

# AUSTRALIAN UNDERWATER FEDERATION ANTI- DOPING POLICY



## INTERPRETATION

This Anti-Doping Policy takes effect on **1 January 2015**.

In this Anti-Doping Policy, references to *Sporting Administration Body* should be read as references to Australian Underwater Federation. The Australian Underwater Federation's international federation is Confédération mondiale des activités subaquatiques.<sup>1</sup>

## WARNING TO ATHLETES AND ATHLETE SUPPORT PERSONNEL

- You are responsible for knowing what the anti-doping rule violations are.
- You must find out which substances and methods are prohibited.
- Ignorance is no excuse.
- You must be aware of the rules in this Anti-Doping Policy.
- This Anti-Doping Policy adopts the strict liability principle.
- *Athletes* are responsible for anything found in their system.
- You must be aware of the sanctions that could be applied to you in this Anti-Doping Policy.

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<sup>1</sup> Defined terms are in italics and capitalised. Other words will have either the definition provided for by the WADA Code, or if they are not defined they will have their plain English meaning.

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# THE AUSTRALIAN UNDERWATER FEDERATION ANTI- DOPING POLICY

## INTRODUCTION

### Preface

This Anti-Doping Policy is adopted and implemented by the sporting administration body in accordance with ASADA's and the sporting administration body's responsibilities under *the World Anti-Doping Code*, *the Australian Sports Anti-Doping Authority Act 2006 (Cth)*, *the Australian Sports Anti-Doping Authority Regulations 2006 (Cth)* (including the *National Anti-Doping scheme*), and in furtherance of combined ongoing efforts to eradicate doping in sport in Australia.

This anti-doping policy contains rules governing the conditions under which sport is played. Aimed at enforcing anti-doping principles in a global and harmonised manner, they are distinct in nature from criminal and civil laws, and are not intended to be subject to or limited by any national requirements and legal standards applicable to criminal or civil proceedings. When reviewing the facts and the law of a given case, all courts, arbitral tribunals and other adjudicating bodies should be aware of and respect the distinct nature of this anti-doping policy implementing *the Code* as well as Australian legislation, and the fact that these rules represent the consensus of a broad spectrum of stakeholders around the world as to what is necessary to protect and ensure fair sport.

The sporting administration body has its own Code of Conduct. This is a separate policy document that is managed and enforced by the sporting administration body and is binding on all *Athletes* and *Athlete Support Personnel*. It is a document that covers conduct issues that either do not constitute a possible anti-doping rule violation, or have occurred as a consequence of

behaviour that does constitute a possible anti-doping rule violation. This separate document will enable the separate management of conduct-related issues, including public disclosure, suspension or termination of contract and consequential sanctioning.

The sporting administration body's Code of Conduct or other policy documents or rules shall not limit or change the effect of this anti-doping policy. Where there is any ambiguity or conflict, this Anti-Doping Policy will prevail.

### **Fundamental rationale for the Code and the sporting administration body's anti-doping policy**

Anti-doping programmes seek to preserve what is intrinsically valuable about sport. This intrinsic value is often referred to as 'the spirit of sport'. It is the essence of Olympism: the pursuit of human excellence through the dedicated perfection of each *Person's* natural talents. It is how we play true. The spirit of sport is the celebration of the human spirit, body and mind, and is reflected in values we find in and through sport, including:

- ethics, fair play and honesty
- health
- excellence in performance
- character and education
- fun and joy
- teamwork
- dedication and commitment
- respect for rules and laws
- respect for self and other participants
- courage
- community and solidarity

Doping is fundamentally contrary to the spirit of sport.

ASADA's purpose is to protect Australia's sporting integrity and the health of Australian *Athletes*. Everything they do is focused on this outcome. ASADA aims to be an influential leader in anti-doping programme delivery. They place considerable focus on deterrence strategies. They seek to prevent the use of prohibited substances and methods in sport, and protect clean *Athletes* and the reputation of sports by conducting education, communications and awareness programs and initiatives.

Their aim is to create equality in sport so that Australian *Athletes* can participate on a level playing field at home and overseas. To achieve this, they provide programmes to help national sporting organisations meet their anti-doping responsibilities and they implement a strategic,



targeted detection programme that incorporates intelligence gathering, *Testing* and investigations. ASADA seeks to engage *Athletes*, *Athlete Support Personnel* and the broader community in the fight against doping in sport.

## **The National Anti-Doping Programme**

ASADA is a statutory agency that operates under the ASADA Act and the ASADA Regulations, including the *National Anti-Doping scheme*, which is contained in Schedule 1 to the Regulations. ASADA is the independent *National Anti-Doping Organisation* for Australia. As such, ASADA has a number of responsibilities including:

- planning, coordinating, implementing, monitoring and advocating improvements in *Doping Control*
- cooperating with relevant national organisations, agencies and other *Anti-Doping Organisations*
- encouraging reciprocal *Testing* between *National Anti-Doping Organisations*
- planning, implementing and monitoring anti-doping information, education and prevention programs
- pursuing potential anti-doping rule violations within its jurisdiction, including investigating whether *Athletes*, *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping, and ensuring proper enforcement of *Consequences*
- conducting an automatic investigation of *Athlete Support Personnel* within its jurisdiction in the case of any anti-doping rule violation by a *Minor* and of any *Athlete Support Personnel* who has provided support to more than one *Athlete* found to have committed an anti-doping rule violation
- cooperating fully with WADA in connection with investigations conducted by WADA pursuant to Article 20.7.10 of *the Code*
- where funding is provided, working with the relevant body to ensure that relevant funding is withheld to an *Athlete* or *Athlete Support Personnel* while he or she is serving a period of *Ineligibility* for violation of anti-doping rules.

## **The sporting administration body objectives**

The objectives of this Anti-Doping Policy are to:

- (1) comply with *the Code*, ASADA Act, ASADA Regulations (including the *NAD scheme*) as amended from time to time
- (2) promote the integrity of our sport by deterring doping in our sport.

## **Scope of this Anti-Doping Policy**

The scope of application of this Anti-Doping Policy is set out in Article 1.



# ARTICLE 1 APPLICATION OF ANTI-DOPING POLICY

## 1.1 Application of the anti-doping policy

This Anti-Doping Policy shall apply to the sporting administration body and all its member or affiliate organisations.

The sporting administration body agrees to be bound by the sporting administration body *Rules* as contained in Appendix 3 to this Anti-Doping Policy.

## 1.2 Application to the sporting administration body

**1.2.1** As a condition of receiving financial and/or other assistance from the Australian Government and/or the National Australian Olympic Committee, the sporting administration body shall accept and abide by the spirit and terms of ASADA's Anti-Doping Programme and this Anti-Doping Policy, and shall adopt this Anti-Doping Policy into their governing documents, constitution and/or rules as part of the rules of sport that bind their members and *Participants*.

**1.2.2** Under this Anti-Doping Policy the sporting administration body recognises the authority and responsibility of ASADA under this Anti-Doping Policy and the *ASADA Act* and *ASADA Regulations* (including carrying out *Testing*). The sporting administration body shall also recognise, abide by and give effect to the decisions made pursuant to this Anti-Doping Policy, including the decisions of hearing panels imposing sanctions on individuals under their jurisdiction.

## 1.3 Application to *Persons*

**1.3.1** This Anti-Doping Policy shall apply to the following *Persons* (including *Minors*), in each case, whether or not such *Person* is a citizen of or (temporary or permanent) resident in Australia:

**1.3.1.1** all *Athletes* and *Athlete Support Personnel* who are members of the sporting administration body or of any member or affiliate organisation (including any clubs, teams, associations or leagues);

**1.3.1.2** all *Athletes* and *Athlete Support Personnel* and other *Persons* who participate in such capacity in *Events*, *Competitions* and other activities organised, convened, authorised or recognised by the sporting administration body or any member or affiliate

organisation (including any clubs, teams, associations or leagues), wherever held;

**1.3.1.3** any other *Athlete* or *Athlete Support Personnel* or other *Person* who, by virtue of an accreditation, a license or other contractual arrangement, or otherwise, is subject to the jurisdiction of the sporting administration body or of any member or affiliate organisation (including any clubs, teams, associations or leagues), for the purposes of anti-doping;

**1.3.1.4** all *Athletes* who do not fall within one of these provisions of this Article 1.3.1 but who wish to be eligible to participate in *International Events* or *National Events* and such *Athletes* must be available for *Testing* under this Anti-Doping Policy. *Athletes* wishing to be eligible to participate in *International Events* must be available for *Testing* for the period of time specified by the international federation for our sport. *Athletes* wishing to be eligible to participate in *National Events* must be available for *Testing* under this Anti-Doping Policy for at least six months before they will be eligible for such *Events*; and

**1.3.1.5** any *Athlete* or *Athlete Support Personnel* or other *Person* shall be deemed to have agreed to be bound by and comply with this Anti-Doping Policy for a period of six months following the last time the *Athlete* or *Athlete Support Person* or other *Person* participated in or was scheduled to participate in any capacity recognised under this Anti-Doping Policy. For clarity *Athletes* shall remain subject to *Testing* for that six-month period and be subject to results management (including hearings and appeals processes) in accordance with Article 17. The continuation of the application of this Anti-Doping Policy prevails regardless of retirement, contract termination, or any other cessation of arrangement with the sporting administration body.

**1.3.2** This Anti-Doping Policy shall also apply to all other *Persons* over whom the *Code*, *ASADA Act*, *ASADA Regulations* and *NAD scheme* give *ASADA* jurisdiction in respect of compliance with the anti-doping rules as defined in the *ASADA Act*, including all *Athletes* who are nationals of or resident in Australia, and all *Athletes* who are present in Australia, whether to compete or to train or otherwise.

