

CONCURRENCE COPY

SPORTING INJURIES INSURANCE (AMENDMENT) BILL, 1984 (No. 2)

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Sporting Injuries Insurance Act, 1978 ("the Act"), established a scheme for the payment of benefits in respect of certain injuries suffered by registered players of declared sporting organisations, while participating in sporting or athletic activities of those organisations specified in rules made under the Act, and in respect of deaths of registered players arising from injuries suffered in the course of any such activities.

The object of this Bill is to amend the Act so as—

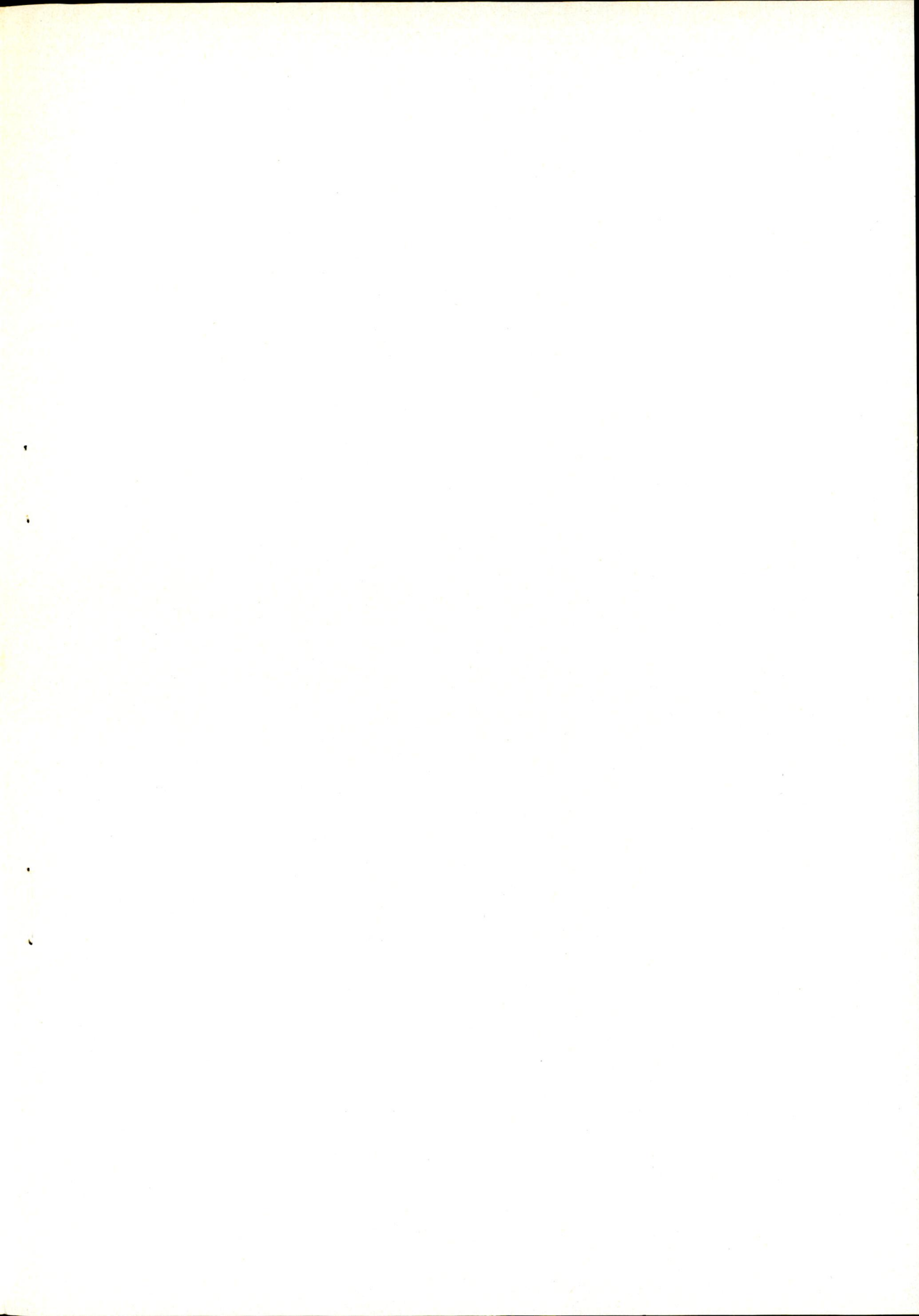
- (a) to establish a similar scheme ("the supplementary scheme") enabling the payment of benefits in respect of injuries of the same nature suffered by enrolled players of certain schools and persons enrolled with the Department of Leisure, Sport and Tourism while participating in sporting or athletic activities of those schools or sporting, athletic or recreational activities promoted by that Department, being activities specified in rules made under the Act, and in respect of deaths of enrolled players or enrolled participants arising from injuries suffered in the course of any such activities (Schedule 1 (3) and (8)–(12));
- (b) to make provisions with respect to the administration and financing of the supplementary scheme, including provisions requiring the establishment of a Supplementary Sporting Injuries Fund ("the Supplementary Fund"). The money required to meet benefits paid under the supplementary scheme will be provided from the Consolidated Fund (Schedule 1 (6)—proposed sections 11A and 11B);
- (c) to provide that, where a person (independently of the Act) recovers damages in respect of an injury or a death for which a benefit under the supplementary scheme has been paid, the amount of the benefit is to be repaid out of the damages to the Sporting Injuries Committee ("the Committee") and to be credited to the Supplementary Fund (Schedule 1 (13)—proposed section 35A);
- (d) to enable the payment of benefits from the Supplementary Fund, at the discretion of the Committee and with the approval of the Minister, in respect of—
 - (i) certain sporting injuries that caused paraplegia or quadriplegia, being injuries suffered on or after 22nd February, 1977, but before the supplementary scheme commences; and

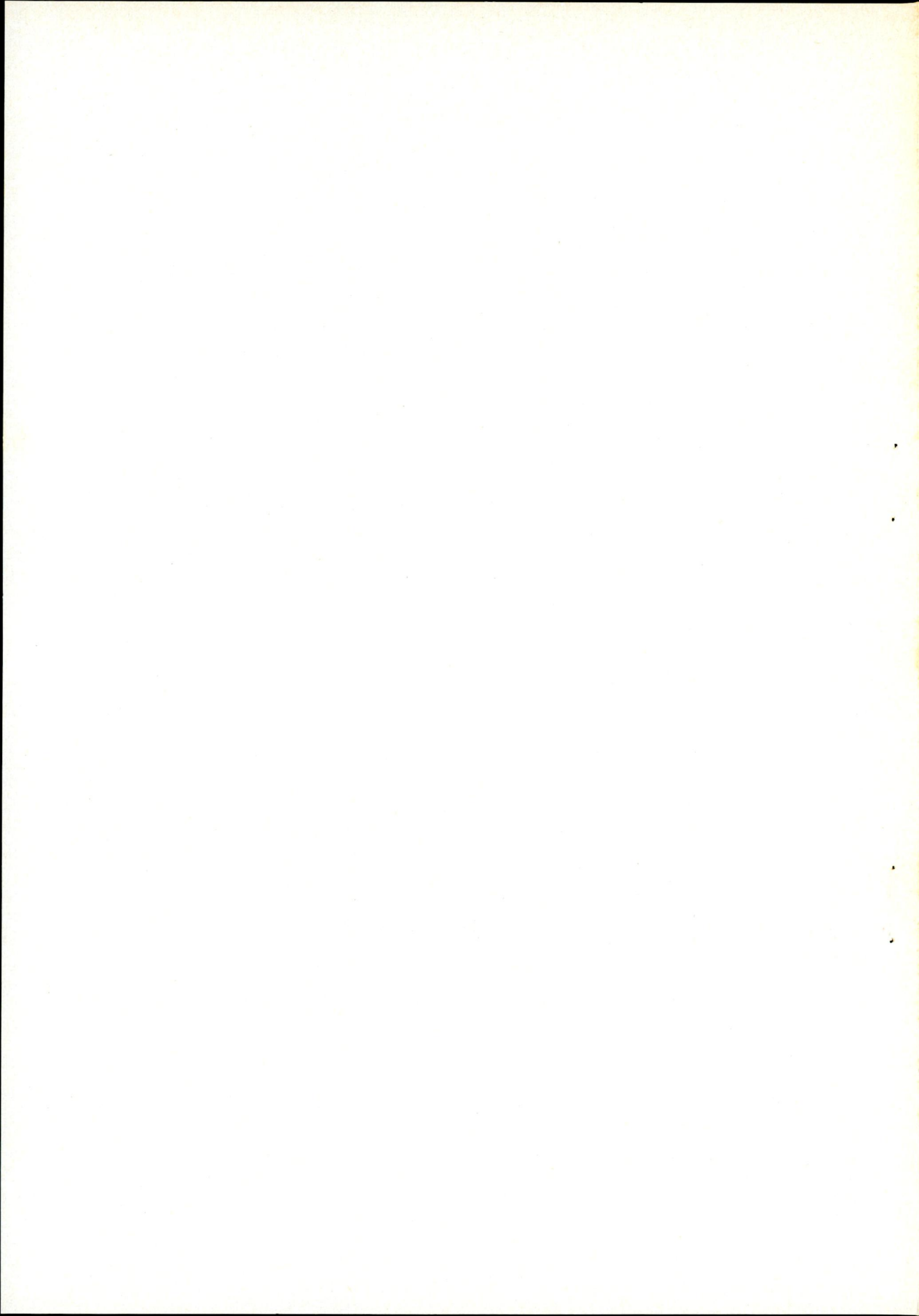
(ii) deaths arising from certain sporting injuries suffered during that period,

