



Australian Sports Commission Act 1989

Act No. 12 of 1989 as amended

This compilation was prepared on 22 September 2006
taking into account amendments up to Act No. 101 of 2006

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

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

Part I—Preliminary

1 Short title [see Note 1]

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

2 Commencement [see Note 1]

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

3 Interpretation

In this Act, unless the contrary intention appears:

appointed member means a member other than the Secretary to the Department.

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.

Section 4

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

4 Extension to external Territories

This Act extends to all external Territories.

Part II—Establishment, objects, functions and powers of the Commission

5 Establishment

- (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.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Commission. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (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.

6 Objects

- (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;
 - (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.

Section 7

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

7 Functions

- (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
 - (q) to provide advice on matters related to sport to the Australian Olympic Federation or other persons, bodies or associations; and
 - (r) to co-operate with national and international sporting organisations in aiming to foster a sporting environment that is free from the unsanctioned use of performance enhancing drugs and doping methods.
- (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.
 - (4A) The function of the Commission under paragraph (1)(r) may only be performed to the extent that it does not overlap any of the functions of the Australian Sports Anti-Doping Authority.
 - (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.

Section 8

8 Powers

- (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; and
 - (b) acquire, hold and dispose of real or personal property; and
 - (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; and
 - (d) make grants or lend money, and provide scholarships or like benefits; and
 - (e) appoint agents and attorneys, and act as an agent for other persons; and
 - (f) engage persons to perform services for the Commission; and
 - (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; and
 - (h) erect buildings and structures and carry out works; and
 - (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; and
 - (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; and
 - (m) provide (whether by sale or otherwise) goods and services to persons using, or otherwise attending at, facilities of the Commission; and
 - (ma) despite subsection 46(2), obtain goods or services on credit from any person by the use of a credit card; 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.

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

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”.

10 Australian Sports Foundation

- (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.

11 Minister may give directions

- (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.

Section 12

- (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.

12 Access to facilities by individuals and community groups

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

13 Membership of Commission

- (1) The Commission shall consist of:
 - (a) the Chairperson; and
 - (b) the Deputy Chairperson; and
 - (ba) the Secretary to the Department; and
 - (c) not fewer than 5 nor more than 10 other members.
- (2) A member referred to in paragraph (1)(a), (b) or (c) 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.
- (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 the office of Secretary to the Department; 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.

Section 14

14 Leave of absence

- (1) A full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may:
 - (a) if the Chairperson is appointed on a full-time basis—grant to the Chairperson leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; or
 - (b) if the Chairperson is appointed on a part-time basis—grant to the Chairperson leave to be absent from a meeting or meetings of the Commission.
- (3) The Chairperson may:
 - (a) grant to a full-time member, other than the Chairperson, leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Chairperson determines; and
 - (b) grant to a part-time member, other than the Chairperson, leave to be absent from a meeting or meetings of the Commission.

15 Resignation

- (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) An appointed 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.

16 Outside employment

- (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.

17 Remuneration and allowances

- (1) The Chairperson, the Deputy Chairperson and the other appointed 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, an appointed member shall be paid such remuneration as is prescribed.
- (2) An appointed member shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

19 Termination of appointment

- (1) The Minister may terminate the appointment of an appointed member for misbehaviour or physical or mental incapacity.
- (2) If an appointed 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 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;
 - (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.

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20 Acting appointments

- (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 referred to in paragraph 13(1)(c):
 - (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.

21 Meetings of Commission

- (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) 5 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

Section 22

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

22 Committees

- (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 Tribunal Act 1973*.
- (7) Sections 27F to 27L of the *Commonwealth Authorities and Companies Act 1997* apply to a member of a committee as if:
 - (a) the committee were the Board referred to in that section; and
 - (b) the member were a director of a Commonwealth authority referred to in that section; and
 - (c) the Commission were the responsible Minister referred to in that section.

Part IV—Strategic plans and annual operational plans

23 Strategic plans

- (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.

24 Approval and commencement of strategic plans

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.

25 Variation of strategic plans

- (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.

26 Annual operational plan

- (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.

Section 27

27 Compliance with plans

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

28 Executive Director

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

29 Duties of Executive Director

- (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.

30 Director

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

31 Duties of Director

- (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.

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- (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.

32 Tenure of Executive Director

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.

33 Remuneration and allowances

- (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 Tribunal Act 1973*.

34 Outside employment

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

35 Leave of absence

- (1) The Executive Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Commission may grant to the Executive Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Commission determines.

36 Resignation

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

37 Disclosure of interests

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.

38 Terms and conditions of appointment not provided for by Act

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.

39 Acting Executive Director

- (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.