**1.3.3** *Persons falling within the scope of Articles 1.3.1 or 1.3.2 are deemed to have accepted and to have agreed to be bound by this Anti-Doping Policy, and to have submitted to the authority of ASADA and other Anti-Doping Organisations under this Anti-Doping Policy and to the jurisdiction of the hearing panels specified in Article 8 and Article 13 to hear and determine cases and appeals brought under this Anti-Doping Policy, as a condition of their membership, accreditation and/or participation in sport.*

## **1.4 Athlete classification**

**1.4.1** All aspects of this Anti-Doping Policy apply to all *Athletes* except for those *Athletes* not having to comply with whereabouts requirements, be subject to *Testing* or have to apply for a *TUE* in advance as determined in the *NAD scheme* (as amended from time to time).

*International-Level Athletes* and *National-Level Athletes* have no excuse for not knowing their classification and acting accordingly.



## ARTICLE 2      DEFINITION OF DOPING - ANTI-DOPING RULE VIOLATIONS

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.10 of this Anti-Doping Policy.

The purpose of Article 2 is to specify the circumstances and conduct which constitute anti-doping rule violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules have been violated.

*Athletes* or other *Persons* shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the *Prohibited List*.

The following constitute anti-doping rule violations:

### 2.1      **Presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample***

2.1.1      It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body. *Athletes* are responsible for any *Prohibited Substance* or its *Metabolites* or *Markers* found to be present in their *Samples*. Accordingly, it is not necessary that intent, *Fault*, negligence or knowing *Use* on the *Athlete's* part be demonstrated in order to establish an anti-doping rule violation under Article 2.1<sup>2</sup>.

2.1.2      Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following: presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in the *Athlete's A Sample* where the *Athlete* waives analysis of the *B Sample* and the *B Sample* is not analysed; or, where the *Athlete's B Sample* is analysed and the analysis of the *Athlete's B Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the *Athlete's A Sample*; or, where the *Athlete's B Sample* is split into two bottles and the analysis of the second bottle confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the first bottle<sup>3</sup>.

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<sup>2</sup> Comment to Article 2.1.1: An anti-doping rule violation is committed under this Article without regard to an *Athlete's Fault*. This rule has been referred to in various CAS decisions as 'Strict Liability'. An *Athlete's Fault* is taken into consideration in determining the Consequences of this anti-doping rule violation under Article 10. This principle has consistently been upheld by CAS.

<sup>3</sup> Comment to Article 2.1.2: The *Anti-Doping Organisation* with results management responsibility may, at its discretion, choose to have the *B Sample* analysed even if the *Athlete* does not request the analysis of the *B Sample*.



**2.1.3** Excepting those substances for which a quantitative threshold is specifically identified in the *Prohibited List*, the presence of any quantity of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample* shall constitute an anti-doping rule violation.

**2.1.4** As an exception to the general rule of Article 2.1, the *Prohibited List* or *International Standards* may establish special criteria for the evaluation of *Prohibited Substances* that can also be produced endogenously.

## **2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method<sup>4</sup>**

**2.2.1** It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body and that no *Prohibited Method* is *Used*. Accordingly, it is not necessary that intent, *Fault*, negligence or knowing *Use* on the *Athlete's* part be demonstrated in order to establish an anti-doping rule violation for *Use* of a *Prohibited Substance* or a *Prohibited Method*.

**2.2.2** The success or failure of the *Use* or *Attempted Use* of a *Prohibited Substance* or *Prohibited Method* is not material. It is sufficient that the *Prohibited Substance* or *Prohibited Method* was *Used* or *Attempted* to be *Used* for an anti-doping rule violation to be committed<sup>5</sup>.

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<sup>4</sup> Comment to Article 2.2: It has always been the case that *Use* or *Attempted Use* of a *Prohibited Substance* or *Prohibited Method* may be established by any reliable means. As noted in the Comment to Article 3.2, unlike the proof required to establish an *anti-doping rule violation* under Article 2.1, *Use* or *Attempted Use* may also be established by other reliable means such as admissions by the *Athlete*, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the *Athlete Biological Passport*, or other analytical information which does not otherwise satisfy all the requirements to establish 'Presence' of a *Prohibited Substance* under Article 2.1. For example, *Use* may be established based upon reliable analytical data from the analysis of an *A Sample* (without confirmation from an analysis of a *B Sample*) or from the analysis of a *B Sample* alone where the *Anti-Doping Organisation* provides a satisfactory explanation for the lack of confirmation in the other *Sample*.

<sup>5</sup> Comment to Article 2.2.2: Demonstrating the '*Attempted Use*' of a *Prohibited Substance* or a *Prohibited Method* requires proof of intent on the *Athlete's* part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the *Strict Liability* principle established for violations of Article 2.1 and violations of Article 2.2 in respect of *Use* of a *Prohibited Substance* or *Prohibited Method*. An *Athlete's Use* of a *Prohibited Substance* constitutes an anti-doping rule violation unless such substance is not prohibited *Out-of-Competition* and the *Athlete's Use* takes place *Out-of-Competition*. (However, the presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in a *Sample* collected *In-Competition* is a violation of Article 2.1 regardless of when that substance might have been administered.)

## **2.3 Evading, refusing or failing to submit to *Sample* Collection**

Evading *Sample* collection or, without compelling justification, refusing or failing to submit to *Sample* collection after notification as authorised in this Anti-Doping Policy, the *NAD scheme* or other applicable anti-doping rules<sup>6</sup>.

## **2.4 Whereabouts failures**

Any combination of three missed tests and/or filing failures, as defined in the *International Standard for Testing and Investigations*, within a twelve-month period by an *Athlete* in a *Registered Testing Pool*.

## **2.5 *Tampering* or *Attempted Tampering* with any part of *Doping Control***

Conduct which subverts the *Doping Control* process but which would not otherwise be included in the definition of *Prohibited Methods*. *Tampering* shall include, without limitation, intentionally interfering or attempting to interfere with a *Doping Control* official, providing fraudulent information to an *Anti-Doping Organisation* or intimidating or attempting to intimidate a potential witness.<sup>7</sup>

## **2.6 *Possession of a Prohibited Substance or a Prohibited Method***

**2.6.1** *Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a Therapeutic Use Exemption (TUE) granted in accordance with Article 4.4 or other acceptable justification.*

**2.6.2** *Possession by an Athlete Support Person In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Support Person Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition in connection with an Athlete, Competition or training, unless the Athlete Support Person establishes that the Possession is*

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<sup>6</sup> *Comment to Article 2.3: For example, it would be an anti-doping rule violation of 'evading Sample collection' if it were established that an Athlete was deliberately avoiding a Doping Control official to evade notification or Testing. A violation of 'failing to submit to Sample collection' may be based on either intentional or negligent conduct of the Athlete, while 'evading' or 'refusing' Sample collection contemplates intentional conduct by the Athlete.*

<sup>7</sup> *Comment to Article 2.5: For example, this Article would prohibit altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis, or altering a Sample by the addition of a foreign substance. Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering may be addressed in the code of conduct.*

consistent with a *TUE* granted to an *Athlete* in accordance with Article 4.4 or other acceptable justification<sup>8,9</sup>.

## **2.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method**

## **2.8 Administration or Attempted Administration to any Athlete In-Competition of any Prohibited Substance or Prohibited Method, or Administration or Attempted Administration to any Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method that is prohibited Out-of-Competition**

## **2.9 Complicity**

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation, *Attempted* anti-doping rule violation or violation of Article 10.12.1 by another *Person*.

## **2.10 Prohibited Association**

Association by an *Athlete* or other *Person* subject to the authority of an *Anti-Doping Organisation* in a professional or sport-related capacity with any *Athlete Support Person* who<sup>10</sup>:

- 2.10.1** If subject to the authority of an *Anti-Doping Organisation*, is serving a period of *Ineligibility*; or
- 2.10.2** If not subject to the authority of an *Anti-Doping Organisation*, and where *Ineligibility* has not been addressed in a results management process pursuant to *the Code*, has been convicted or found in a criminal, disciplinary or professional proceeding to have engaged in conduct which would have constituted a violation of anti-doping rules if *Code-compliant* rules had been applicable to such *Person*. The disqualifying status of such *Person* shall be in force for the longer of six years from the criminal, professional or disciplinary decision or the duration of the criminal, disciplinary or professional sanction imposed; or

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<sup>8</sup> Comment to Articles 2.6.1 and 2.6.2: Acceptable justification would not include, for example, buying or *Possessing a Prohibited Substance* for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that *Person* had a physician's prescription, for example, buying Insulin for a diabetic child.

<sup>9</sup> Comment to Article 2.6.2: Acceptable justification would include, for example, a team doctor carrying *Prohibited Substances* for dealing with acute and emergency situations.

<sup>10</sup> Comment to Article 2.10: *Athletes* and other *Persons* must not work with coaches, trainers, physicians or other *Athlete Support Personnel* who are *Ineligible* on account of an anti-doping rule violation or who have been criminally convicted or professionally disciplined in relation to doping. Some examples of the types of association which are prohibited include: obtaining training, strategy, technique, nutrition or medical advice; obtaining therapy, treatment or prescriptions; providing any bodily products for analysis; or allowing the *Athlete Support Person* to serve as an agent or representative. Prohibited association need not involve any form of compensation.