(Schedule 1 (14) and (16)—proposed section 36 and Schedule 4);

- (e) to permit the Public Trustee, when administering an amount on behalf of a claimant under the Act, to pay the amount otherwise than to the estate of the claimant, should the claimant die before attaining the age of 18 years (Schedule 2 (1)); and
- (f) to require an additional member to be appointed to the Committee on the nomination of the Minister for Education (Schedule 2 (3)).

The Bill also makes other provisions of a minor, ancillary, consequential and saving nature.





**SPORTING INJURIES INSURANCE (AMENDMENT)
BILL, 1984 (No. 2)**

No. , 1984.

A BILL FOR

An Act to amend the Sporting Injuries Insurance Act, 1978, so as to establish a further scheme for the payment of benefits in respect of deaths and certain injuries suffered in certain sporting, athletic or recreational activities, and for other purposes.

[MR LANDA—2 May, 1984.]

Sporting Injuries Insurance (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Sporting Injuries Insurance (Amendment) Act, 1984".

Commencement.

2. (1) Except as provided by subsections (2)–(4), this Act shall
10 commence on the date of assent to this Act.

(2) Section 5, in its application to a provision of Schedule 1 or 2, shall commence on the day on which the provision commences.

(3) Schedule 1 and Schedule 2 (3) shall commence on such day or
15 days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Schedule 2 (2) shall commence on—

(a) the day appointed and notified under section 2 (2) of the
Compensation Court Act, 1984; or

(b) the day on which Schedule 1 commences,

20 whichever is the later day.

Principal Act.

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

Sporting Injuries Insurance (Amendment).

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
INCREASING THE AVAILABILITY OF BENEFITS.

5 SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT.

Amendment of Act No. 141, 1978.

5. The Principal Act is amended in the manner set forth in Schedules 1
and 2.

10 **Saving.**

6. An application duly made under section 19 of the Principal Act which
has not been disposed of before the day on which Schedule 1 to this Act
commences shall be deemed to have been duly made under section 19 of the
Principal Act, as amended by this Act.

15

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INCREASING
THE AVAILABILITY OF BENEFITS.

(1) Long title—

20 After “certain sporting”, insert “or recreational”.

(2) (a) Section 3, matter relating to Schedule 3—

After “BENEFITS”, insert “FROM THE FUND”.

Sporting Injuries Insurance (Amendment).

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

(b) Section 3—

5 After the matter relating to Schedule 3, insert:—

SCHEDULE 4.—PAYMENT OF BENEFITS FROM THE
SUPPLEMENTARY FUND SUBJECT TO DISCRETION IN
CERTAIN CASES.

(3) (a) Section 4 (1), definition of “authorised activity”—

10 (i) Omit “sporting” where firstly occurring, insert
instead “prescribed”.

(ii) From paragraph (b), omit “organisation,”, insert instead
“organisation;”.

15 (iii) Omit “and that is, or is carried on in connection with,
or is related to, a sporting or athletic activity in respect
of which the organisation is for the time being declared
under section 5;”.

(b) Section 4 (1), definitions of “enrolled participant”, “enrolled
player”—

20 Before the definition of “function”, insert:—

“enrolled participant”, in relation to the Department, means a
person who, in accordance with the rules or a determina-
tion made under the rules, is to be treated as an enrolled
participant of the Department for the purposes of this
Act;

25 “enrolled player”, in relation to a school, means a person who,
in accordance with the rules or a determination made
under the rules, is to be treated as an enrolled player
of the school for the purposes of this Act;

Sporting Injuries Insurance (Amendment).

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

- (c) Section 4 (1), definition of “injury”—
5 Omit “sporting”, insert instead “prescribed”.
- (d) Section 4 (1), definition of “prescribed organisation”—
After the definition of “perform”, insert:—
“prescribed organisation” means a sporting organisation, a
school or the Department;
- 10 (e) Section 4 (1), definition of “school”—
After the definition of “rules”, insert:—
“school” means—
(a) a State school, within the meaning of the Public
Instruction Act of 1880, other than an evening
15 college, within the meaning of section 6 of that
Act; or
(b) a certified school, within the meaning of the
Public Instruction (Amendment) Act, 1916;
- 20 (f) Section 4 (1), definitions of “Supplementary Fund”, “the
Department”—
At the end of section 4 (1), insert:—
“Supplementary Fund” means the Supplementary Sporting
Injuries Fund established under section 11A (1);
“the Department” means the Department of Leisure, Sport
25 and Tourism.

Sporting Injuries Insurance (Amendment).

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

(g) Section 4 (1A), (1B)—

- 5 After section 4 (1), insert:—
- (1A) A reference in this Act to an authorised activity—
- (a) in relation to a sporting organisation, does not include a
10 reference to an activity of a kind that is not, or is not
 carried on in connection with, or is not related to, a sport-
 ing or athletic activity in respect of which the organisa-
 tion is for the time being declared under section 5; and
- (b) in relation to the Department, does not include a refer-
 ence to an activity for the participation in which no fee is
 payable to the Department.
- 15 (1B) Where an authorised activity of a sporting organisation
 is also an authorised activity of a school or of the Department, a
 person—
- (a) who is participating in the activity as a registered player
 of the organisation; and
- 20 (b) who, if this subsection had not been enacted, would also
 be participating in the activity as an enrolled player of
 the school, as an enrolled participant of the Department,
 or as both,
- 25 shall, for the purposes of this Act, be deemed not to be an
 enrolled player of the school or an enrolled participant of the
 Department while participating in the activity.

(4) Section 8 (b)—

Omit “and the Department of Sport and Recreation”, insert instead
“, the Department and the Department of Education”.

Sporting Injuries Insurance (Amendment).

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

(5) (a) Section 11 (2)—

5 Omit the subsection, insert instead:—

(2) The Fund shall be comprised of—

(a) all money paid to the Committee under Part IV or to the Fund under section 11A (6); and

10 (b) all other assets of the Committee (other than the Supplementary Fund), including—

(i) gifts made to it otherwise than for the purposes of the Supplementary Fund; and

(ii) investments made by it under section 12 with respect to money forming part of the Fund.

