

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

**AUSTRALIAN INSTITUTE OF SPORT
(CONSEQUENTIAL PROVISIONS) BILL 1986**

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1985-86

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 17 April 1986

(*Minister for Sport, Recreation and Tourism*)

A BILL

FOR

**An Act to provide for the dissolution of the company named
Australian Institute of Sport in consequence of the
establishment of a statutory authority by that name and for
related purposes**

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

Short title

5 1. This Act may be cited as the *Australian Institute of Sport
(Consequential Provisions) Act 1986*.

Commencement

2. This Act shall come into operation on the day on which the
Australian Institute of Sport Act 1986 comes into operation.

Expressions used in *Australian Institute of Sport Act 1986*

10 3. Except as otherwise provided, expressions used in this Act that are
also used in the *Australian Institute of Sport Act 1986* have the same
respective meanings as they have in that Act.

Interpretation

4. In this Act, 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 5
- (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;

“authorised officer” means— 10

- (a) the Minister;
- (b) the Director; or
- (c) a person appointed by the Board for the purposes of this definition;

“Company” means the company named “Australian Institute of Sport” 15
that was incorporated on 24 September 1980 under the *Companies Ordinance 1962* of the Australian Capital Territory;

“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 20
whether liquidated or unliquidated, certain or contingent, accrued or accruing;

“relevant instrument” means an instrument—

- (a) to which the Company is a party;
- (b) that was given to or in favour of the Company; 25
- (c) in which a reference is made to the Company; 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 Company,

being an instrument subsisting immediately before the commencement 30
of this Act, but does not include an instrument relating to the employment by the Company of, or the provision of services to the Company by, a person who was, immediately before the commencement of this Act, a member of the Board of Management of the Company. 35

Dissolution of Company, &c.

5. (1) On the commencement of this Act, the Company is hereby dissolved.

(2) As soon as practicable after the commencement of this Act, the Commission shall cancel the registration of the Company, and of the name 40
of the Company, under the *Companies Act 1981*.

(3) The cancellation of the registration of the name of the Company in accordance with sub-section (2) shall be deemed to be a cancellation of the name under Division 2 of Part III of the *Companies Act 1981*.

(4) Nothing in section 460 of the *Companies Act 1981* applies to give the Commission power to do, or cause to be done, any act as representative of the Company.

(5) In this section, "Commission" means the National Companies and Securities Commission.

Company employees to become Institute employees

6. (1) Where a person was, immediately before the commencement of this Act, an employee of the Company, the person shall, on and after the commencement of this Act, be deemed to be employed by the Institute under section 32 of the *Australian Institute of Sport Act 1986* and not to be employed by the Company.

(2) Sub-section (1) does not apply to a person who was, immediately before the commencement of this Act, a member of the Board of Management of the Company.

Terms and conditions applicable to persons deemed to be employed by Institute

7. Where a person is deemed by section 6 to be employed by the Institute under section 32 of the *Australian Institute of Sport Act 1986*, the Board shall, unless it makes, on the day on which this Act comes into operation, a determination of new terms and conditions under that section of that Act, be deemed to have determined under that section that, pending the making of such a determination of new terms and conditions, the terms and conditions of the person's employment are the terms and conditions of employment that were applicable to the employment of the person by the Company immediately before the commencement of this Act.

Persons previously employed for specified terms

8. Without otherwise limiting the generality of section 32 of the *Australian Institute of Sport Act 1986* or of section 7 of this Act in relation to the determination of the terms and conditions of employment applicable to persons who are deemed to be employed by the Institute, any of those persons who, immediately before being deemed to be so employed, was employed for a specified term as an employee of the Company shall be taken to be employed by the Institute for the balance of that term.

Persons to retain recreation and sick leave credits, &c.

9. Where a person is deemed by section 6 to be employed by the Institute—

- (a) the person retains the rights, if any, in respect of—
 - (i) recreation leave; and

- (ii) leave on the ground of illness,
that had accrued to the person immediately before the
commencement of this Act as an employee of the Company; and
- (b) the period of service of the person with the Company, being service
that was recognised by the Company as service for the purposes of
determining leave and other entitlements, counts, for the purposes
of determining those entitlements of the person as an employee of
the Institute, as if it were service with the Institute. 5

Leave of absence deemed to have been granted

10. Where a person who is deemed by section 6 to be employed by the
Institute was granted leave of absence from his or her employment by the
Company for a period commencing on or before the day on which this Act
comes into operation and ending on or after that day— 10

- (a) the person shall be deemed to have been granted leave of absence
from his or her employment by the Institute in accordance with the
terms and conditions of his or her employment with the Institute or
in accordance with the *Long Service Leave (Commonwealth
Employees) Act 1976* or the *Maternity Leave (Commonwealth
Employees) Act 1973*, as the case requires, for the part (in this
section referred to as the “relevant period”) of the period that
occurs on or after the day on which this Act comes into operation
and for the purpose for which the person had been granted leave of
absence from his or her employment by the Company; and 15
- (b) if the person was paid salary or allowances in respect of the whole
or a part of the relevant period, the payment shall be deemed to
have been made by the Institute in respect of leave that is deemed
to have been granted under this section. 20 25

Probation

11. (1) Subject to sub-section (2), all persons who are deemed by
section 6 to be employed by the Institute shall be deemed not to be
employed on probation. 30

(2) Where a person who is deemed by section 6 to be employed by the
Institute was, before the day on which this Act comes into operation,
employed by the Company on probation and the period of that probation
had not expired before that day— 35

- (a) subject to paragraph (b), the person shall be taken to be employed
by the Institute on probation for the balance of that period; and
- (b) any decision made before that day under the terms and conditions
of the person’s employment by the Company that the period of
probation of the person be extended has effect, on and after that
day, as if it were a decision made under and in accordance with the
terms and conditions of the person’s employment with the Institute. 40

Transfer of assets to, and assumption of liabilities by, Institute

12. (1) On the commencement of this Act—

- (a) the assets of the Company subsisting immediately before the commencement of this Act cease to be assets of the Company and become assets of the Institute; and
- (b) the liabilities of the Company subsisting immediately before the commencement of this Act cease to be liabilities of the Company and become liabilities of the Institute.