**2.10.3** Is serving as a front or intermediary for an individual described in Article 2.10.1 or 2.10.2.

In order for this provision to apply, it is necessary that the *Athlete* or other *Person* has previously been advised in writing by an *Anti-Doping Organisation* with jurisdiction over the *Athlete* or other *Person*, or by *WADA*, of the *Athlete Support Person's* disqualifying status and the potential *Consequence* of prohibited association and that the *Athlete* or other *Person* can reasonably avoid the association. The *Anti-Doping Organisation* shall also use reasonable efforts to advise the *Athlete Support Person* who is the subject of the notice to the *Athlete* or other *Person* that the *Athlete Support Person* may, within 15 days, come forward to the *Anti-Doping Organisation* to explain that the criteria described in Articles 2.10.1 and 2.10.2 do not apply to him or her. (Notwithstanding Article 17, this Article applies even when the *Athlete Support Person's* disqualifying conduct occurred prior to the effective date provided in Article 20.7.)

The burden shall be on the *Athlete* or other *Person* to establish that any association with *Athlete Support Personnel* described in Article 2.10.1 or 2.10.2 is not in a professional or sport-related capacity.

*Anti-Doping Organisations* that are aware of *Athlete Support Personnel* who meet the criteria described in Article 2.10.1, 2.10.2, or 2.10.3 shall submit that information to *WADA*.

## ARTICLE 3      PROOF OF DOPING

### 3.1      Burdens and standards of proof

The *Anti-Doping Organisation* shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the *Anti-Doping Organisation* has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where this Anti-Doping Policy places the burden of proof upon the *Athlete* or other *Person* alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability<sup>11</sup>.

### 3.2      Methods of establishing facts and presumptions

Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases<sup>12</sup>:

**3.2.1** Analytical methods or decision limits approved by WADA after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any *Athlete* or other *Person* seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge. CAS on its own initiative may also inform WADA of any such challenge. At WADA's request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within 10 days of WADA's receipt of such notice, and WADA's receipt of the CAS file, WADA shall also have the right to intervene as a party, appear amicus curiae, or otherwise provide evidence in such proceeding.

**3.2.2** WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted *Sample* analysis and custodial procedures in accordance with the *International Standard for Laboratories*. The *Athlete* or other *Person* may rebut this presumption by establishing that a departure from the *International Standard for Laboratories* occurred which could reasonably have

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<sup>11</sup> Comment to Article 3.1: This standard of proof required to be met by the *Anti-Doping Organisation* is comparable to the standard which is applied in most countries to cases involving professional misconduct.

<sup>12</sup> Comment to Article 3.2: For example, an *Anti-Doping Organisation* may establish an anti-doping rule violation under Article 2.2 based on the *Athlete's* admissions, the credible testimony of third *Persons*, reliable documentary evidence, reliable analytical data from either an *A* or *B Sample* as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the *Athlete's* blood or urine *Samples*, such as data from the *Athlete Biological Passport*.

caused the *Adverse Analytical Finding*. If the *Athlete* or other *Person* rebuts the preceding presumption by showing that a departure from the *International Standard for Laboratories* occurred which could reasonably have caused the *Adverse Analytical Finding*, then the *Anti-Doping Organisation* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*<sup>13</sup>.

**3.2.3** Departures from any other *International Standard* or other anti-doping rule or policy set forth in *the Code* or this Anti-Doping Policy which did not cause an *Adverse Analytical Finding* or other anti-doping rule violation shall not invalidate such evidence or results.

If the *Athlete* or other *Person* establishes a departure from another *International Standard* or other anti-doping rule or policy which could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding* or other anti-doping rule violation, then the *Anti-Doping Organisation* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding* or the factual basis for the anti-doping rule violation.

**3.2.4** The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the *Athlete* or other *Person* to whom the decision pertained of those facts unless the *Athlete* or other *Person* establishes that the decision violated principles of natural justice.

**3.2.5** The hearing panel in a hearing on an anti-doping rule violation may draw an inference adverse to the *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation based on the *Athlete's* or other *Person's* refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in *Person* or telephonically as directed by the hearing panel) and to answer questions from the hearing panel or the *Anti-Doping Organisation* asserting the anti-doping rule violation.

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<sup>13</sup> Comment to Article 3.2.2: The burden is on the *Athlete* or other *Person* to establish, by a balance of probability, a departure from the *International Standard for Laboratories* that could reasonably have caused the *Adverse Analytical Finding*. If the *Athlete* or other *Person* does so, the burden shifts to the *Anti-Doping Organisation* to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the *Adverse Analytical Finding*.

## ARTICLE 4 THE PROHIBITED LIST

### 4.1 Incorporation, Publication and Revision of the *Prohibited List*<sup>14</sup>

This Anti-Doping Policy incorporates the *Prohibited List* which is published and revised by WADA as described in Article 4.1 of *the Code* as in force from time to time.

Unless provided otherwise in the *Prohibited List* and/or a revision, the *Prohibited List* and revisions shall go into effect under this Anti-Doping Policy three months after publication by WADA without requiring any further action by the *Anti-Doping Organisation*. All *Athletes* and other *Persons* shall be bound by the *Prohibited List*, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all *Athletes* and other *Persons* to familiarise themselves with the most up-to-date version of the *Prohibited List* and all revisions thereto.

### 4.2 *Prohibited Substances and Prohibited Methods Identified on the Prohibited List*<sup>15</sup>

#### 4.2.1 *Prohibited Substances and Prohibited Methods*

The *Prohibited List* shall identify those *Prohibited Substances* and *Prohibited Methods* which are prohibited as doping at all times (both *In-Competition* and *Out-of-Competition*) because of their potential to enhance performance in future *Competitions* or their masking potential, and those substances and methods which are prohibited *In-Competition* only. The *Prohibited List* may be expanded by WADA for a particular sport. *Prohibited Substances* and *Prohibited Methods* may be included in the *Prohibited List* by general category (for example, anabolic agents) or by specific reference to a particular substance or method.

#### 4.2.2 *Specified Substances*

For purposes of the application of Article 10, all *Prohibited Substances* shall be *Specified Substances* except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so

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<sup>14</sup> Comment to Article 4.1: For the sake of predictability, a new *Prohibited List* will be published every year whether or not changes have been made. WADA will always have the most current *Prohibited List* published on its website. The current *Prohibited List* is available on WADA's website at [www.wada-ama.org](http://www.wada-ama.org).

<sup>15</sup> Comment to Article 4.2: *Out-of-Competition Use* of a substance which is only prohibited *In-Competition* is not an anti-doping rule violation unless an *Adverse Analytical Finding* for the substance or its *Metabolites* or *Markers* is reported for a *Sample* collected *In-Competition*.

identified on the *Prohibited List*. The category of *Specified Substances* shall not include *Prohibited Methods*<sup>16</sup>.

### **4.3 WADA's determination of the *Prohibited List***

WADA's determination of the *Prohibited Substances* and *Prohibited Methods* that will be included on the *Prohibited List*, the classification of substances into categories on the *Prohibited List*, and the classification of a substance as prohibited at all times or *In-Competition* only, is final and shall not be subject to challenge by an *Athlete* or other *Person*.

### **4.4 Therapeutic Use Exemptions (TUEs)**

**4.4.1** The presence of a *Prohibited Substance* or its *Metabolites* or *Markers*, and/or the *Use* or *Attempted Use*, *Possession* or *Administration* or *Attempted Administration* of a *Prohibited Substance* or *Prohibited Method* shall not be considered an anti-doping rule violation if it is consistent with the provisions of a *TUE* granted in accordance with the *International Standard for Therapeutic Use Exemptions*.

**4.4.2** The *TUE Committee* for Australia is the *Australian Sports Drug Medical Advisory Committee (ASDMAC)*. Unless otherwise specified by *ASDMAC* in a notice posted on its website, any *National-Level Athlete* who needs to *Use* a *Prohibited Substance* or *Prohibited Method* for therapeutic purposes should apply to *ASDMAC* for a *TUE* as soon as the need arises and in any event (or where Article 4.3 of the *International Standard for Therapeutic Use Exemptions* applies in regard to retroactive *TUEs*) at least 30 days before the *Athlete's* next *Competition*, by completing the form at [www.asdmac.gov.au](http://www.asdmac.gov.au) with assistance from their doctor. *ASDMAC* will consider applications for the grant or recognition of *TUEs*. *ASDMAC* shall promptly evaluate and decide upon the application in accordance with the relevant provisions of the *International Standard for Therapeutic Use Exemptions* and the specific *ASDMAC* protocols posted on its website at <http://www.asdmac.gov.au>. *ASDMAC's* decision shall be final and where *ASDMAC* has granted a *TUE*, the decision shall be reported to *WADA* and other relevant *Anti-Doping Organisations* in accordance with the *International Standard for Therapeutic Use Exemptions*<sup>17</sup>.

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<sup>16</sup> Comment to Article 4.2.2: The *Specified Substances* identified in Article 4.2.2 should not in any way be considered less important or less dangerous than other doping substances. Rather, they are simply substances which are more likely to have been consumed by an *Athlete* for a purpose other than the enhancement of sport performance.

<sup>17</sup> Comment to Article 4.4.2: The submission of false or misleading information in support of a *TUE* application (including but not limited to the failure to advise of the unsuccessful outcome of a prior application to another *Anti-Doping Organisation* for such a *TUE*) may result in a charge of *Tampering* or *Attempted Tampering* under Article 2.5.



**4.4.3** If an *Anti-Doping Organisation* chooses to test an *Athlete* who is not an *International-Level* or a *National-Level Athlete*, and that *Athlete* was not required to obtain a *TUE* in advance in accordance with 4.4.2. The *Athlete* may apply for a retroactive *TUE* for any *Prohibited Substance* or *Prohibited Method* that he/she is using for therapeutic reasons.