15 (b) Section 11 (3) (a), (b)—

Omit the paragraphs, insert instead:—

20 (a) the costs of administering this Act in so far as those costs relate to registered players and sporting organisations, including the cost of meeting any claims made by or with respect to registered players for benefits under this Act;

(b) any money required to repay any borrowing by the Committee under this Act for the purposes of the Fund;

(c) Section 11 (3) (c)—

25 Omit “make.”, insert instead “make; and”.

(d) Section 11 (3) (d)—

After section 11 (3) (c), insert:—

(d) any money transferred to the Supplementary Fund pursuant to section 11A (5).

Sporting Injuries Insurance (Amendment).

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

(6) Sections 11A, 11B—

5 After section 11, insert:—

Establishment of Supplementary Sporting Injuries Fund.

11A. (1) The Committee shall establish, administer and control a fund, to be called the “Supplementary Sporting Injuries Fund”.

(2) The Supplementary Fund shall be comprised of—

- 10 (a) all money transferred to the Supplementary Fund pursuant to subsection (5);
- (b) all money paid to the Committee from the Treasury pursuant to notices served under section 11B (2);
- 15 (c) all money recovered by the Committee pursuant to section 35A;
- (d) gifts made to the Committee for the purposes of the Supplementary Fund; and
- (e) investments made by the Committee under section 12 with respect to money forming part of the Supplementary Fund.

20 (3) There shall be paid from the Supplementary Fund—

- (a) the costs of administering this Act in so far as those costs relate to enrolled players of schools and enrolled participants of the Department, including the cost of meeting any claims made by or with respect to enrolled players and enrolled participants for benefits under this Act; and
- 25 (b) the money required to repay or pay, as the case may be, under subsection (6) any money transferred to the Supplementary Fund pursuant to subsection (5) and any interest payable thereon.

Sporting Injuries Insurance (Amendment).

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

5 (4) The Committee shall ensure that the money in the
Supplementary Fund is sufficient to meet the liabilities that are or
may be required to be met from time to time by the Supplementary
Fund, but nothing in this subsection requires the Committee to
transfer amounts under subsection (5) from the Fund to the
10 Supplementary Fund except in such circumstances as the Committee
thinks fit.

(5) In the discharge of its duty under subsection (4), the
Committee may transfer from the Fund to the Supplementary Fund
from time to time such amounts as it considers appropriate.

15 (6) Subject to subsection (4), the Committee shall, at such
times as it thinks fit—

- (a) repay from the Supplementary Fund to the Fund money
transferred to the Supplementary Fund pursuant to subsection
(5); and
- 20 (b) pay to the Fund from the Supplementary Fund interest
thereon, calculated at the rate prescribed by the regulations,
in relation to the period for which the money so transferred
comprised part of the Supplementary Fund.

Recoupment to Supplementary Fund.

25 11B. (1) In this section, “quarter” means any of the following
successive periods of 3 months:—

- (a) January, February and March;
(b) April, May and June;
(c) July, August and September;
(d) October, November and December.

Sporting Injuries Insurance (Amendment)

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

5 (2) Forthwith after the conclusion of each quarter, the
Committee shall serve on the Secretary and Comptroller of Accounts,
the Treasury, a notice requiring payment to the Committee of the
amount, if any, required to be specified in the notice in relation to
the quarter by subsection (3).

10 (3) The amount required to be specified in a notice served
under subsection (2) in relation to a quarter is the sum of—

(a) the total of the amounts of all benefits paid by the Committee
out of the Supplementary Fund during the quarter, other
than any such amount included in a notice served under
subsection (2) in relation to a preceding quarter;

15 (b) the total of the amounts of all benefits determined by the
Committee in the quarter to which the notice relates to be
payable by the Committee after the expiration of the quarter
to which the notice relates; and

20 (c) the costs, estimated by the Committee, of administering this
Act during the quarter to which the notice relates in so far
as those costs relate to enrolled players of schools and enrolled
participants of the Department, including any interest paid to
the Fund under section 11A (6) during that quarter,

25 reduced by the amounts, if any, recovered by the Committee pursuant
to section 35A during the quarter to which the notice relates.

(7) Section 12—

After “Fund”, insert “or the Supplementary Fund”.

Sporting Injuries Insurance (Amendment).

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

(8) Section 19—

5 Omit the section, insert instead:—

Applicants for benefits.

19. (1) A person who—

10 (a) when the person is a registered player of a sporting organisation, suffers a compensable injury, whether within or outside New South Wales, while participating in an authorised activity of the organisation;

15 (b) when the person is an enrolled player of a school, suffers a compensable injury, whether within or outside New South Wales, while participating in an authorised activity of the school; or

(c) when the person is an enrolled participant of the Department, suffers a compensable injury, whether within or outside New South Wales, while participating in an authorised activity of the Department,

20 may apply to the Committee for a benefit under this Act.

(2) Where a person dies as a consequence of an injury suffered by the person, whether within or outside New South Wales—

(a) while participating in an authorised activity of a sporting organisation as a registered player of the organisation;

25 (b) while participating in an authorised activity of a school as an enrolled player of the school; or

(c) while participating in an authorised activity of the Department as an enrolled participant of the Department,

30 the legal personal representative of that person may apply to the Committee for a benefit under this Act.

(3) This section has effect subject to sections 18 (2) and 20.

Sporting Injuries Insurance (Amendment).

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

(9) Section 20 (2)—

5 At the end of section 20, insert:—

(2) Where an authorised activity of a school is also an authorised activity of the Department, an application may not be made under section 19 in relation to an injury suffered by a person while participating in the activity—

10 (a) as an enrolled participant of the Department, if an application has been duly made under that section in relation to the same injury suffered by the person while participating in the activity as an enrolled player of the school; or

15 (b) as an enrolled player of the school, if an application has been duly made under that section in relation to the same injury suffered by the person while participating in the activity as an enrolled participant of the Department.

(10) (a) Section 26 (2)—

20 Omit “, the Committee, if the person in respect of whose death the application was made”, insert instead “with respect to the death of a person while participating in an authorised activity of a sporting organisation as a registered player of the organisation, the Committee, if the person”.

(b) Section 26 (2A)—

25 After section 26 (2), insert:—

(2A) Subject to subsection (4), where—

(a) an application under section 19 (2) has been duly made with respect to the death of a person—

30 (i) while participating in an authorised activity of a school as an enrolled player of the school; or

Sporting Injuries Insurance (Amendment).

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

- 5 (ii) while participating in an authorised activity of
the Department as an enrolled participant of the
Department; and
- 10 (b) the person had at least 1 dependant who was, in the
opinion of the Committee, wholly or partly dependent
for support upon the deceased person immediately before
the death occurred,
- 15 the Committee may pay an amount not exceeding the total of
\$37,500 and an additional \$1,500 in respect of each child, if
any, of the deceased person who was, in the opinion of the
Committee, wholly or partly dependent for support upon the
deceased person immediately before the death occurred.
- (c) Section 26 (3)—
After “(2) (a) or (b)”, insert “or (2A)”.
- (d) Section 26 (4)—
20 Omit “his death” where firstly occurring, insert instead “the
death of the person”.
- (e) Section 26 (4) (a)–(c)—
Omit section 26 (4) (a) and (b), insert instead:—
- 25 (a) if the person was a registered player of a sporting
organisation when the incident occurred and died when,
or within 3 months after, the incident occurred—
- (i) the amount payable under subsection (2) (a)
in respect of the death of the person; or
- (ii) the maximum amount payable under subsection
(2) (b) in respect of the death of the person,
- 30 as the case may be;

Sporting Injuries Insurance (Amendment).

