Guidelines for the NSW Sporting Injuries Schemes
Disclaimer

This publication may contain work health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website legislation.nsw.gov.au

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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NSW Sporting Injuries

NSW Sporting Injuries was established under the Sporting Injuries Insurance Act 1978 to provide affordable insurance and to promote safe sport practices to the NSW sporting community. It is a branch of the WorkCover Authority of NSW. Our mission is to reduce the financial impact of injuries in sport through the provision of affordable, statute based serious injuries insurance.

Function

NSW Sporting Injuries manages two Schemes:

1. Sporting Injuries Insurance Scheme – offers affordable sporting injuries insurance for NSW sporting organisations
2. Supplementary Sporting Injuries Benefits Scheme – provides free sporting injuries insurance to NSW school children and participants of certain programs of NSW Sport and Recreation.

Sporting Injuries Insurance Scheme

The Sporting Injuries Insurance Scheme was established in 1978 by the State Government. The Scheme was created to provide compensation to people who were seriously injured while participating in a sporting activity. The Scheme is open for membership to all sporting organisations operating within NSW.

The Scheme is non-profit and derives its funding from premiums paid by member organisations. All monies other than administrative costs and safe sport initiatives are directed towards the benefits provided by the Scheme.

Summary of the cover provided

The Scheme provides for a lump sum benefit to be paid to a registered participant of a declared sporting organisation who, while participating in an authorised activity or sporting event, suffers death or a permanent disability of a certain kind. Payment is made regardless of pre-existing conditions or negligence. The insurance provided by the Scheme can be used to complement a sporting organisation’s comprehensive player accident insurance or an individual’s private health insurance.

Who can be covered?

Cover is provided for registered participants of member sporting organisations. Participants may be registered players, competitors, coaches, referees, umpires, judges, marshals, timekeepers, etc.

The Scheme’s concept is that of group cover. Group cover does not require the details of registered participants, but the number of individual participants only. In the event of a claim by an injured participant, evidence is required that the person was registered with the sporting organisation and is covered under the policy.

An entitlement to apply for a benefit arises as a consequence of membership of a participating organisation. Therefore, an adequate system of records enabling ready identification of insured persons and verification of the numbers of participants is required to be maintained.

Extent of cover

Cover is provided during authorised activities of a sporting organisation such as:

- competition matches and fixtures
- trial and sporting events
- organised and supervised practice and training sessions (minimum of 2 participants).

The extent of the cover is determined by NSW Sporting Injuries in consultation with the sporting organisation, taking into consideration the aspect of supervision and control of the sporting organisation over the sporting or athletic activity. Events conducted outside NSW including overseas may also be covered, however, these events must be sanctioned by the organisation/governing body and agreed to be covered by NSW Sporting Injuries.
How is cover obtained?

The Scheme is a group insurance plan covering registered participants of sporting organisations that have elected to join. Cover is obtained by completing the Membership application form (catalogue no. SI04) and the organisation becoming a declared sporting organisation approved under the Sporting Injuries Insurance Act 1978.

Any sporting or athletic organisation can apply for membership of the Scheme. The Scheme is voluntary to join. Once a parent organisation/governing body has decided to participate and has been declared a member under the Act, NSW Sporting Injuries expects that all of an organisation’s constituent or member bodies or groups, and all of the individual participants registered with the organisation will be included in its participation.

What does it cost?

The Scheme is contributory and premiums are charged on an annual basis. As it is the organisation rather than individuals that join, the premiums are charged to the participating organisation. The amount charged is based on the number of individual participants the organisation contains or represents.

NSW Sporting Injuries is empowered to determine the premium rates applicable to a particular sporting activity or organisation, and at all times endeavours to ensure that they are fair and reasonable. Premium rates are determined according to the assessed risk of injury associated with the particular sport.

Policy document

There is no formal policy document or certificate of currency as the Scheme operates under State Government legislation. Upon becoming a member of the Scheme, an organisation will be provided with a premium notice and information regarding their cover.