**4.4.4** A *TUE* granted by ASDMAC is valid at national level only. An *Athlete* who is or becomes an *International-Level Athlete* should do the following:

**4.4.4.1** Where the *Athlete* already has a *TUE* granted by ASDMAC for the substance or method in question, the *Athlete* may apply to the International federation to recognise that *TUE*, in accordance with Article 7 of the *International Standard for Therapeutic Use Exemptions*. If that *TUE* meets the criteria set out in the *International Standard for Therapeutic Use Exemptions*, then the international federation shall recognise it for purposes of *International-Level Competition* as well. If the international federation considers that the *TUE* granted by ASDMAC does not meet those criteria and so refuses to recognise it, the international federation shall notify the *International-Level Athlete* and ASDMAC promptly with reasons. The *International-Level Athlete* and ASDMAC shall have 21 days from such notification to refer the matter to WADA for review. If the matter is referred to WADA for review in accordance with Article 4.4.6, the *TUE* granted by ASDMAC remains valid for national-level *Competition* and *Out-of-Competition Testing* (but is not valid for *International-Level Competition*) pending WADA's decision. If the matter is not referred to WADA for review, the *TUE* becomes invalid for any purpose when the 21-day review deadline expires<sup>18</sup>.

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An *Athlete* should not assume that his/her application for grant or recognition of a *TUE* (or for renewal of a *TUE*) will be granted. Any *Use* or *Possession* or administration of a *Prohibited Substance* or *Prohibited Method* before an application has been granted is entirely at the *Athlete's* own risk.

<sup>18</sup> Comment to Article 4.4.4.1: Further to Articles 5.6 and 7.1(a) of the *International Standard for Therapeutic Use Exemptions*, an international federation may publish notice on its website that it will automatically recognise *TUE* decisions (or categories of such decisions, for example, as to particular substances or methods) made by *National Anti-Doping Organisations*. If an *Athlete's TUE* falls into a category of automatically recognised *TUEs*, then he/she does not need to apply to his/her international federation for recognition of that *TUE*.

If an international federation refuses to recognise a *TUE* granted by ASDMAC only because medical records or other information are missing that are needed to demonstrate satisfaction of the criteria in the *International Standard for Therapeutic Use Exemptions*, the matter should not be referred to WADA. Instead, the file should be completed and re-submitted to the international federation.

**4.4.4.2** If the *Athlete* does not already have a *TUE* granted by ASDMAC for the substance or method in question, the *Athlete* must apply directly to the international federation for a *TUE* in accordance with the process set out in the *International Standard for Therapeutic Use Exemptions*. If the international federation grants the *Athlete's* application, it shall notify the *Athlete* and ASDMAC. If ASDMAC considers that the *TUE* granted by the international federation does not meet the criteria set out in the *International Standard for Therapeutic Use Exemptions*, it has 21 days from such notification to refer the matter to WADA for review. If ASDMAC refers the matter to WADA for review, the *TUE* granted by the international federation remains valid for *International-Level Competition* and *Out-of-Competition Testing* (but is not valid for national-level *Competition*) pending WADA's decision. If ASDMAC does not refer the matter to WADA for review, the *TUE* granted by the international federation becomes valid for national-level *Competition* as well when the 21-day review deadline expires<sup>19</sup>.

#### **4.4.5 Expiration, cancellation, withdrawal or reversal of a *TUE***

**4.4.5.1** A *TUE* granted pursuant to this Anti-Doping Policy: (a) shall expire automatically at the end of any term for which it was granted, without the need for any further notice or other formality; (b) may be cancelled if the *Athlete* does not promptly comply with any requirements or conditions imposed by the *TUE Committee* upon grant of the *TUE*; (c) may be withdrawn by the *TUE Committee* if it is subsequently determined that the criteria for grant of a *TUE* are not in fact met; or (d) may be reversed on review by WADA or on appeal.

**4.4.5.2** In such event, the *Athlete* shall not be subject to any *Consequences* based on his/her *Use* or *Possession* or *Administration* of the *Prohibited Substance* or *Prohibited Method* in question in accordance with the *TUE* prior to the effective date of expiry, cancellation, withdrawal or reversal of the *TUE*. The review pursuant to Article 7.2 of any subsequent *Adverse Analytical Finding* shall include consideration of whether such

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<sup>19</sup> Comment to Article 4.4.4.2: The international federation and ASDMAC may agree that ASDMAC will consider *TUE* applications on behalf of the international federation.

finding is consistent with *Use of the Prohibited Substance* or *Prohibited Method* prior to that date, in which event no anti-doping rule violation shall be asserted.

#### **4.4.6 Reviews and appeals of TUE decisions**

- 4.4.6.1** If ASDMAC denies an application for a TUE, the Athlete may appeal exclusively to the national-level appeal body, the *Therapeutic Use Exemption Review Committee (TUERC)* described in Articles 13.2.2 and 13.2.3.
- 4.4.6.2** WADA shall review any decision by the international federation not to recognise a TUE granted by ASDMAC that is referred to WADA by the Athlete or ASDMAC. In addition, WADA shall review any decision by the international federation to grant a TUE that is referred to WADA by ASDMAC. WADA may review any other TUE decisions at any time, whether upon request by those affected or on its own initiative. If the TUE decision being reviewed meets the criteria set out in the *International Standard for Therapeutic Use Exemptions*, WADA will not interfere with it. If the TUE decision does not meet those criteria, WADA will reverse it.
- 4.4.6.3** Any TUE decision by an international federation (or by ASDMAC where it has agreed to consider the application on behalf of an international federation) that is not reviewed by WADA, or that is reviewed by WADA but is not reversed upon review, may be appealed by the Athlete or ASDMAC exclusively to CAS, in accordance with Article 13<sup>20</sup>.
- 4.4.6.4** A decision by WADA to reverse a TUE decision may be appealed by the Athlete, ASDMAC and/or the international federation affected exclusively to CAS, in accordance with Article 13.
- 4.4.6.5** A failure to take action within a reasonable time on a properly submitted application for grant recognition of a TUE or for review of a TUE decision shall be considered a denial of the application.

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<sup>20</sup> Comment to Article 4.4.6.3: In such cases, the decision being appealed is the international federation's TUE decision, not WADA's decision not to review the TUE decision or (having reviewed it) not to reverse the TUE decision. However, the time to appeal the TUE decision does not begin to run until the date that WADA communicates its decision. In any event, whether the decision has been reviewed by WADA or not, WADA shall be given notice of the appeal so that it may participate if it sees fit.



## **ARTICLE 5      *TESTING AND INVESTIGATIONS***

### **5.1    Purpose of *Testing* and investigations**

*Testing* and investigations shall only be undertaken for anti-doping purposes. They shall be conducted in conformity with the provisions of the *International Standard for Testing and Investigations* and (where relevant) the requirements of the *ASADA Act*, *ASADA Regulations* and *NAD scheme*, including the Australian Government Investigations Standards.

**5.1.1** All *Athletes* must comply with any request for *Testing* by an *Anti-Doping Organisation* with *Testing* jurisdiction, including ASADA. *Testing* shall be undertaken to obtain analytical evidence as to the *Athlete's* compliance (or non-compliance) with the strict *Code* prohibition on the presence/*Use* of a *Prohibited Substance* or *Prohibited Method*.

**5.1.2** Investigations shall be undertaken:

**5.1.2.1**            in relation to *Atypical Findings*, *Atypical Passport Findings* and *Adverse Passport Findings*, in accordance with Articles 7.4 and 7.5 respectively, gathering intelligence or evidence (including, in particular, analytical evidence) in order to determine whether an anti-doping rule violation has occurred under Article 2.1 and/or Article 2.2; and

**5.1.2.2**            in relation to other indications of potential anti-doping rule violations, in accordance with Articles 7.6 and 7.7, gathering intelligence or evidence (including, in particular, non-analytical evidence) in order to determine whether an anti-doping rule violation has occurred under any of Articles 2.2 to 2.10.

**5.1.3** ASADA may obtain, assess and process anti-doping intelligence from all available sources, to inform the development of an effective, intelligent and proportionate test distribution plan, to plan *Target Testing*, and/or to form the basis of an investigation into a possible anti-doping rule violation(s).

**5.1.4** The sporting administration body will refer all information and intelligence relating to all instances of possible anti-doping rule violations under this Anti-Doping Policy to ASADA and cooperate with any investigation by ASADA as required.

## 5.2 Authority to conduct *Testing*<sup>21</sup>

**5.2.1** Any *Athlete* may be required to provide a *Sample* at any time and at any place by any *Anti-Doping Organisation* with *Testing* authority over him or her. Subject to the jurisdictional limitations for *Event Testing* set out in Article 5.3 of *the Code*, ASADA shall have *In-Competition* and *Out-of-Competition Testing* authority over all of the *Athletes* falling within the scope of Article 1.3.

**5.2.1.1** The international federation shall have *In-Competition* and *Out-of-Competition Testing* authority over all *Athletes* who are subject to its rules, including those who participate in *International Events* or who participate in *Events* governed by the rules of the international federation, or who are members or license holders of the international federation or the sporting administration body, or their member organisations or affiliates.

**5.2.2** For the avoidance of doubt, ASADA may require any *Athlete* over whom it has *Testing* authority (including any *Athlete* serving a period of *Ineligibility*) to provide a *Sample* at any time and at any place.

**5.2.3** WADA shall have *In-Competition* and *Out-of-Competition Testing* authority as set out in Article 20.7.8 of *the Code*.

**5.2.4** If the international federation or *Major Event Organisation* delegates or contracts any part of *Testing* to a *National Anti-Doping Organisation* (directly or through a *National Federation*), that *National Anti-Doping Organisation* may collect additional *Samples* or direct the laboratory to perform additional types of analysis at the *National Anti-Doping Organisation's* expense. If additional *Samples* are collected or additional types of analysis are performed, the international federation or *Major Event Organisation* shall be notified.