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

5 (b) if the person was an enrolled player of a school or an
enrolled participant of the Department when the
incident occurred and died when, or within 3 months
after, the incident occurred—the maximum amount
payable under subsection (2A) in respect of the death of
the person; or

10 (c) in any other case—\$90,000.

(11) (a) Section 27 (1), (1A)—

Omit section 27 (1), insert instead:—

15 (1) Where a person dies as a consequence of an injury
suffered in prescribed circumstances by the person, whether
within or outside New South Wales, the Committee shall, on
application made to it by—

20 (a) where the funeral expenses payable out of the deceased
person's estate have been paid, the person who paid those
expenses; or

(b) where those expenses have not been paid, an applicant
approved by the Committee, being—

25 (i) a parent of the deceased person;

(ii) a person who, in the opinion of the Committee,
had a relationship to the deceased person,
immediately before the death, substantially
similar to that of a parent; or

(iii) the legal personal representative of the deceased
person,

30 pay to the applicant the prescribed amount or those expenses,
whichever is the lesser, if those expenses have been paid or, if
those expenses have not been paid, pay to the applicant the
prescribed amount.

Sporting Injuries Insurance (Amendment).

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

- 5 (1A) An injury is suffered by a person in prescribed circumstances, within the meaning of subsection (1), if the injury is suffered by the person—
- (a) while the person is participating in an authorised activity of a sporting organisation as a registered player of the organisation;
 - 10 (b) while the person is participating in an authorised activity of a school as an enrolled player of the school; or
 - (c) while the person is participating in an authorised activity of the Department as an enrolled participant of the Department.
- 15 (b) Section 27 (2)—
After “paid”, insert “or is payable”.
- (12) (a) Section 31 (1) (a)—
Omit “sporting”, insert instead “prescribed”.
- (b) Section 31 (1) (b)—
20 After “organisations”, insert “, enrolled players of schools or enrolled participants of the Department”.
- (c) Section 31 (1) (c)—
After “activities” where firstly occurring, insert “, or recreational activities conducted or promoted by the Department,”.
- 25 (d) Section 31 (1) (d) (i), (2A)—
Omit “sporting” wherever occurring, insert instead “prescribed”.

Sporting Injuries Insurance (Amendment).

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

(e) Section 31 (1) (d) (ii)—

5 After “organisation” where firstly occurring, insert “, an enrolled player of a school or an enrolled participant of the Department”.

(f) Section 31 (1) (d) (ii)—

10 After “organisation” where secondly occurring, insert “, an enrolled player of the school or an enrolled participant of the Department, as the case may require,”.

(g) Section 31 (1) (e) (i)—

After “activities” where firstly occurring, insert “, or recreational activities conducted or promoted by the Department,”.

(h) Section 31 (2) (d)—

15 After “organisation” where firstly occurring, insert “, an enrolled player of a school or an enrolled participant of the Department”.

(i) Section 31 (2) (d)—

20 After “organisation” where secondly occurring, insert “, an enrolled player of the school or an enrolled participant of the Department, as the case may require,”.

(13) Sections 35A, 35B—

After section 35, insert:—

Certain claims against the Committee and others.

35A. (1) In this section, “damages” includes—

25 (a) a benefit payable pursuant to a system of compensation under the legislation of another State or a Territory of the Commonwealth or of any country other than Australia;

Sporting Injuries Insurance (Amendment).

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

- 5 (b) an amount payable under a contract of insurance or
assurance;
- (c) an amount payable by way of damages under a law of New
South Wales, of another State or a Territory of the Common-
wealth or of any country other than Australia; and
- 10 (d) an amount payable in circumstances prescribed by the
regulations.

15 (2) Where a death or an injury in relation to or for which a
benefit is payable under this Act in respect of or to an enrolled player
of a school or an enrolled participant of the Department was caused
under circumstances creating a legal liability in some person (in this
section referred to as the "liable person") to pay damages
in respect thereof, the person entitled to a benefit payable under
this Act in relation to the death or injury (in this section
referred to as the "entitled person") may take proceedings both
20 against the liable person to recover damages and against the
Committee to recover the benefit but, subject to this section, shall not
be entitled to retain both damages and the benefit.

25 (3) If the entitled person recovers firstly the benefit and
secondly damages, the entitled person shall be liable to repay to the
Committee out of the damages the amount of the benefit (or, where
the amount of the damages is less than the amount of the benefit, the
amount of the damages), and the entitled person shall not be entitled
to the payment of any further benefit under this Act in respect of the
incident as a consequence of which the death or injury occurred,
except where (and to the extent, if any, that) the regulations otherwise
30 provide.

(4) If the entitled person firstly recovers damages, the
entitled person shall not be entitled to recover a benefit under this
Act in respect of the incident, except where (and to the extent, if
any, that) the regulations otherwise provide.

Sporting Injuries Insurance (Amendment).

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

5 (5) If the entitled person has recovered a benefit under this Act, the Committee shall be entitled to be indemnified by the liable person to the extent of the amount of the benefit.

10 (6) Where any payment is made under the indemnity referred to in subsection (5) and, at the time of the payment, the entitled person has not obtained judgment for damages against the liable person, the payment shall, to the extent of its amount, be a defence to proceedings by the entitled person against the liable person for damages.

15 (7) All questions relating to matters arising under this section or regulations made for the purposes of this section shall, in default of agreement—

(a) be settled by proceedings brought in a court of competent jurisdiction; or

(b) with the consent of the parties, be settled by the Commission.

Liability of concurrent tortfeasors.

20 35B. (1) In this section, “damages”, “entitled person” and “liable person” have the meanings respectively ascribed thereto in section 35A.

25 (2) Where an entitled person is entitled to recover damages independently of this Act both from the Crown and from another liable person and—

(a) the entitled person recovers damages from the other liable person but does not seek to recover damages from, or does not proceed to judgment against, the Crown; or

Sporting Injuries Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INCREASING THE
AVAILABILITY OF BENEFITS—*continued.*

- 5 (b) judgment in an action by the entitled person is given against both the Crown and the other liable person but the entitled person refuses to accept satisfaction of the judgment against the Crown,

10 section 35A applies to the case as if the entitled person had not been entitled to recover the damages from the Crown, and the Crown has, to the extent of the amount, if any, of the benefit paid by the Committee, a defence to an action by the other liable person against the Crown for a contribution as a concurrent tortfeasor.

- (14) Section 36—

Omit the section, insert instead:—

15 **Payment of benefits subject to discretion.**

36. Schedules 3 and 4 have effect.

- (15) Schedule 3, heading—

After "BENEFITS", insert "FROM THE FUND".

- (16) Schedule 4—

20 After Schedule 3, insert:—

SCHEDULE 4.

(Sec. 36.)

PAYMENT OF BENEFITS FROM THE SUPPLEMENTARY FUND SUBJECT TO
DISCRETION IN CERTAIN CASES.

25 **Interpretation.**

1. (1) In this Schedule—

"appointed day" means the day on which this Schedule commences;

"injury" has the meaning ascribed thereto in Schedule 3.

Sporting Injuries Insurance (Amendment).

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

5 (2) A reference in this Schedule to a person who is seriously disabled is a reference to a person who is a paraplegic or a quadriplegic.

Power to make payments.

2. Subject to clause 4, where—

(a) a person suffered an injury, whether within or outside New South Wales, on or after 22nd February, 1977, but on or before the appointed day;

10 (b) the injury was suffered in the course of an activity that, in the opinion of the Committee, would or might have been an authorised activity of a school or of the Department if the activity had been carried on on or after the appointed day;

15 (c) the person, in the opinion of the Committee, would or might have been an enrolled player of a school or an enrolled participant of the Department at the time of the injury if the injury was suffered on or after the appointed day; and

(d) the Committee is satisfied that the injury resulted in the death of the person or in the person's having been permanently seriously disabled,

20 the Committee may, on application made to it and with the approval of the Minister, pay from the Supplementary Fund an amount not exceeding the maximum amount that, immediately before 1st June, 1983, would or might have been payable under section 25, 26 or 27, as the case may be, if the injury had been suffered in the course of an authorised activity for a sporting organisation by a
25 registered player of that organisation.