Workers compensation exemption

Participation in the Scheme means that a registered participant of a declared sporting organisation is not deemed to be a ‘worker’ under the NSW Workers Compensation Legislation while:

- participating in an authorised activity of that organisation
- engaged in training or preparing with a view to participating in an authorised activity, or
- engaged on a journey in connection with participation or training.

However, a member of a declared sporting organisation may still be a worker under a contract of service for the club for activities that are unrelated to the organisation’s authorised activities or if, under the contract with the organisation that governs the person’s participation in the authorised sporting activities, the person is entitled to remuneration for activities outside the scope of those activities. It is recommended a sporting organisation seeks its own legal advice in this regard.

Type of cover

The Scheme provides cover for serious injuries (permanent loss of use) and death for participants of member sporting organisations. A lump sum benefit is payable to a registered participant of a declared sporting organisation who, while participating in an authorised activity or sporting event, suffers a permanent disability of a certain kind.

A full list of injuries covered by the Scheme and the maximum disability thresholds are listed in the Sporting injuries benefits fact sheet (catalogue no. SI05) and on the NSW Sporting Injuries website.

Types of injuries include permanent loss of use of arms, legs, sight, hearing, smell, taste and mental capacity. Minimum disability thresholds apply for most injuries in order to receive a benefit.
What is not covered?
The Scheme does not provide for the following:

- injuries incurred during activities that are not classified as authorised activities by the sporting organisation and NSW Sporting Injuries (for example recreational fishing or backyard touch football)
- injuries incurred while travelling to and from an event
- minor injuries including breaks, sprains, abrasions, cuts and bruises
- dental injuries
- reimbursement of medical expenses
- claim for loss of wages
- legal expenses or costs.

What benefits are payable?

- Lump sum benefits are payable for permanent disability (permanent loss of use) of a certain kind and for death
- Minimum disability thresholds apply for most injuries in order to receive a benefit
- Benefits for participants under 18 years of age will be paid to the Public Trustee.

A full list of benefits can be found on the NSW Sporting Injuries website.

Benefits payable in the event of a fatality

The Scheme provides a benefit where a registered participant of a declared sporting organisation dies as a consequence of an injury while participating in an authorised activity. Payment will only be made to the legal personal representative. The legal personal representative may be the next of kin, however, a Grant of Probate or Letters of Administration must appoint that person. Claims will not be processed without this authorisation.

Lump sum benefits are payable and the amount depends on whether the deceased participant had dependants. For participants under the age of 18, no benefit is paid, however funeral expenses to a certain amount are payable.

When to notify of an injury or make a claim

NSW Sporting Injuries is required to be notified if a participant has been seriously injured and has been treated in hospital. Injuries such as dislocations, breaks and fractures should be reported as these injuries may develop into a permanent disability. Please do not report minor injuries including sprains, bruises or cuts or dental injuries.

If you are unsure whether to report the injury, contact NSW Sporting Injuries to clarify the situation. Notification must be made within 12 months of the date of injury or your claim may be declined.

What should you do if you are injured?

- Report the injury to an official of your sporting organisation as soon as possible
- Confirm that you are a covered under the Sporting Injuries Insurance Scheme and that your injury occurred during an authorised activity
- You must notify NSW Sporting Injuries of your injury within 12 months from the date of injury by completing the Initial injury advice form (catalogue no. SI06)
- NSW Sporting Injuries will send you an acknowledgement letter and a benefit application form once your notification is received
- Complete and return the Benefit application form (catalogue no. SI07). Make sure that your sporting organisation supports the information contained in the form
- Forward as much supporting information as possible with the completed form including witness statements, medical reports, organisation confirmation statement, etc.
What should the club do if a participant is injured?

- Record the details of the injury and how it occurred.
- Complete and return the *Initial injury advice form* (catalogue no. SI06). Make sure the injured participant signs the form.
- Provide a written statement detailing the circumstances surrounding the injury and verifying that the applicant was a registered participant who was injured during an authorised activity.

Advice of an injury must be communicated to NSW Sporting Injuries within 12 months of the date of injury.

What documents are required to process a claim?