**5.2.5** Where another *Anti-Doping Organisation* with *Testing* authority over an *Athlete* who is subject to this Anti-Doping Policy conducts *Testing* on that *Athlete*, ASADA and the *Athlete's National Federation* shall recognise such *Testing* in accordance with Article 15, and (where agreed with that other *Anti-Doping Organisation* or

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<sup>21</sup> Comment to Article 5.2: Unless the *Athlete* has identified a 60-minute time-slot for *Testing* between the hours of 11pm and 6am, or has otherwise consented to *Testing* during that period, the *Anti-Doping Organisation* will not test an *Athlete* during that period unless it has a serious and specific suspicion that the *Athlete* may be engaged in doping. A challenge to whether the *Anti-Doping Organisation* had sufficient suspicion for *Testing* in that period shall not be a defence to an anti-doping rule violation based on such test or attempted test.

otherwise provided in Article 7 of *the Code*) ASADA may bring proceedings against the *Athlete* pursuant to this Anti-Doping Policy for any anti-doping rule violation(s) arising in relation to such *Testing*.

### **5.3 Event Testing**

**5.3.1** Except as provided in Article 5.3 of *the Code*, only a single organisation should be responsible for initiating and directing *Testing* at *Event Venues* during an *Event Period*. At *International Events*, the collection of *Samples* shall be initiated and directed by the international federation (or any other international organisation which is the ruling body for the *Event*). At *National Events*, the collection of *Samples* shall be initiated and directed by ASADA. At the request of the ruling body for an *Event*, any *Testing* during the *Event Period* outside of the *Event Venues* shall be coordinated with that ruling body.

**5.3.2** If an *Anti-Doping Organisation* which would otherwise have *Testing* authority but is not responsible for initiating and directing *Testing* at an *Event* desires to conduct *Testing* of *Athletes* at the *Event Venues* during the *Event Period*, the *Anti-Doping Organisation* shall first confer with the ruling body of the *Event* to obtain permission to conduct and coordinate such *Testing*. If the *Anti-Doping Organisation* is not satisfied with the response from the ruling body of the *Event*, the *Anti-Doping Organisation* may ask WADA for permission to conduct *Testing* and to determine how to coordinate such *Testing*, in accordance with the procedures set out in the *International Standard for Testing and Investigations*. WADA shall not grant approval for such *Testing* before consulting with and informing the ruling body for the *Event*. WADA's decision shall be final and not subject to appeal. Unless otherwise provided in the authorisation to conduct *Testing*, such tests shall be considered *Out-of-Competition* tests. Results management for any such test shall be the responsibility of the *Anti-Doping Organisation* initiating the test unless provided otherwise in the rules of the ruling body of the *Event*. For the avoidance of doubt, where the *Anti-Doping Organisation* initiating the test is the sporting administration body, Article 7.1.1 shall apply.

### **5.4 Athlete whereabouts information**

**5.4.1** All *Athletes* identified for inclusion in a *Registered Testing Pool* must provide accurate whereabouts information to the relevant *Anti-Doping Organisation/s* in accordance with the *Code* and *International Standards*, the *NAD* scheme, the international federation's Anti-Doping Policy, this Anti-Doping Policy, and any

ASADA *Athlete* whereabouts policy approved from time to time, and to keep this information updated at all times.

**5.4.1.1** Where the *Athlete* is in ASADA's *Registered Testing Pool*, the *Athlete* must provide whereabouts information in accordance with the requirements in the *Code, International Standard for Testing and Investigation, NAD scheme* and any *Athlete* whereabouts policy approved by ASADA from time to time.

**5.4.2** ASADA shall make available, through ADAMS or another system approved by WADA, a list which identifies those *Athletes* included in its *Registered Testing Pool* by name. ASADA shall coordinate with the international federation the identification of such *Athletes* and the collection of their whereabouts information. Where an *Athlete* is included in an international *Registered Testing Pool* by the international federation and in a national *Registered Testing Pool* by ASADA, ASADA and the international federation shall agree between themselves which of them shall accept that *Athlete's* whereabouts filings; in no case shall an *Athlete* be required to make whereabouts filings to more than one of them. ASADA shall review and update as necessary its criteria for including *Athletes* in its *Registered Testing Pool*, and shall revise the membership of its *Registered Testing Pool* from time to time as appropriate in accordance with those criteria. *Athletes* shall be notified before they are included in a *Registered Testing Pool* and when they are removed from that pool.

**5.4.3** For purposes of Article 2.4, an *Athlete's* failure to comply with the requirements of the *International Standard for Testing and Investigations* or any *Athlete* whereabouts policy approved by ASADA from time to time shall be deemed a filing failure or a missed test (as defined in the *International Standard for Testing and Investigations* or any *Athlete* whereabouts policy approved by ASADA from time to time) where the conditions set forth in the *International Standard for Testing and Investigations* (or any *Athlete* whereabouts policy approved by ASADA from time to time) for declaring a filing failure or missed test are met. Three of these filing failures in a 12 month period will constitute a possible anti-doping rule violation.

**5.4.4** An *Athlete* who has been designated for inclusion in ASADA's *Registered Testing Pool* will continue to be subject to the requirements set out in the *International Standard for Testing and Investigations* or any *Athlete* whereabouts policy approved by ASADA from time to time unless and until:



**5.4.4 (a)** he or she retires from *Competition* in accordance with Article 5.6.5;

**5.4.4 (b)** he or she has been given written notice by ASADA that they are no longer in ASADA's *Registered Testing Pool*.

**5.4.5** An *Athlete* who is in ASADA's *Registered Testing Pool* who wants to retire from *Competition* must do so by submitting to ASADA a completed 'RETIREMENT NOTIFICATION FORM' available at [www.asada.gov.au](http://www.asada.gov.au). An *Athlete*'s retirement date will be the date on which ASADA receives the fully completed form.

**5.4.5.1** Upon receipt of a notification in accordance with Article 5.6.5, ASADA will, as soon as reasonably practicable, provide the *Athlete* and the sporting administration body with a written confirmation of the *Athlete*'s retirement.

**5.4.6** Retirement does not:

**5.4.6 (a)** excuse the *Athlete* from giving a *Sample* requested on or before their retirement date, or a *Sample* required as part of an investigation commenced prior to their retirement date;

**5.4.6 (b)** excuse the *Athlete* from assisting, cooperating and liaising with ASADA and other *Anti-Doping Organisations* in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation;

**5.4.6 (c)** prevent the analysis of a *Sample* given by the *Athlete* on or before their retirement date;

**5.4.6 (d)** affect the results of *Testing* under 5.6.6(a) or 5.6.6(b).

**5.4.6 (e)** affect the operation of Article 1.3.1.5.

**5.4.7** An *Athlete* who wants to retire from the *Registered Testing Pool* of the international federation must follow the international federation's retirement procedures.

**5.4.8** Whereabouts information relating to an *Athlete* shall be shared with WADA and other *Anti-Doping Organisations* having authority to test that *Athlete*, shall be maintained in strict confidence at all times, shall be used exclusively for the purposes set out in Article 5.6 of the *Code*, and shall be destroyed in accordance with the *International Standard for the Protection of Privacy and Personal*

*Information, the Australian Privacy Principles and the Archives Act 1983 (Cth)* once it is no longer relevant for these purposes.

## **5.5 Retired Athletes returning to competition**

**5.5.1** If an *International- or National-Level Athlete* in a *Registered Testing Pool* retires and then wishes to return to active participation in sport, the *Athlete* shall not compete in *International Events* or *National Events* until the *Athlete* has made himself or herself available for *Testing*, by giving six months prior written notice to the international federation, where applicable, and ASADA. WADA, in consultation with the international federation and ASADA, may grant an exemption to the six-month written notice rule where the strict application of that rule would be manifestly unfair to an *Athlete*. This decision may be appealed under Article 13. Any competitive results obtained in violation of this Article 5.7.1 shall be *Disqualified*.

**5.5.2** If an *Athlete* retires from sport while subject to a period of *Ineligibility* the *Athlete* shall not resume competing in *International Events* or *National Events* until the *Athlete* has given six months prior written notice (or notice equivalent to the period of *Ineligibility* remaining as of the date the *Athlete* retired, if that period was longer than six months) to ASADA and to the international federation, where applicable of his/her intent to resume competing and has made him/herself available for *Testing* for that notice period, including (if requested) complying with the whereabouts requirements of Annex I to the *International Standard for Testing and Investigations*.

## ARTICLE 6 ANALYSIS OF SAMPLES

*Samples* shall be analysed in accordance with the following principles.

### 6.1 Use of accredited and approved laboratories<sup>22</sup>

For purposes of Article 2.1, *Samples* shall be analysed only in laboratories accredited or otherwise approved by WADA. The choice of the WADA-accredited or WADA-approved laboratory used for the *Sample* analysis shall be determined exclusively by the *Anti-Doping Organisation* responsible for results management.

### 6.2 Purpose of analysis of *samples*<sup>23</sup>

6.2.1 *Samples* shall be analysed to detect *Prohibited Substances* and *Prohibited Methods* and other substances as may be directed by WADA pursuant to the monitoring program described in Article 4.5 of the *Code*; or to assist in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling; or for any other legitimate anti-doping purpose. *Samples* may be collected and stored for future analysis.

6.2.2 An *Anti-Doping Organisation* shall ask laboratories to analyse *Samples* in conformity with Article 6.4 of the *Code* and Article 4.7 of the *International Standard for Testing and Investigations*.

### 6.3 Research on *Samples*

No *Sample* may be used for research without the *Athlete's* written consent. *Samples* used for purposes other than Article 6.2 shall have any means of identification removed such that they cannot be traced back to a particular *Athlete*.