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40 Application of sections 32 to 39 to Director

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

41 Employees

- (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 an Agency Head (within the meaning of the *Public Service Act 1999*), or with a body established by an Act, for the services of officers or employees of that Agency or of that body to be made available to the Commission.

42 Consultants

- (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

43 Appropriation of money

- (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.

45 Application of money

- (1) 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.
- (2) Subsection (1) does not prevent investment of surplus money of the Commission under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

46 Borrowing from the Commonwealth

- (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.

47 Contracts

- (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 18(3) of the *Commonwealth Authorities and Companies Act 1997*.

48 Extra matters to be included in annual report

- (2) The members must, in each report on the Commission under section 9 of the *Commonwealth Authorities and Companies Act 1997*:
 - (aa) specify the financial transactions and the state of the affairs of the Australian Sports Foundation;
 - (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.

Section 50

50 Commission exempt from taxation

- (1) Subject to subsection (3), the income, property and transactions of the Commission are not subject to taxation under the laws of the Commonwealth or of a State or Territory.
- (3) The regulations may provide that subsection (1) does not apply in relation to taxation under a specified law.

51 Foundation exempt from taxation

- (1) Subject to subsection (3), the income, property and transactions of the Australian Sports Foundation are not subject to taxation under the laws of the Commonwealth or of a State or Territory.
- (3) The regulations may provide that subsection (1) does not apply in relation to taxation under a specified law.

Part VIII—Miscellaneous**52 Trust money**

- (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, maintained under subsection 18(2) of the *Commonwealth Authorities and Companies Act 1997* that does not contain any money of the Commission not held on trust.
- (2) Despite section 45:
 - (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.

54 Delegation by Commission

- (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.

Section 55

55 Delegation by Executive Director

- (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.

56 Delegation by Minister

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 and 47.

57 Protection from civil actions

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.

57A Disclosure of information to the Australian Sports Anti-Doping Authority

- (1) The Commission may disclose information to the Australian Sports Anti-Doping Authority if the information:
 - (a) relates to a sports drug and safety matter (within the meaning of the *Australian Sports Anti-Doping Authority Act 2006*); or
 - (b) is otherwise relevant to the performance of the functions of the Australian Sports Anti-Doping Authority.
- (2) If information disclosed under subsection (1) is personal information (within the meaning of the *Privacy Act 1988*), the

information is taken to be NAD scheme personal information for the purposes of the *Australian Sports Anti-Doping Authority Act 2006*.

58 Regulations

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.

Table of Acts**Notes to the *Australian Sports Commission Act 1989*****Note 1**

The *Australian Sports Commission Act 1989* as shown in this consolidation comprises Act No. 12, 1989 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Sports Commission Act 1989</i>	12, 1989	16 Mar 1989	1 May 1989 (see <i>Gazette</i> 1989, No. S143)	
<i>Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act 1991</i>	33, 1991	21 Mar 1991	S. 5: 1 July 1991 Remainder: Royal Assent	S. 2(2)
<i>Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act (No. 2) 1991</i>	179, 1991	25 Nov 1991	25 Nov 1991	S. 3(2)
<i>Sales Tax Amendment (Transitional) Act 1992</i>	118, 1992	30 Sept 1992	28 Oct 1992	—
<i>Environment, Sport and Territories Legislation Amendment Act 1995</i>	25, 1995	6 Apr 1995	6 Apr 1995	—
as amended by				
<i>Environment, Sport and Territories Legislation Amendment Act 1997</i>	118, 1997	7 July 1997	Schedule 1 (item 36): 6 Apr 1995 (a)	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (items 41–43): Royal Assent (b)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 496–512): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (c)	—
<i>Australian Sports Commission Amendment Act 1999</i>	106, 1999	31 Aug 1999	3 Nov 1999 (d)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 260–263): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (e)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (items 56–58): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (f)	—
<i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i>	159, 2001	1 Oct 2001	29 Oct 2001	Sch. 1 (item 97) [see Table A]
<i>Australian Sports Commission Amendment Act 2005</i>	40, 2005	1 Apr 2005	1 Apr 2005	Sch. 1 (item 8) [see Table A]
<i>Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Act 2006</i>	7, 2006	7 Mar 2006	Schedule 1 (items 4–6) and Schedule 2 (items 20, 21): 13 Mar 2006 (see s. 2(1) and F2006L00764)	Sch. 2 (items 20, 21) [see Table A]
<i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i>	101, 2006	14 Sept 2006	Schedule 5 (items 34–41) and Schedule 6 (items 5–11): Royal Assent	Sch. 6 (items 5–11) [see Table A]