(2) Where an asset that becomes an asset of the Institute by virtue of sub-section (1) was, immediately before the commencement of this Act, held by the Company on trust, the asset shall, on and after the commencement of this Act, be held on trust by the Institute subject to the terms of the trust on which the asset was so held by the Company.

(3) Investments of the Company (other than investments of money held on trust by the Company) that become, by virtue of sub-section (1), assets of the Institute shall be deemed to have been duly made in accordance with section 63E of the *Audit Act 1901* as applied by sub-section 38 (1) of the *Australian Institute of Sport Act 1986*.

(4) The liabilities of the Company to make payments, being liabilities that become, by virtue of sub-section (1), liabilities of the Institute, shall be met by the Institute as they fall due as if they were liabilities incurred by the Institute in the performance of the functions, and the exercise of the powers, of the Institute.

Instruments

13. A relevant instrument continues to have effect on and after the commencement of this Act but, in its operation in relation to acts, transactions, matters or things done, entered into or occurring on or after the commencement of this Act, has effect as if a reference in the instrument to the Company were a reference to the Institute.

Certificates with respect to assets, liabilities and instruments

14. (1) An authorised officer may, by writing, certify that—

- (a) an asset specified or described in the certificate is an asset referred to in paragraph 12 (1) (a);
- (b) a liability specified or described in the certificate is a liability referred to in paragraph 12 (1) (b); or
- (c) an instrument specified or described in the certificate is a relevant instrument,

and such a 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 sub-section (1) signed by a person purporting to be an authorised officer, judicial notice

shall be taken of the signature of that person and of the fact that the person is or was such an authorised officer.

Saving of proceedings

15. Where, immediately before the commencement of this Act, proceedings to which the Company was a party were pending in any court, the Institute is, on and after the commencement of this Act, substituted for the Company as a party to the proceedings and has the same rights in the proceedings as the party for which it is substituted. 5

Exemption from taxation

16. An instrument or document that an authorised officer certifies to have been made, executed or given because of, or for a purpose connected with or arising out of, the operation of this Act is not liable to stamp duty or other tax under a law of the Commonwealth or of a State or Territory. 10

Annual report and financial statements of Company for year ending 30 June 1986

17. (1) The Institute shall, as soon as practicable after the commencement of this Act, but not later than 31 December 1986, prepare and submit to the Minister a report of the operations of the Company during the year ending on 30 June 1986, together with financial statements in respect of that year in such form as the Minister for Finance approves. 15

(2) The report referred to in sub-section (1) shall be prepared by the Institute having regard to— 20

- (a) such of the accounts and records of the Company as have become assets of the Institute under section 12; and
- (b) any information concerning the operation of the Company that is given to the Institute by persons who were members of the Board of Management or staff of the Company. 25

(3) The financial statements referred to in sub-section (1) shall be based on the accounts and records of the Company referred to in paragraph (2) (a). 30

(4) Before submitting financial statements to the Minister under sub-section (1), the Institute shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether, in the opinion of the Auditor-General, the statements are based on proper accounts and records; 35
- (b) whether the statements are in agreement with the accounts and records and, in the opinion of the Auditor-General, show fairly the financial transactions and the state of the affairs of the Company;
- (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 Company during the year, have been in accordance with law; and 40

(d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

5 (5) The 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 Minister.

Audit report on accounts and records of Company for year ending 30 June 1986

10 18. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Company and records relating to assets of, or in the custody of, the Company, being accounts and records in so far as they—

(a) relate to the year ending on 30 June 1986; and

15 (b) have become assets of the Institute under section 12, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify the Auditor-General in so doing.

20 (2) The Auditor-General may, at the discretion of the Auditor-General, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

25 (3) The Auditor-General shall, as soon as practicable after the commencement of this Act, but not later than 31 December 1986, prepare and submit to the Minister a report on the results of both the inspection and audit carried out under sub-section (1) and any other inspection and audit of the accounts or records of the Company in respect of the year ending on 30 June 1986 carried out by the Auditor-General during that year.

30 (4) A relevant person is entitled at all reasonable times to full and free access to all accounts and records of the Company that have become assets of the Institute under section 12, being accounts and records that relate directly or indirectly to the receipt or payment of money by the Company, or to the acquisition, receipt, custody or disposal of assets of the Company, during the year ending on 30 June 1986.

35 (5) A relevant person may make copies of, or take extracts from, any such accounts or records.

40 (6) A relevant person may require any other person to furnish to the relevant person such information in the possession of the other person, or to which the other person has access, as the relevant person considers necessary for the purposes of the functions of the Auditor-General under this section, and the other person shall comply with the requirement.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$1,000.

(8) In this section, "relevant person" means the Auditor-General or a person who is an authorized officer for the purposes of section 14B of the *Audit Act 1901*.