### 6.4 Standards for *Sample* analysis and reporting<sup>24</sup>

Laboratories shall analyse *Samples* and report results in conformity with the *International Standard for Laboratories*. To ensure effective *Testing*, the Technical Document referenced at Article 5.4.1 of the *Code* will establish risk assessment-based *Sample* analysis menus

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<sup>22</sup> Comment to Article 6.1: Violations of Article 2.1 may be established only by *Sample* analysis performed by a laboratory accredited or otherwise approved by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.

<sup>23</sup> Comment to Article 6.2: For example, relevant profile information could be used to direct *Target Testing* or to support an anti-doping rule violation proceeding under Article 2.2, or both.

<sup>24</sup> Comment to Article 6.4: The objective of this Article is to extend the principle of 'intelligent *Testing*' to the *Sample* analysis menu so as to most effectively and efficiently detect doping. It is recognised that the resources available to fight doping are limited and that increasing the *Sample* analysis menu may, in some sports and countries, reduce the number of *Samples* which can be analysed.

appropriate for particular sports and sport disciplines, and laboratories shall analyse *Samples* in conformity with those menus, except as follows:

- 6.4.1** An *Anti-Doping Organisation* may request that laboratories analyse its *Samples* using more extensive menus than those described in the Technical Document.
- 6.4.2** *Anti-Doping Organisations* may request that laboratories analyse its *Samples* using less extensive menus than those described in the Technical Document only if they have satisfied *WADA* that, because of the particular circumstances of its country or of the sport in question, as set out in their test distribution plan, less extensive analysis would be appropriate.
- 6.4.3** As provided in the *International Standard for Laboratories*, laboratories at their own initiative and expense may analyse *Samples* for *Prohibited Substances* or *Prohibited Methods* not included on the *Sample* analysis menu described in the Technical Document or specified by the *Testing* authority. Results from any such analysis shall be reported and have the same validity and consequence as any other analytical result.

## **6.5 Further analysis of samples**

Any *Sample* may be subject to further analysis by the *Anti-Doping Organisation* responsible for results management at any time before both the *A* and *B Sample* analytical results (or *A Sample* result where *B Sample* analysis has been waived or will not be performed) have been communicated by the *Anti-Doping Organisation* to the *Athlete* as the asserted basis for an Article 2.1 anti-doping rule violation.

*Samples* may be stored and subjected to further analyses for the purpose of Article 6.2 at any time exclusively at the direction of the *Anti-Doping Organisation* that initiated and directed *Sample* collection or *WADA*. (Any *Sample* storage or further analysis initiated by *WADA* shall be at *WADA*'s expense.) Further analysis of *Samples* shall conform with the requirements of the *International Standard for Laboratories* and the *International Standard for Testing and Investigations*.

# ARTICLE 6A NON-ANALYTICAL INVESTIGATION PROCESS

## 6A.1 Obligation on *Persons*

When the sporting administration body or any *Person* bound by this Anti-Doping Policy has information relevant to a possible anti-doping rule violation, that *Person* must immediately pass such information to ASADA.

**6A.1.1** The sporting administration body or the *Person* must act in a discreet and confidential manner in discharging their obligations under this Anti-Doping Policy. The deliberate or wilful withholding of information relevant to a potential anti-doping rule violation by an *Athlete* or other *Person* may constitute an anti-doping rule violation or a breach to be dealt with under the sporting administration body Code of Conduct (where applicable).

## 6A.2 Roles and responsibilities of other parties

Where an investigation is required to determine whether an anti-doping rule violation may have occurred under this Anti-Doping Policy, unless otherwise agreed between ASADA and the sporting administration body, ASADA will conduct the investigation.

**6A.2.1** Where ASADA believes it is appropriate to do so, ASADA may, in its discretion, advise the sporting administration body of an ASADA investigation. ASADA may also consult affected or interested parties about their participation in any investigation.

**6A.2.2** Where ASADA does agree to the sporting administration body commencing its own investigation, the sporting administration body must do so in coordination with any investigation being undertaken by ASADA and seek ASADA's input into such investigation undertaken by the sporting administration body;

**6A.2.3** All *Persons* bound by this Anti-Doping Policy and the sporting administration body must assist, cooperate, and liaise with ASADA in relation to any investigation into a potential anti-doping rule violation (or the sporting administration body where it has approval by ASADA to conduct its own investigation or be involved in an ASADA investigation). Specifically, all *Persons* must cooperate with and assist ASADA or the sporting administration body (where relevant), including by:

- (a) attending an interview to fully and truthfully answer questions;
- (b) giving information; and
- (c) producing documents or things,

in an investigation being conducted by ASADA or the sporting administration body (where relevant), even if to do so might tend to incriminate them or expose them to a penalty, sanction or other disciplinary measure.

For the avoidance of doubt, the common law privileges against self-incrimination and self-exposure to a penalty are abrogated by this Article.

## **ARTICLE 7 RESULTS MANAGEMENT**

### **7.1 Responsibility for conducting results management**

**7.1.1** ASADA shall take responsibility for results management of all potential anti-doping rule violations under this Anti-Doping Policy in accordance with Article 7 of the *Code*, the *ASADA Act*, the *ASADA Regulations*, and the *NAD scheme* as in force from time to time. This includes any matters referred to the sporting administration body by other *Anti-Doping Organisations* for results management.

**7.1.2** Where ASADA elects to collect additional *Samples* in the circumstances set out in Article 5.2.4, then it shall be considered the *Anti-Doping Organisation* that initiated and directed *Sample* collection and will have results management responsibility. However, where ASADA only directs the laboratory to perform additional types of analysis at ASADA's expense, then the international federation or *Major Event Organisation* shall be considered the *Anti-Doping Organisation* that initiated and directed *Sample* collection and will have results management responsibility.

**7.1.3** If a dispute arises between *Anti-Doping Organisations* over which of them has results management responsibility, WADA shall decide which *Anti-Doping Organisation* has such responsibility. WADA's decision may be appealed to CAS within 7 days of notification of the WADA decision by any of the *Anti-Doping Organisations* involved in the dispute. The appeal shall be dealt with by CAS in an expedited manner and shall be heard before a single arbitrator.

### **7.2 Review regarding Adverse Analytical Findings**

Results management in respect of the results of tests initiated by an *Anti-Doping Organisation* shall proceed as follows:

**7.2.1** Upon receipt of an *Adverse Analytical Finding*, ASADA shall conduct a review to determine whether:

(a) an applicable *TUE* has been granted or will be granted as provided in the *International Standard for Therapeutic Use Exemptions*, or

(b) there is any apparent departure from the *International Standard for Testing and Investigations* or *International Standard for Laboratories* that caused the *Adverse Analytical Finding*.

**7.2.2** If the review of an *Adverse Analytical Finding* under Article 7.2.1 reveals an applicable *TUE* or departure from the *International Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Adverse Analytical Finding*, the entire test shall be considered negative. ASADA will inform, in accordance with the *Code* and the *NAD scheme*, the *Athlete*, the international federation, the sporting administration body and *WADA*.

### **7.3 Notification after review regarding *Adverse Analytical Findings***

**7.3.1** If the review of an *Adverse Analytical Finding* under Article 7.2.1 does not reveal an applicable *TUE* or entitlement to a *TUE* as provided in the *International Standard for Therapeutic Use Exemptions*, or departure from the *International Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Adverse Analytical Finding*, ASADA shall promptly notify the *Athlete*, and simultaneously the international federation, the sporting administration body and *WADA* in the manner set out in Article 14.1, of:

- (a) the *Adverse Analytical Finding*;
- (b) the anti-doping rule violated;
- (c) the *Athlete's* right to request the analysis of the *B Sample* or, failing such request by the specified deadline, that the *B Sample* analysis may be deemed waived;
- (d) the scheduled date, time and place for the *B Sample* analysis if the *Athlete* or ASADA chooses to request an analysis of the *B Sample*;
- (e) the opportunity for the *Athlete* and/or the *Athlete's* representative to attend the *B Sample* opening and analysis in accordance with the *International Standard for Laboratories*; and
- (f) the *Athlete's* right to request copies of the *A* and *B Sample* laboratory documentation package which includes information as required by the *International Standard for Laboratories*.

If ASADA decides not to bring forward the *Adverse Analytical Finding* as an anti-doping rule violation, it will notify the *Athlete*, the international federation, the sporting administration body and *WADA*.

In all cases where an *Athlete* has been notified of an asserted anti-doping rule violation that does not result in a mandatory *Provisional Suspension* under Article



7.9.1, the *Athlete* shall be offered the opportunity to accept a *Provisional Suspension* pending the resolution of the matter.

**7.3.2** Where requested by the *Athlete* or ASADA (or another *Anti-Doping Organisation*) arrangements shall be made to analyse the *B Sample* in accordance with the *International Standard for Laboratories*. An *Athlete* may accept the *A Sample* analytical results by waiving the requirement for *B Sample* analysis. ASADA may nonetheless elect to proceed with the *B Sample* analysis even where the *Athlete* has waived this requirement.

**7.3.3** The *Athlete* and/or his representative shall be allowed to be present at the analysis of the *B Sample*. Also, a representative of ASADA shall be allowed to be present.

**7.3.4** If the *B Sample* analysis does not confirm the *A Sample* analysis, then (unless ASADA takes the case forward as an anti-doping rule violation under Article 2.2) the entire test shall be considered negative and the *Athlete*, the international federation, the sporting administration body and WADA shall be so informed.

**7.3.5** If the *B Sample* analysis confirms the *A Sample* analysis, the findings shall be reported to the *Athlete*, the international federation, the sporting administration body, and WADA in accordance with the *Code* and the *NAD scheme*.