Act Notes

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- (a) The *Environment, Sport and Territories Legislation Amendment Act 1995* was amended by Schedule 1 (item 36) only of the *Environment, Sport and Territories Legislation Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Item 36 of Schedule 1 is taken to have commenced on the day on which the *Environment, Sport and Territories Legislation Amendment Act 1995* received the Royal Assent.
- (b) The *Australian Sports Commission Act 1989* was amended by Schedule 4 (items 41–43) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (c) The *Australian Sports Commission Act 1989* was amended by Schedule 2 (items 496–512) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (d) The *Australian Sports Commission Act 1989* was amended by the *Australian Sports Commission Amendment Act 1999*, section 2 of which provides as follows:
- 2 This Act commences on the later of:
- (a) the 28th day after the day on which this Act receives the Royal Assent; or
- (b) immediately after the commencement of the *Customs Legislation Amendment Act (No. 1) 1999*.
- The *Customs Legislation Amendment Act (No. 1) 1999* commenced on 3 November 1999.
- (e) The *Australian Sports Commission Act 1989* was amended by Schedule 1 (items 260–263) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.
- (f) The *Australian Sports Commission Act 1989* was amended by Schedule 10 (items 56–58) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
- (c) the items in Schedules 10, 11 and 12.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part I	
S. 3	am. No. 25, 1995
Part II	
S. 5.....	am. No. 152, 1997
S. 7.....	am. No. 106, 1999; No. 7, 2006
S. 8	am. No. 25, 1995 (as am. by No. 118, 1997)
Part III	
S. 13	am. No. 179, 1991; No. 25, 1995
S. 14	rs. No. 179, 1991 am. No. 146, 1999
S. 15	am. No. 25, 1995
S. 17	am. No. 25, 1995; No. 43, 1996
S. 18.....	rep. No. 152, 1997
S. 19.....	am. No. 25, 1995; No. 152, 1997; No. 156, 1999
S. 20.....	am. No. 25, 1995
S. 21	am. No. 25, 1995; No. 152, 1997
S. 22	am. No. 43, 1996; No. 152, 1997; No. 156, 1999
Part V	
S. 28	am. No. 159, 2001
S. 30	am. No. 159, 2001
S. 33	am. No. 43, 1996
S. 35	rs. No. 179, 1991 am. No. 146, 1999
Part VI	
S. 41.....	am. No. 146, 1999
Part VII	
S. 44.....	rep. No. 152, 1997
S. 45.....	am. No. 152, 1997
S. 47.....	am. No. 152, 1997
Heading to s. 48.....	rs. No. 152, 1997
S. 48	am. No. 33, 1991; No. 152, 1997
S. 49.....	rep. No. 152, 1997
Ss. 50, 51	am. No. 118, 1992; No. 101, 2006
Part VIIA	ad. No. 106, 1999 rep. No. 7, 2006
S. 51A	ad. No. 106, 1999 am. No. 40, 2005 rep. No. 7, 2006
S. 51AA.....	ad. No. 40, 2005 rep. No. 7, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 51B	ad. No. 106, 1999 rep. No. 7, 2006
Ss. 51C, 51D.....	ad. No. 106, 1999 am. No. 40, 2005 rep. No. 7, 2006
S. 51DA.....	ad. No. 40, 2005 rep. No. 7, 2006
S. 51E	ad. No. 106, 1999 rs. No. 40, 2005 rep. No. 7, 2006
S. 51F.....	ad. No. 106, 1999 rep. No. 7, 2006
S. 51G	ad. No. 40, 2005 rep. No. 7, 2006
Part VIII	
S. 52.....	am. No. 152, 1997
S. 53.....	rep. No. 152, 1997
S. 56.....	am. No. 152, 1997
S. 57A	ad. No. 7, 2006
Part IX	rep. No. 25, 1995
Ss. 59–69	rep. No. 25, 1995

Table A

Table A

Application, saving or transitional provisions

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001
(No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.

Australian Sports Commission Amendment Act 2005 (No. 40, 2005)

Schedule 1

8 Application

The amendments made by this Schedule apply in relation to protected information, whether disclosed to the Commission before, on or after the commencement of this item.

Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Act 2006 (No. 7, 2006)

Schedule 2

20 Continued application of non-disclosure provisions—ASC officials

- (1) This item applies in relation to any protected information (within the meaning of Part VIIA of the *Australian Sports Commission Act 1989*) disclosed to the ASC before the transition time.
- (2) Despite the repeal of that Part by this Act, Part VIIA of that Act continues to have effect after the transition time, in relation to the protected information, as if that repeal had not happened.