Designation of recipients, etc.

3. Subject to clause 5, any amount paid under this Schedule shall be paid to such person or persons and, if to more than one person, in such proportions as the Committee, with the approval of the Minister, determines.

30 Restriction on applications.

4. An application may not be made for payment of an amount under this Schedule—

(a) except as provided in paragraph (b)—later than 12 months after the appointed day;

Sporting Injuries Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INCREASING THE
AVAILABILITY OF BENEFITS—*continued.*

- 5 (b) where the application is made in respect of a death—later than 12 months after the appointed day or the date of the death, whichever occurs later;
- (c) in respect of an injury or a death arising out of or suffered in the course of an authorised activity of a sporting organisation; or
- 10 (d) if an amount has already been paid under Part V or Schedule 3 in respect of the death or injury to which the application would relate.

Application of sections 28, 35A and 35B.

5. (1) Section 28—
- 15 (a) applies to and in respect of an amount paid under this Schedule and the person who receives any such amount in the same way as it applies to and in respect of an amount paid under section 25 and the person who receives any such amount; and
- (b) so applies as if the reference in section 28 (1) to section 25 were a reference to this Schedule.
- 20 (2) Sections 35A and 35B apply to and in respect of an amount paid or payable under this Schedule in the same way as they apply to and in respect of benefits paid or payable under section 25, 26 or 27 to or in respect of enrolled players of schools and enrolled participants of the Department.

SCHEDULE 2.

(Sec. 5.)

25 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 28 (2)—

Omit “to the estate of the deceased applicant.”, insert instead:—
to—

- (a) a parent of the deceased applicant;

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) a person who, in the opinion of the Public Trustee, had a relationship to the deceased applicant, immediately before the death, substantially similar to that of a parent; or
- (c) the legal personal representative of the deceased applicant, as the Public Trustee thinks fit.
- (2) Section 35A (7) (b)—
Omit “Commission”, insert instead “Court”.
- 10 (3) (a) Schedule 2, clause 2 (1)—
Omit “5”, insert instead “6”.
- (b) Schedule 2, clause 2 (3)—
Omit “4”, insert instead “5”.
- (c) Schedule 2, clause 2 (3) (a)—
15 Omit “and” where secondly occurring.
- (d) Schedule 2, clause 2 (3) (a1)—
After clause 2 (3) (a), insert:—
(a1) 1 shall be a person appointed on the nomination of the Minister for Education; and
- 20 (e) Schedule 2, clause 4—
After “years”, insert “, or such shorter term as may be specified in the instrument of appointment of the member,”.
- (f) Schedule 2, clause 6 (3)—
After clause 6 (2), insert:—
- 25 (3) The member referred to in clause 2 (3) (a1) may not take part in proceedings conducted at a meeting of the Committee unless those proceedings relate to enrolled players of schools, schools, authorised activities of schools or the

Sporting Injuries Insurance (Amendment).

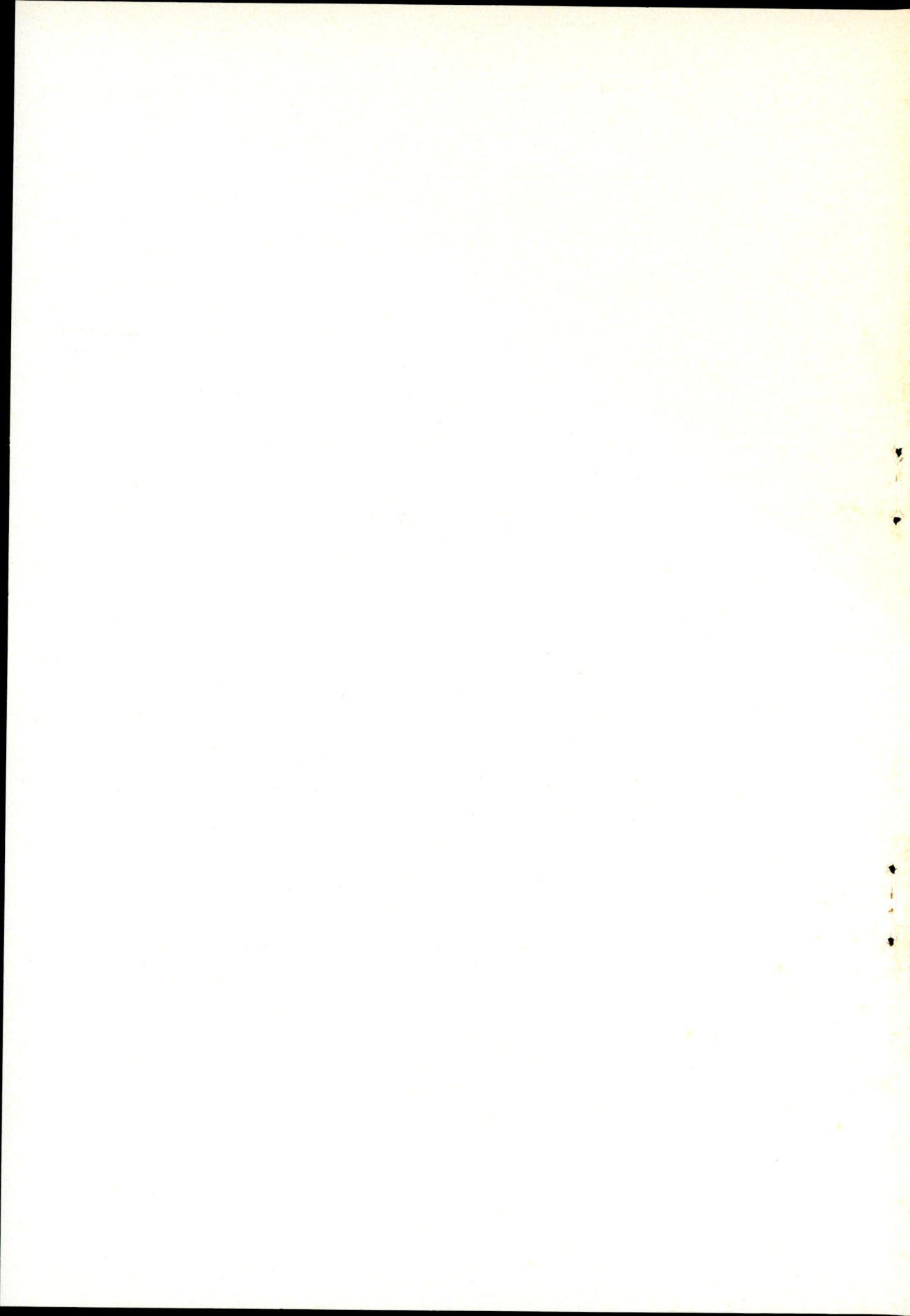
SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 Supplementary Fund and shall, for the purposes of clause 9 (1) (c), be deemed to have been excused by the Committee for absence from any meeting of the Committee the proceedings conducted at which do not relate to any of those matters.

(g) Schedule 2, clause 8 (2) (a)—
Omit “or”.

10 (h) Schedule 2, clause 8 (2) (b)—
Omit “Recreation.”, insert instead “Recreation; or”.

(i) Schedule 2, clause 8 (2) (c)—
After clause 8 (2) (b), insert:—
15 (c) the member referred to in clause 2 (3) (a1), unless the person is nominated for appointment by the Minister for Education.



**SPORTING INJURIES INSURANCE (AMENDMENT) ACT,
1984, No. 65**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 65, 1984.