## **7.4 Review of *Atypical Findings***

**7.4.1** As provided in the *International Standard for Laboratories*, in some circumstances laboratories are directed to report the presence of *Prohibited Substances*, which may also be produced endogenously, as *Atypical Findings*; that is, as findings that are subject to further investigation.

**7.4.2** Upon receipt of an *Atypical Finding*, ASADA shall conduct a review to determine whether:

(a) an applicable *TUE* has been granted or will be granted as provided in the *International Standard for Therapeutic Use Exemptions*, or

(b) there is any apparent departure from the *International Standard for Testing and Investigations* or *International Standard for Laboratories* that caused the *Atypical Finding*.

**7.4.3** If the review of an *Atypical Finding* under Article 7.4.2 reveals an applicable *TUE* or a departure from the *International Standard for Testing and Investigations* or

the *International Standard for Laboratories* that caused the *Atypical Finding*, the entire test shall be considered negative and the *Athlete*, the international federation and WADA shall be so informed in accordance with the *Code* and the *NAD scheme*.

**7.4.4** If that review does not reveal an applicable *TUE* or a departure from the *International Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Atypical Finding*, ASADA shall conduct the required investigation or cause it to be conducted. After the investigation is completed, either the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding*, in accordance with the *Code* and the *NAD scheme* and this *Anti-Doping Policy*, or else the *Athlete*, the international federation, the sporting administration body and WADA shall be notified that the *Atypical Finding* will not be brought forward as an *Adverse Analytical Finding*.

**7.4.5** ASADA will not provide notice of an *Atypical Finding* until it has completed its investigation and has decided whether it will bring the *Atypical Finding* forward as an *Adverse Analytical Finding* unless one of the following circumstances exists:

**7.4.5.1** If ASADA determines the *B Sample* should be analysed prior to the conclusion of its investigation, it may conduct the *B Sample* analysis after notifying the *Athlete*, with such notice to include a description of the *Atypical Finding* and the information described in Article 7.3.1(d) - (f).

**7.4.5.2** If ASADA is asked

- (a) by a *Major Event Organisation* shortly before one of its *International Events*, or
- (b) by a sport organisation responsible for meeting an imminent deadline for selecting team members for an *International Event*,

to disclose whether any *Athlete* identified on a list provided by the *Major Event Organisation* or sport organisation has a pending *Atypical Finding*, ASADA shall so advise the *Major Event Organisation* or sports organisation after first providing notice of the *Atypical Finding* to the *Athlete*.

## **7.5 Review of Atypical Passport Findings and Adverse Passport Findings**

Review of *Atypical Passport Findings* and *Adverse Passport Findings* shall take place as provided in the *International Standard for Testing and Investigations* and *International Standard for Laboratories*. At such time as ASADA is satisfied that an anti-doping rule violation has occurred, it shall promptly give the *Athlete* (and simultaneously, the international federation, the sporting administration body and WADA) notice of the anti-doping rule violation asserted and the basis of that assertion.

## **7.6 Review of whereabouts failures**

ASADA shall review potential filing failures and missed tests (as defined in the *International Standard for Testing and Investigations* and any *Athlete* whereabouts policy approved by ASADA from time to time) in respect of *Athletes* who file their whereabouts information with ASADA, in accordance with Annex I to the *International Standard for Testing and Investigations*. At such time as ASADA is satisfied that an Article 2.4 anti-doping rule violation has occurred, it shall promptly give the *Athlete* (and simultaneously, the international federation, the sporting administration body, and WADA) notice that it is asserting a violation of Article 2.4 and the basis of that assertion.

## **7.7 Review of other anti-doping rule violations not covered by Articles 7.2 to 7.6**

ASADA shall conduct any follow-up investigation required into a possible anti-doping rule violation not covered by Articles 7.2 to 7.6. At such time as ASADA is satisfied that an anti-doping rule violation has occurred and ASADA has completed all necessary steps as required by the *NAD scheme*, it shall promptly give the *Athlete* or other *Person* (and simultaneously the international federation, the sporting administration body, and WADA) notice of the anti-doping rule violation asserted, and the basis of that assertion.

## **7.8 Identification of prior Anti-Doping Rule Violations**

Before giving an *Athlete* or other *Person* notice of an asserted anti-doping rule violation, ASADA shall refer to its own records as well as ADAMS, and contact WADA and other relevant *Anti-Doping Organisations* to determine whether any prior anti-doping rule violation exists.

## **7.9 Provisional Suspensions<sup>25</sup>**

**7.9.1 Mandatory Provisional Suspension:** If analysis of an *A Sample* has resulted in an *Adverse Analytical Finding* for a *Prohibited Substance* that is not a *Specified Substance*, or for a *Prohibited Method*, and a review in accordance with Article 7.2.2 does not reveal an applicable *TUE* or departure from the *International*

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<sup>25</sup> Comment to Article 7.9: *Athletes* and other *Persons* shall receive credit for a *Provisional Suspension* against any period of *Ineligibility* which is ultimately imposed. See Articles 10.11.3.1 and 10.11.3.2.

*Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Adverse Analytical Finding*, a *Provisional Suspension* shall be imposed by the sporting administration body upon, or promptly after, the notification described in Articles 7.2, 7.3 or 7.5.

**7.9.2 Optional Provisional Suspension:** In the case of an *Adverse Analytical Finding* for a *Specified Substance*, or in the case of any other anti-doping rule violations not covered by Article 7.9.1, the sporting administration body may impose a *Provisional Suspension* on the *Athlete* or other *Person* against whom the anti-doping rule violation is asserted at any time after the review and notification described in Articles 7.2 to 7.7 and prior to the final hearing as described in Article 8.

**7.9.3** Where a *Provisional Suspension* is imposed pursuant to Article 7.9.1 or Article 7.9.2, the *Athlete* or other *Person* shall be given either:

(a) an opportunity for a *Provisional Hearing* either before or on a timely basis after imposition of the *Provisional Suspension*; or

(b) an opportunity for an expedited final hearing in accordance with Article 8 on a timely basis after imposition of the *Provisional Suspension*. Furthermore, the *Athlete* or other *Person* has a right to appeal the *Provisional Suspension* in accordance with Article 13.2 (except as set out in Article 7.9.3.1).

**7.9.3.1** The *Provisional Suspension* may be lifted if the *Athlete* demonstrates to the hearing panel that the violation is likely to have involved a *Contaminated Product*. A hearing panel's decision not to lift a mandatory *Provisional Suspension* on account of the *Athlete's* assertion regarding a *Contaminated Product* shall not be appealable.

**7.9.3.2** The *Provisional Suspension* shall be imposed (or shall not be lifted) unless the *Athlete* or other *Person* establishes at a *Provisional Hearing* that:

(a) the assertion of an anti-doping rule violation has no reasonable prospect of being upheld, for example, because of a patent flaw in the case against the *Athlete* or other *Person*;

(b) the *Athlete* or other *Person* has a strong arguable case that he/she bears *No Fault or Negligence* for the anti-doping rule violation(s) asserted, so that any period of *Ineligibility* that might otherwise be imposed for such a violation is likely to be completely eliminated by application of Article 10.4; or

(c) some other facts exist that make it clearly unfair, in all of the circumstances, to impose a *Provisional Suspension* prior to a final hearing in accordance with Article 8. This ground is to be construed narrowly, and applied only in truly exceptional circumstances. For example, the fact that the *Provisional Suspension* would prevent the *Athlete* or other *Person* participating in a particular *Competition* or *Event* shall not qualify as exceptional circumstances for these purposes.

**7.9.4** If a *Provisional Suspension* is imposed based on an *A Sample Adverse Analytical Finding* and subsequent analysis of the *B Sample* does not confirm the *A Sample* analysis, then the *Athlete* shall not be subject to any further *Provisional Suspension* on account of a violation of Article 2.1. In circumstances where the *Athlete* (or the *Athlete's* team) has been removed from a *Competition* based on a violation of Article 2.1 and the subsequent *B Sample* analysis does not confirm the *A Sample* finding, then if it is still possible for the *Athlete* or team to be reinstated without otherwise affecting the *Competition*, the *Athlete* or team may continue to take part in the *Competition*. In addition, the *Athlete* or team may thereafter take part in other *Competitions* in the same *Event*.

**7.9.5** In all cases where an *Athlete* or other *Person* has been notified of an asserted anti-doping rule violation but a *Provisional Suspension* has not been imposed on him or her, the *Athlete* or other *Person* shall be offered the opportunity to accept a *Provisional Suspension* voluntarily pending the resolution of the matter.

## **7.9A Infraction Notices**

Once the *ADRVP* makes an assertion of a possible anti-doping rule violation in accordance with the *ASADA Act* and *NAD scheme*, unless otherwise agreed in writing between *ASADA* and the sporting administration body, *ASADA* will:

**7.9A.1** notify the *Athlete* or *Athlete Support Person*, the sporting administration body, the international federation, *WADA*, and relevant *Anti-Doping Organisations* of the assertion;

**7.9A.2** issue the *Athlete* or *Athlete Support Person* with an Infraction Notice under this Article. The Infraction Notice will:

**7.9A.2(a)** notify the *Person* of the asserted anti-doping rule violations under this Anti-Doping Policy and the basis for the violation;

**7.9A.2(b)** state that the *Person* has a right to a hearing in relation to the asserted anti-doping rule violation/s;

**7.9A.2(c)** state that in the event the *Person* elects to have a hearing, the *Person* must file their application (however described) for a hearing with the CAS or other hearing body recognised or approved by ASADA within 14 days of receipt of the infraction notice;

**7.9A.2(d)** state that if the *Person* does not respond within 14 days of receipt of the infraction notice, or files an application for a hearing in CAS after the end of the 14 days referred to in 7.9A.2(c), they will be deemed to have waived their right to a hearing and the sporting administration body, in consultation with ASADA and other relevant parties, where applicable, may apply a sanction in accordance with Article 10;

**7.9A.2(e)** be provided to the *Athlete* or *Athlete Support Person*, the sporting administration body, the international federation, WADA, and relevant *Anti-Doping Organisation* in accordance with the *Code*.