Table A

21 Disclosure of ASC information to the ASADA

- (1) This item applies to information held by the ASC if the information was obtained before the transition time, and the information:
 - (a) relates to a sports drug and safety matter; or
 - (b) is otherwise relevant to the performance of the functions of the ASADA.
 - (2) The ASADA may, by writing, request the ASC to disclose to the ASADA specified information.
- Note: For specification by class, see subsection 46(3) of the *Acts Interpretation Act 1901*.
- (3) The ASC must comply with a request under subitem (2).
 - (4) Repealed Part VIIA of the *Australian Sports Commission Act 1989* (as that Part continues to have effect because of item 20) does not apply to a disclosure of protected information (within the meaning of that Part) in compliance with a request under subitem (2).
 - (5) A request under subitem (2) is not a legislative instrument.
 - (6) If information disclosed in compliance with a request under subitem (2) is personal information, the information is taken to be NAD scheme personal information for the purposes of the ASADA Act.

Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006
(No. 101, 2006)

Schedule 6

5 Application of Schedule 5 amendments

The repeals and amendments made by Schedule 5 apply to acts done or omitted to be done, or states of affairs existing, after the commencement of the amendments.

6 Object

The object of this Part is to ensure that, despite the repeals and amendments made by this Act, the full legal and administrative consequences of:

- (a) any act done or omitted to be done; or
- (b) any state of affairs existing; or

(c) any period ending;

before such a repeal or amendment applies, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment applies.

7 Making and amending assessments, and doing other things, in relation to past matters

Even though an Act is repealed or amended by this Act, the repeal or amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*):

- (a) making or amending an assessment (including under a provision that is itself repealed or amended);
- (b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

Example 1: On 31 July 1999, Greg Ltd lodged its annual return under former section 160ARE of the *Income Tax Assessment Act 1936*. The return stated that the company had a credit on its franking account and that no franking deficit tax was payable for the 1998-99 franking year. Under former section 160ARH of that Act, the Commissioner was taken to have made an assessment consistent with the return.

Following an audit undertaken after the repeal of Part IIIAA of that Act, the Commissioner concludes that Greg Ltd fraudulently overfranked dividends it paid during the 1998-99 franking year, and had a franking account deficit for that franking year. As a result, the Commissioner considers that franking deficit tax and a penalty by way of additional tax are payable.

The Commissioner can amend the assessment under former section 160ARN of that Act, because item 7 of this Schedule disregards the repeal of that section for the purposes of making an assessment in relation to the 1998-99 franking year. Item 7 will also disregard the repeal of Division 11 of former Part IIIAA to the extent necessary for the Commissioner to assess Greg Ltd's liability to a penalty by way of additional tax.

Despite the repeal of sections 160ARU and 160ARV, item 9 will ensure that the general interest charge will accrue on the unpaid franking deficit tax and penalty until they are paid.

Item 7 will also preserve Greg Ltd's right, under former section 160ART of that Act, to object against the Commissioner's amended assessment (including the penalty), since the objection is the

Table A

exercise of a right in relation to a franking year that ended before the repeal of Part IIIAA.

Example 2: During the 1997-98 income year, Duffy Property Ltd withheld amounts from its employees' wages as required by former Divisions 1AAA and 2 of Part VI of the *Income Tax Assessment Act 1936*. The company failed to notify the Commissioner of those amounts, and failed to remit them to the Commissioner.

Following an audit undertaken after the repeal of those Divisions, the Commissioner discovers that the withheld amounts have not been remitted. The company's records are incomplete and the Commissioner is unable to completely ascertain the extent of its liability for the withheld amounts. Under section 222AGA of that Act, the Commissioner makes an estimate of the liability.

Item 7 will disregard the repeal of section 220AAZA of that Act (which empowered the Commissioner to recover the amount of the estimate). Even though the estimate is made after the repeal, it relates to amounts withheld before the repeal.

8 Saving of provisions about effect of assessments

If a provision or part of a provision that is repealed or amended by this Act deals with the effect of an assessment, the repeal or amendment is disregarded in relation to assessments made, before or after the repeal or amendment applies, in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

9 Saving of provisions about general interest charge, failure to notify penalty or late reconciliation statement penalty

If:

- (a) a provision or part of a provision that is repealed or amended by this Act provides for the payment of:
 - (i) general interest charge, failure to notify penalty or late reconciliation statement penalty (all within the meaning of the *Income Tax Assessment Act 1936*); or
 - (ii) interest under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*; and
- (b) in a particular case, the period in respect of which the charge, penalty or interest is payable (whether under the provision or under the *Taxation Administration Act 1953*) has not begun, or has begun but not ended, when the provision is repealed or amended;

then, despite the repeal or amendment, the provision or part continues to apply in the particular case until the end of the period.

Table A

10 Repeals disregarded for the purposes of dependent provisions

If the operation of a provision (the *subject provision*) of any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*) made under any Act depends to any extent on an Act, or a provision of an Act, that is repealed by this Act, the repeal is disregarded so far as it affects the operation of the subject provision.

11 Schedule does not limit operation of section 8 of the *Acts Interpretation Act 1901*

This Schedule does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.