An Act to amend the Sporting Injuries Insurance Act, 1978, so as to establish a further scheme for the payment of benefits in respect of deaths and certain injuries suffered in certain sporting, athletic or recreational activities, and for other purposes. [Assented to, 19th June, 1984.]

Sporting Injuries Insurance (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Sporting Injuries Insurance (Amendment) Act, 1984".

Commencement.

2. (1) Except as provided by subsections (2)–(4), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to a provision of Schedule 1 or 2, shall commence on the day on which the provision commences.

(3) Schedule 1 and Schedule 2 (3) shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Schedule 2 (2) shall commence on—

(a) the day appointed and notified under section 2 (2) of the Compensation Court Act, 1984; or

(b) the day on which Schedule 1 commences,

whichever is the later day.

Principal Act.

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

Sporting Injuries Insurance (Amendment).

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INCREASING THE AVAILABILITY OF BENEFITS.

SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

Amendment of Act No. 141, 1978.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Saving.

6. An application duly made under section 19 of the Principal Act which has not been disposed of before the day on which Schedule 1 to this Act commences shall be deemed to have been duly made under section 19 of the Principal Act, as amended by this Act.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INCREASING THE AVAILABILITY OF BENEFITS.

(1) Long title—

After “certain sporting”, insert “or recreational”.

(2) (a) Section 3, matter relating to Schedule 3—

After “BENEFITS”, insert “FROM THE FUND”.

Sporting Injuries Insurance (Amendment).

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

(b) Section 3—

After the matter relating to Schedule 3, insert:—

SCHEDULE 4.—PAYMENT OF BENEFITS FROM THE
SUPPLEMENTARY FUND SUBJECT TO DISCRETION IN
CERTAIN CASES.

(3) (a) Section 4 (1), definition of “authorised activity”—

- (i) Omit “sporting” where firstly occurring, insert instead “prescribed”.
- (ii) From paragraph (b), omit “organisation,”, insert instead “organisation;”.
- (iii) Omit “and that is, or is carried on in connection with, or is related to, a sporting or athletic activity in respect of which the organisation is for the time being declared under section 5;”.

(b) Section 4 (1), definitions of “enrolled participant”, “enrolled player”—

Before the definition of “function”, insert:—

“enrolled participant”, in relation to the Department, means a person who, in accordance with the rules or a determination made under the rules, is to be treated as an enrolled participant of the Department for the purposes of this Act;

“enrolled player”, in relation to a school, means a person who, in accordance with the rules or a determination made under the rules, is to be treated as an enrolled player of the school for the purposes of this Act;

Sporting Injuries Insurance (Amendment).

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

- (c) Section 4 (1), definition of “injury”—

Omit “sporting”, insert instead “prescribed”.

- (d) Section 4 (1), definition of “prescribed organisation”—

After the definition of “perform”, insert:—

“prescribed organisation” means a sporting organisation, a school or the Department;

- (e) Section 4 (1), definition of “school”—

After the definition of “rules”, insert:—

“school” means—

- (a) a State school, within the meaning of the Public Instruction Act of 1880, other than an evening college, within the meaning of section 6 of that Act; or
- (b) a certified school, within the meaning of the Public Instruction (Amendment) Act, 1916;

- (f) Section 4 (1), definitions of “Supplementary Fund”, “the Department”—

At the end of section 4 (1), insert:—

“Supplementary Fund” means the Supplementary Sporting Injuries Fund established under section 11A (1);

“the Department” means the Department of Leisure, Sport and Tourism.

Sporting Injuries Insurance (Amendment).

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

(g) Section 4 (1A), (1B)—

After section 4 (1), insert:—

- (1A) A reference in this Act to an authorised activity—
- (a) in relation to a sporting organisation, does not include a reference to an activity of a kind that is not, or is not carried on in connection with, or is not related to, a sporting or athletic activity in respect of which the organisation is for the time being declared under section 5; and
 - (b) in relation to the Department, does not include a reference to an activity for the participation in which no fee is payable to the Department.

(1B) Where an authorised activity of a sporting organisation is also an authorised activity of a school or of the Department, a person—

- (a) who is participating in the activity as a registered player of the organisation; and
- (b) who, if this subsection had not been enacted, would also be participating in the activity as an enrolled player of the school, as an enrolled participant of the Department, or as both,

shall, for the purposes of this Act, be deemed not to be an enrolled player of the school or an enrolled participant of the Department while participating in the activity.

(4) Section 8 (b)—

Omit “and the Department of Sport and Recreation”, insert instead “, the Department and the Department of Education”.

Sporting Injuries Insurance (Amendment).

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

(5) (a) Section 11 (2)—

Omit the subsection, insert instead:—

(2) The Fund shall be comprised of—

- (a) all money paid to the Committee under Part IV or to the Fund under section 11A (6); and
- (b) all other assets of the Committee (other than the Supplementary Fund), including—
 - (i) gifts made to it otherwise than for the purposes of the Supplementary Fund; and
 - (ii) investments made by it under section 12 with respect to money forming part of the Fund.

(b) Section 11 (3) (a), (b)—

Omit the paragraphs, insert instead:—

- (a) the costs of administering this Act in so far as those costs relate to registered players and sporting organisations, including the cost of meeting any claims made by or with respect to registered players for benefits under this Act;
- (b) any money required to repay any borrowing by the Committee under this Act for the purposes of the Fund;

(c) Section 11 (3)(c)—

Omit “make.”, insert instead “make; and”.

(d) Section 11 (3) (d)—

After section 11 (3) (c), insert:—

- (d) any money transferred to the Supplementary Fund pursuant to section 11A (5).

Sporting Injuries Insurance (Amendment).

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

(6) Sections 11A, 11B—

After section 11, insert:—

Establishment of Supplementary Sporting Injuries Fund.

11A. (1) The Committee shall establish, administer and control a fund, to be called the "Supplementary Sporting Injuries Fund".

(2) The Supplementary Fund shall be comprised of—

- (a) all money transferred to the Supplementary Fund pursuant to subsection (5);
- (b) all money paid to the Committee from the Treasury pursuant to notices served under section 11B (2);
- (c) all money recovered by the Committee pursuant to section 35A;
- (d) gifts made to the Committee for the purposes of the Supplementary Fund; and
- (e) investments made by the Committee under section 12 with respect to money forming part of the Supplementary Fund.

(3) There shall be paid from the Supplementary Fund—

- (a) the costs of administering this Act in so far as those costs relate to enrolled players of schools and enrolled participants of the Department, including the cost of meeting any claims made by or with respect to enrolled players and enrolled participants for benefits under this Act; and
- (b) the money required to repay or pay, as the case may be, under subsection (6) any money transferred to the Supplementary Fund pursuant to subsection (5) and any interest payable thereon.

Sporting Injuries Insurance (Amendment).

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

(4) The Committee shall ensure that the money in the Supplementary Fund is sufficient to meet the liabilities that are or may be required to be met from time to time by the Supplementary Fund, but nothing in this subsection requires the Committee to transfer amounts under subsection (5) from the Fund to the Supplementary Fund except in such circumstances as the Committee thinks fit.

(5) In the discharge of its duty under subsection (4), the Committee may transfer from the Fund to the Supplementary Fund from time to time such amounts as it considers appropriate.

(6) Subject to subsection (4), the Committee shall, at such times as it thinks fit—

- (a) repay from the Supplementary Fund to the Fund money transferred to the Supplementary Fund pursuant to subsection (5); and
- (b) pay to the Fund from the Supplementary Fund interest thereon, calculated at the rate prescribed by the regulations, in relation to the period for which the money so transferred comprised part of the Supplementary Fund.

Recoupment to Supplementary Fund.

11B. (1) In this section, “quarter” means any of the following successive periods of 3 months:—

- (a) January, February and March;
- (b) April, May and June;
- (c) July, August and September;
- (d) October, November and December.