To enable NSW Sporting Injuries to process a claim an applicant should provide the following documents:

- completed *Initial injury advice form* (catalogue no. SI06)
- completed *Benefit application form* (catalogue no. SI07)
- statement from an official of the sporting organisation detailing the circumstances surrounding the injury and confirming from their records that the applicant was a registered participant who was injured during an authorised activity
- statement from the applicant detailing the circumstances surrounding the injury
- statement from at least one witness to the injury describing the circumstances surrounding the injury
- medical documents to support the claim (for example reports, hospital notes, etc)

Once all treatment and rehabilitation has been completed and the injury is deemed to be stable, a report is required from a qualified medical practitioner detailing the history of the injury. This report must specify the nature and extent (in percentage terms) of the disability suffered as required under the Act and verifies that the disability is permanent and not likely to improve.

What will NSW Sporting Injuries do?

NSW Sporting Injuries will assess whether the injury is compensable under the Scheme.

Depending on the nature and severity of the injury, NSW Sporting Injuries may either pay a benefit or refer an applicant to an independent assessor for examination and recommendation of benefit.

How long will it take for a claim to be processed?

The time for a claim to be finalised depends on the length of time it takes for all treatment and rehabilitation to be completed and for an injury to stabilise to the point where the degree of permanent loss can be assessed. Once the permanent loss is determined and all the documentation is received by NSW Sporting Injuries, an application could be finalised within one month of the independent assessment.

Do I need a solicitor?

It is not necessary to engage a solicitor in order to apply for a benefit under the Scheme, except for death benefits where it is a mandatory requirement to obtain Grant of Probate or Letters of Administration in order to determine the legal personal representative.

This does not prevent an applicant from consulting a solicitor at their own expense. The Scheme does not reimburse legal costs. The claims and benefits processes are legislated under the *Sporting Injuries Insurance Act 1978*. 
Supplementary Sporting Injuries Benefits Scheme

The Supplementary Sporting Injuries Benefits Scheme was established in 1983 by the State Government. The Supplementary Scheme provides free serious injury insurance for all NSW school children when they play school authorised sporting or athletic activities and for participants of certain programs run by NSW Sport and Recreation.

Summary of the cover provided

The Supplementary Scheme provides for a lump sum benefit to be paid to a NSW school child or participants of certain NSW Sport and Recreation programs who, while participating in an authorised activity, suffers death or a permanent disability of a certain kind. Payment is made regardless of pre-existing conditions or negligence.

Who is covered?

The Supplementary Scheme covers:

- all enrolled NSW school children (government and private) when they are participating in authorised school sporting or athletic activities such as physical education classes, school lessons, carnivals, competitions and training
- participants of certain programs run by NSW Sport and Recreation where the participants pay an administrative fee and the event has been specifically sanctioned as an authorised activity of NSW Sport and Recreation.

Type of cover

The Supplementary Scheme provides cover for serious injuries (permanent loss of use) and death.

A full list of injuries covered by the Scheme and the maximum disability thresholds are listed in the Sporting injuries benefits fact sheet (catalogue no. SI05) and on the NSW Sporting Injuries website.

Types of injuries include permanent loss of use of arms, legs, sight, hearing, smell, taste and mental capacity. Minimum disability thresholds apply for most injuries in order to receive a benefit.

What is not covered?

The Supplementary Scheme does not provide for the following:

- injuries incurred during activities that are not classified as authorised activities by the school or NSW Sport and Recreation
- injuries incurred while travelling to and from an event
- minor injuries including breaks, sprains, abrasions, cuts and bruises
- dental injuries
- reimbursement of medical expenses
- legal expenses or costs.
What benefits are payable?

- Lump sum benefits are payable for permanent disability (permanent loss of use) of a certain kind and for death
- Minimum disability thresholds apply for most injuries in order to receive a benefit
- Benefits for participants under 18 years of age will be paid to the Public Trustee
- In the event of a fatality to a participant under 18 years of age, no benefit is paid, however funeral expenses to a certain amount are payable.

A full list of benefits can be found on the NSW Sporting Injuries website.

