minister under subsection (1), the authority shall submit them to the Auditor-General, who shall report to the appropriate Minister:

- (a) whether, in the opinion of the Auditor-General, the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and, in the opinion of the Auditor-General, show fairly:
  - (i) the financial transactions of the previous Commission and the previous Institute during the first period; and
  - (ii) the financial transactions and the state of affairs of the authority during the second period;
- (c) whether, in the opinion of the Auditor-General, the receipt, expenditure and investment of money and the acquisition and disposal of assets, by the previous Commission and the previous Institute during the first period have been in accordance with the law;
- (d) whether, in the opinion of the Auditor-General, the receipt, expenditure and investment of money and the acquisition and disposal of assets, by the authority during the second period have been in accordance with the enactment establishing the authority; and
- (e) as to such matters arising out of the statements as the Auditor-General considers should be reported to the appropriate Minister.

“(3) The appropriate Minister shall cause copies of the report and financial statements together with a copy of the report of the Auditor-General to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the appropriate Minister.”

### **Transfer of assets and liabilities**

**62. (1)** On the commencing day, by force of this subsection:

- (a) the assets and liabilities of the previous Commission subsisting immediately before that day cease to be assets and liabilities of the previous Commission and become assets and liabilities of the Commission; and
- (b) the assets and liabilities of the previous Institute subsisting immediately before that day cease to be assets and liabilities of the previous Institute and become assets and liabilities of the Commission.

(2) Where an asset that becomes an asset of the Commission by virtue of subsection (1) was, immediately before the commencing day, held by the previous Commission or the previous Institute on trust, the asset shall, on and after that day, be held on trust by the Commission subject to the terms of the trust on which the asset was so held by the previous Commission or the previous Institute, as the case may be.

(3) Investments of the previous Institute (other than investments of money held on trust by the previous Institute) that become, by virtue of subsection (1), assets of the Commission shall be deemed to have been duly made in accordance with section 49.

(4) The liabilities of the previous Commission or the previous Institute to make payments, being liabilities that become, by virtue of subsection (1), liabilities of the Commission, shall be met by the Commission as they fall due as if they were liabilities incurred by the Commission in the performance of its functions or the exercise of its powers.

### **Instruments**

63. A relevant instrument continues to have effect on and after the commencing day, but, in its operation in relation to acts, transactions, matters or things done, entered into or occurring on or after that commencement, has effect as if a reference in the instrument to the previous Commission or to the previous Institute were a reference to the Commission.

### **Certificates with respect to assets, liabilities and instruments**

64. (1) An authorised person may, by writing, certify that:

- (a) an asset or liability specified or described in the certificate is an asset or liability referred to in paragraph 62 (1) (a);
- (b) an asset or liability specified or described in the certificate is an asset or liability referred to in paragraph 62 (1) (b); or
- (c) an instrument specified or described in the certificate is a relevant instrument;

and such certificate is, in all courts and for all purposes, *prima facie* evidence of the matter stated in the certificate.

(2) Where a document purports to be a certificate under subsection (1) signed by a person purporting to be an authorised person, judicial notice shall be taken of the signature of that person and of the fact that that person is or was such an authorised person.

### **Exemption from taxation**

65. An instrument or document that an authorised person certifies to have been made, executed or given by reason of, or for a purpose connected with or arising out of, the operation of this Part is not liable to stamp duty or other tax under a law of the Commonwealth or of a State or Territory.

### **Legal proceedings**

66. If, immediately before the commencing day, proceedings to which the previous Commission or the previous Institute was a party were pending in a court or tribunal, the Commission is, on that day, by force of this section, substituted for the previous Commission or the previous Institute, as the case requires, as a party to the proceedings and has the same rights in the proceedings as the party for which it is substituted.

**Transfer of funds**

67. Where an Act appropriates money for the purposes of, or in connection with the activities of, the previous Commission or the previous Institute, references in that Act to the previous Commission or the previous Institute shall, on and after the commencing day, be read as references to the Commission and references to the Institute Act or the previous Commission Act shall, on and after that day, be read as references to this Act.

**Continuation of appointment**

68. The person who, immediately before the commencing day, held office under the previous Commission Act as the Deputy Chairperson of the previous Commission shall be taken to have been appointed under section 28 of this Act to be the Executive Director of the Commission for a period commencing on that day that is equal to the balance, on that day, of the period for which the person had been appointed to the first-mentioned office.

**Employees of previous Institute**

69. (1) Any person who was an employee of the previous Institute immediately before the commencing day by virtue of his or her having been employed under section 32 of the Institute Act shall be taken to have been employed under section 41 of this Act on that day.

(2) Subsection (1) does not apply in relation to a person whose employment as an employee of the previous Institute was terminated immediately before the commencing day.

(3) The Commission shall be taken to have determined under subsection 41 (2), on the commencing day, in respect of persons who are to be taken under subsection (1) of this section to be employees of the Commission, terms and conditions of employment that are the same as the terms and conditions of employment applicable to those persons immediately before the commencing day.

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[*Minister's second reading speech made in—  
House of Representatives on 31 August 1988  
Senate on 25 November 1988*]