Sporting Injuries Insurance (Amendment).

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

(2) Forthwith after the conclusion of each quarter, the Committee shall serve on the Secretary and Comptroller of Accounts, the Treasury, a notice requiring payment to the Committee of the amount, if any, required to be specified in the notice in relation to the quarter by subsection (3).

(3) The amount required to be specified in a notice served under subsection (2) in relation to a quarter is the sum of—

- (a) the total of the amounts of all benefits paid by the Committee out of the Supplementary Fund during the quarter, other than any such amount included in a notice served under subsection (2) in relation to a preceding quarter;
- (b) the total of the amounts of all benefits determined by the Committee in the quarter to which the notice relates to be payable by the Committee after the expiration of the quarter to which the notice relates; and
- (c) the costs, estimated by the Committee, of administering this Act during the quarter to which the notice relates in so far as those costs relate to enrolled players of schools and enrolled participants of the Department, including any interest paid to the Fund under section 11A (6) during that quarter,

reduced by the amounts, if any, recovered by the Committee pursuant to section 35A during the quarter to which the notice relates.

(7) Section 12—

After “Fund”, insert “or the Supplementary Fund”.

Sporting Injuries Insurance (Amendment).

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

(8) Section 19—

Omit the section, insert instead:—

Applicants for benefits.

19. (1) A person who—

- (a) when the person is a registered player of a sporting organisation, suffers a compensable injury, whether within or outside New South Wales, while participating in an authorised activity of the organisation;
- (b) when the person is an enrolled player of a school, suffers a compensable injury, whether within or outside New South Wales, while participating in an authorised activity of the school; or
- (c) when the person is an enrolled participant of the Department, suffers a compensable injury, whether within or outside New South Wales, while participating in an authorised activity of the Department,

may apply to the Committee for a benefit under this Act.

(2) Where a person dies as a consequence of an injury suffered by the person, whether within or outside New South Wales—

- (a) while participating in an authorised activity of a sporting organisation as a registered player of the organisation;
- (b) while participating in an authorised activity of a school as an enrolled player of the school; or
- (c) while participating in an authorised activity of the Department as an enrolled participant of the Department,

the legal personal representative of that person may apply to the Committee for a benefit under this Act.

(3) This section has effect subject to sections 18 (2) and 20.

Sporting Injuries Insurance (Amendment).

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

(9) Section 20 (2)—

At the end of section 20, insert:—

(2) Where an authorised activity of a school is also an authorised activity of the Department, an application may not be made under section 19 in relation to an injury suffered by a person while participating in the activity—

- (a) as an enrolled participant of the Department, if an application has been duly made under that section in relation to the same injury suffered by the person while participating in the activity as an enrolled player of the school; or
- (b) as an enrolled player of the school, if an application has been duly made under that section in relation to the same injury suffered by the person while participating in the activity as an enrolled participant of the Department.

(10) (a) Section 26 (2)—

Omit “, the Committee, if the person in respect of whose death the application was made”, insert instead “with respect to the death of a person while participating in an authorised activity of a sporting organisation as a registered player of the organisation, the Committee, if the person”.

(b) Section 26 (2A)—

After section 26 (2), insert:—

(2A) Subject to subsection (4), where—

- (a) an application under section 19 (2) has been duly made with respect to the death of a person—
 - (i) while participating in an authorised activity of a school as an enrolled player of the school; or

Sporting Injuries Insurance (Amendment).

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

(ii) while participating in an authorised activity of the Department as an enrolled participant of the Department; and

(b) the person had at least 1 dependant who was, in the opinion of the Committee, wholly or partly dependent for support upon the deceased person immediately before the death occurred,

the Committee may pay an amount not exceeding the total of \$37,500 and an additional \$1,500 in respect of each child, if any, of the deceased person who was, in the opinion of the Committee, wholly or partly dependent for support upon the deceased person immediately before the death occurred.

(c) Section 26 (3)—

After “(2) (a) or (b)”, insert “or (2A)”.

(d) Section 26 (4)—

Omit “his death” where firstly occurring, insert instead “the death of the person”.

(e) Section 26 (4) (a)–(c)—

Omit section 26 (4) (a) and (b), insert instead:—

(a) if the person was a registered player of a sporting organisation when the incident occurred and died when, or within 3 months after, the incident occurred—

(i) the amount payable under subsection (2) (a) in respect of the death of the person; or

(ii) the maximum amount payable under subsection (2) (b) in respect of the death of the person,

as the case may be;

Sporting Injuries Insurance (Amendment).

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

- (b) if the person was an enrolled player of a school or an enrolled participant of the Department when the incident occurred and died when, or within 3 months after, the incident occurred—the maximum amount payable under subsection (2A) in respect of the death of the person; or
- (c) in any other case—\$90,000.

(11) (a) Section 27 (1), (1A)—

Omit section 27 (1), insert instead:—

(1) Where a person dies as a consequence of an injury suffered in prescribed circumstances by the person, whether within or outside New South Wales, the Committee shall, on application made to it by—

- (a) where the funeral expenses payable out of the deceased person's estate have been paid, the person who paid those expenses; or
- (b) where those expenses have not been paid, an applicant approved by the Committee, being—
 - (i) a parent of the deceased person;
 - (ii) a person who, in the opinion of the Committee, had a relationship to the deceased person, immediately before the death, substantially similar to that of a parent; or
 - (iii) the legal personal representative of the deceased person,

pay to the applicant the prescribed amount or those expenses, whichever is the lesser, if those expenses have been paid or, if those expenses have not been paid, pay to the applicant the prescribed amount.

Sporting Injuries Insurance (Amendment).

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

(1A) An injury is suffered by a person in prescribed circumstances, within the meaning of subsection (1), if the injury is suffered by the person—

- (a) while the person is participating in an authorised activity of a sporting organisation as a registered player of the organisation;
- (b) while the person is participating in an authorised activity of a school as an enrolled player of the school; or
- (c) while the person is participating in an authorised activity of the Department as an enrolled participant of the Department.

(b) Section 27 (2)—

After “paid”, insert “or is payable”.

(12) (a) Section 31 (1) (a)—

Omit “sporting”, insert instead “prescribed”.

(b) Section 31 (1) (b)—

After “organisations”, insert “, enrolled players of schools or enrolled participants of the Department”.

(c) Section 31 (1) (c)—

After “activities” where firstly occurring, insert “, or recreational activities conducted or promoted by the Department,”.

(d) Section 31 (1) (d) (i), (2A)—

Omit “sporting” wherever occurring, insert instead “prescribed”.

Sporting Injuries Insurance (Amendment).

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

(e) Section 31 (1) (d) (ii)—

After “organisation” where firstly occurring, insert “, an enrolled player of a school or an enrolled participant of the Department”.

(f) Section 31 (1) (d) (ii)—

After “organisation” where secondly occurring, insert “, an enrolled player of the school or an enrolled participant of the Department, as the case may require,”.

(g) Section 31 (1) (e) (i)—

After “activities” where firstly occurring, insert “, or recreational activities conducted or promoted by the Department,”.

(h) Section 31 (2) (d)—

After “organisation” where firstly occurring, insert “, an enrolled player of a school or an enrolled participant of the Department”.

(i) Section 31 (2) (d)—

After “organisation” where secondly occurring, insert “, an enrolled player of the school or an enrolled participant of the Department, as the case may require,”.

(13) Sections 35A, 35B—

After section 35, insert:—

Certain claims against the Committee and others.

35A. (1) In this section, “damages” includes—

- (a) a benefit payable pursuant to a system of compensation under the legislation of another State or a Territory of the Commonwealth or of any country other than Australia;

Sporting Injuries Insurance (Amendment).

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

- (b) an amount payable under a contract of insurance or assurance;
- (c) an amount payable by way of damages under a law of New South Wales, of another State or a Territory of the Commonwealth or of any country other than Australia; and
- (d) an amount payable in circumstances prescribed by the regulations.