**Note:** any benefit paid under the Supplementary Sporting Injuries Benefits Scheme is required to be refunded to NSW Sporting Injuries where:

- an action for damages for death or injuries sustained is successful against the State Government, another Australian State or Territory or of any country
- an action for damages for death or injuries sustained is successful including against any sporting organisation
- a benefit has been paid under any contract of insurance including a sporting organisation’s player accident insurance.

When to notify of an injury or make a claim

NSW Sporting Injuries is required to be notified if a participant has been seriously injured and has been treated in hospital. Injuries such as dislocations, breaks and fractures should be reported as these injuries may develop into a permanent disability.

Do not report minor injuries including sprains, bruises or cuts or dental injuries.

If you are unsure whether to report the injury, contact NSW Sporting Injuries to clarify the situation. Legislation requires that all School Principals (or an official school representative) report all serious injuries or death to NSW Sporting Injuries within 12 months of the incident.

How to notify an injury

- Notification for serious injury or death is required by completing the *Notice of serious injury or death form* (catalogue no. SI09).
- The *Notice of serious injury or death form* should be authorised by the school principal (or an official school representative) or a representative of the NSW Sport and Recreation.
- Upon receipt of the *Notice of serious injury or death form* by NSW Sporting Injuries, an acknowledgement letter will be sent to the injured person along with a benefit application form.
- A completed *Benefit application form* (catalogue no. SI10) on behalf of a school child or NSW Sport and Recreation participant must be submitted including witness statements, medical reports, confirmation, etc.
What documents are required to process a claim?

To enable NSW Sporting Injuries to process a claim, an applicant should provide the following documents:

- completed Notice of serious injury or death form (catalogue no. SI09)
- completed Benefit application form (catalogue no. SI10) on behalf of a school child or by a NSW Sport and Recreation participant
- statement from an official of the school or NSW Sport and Recreation detailing the circumstances surrounding the injury and confirming from their records, that the applicant was an enrolled student or a registered person participating who was injured during an authorised activity
- statement from the applicant detailing the circumstances surrounding the injury
- statement from at least one witness to the injury describing the circumstances surrounding the injury
- medical documents to support the claim (for example reports, hospital notes, etc).

Once all treatment and rehabilitation has been completed and the injury is deemed to be stable, a report is required from a qualified medical practitioner detailing the history of the injury. This report must specify the nature and extent (in percentage terms) of the disability suffered as required under the Act and verifies that the disability is permanent and not likely to improve.

What will NSW Sporting Injuries do?

NSW Sporting Injuries will assess whether the injury is compensable under the Supplementary Scheme. Depending on the nature and severity of the injury, NSW Sporting Injuries may either pay a benefit or refer an applicant to an independent assessor for examination and recommendation for benefit.

How long will it take for a claim to be processed?

The time for a claim to be finalised depends on the length of time it takes for all treatment and rehabilitation to be completed, and for an injury to stabilise to the point where the degree of permanent loss can be assessed.

Once the permanent loss is determined and all the documentation is received by NSW Sporting Injuries, an application could be finalised within one month of the independent assessment.

Do I need a solicitor?

It is not necessary to engage a solicitor in order to apply for a benefit under the Supplementary Scheme, except for death benefits where it is a mandatory requirement to obtain Grant of Probate or Letters of Administration where applicable.

This does not prevent an applicant from consulting a solicitor at their own expense. The Supplementary Scheme does not reimburse for legal costs. The claims and benefits processes are legislated under the.
More information
Visit sportinginjuries.nsw.gov.au to find the relevant forms required.

Sporting Injuries Insurance Scheme
- Membership application (catalogue no. SI04)
- Sporting injuries benefits (catalogue no. SI05)
- Initial injury advice form (catalogue no. SI06)
- Benefit application form (catalogue no. SI07)

Supplementary Sporting Injuries Benefits Scheme
- Sporting injuries benefits (catalogue no. SI05)
- Notice of serious injury or death form (catalogue no. SI09)
- Benefit application form (catalogue no. SI10)

For general information about NSW Sporting Injuries Insurance, go to sportinginjuries.nsw.gov.au, call us on (02) 4321 5392 or email contact.us@sportinginjuries.nsw.gov.au

To enquire about a claim call 1800 221 960 or email WCA.claims@workcover.nsw.gov.au