(2) Where a death or an injury in relation to or for which a benefit is payable under this Act in respect of or to an enrolled player of a school or an enrolled participant of the Department was caused under circumstances creating a legal liability in some person (in this section referred to as the "liable person") to pay damages in respect thereof, the person entitled to a benefit payable under this Act in relation to the death or injury (in this section referred to as the "entitled person") may take proceedings both against the liable person to recover damages and against the Committee to recover the benefit but, subject to this section, shall not be entitled to retain both damages and the benefit.

(3) If the entitled person recovers firstly the benefit and secondly damages, the entitled person shall be liable to repay to the Committee out of the damages the amount of the benefit (or, where the amount of the damages is less than the amount of the benefit, the amount of the damages), and the entitled person shall not be entitled to the payment of any further benefit under this Act in respect of the incident as a consequence of which the death or injury occurred, except where (and to the extent, if any, that) the regulations otherwise provide.

(4) If the entitled person firstly recovers damages, the entitled person shall not be entitled to recover a benefit under this Act in respect of the incident, except where (and to the extent, if any, that) the regulations otherwise provide.

Sporting Injuries Insurance (Amendment).

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

(5) If the entitled person has recovered a benefit under this Act, the Committee shall be entitled to be indemnified by the liable person to the extent of the amount of the benefit.

(6) Where any payment is made under the indemnity referred to in subsection (5) and, at the time of the payment, the entitled person has not obtained judgment for damages against the liable person, the payment shall, to the extent of its amount, be a defence to proceedings by the entitled person against the liable person for damages.

(7) All questions relating to matters arising under this section or regulations made for the purposes of this section shall, in default of agreement—

- (a) be settled by proceedings brought in a court of competent jurisdiction; or
- (b) with the consent of the parties, be settled by the Commission.

Liability of concurrent tortfeasors.

35B. (1) In this section, “damages”, “entitled person” and “liable person” have the meanings respectively ascribed thereto in section 35A.

(2) Where an entitled person is entitled to recover damages independently of this Act both from the Crown and from another liable person and—

- (a) the entitled person recovers damages from the other liable person but does not seek to recover damages from, or does not proceed to judgment against, the Crown; or

Sporting Injuries Insurance (Amendment).

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

- (b) judgment in an action by the entitled person is given against both the Crown and the other liable person but the entitled person refuses to accept satisfaction of the judgment against the Crown,

section 35A applies to the case as if the entitled person had not been entitled to recover the damages from the Crown, and the Crown has, to the extent of the amount, if any, of the benefit paid by the Committee, a defence to an action by the other liable person against the Crown for a contribution as a concurrent tortfeasor.

(14) Section 36—

Omit the section, insert instead:—

Payment of benefits subject to discretion.

36. Schedules 3 and 4 have effect.

(15) Schedule 3, heading—

After "BENEFITS", insert "FROM THE FUND".

(16) Schedule 4—

After Schedule 3, insert:—

SCHEDULE 4.

(Sec. 36.)

PAYMENT OF BENEFITS FROM THE SUPPLEMENTARY FUND SUBJECT TO
DISCRETION IN CERTAIN CASES.**Interpretation.**

1. (1) In this Schedule—

"appointed day" means the day on which this Schedule commences;

"injury" has the meaning ascribed thereto in Schedule 3.

Sporting Injuries Insurance (Amendment).

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

(2) A reference in this Schedule to a person who is seriously disabled is a reference to a person who is a paraplegic or a quadriplegic.

Power to make payments.

2. Subject to clause 4, where—

- (a) a person suffered an injury, whether within or outside New South Wales, on or after 22nd February, 1977, but on or before the appointed day;
- (b) the injury was suffered in the course of an activity that, in the opinion of the Committee, would or might have been an authorised activity of a school or of the Department if the activity had been carried on on or after the appointed day;
- (c) the person, in the opinion of the Committee, would or might have been an enrolled player of a school or an enrolled participant of the Department at the time of the injury if the injury was suffered on or after the appointed day; and
- (d) the Committee is satisfied that the injury resulted in the death of the person or in the person's having been permanently seriously disabled,

the Committee may, on application made to it and with the approval of the Minister, pay from the Supplementary Fund an amount not exceeding the maximum amount that, immediately before 1st June, 1983, would or might have been payable under section 25, 26 or 27, as the case may be, if the injury had been suffered in the course of an authorised activity for a sporting organisation by a registered player of that organisation.

Designation of recipients, etc.

3. Subject to clause 5, any amount paid under this Schedule shall be paid to such person or persons and, if to more than one person, in such proportions as the Committee, with the approval of the Minister, determines.

Restriction on applications.

4. An application may not be made for payment of an amount under this Schedule—

- (a) except as provided in paragraph (b)—later than 12 months after the appointed day;

Sporting Injuries Insurance (Amendment).

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

- (b) where the application is made in respect of a death—later than 12 months after the appointed day or the date of the death, whichever occurs later;
- (c) in respect of an injury or a death arising out of or suffered in the course of an authorised activity of a sporting organisation; or
- (d) if an amount has already been paid under Part V or Schedule 3 in respect of the death or injury to which the application would relate.

Application of sections 28, 35A and 35B.

5. (1) Section 28—

- (a) applies to and in respect of an amount paid under this Schedule and the person who receives any such amount in the same way as it applies to and in respect of an amount paid under section 25 and the person who receives any such amount; and
- (b) so applies as if the reference in section 28 (1) to section 25 were a reference to this Schedule.

(2) Sections 35A and 35B apply to and in respect of an amount paid or payable under this Schedule in the same way as they apply to and in respect of benefits paid or payable under section 25, 26 or 27 to or in respect of enrolled players of schools and enrolled participants of the Department.

SCHEDULE 2.

(Sec. 5.)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 28 (2)—

Omit “to the estate of the deceased applicant.”, insert instead:—
to—

- (a) a parent of the deceased applicant;

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) a person who, in the opinion of the Public Trustee, had a relationship to the deceased applicant, immediately before the death, substantially similar to that of a parent; or
 - (c) the legal personal representative of the deceased applicant, as the Public Trustee thinks fit.
- (2) Section 35A (7) (b)—
Omit “Commission”, insert instead “Court”.
- (3) (a) Schedule 2, clause 2 (1)—
Omit “5”, insert instead “6”.
- (b) Schedule 2, clause 2 (3)—
Omit “4”, insert instead “5”.
- (c) Schedule 2, clause 2 (3) (a)—
Omit “and” where secondly occurring.
- (d) Schedule 2, clause 2 (3) (a1)—
After clause 2 (3) (a), insert:—
(a1) 1 shall be a person appointed on the nomination of the Minister for Education; and
- (e) Schedule 2, clause 4—
After “years”, insert “, or such shorter term as may be specified in the instrument of appointment of the member.”.
- (f) Schedule 2, clause 6 (3)—
After clause 6 (2), insert:—
(3) The member referred to in clause 2 (3) (a1) may not take part in proceedings conducted at a meeting of the Committee unless those proceedings relate to enrolled players of schools, schools, authorised activities of schools or the

Sporting Injuries Insurance (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Supplementary Fund and shall, for the purposes of clause 9 (1) (c), be deemed to have been excused by the Committee for absence from any meeting of the Committee the proceedings conducted at which do not relate to any of those matters.

(g) Schedule 2, clause 8 (2) (a)—

Omit “or”.

(h) Schedule 2, clause 8 (2) (b)—

Omit “Recreation.”, insert instead “Recreation; or”.

(i) Schedule 2, clause 8 (2) (c)—

After clause 8 (2) (b), insert:—

(c) the member referred to in clause 2 (3) (a1), unless the person is nominated for appointment by the Minister for Education.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 19th June, 1984.*