**Note:** *Athletes* and other *Persons* are responsible for keeping their contact details up to date with the sporting administration body. Delivery to the last known address is sufficient in circumstances where the current whereabouts of the *Person* are not known. In addition, members of the sporting administration body should refer to Article 14.1.1.

## **7.10 Resolution without a hearing**

**7.10.1** An *Athlete* or other *Person* against whom an anti-doping rule violation is asserted may admit that violation at any time, waive a hearing, and accept the *Consequences* that are mandated by this Anti-Doping Policy or (where some discretion as to *Consequences* exists under this Anti-Doping Policy) that have been offered by ASADA or the sporting administration body.

**7.10.2** Alternatively, if the *Athlete* or other *Person* against whom an anti-doping rule violation is asserted fails to dispute that assertion within the deadline specified in the Infraction Notice sent by ASADA asserting the violation, then he/she shall be deemed to have admitted the violation, to have waived a hearing, and to have accepted the *Consequences* that are mandated by this Anti-Doping Policy or (where some discretion as to *Consequences* exists under this Anti-Doping Policy) that have been offered by ASADA or the sporting administration body.

**7.10.3** In cases where Article 7.10.1 or Article 7.10.2 applies, a hearing before a hearing panel shall not be required. Instead the sporting administration body, in consultation with ASADA, shall promptly issue a written decision confirming the commission of the anti-doping rule violation(s) and the *Consequences* imposed as a result, and setting out the reasons for any period of *Ineligibility* imposed, including (if applicable) a justification for why the maximum potential period of *Ineligibility* was not imposed. the sporting administration body shall send copies of that decision to other *Anti-Doping Organisations* with a right to appeal under Article 13.2.3, and shall *Publicly Disclose* that decision in accordance with Article 14.3.2.

## **7.11 Notification of results management decisions**

In all cases where ASADA or the sporting administration body (where relevant) has asserted the commission of an anti-doping rule violation, withdrawn the assertion of an anti-doping rule violation, imposed a *Provisional Suspension*, or agreed with an *Athlete* or other *Person* on the imposition of *Consequences* without a hearing, ASADA or the sporting administration body (where relevant) shall give notice thereof in accordance with Article 14.2.1 to other *Anti-Doping Organisations* with a right to appeal under Article 13.2.3.

## **7.12 Retirement from sport <sup>26</sup>**

If an *Athlete* or other *Person* retires while ASADA (or another *Anti-Doping Organisation*) is conducting the results management process, ASADA (or the other *Anti-Doping Organisation*) retains jurisdiction to complete its results management and hearing and appeals process. If an *Athlete* or other *Person* retires before any results management process has begun, and ASADA or another *Anti-Doping Organisation* would have had results management authority over the *Athlete* or other *Person* at the time the *Athlete* or other *Person* committed an anti-doping rule violation,

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<sup>26</sup> Comment to Article 7.12: Conduct by an *Athlete* or other *Person* before the *Athlete* or other *Person* was subject to the jurisdiction of any *Anti-Doping Organisation* would not constitute an anti-doping rule violation but could be a legitimate basis for denying the *Athlete* or other *Person* membership in a sports organisation.

*ASADA* or another *Anti-Doping Organisation* has authority to conduct results management in respect of that anti-doping rule violation.



## **ARTICLE 8     RIGHT TO A FAIR HEARING**

### **8.1     Fair hearings**

Any *Person* who is asserted to have committed an anti-doping rule violation under this Anti-Doping Policy is entitled to a hearing process. Such hearing process shall address whether an anti-doping rule violation was committed and, if so, the appropriate *Consequences*. All hearings conducted pursuant to this Article 8 will respect the following principles:

- 8.1.1** a timely hearing;
- 8.1.2** a fair and impartial hearing body;
- 8.1.3** the right to representation at the *Person's* own expense;
- 8.1.4** a timely, written, reasoned decision.

Subject to these principles, the hearing will be conducted in the manner that the hearing body determines is appropriate, with as little formality and technicality, and as quickly as proper consideration of the issues permit.

### **8.2     Event hearings**

Hearings held in connection with *Events* may be conducted by an expedited process as permitted by the rules of the relevant *Anti-Doping Organisation* and the hearing panel.

### **8.3     Waiver of hearing**

The right to a hearing may be waived either expressly or by the *Athlete's* or other *Person's* failure to challenge ASADA's assertion that an anti-doping rule violation has occurred within the specific time period provided in the infraction notice issued under Article 7.9A.

### **8.4     Establishment of hearings**

- 8.4.1** The Article 8 hearing body for the purposes of this Anti-Doping Policy at first instance is CAS or a hearing body recognised or approved in writing by ASADA on a case-by-case basis. Any appeal from a first-instance decision will be heard by CAS.
- 8.4.2** Should a *Person* elect to have a hearing in accordance with Article 8 or Article 7.9.3, the *Person* will be responsible for filing their application for a hearing with CAS, and paying any applicable CAS fees.

**8.4.3** ASADA and the sporting administration body are both entitled to present evidence, file submissions, cross-examine witnesses and do any other thing necessary for the enforcement of this Anti-Doping Policy at any hearing under this Article. Unless otherwise agreed in writing between ASADA and the *Sporting Administration Body*, ASADA will take the lead in presenting the matter in any hearing.

**8.4.4** Each party shall bear in equal proportions any upfront fee of CAS (excluding the initial CAS application fee which shall be borne by the party applying). Should it be found that no anti-doping rule violation has been committed, ASADA shall reimburse the *Athlete* or other *Person* their application fee and their portion of the upfront fee. Each party shall otherwise bear their own costs.

## **8.5 Right to attend hearings**

the international federation, WADA and, where applicable, the Australian Sports Commission, the Australian Olympic Committee, Australian Paralympic Committee, Australian Commonwealth Games Association, relevant State Institutes of Sport/State Academies of Sport and WADA shall have the right to attend hearings as an observer or an interested or affected party.

It shall be the duty of ASADA to inform those relevant parties of such right to attend as an observer or interested/affected party as applicable. If those parties fail to respond to such notification within 14 days, they shall be taken to have waived their right to so participate.

## **8.6 CAS determination**

**8.6.1** CAS will determine:

- a) if the *Person* has committed a violation of this Anti-Doping Policy;
- b) if so, what *Consequences* will apply (including the start date for any period of *Ineligibility*); and
- c) any other issues such as, but not limited to, reimbursement of funding provided to the *Athlete* or other *Person* by a sport organisation.

**8.6.2** *Consequences* will be in accordance with Article 10.

## **8.7 Public disclosure of hearing outcomes**

ASADA and the sporting administration body shall report the outcome of all anti-doping rule violations in accordance with the *Code*, the *ASADA Act* and the *NAD scheme*, and this Anti-Doping Policy, as in force from time to time.

## **8.8 Appeals and review**

Decisions by CAS at first instance may be appealed as provided in Article 13.

## **8.9 Use of information arising during hearings**

If, during a hearing, a party to the hearing process implicates a third party in a potential anti-doping rule violation, then ASADA (or any other *Anti-Doping Organisation*) may use any such information that arises as a result of the CAS process without having to first seek the permission of CAS or the parties. This clause overrides R43 and R59 of the CAS Code of Sports-related Arbitration to the extent of any inconsistency.

## **ARTICLE 9      AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS<sup>27</sup>**

An anti-doping rule violation in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the result obtained in that *Competition* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.

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<sup>27</sup> Comment to Article 9: For *Team Sports*, any awards received by individual players will be *Disqualified*. However, *Disqualification* of the team will be as provided in Article 11. In sports which are not *Team Sports* but where awards are given to teams, *Disqualification* or other disciplinary action against the team when one or more team members have committed an anti-doping rule violation shall be as provided in the applicable rules of the international federation.

## ARTICLE 10 SANCTIONS ON INDIVIDUALS<sup>28</sup>

### 10.1 *Disqualification of results in the Event during which an anti-doping rule violation occurs*<sup>29</sup>

An anti-doping rule violation occurring during, or in connection with, an *Event* may, upon the decision of the ruling body of the *Event*, lead to *Disqualification* of all of the *Athlete's* individual results obtained in that *Event* with all *Consequences*, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1.

Factors to be included in considering whether to *Disqualify* other results in an *Event* might include, for example, the seriousness of the *Athlete's* anti-doping rule violation and whether the *Athlete* tested negative in the other *Competitions*.

**10.1.1** If the *Athlete* establishes that he or she bears *No Fault or Negligence* for the violation, the *Athlete's* individual results in the other *Competitions* shall not be *Disqualified*, unless the *Athlete's* results in *Competitions* other than the *Competition* in which the anti-doping rule violation occurred were likely to have been affected by the *Athlete's* anti-doping rule violation.

### 10.2 *Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method*

The period of *Ineligibility* for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6:

**10.2.1** The period of *Ineligibility* shall be four years where:

**10.2.1.1** The anti-doping rule violation does not involve a *Specified Substance*, unless the *Athlete* or other *Person* can establish that the anti-doping rule violation was not intentional.

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<sup>28</sup> Comment to Article 10: Harmonisation of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonisation means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonisation of sanctions are based on differences between sports including, for example, the following: in some sports the *Athletes* are professionals making a sizable income from the sport and in others the *Athletes* are true amateurs; in those sports where an *Athlete's* career is short, a standard period of *Ineligibility* has a much more significant effect on the *Athlete* than in sports where careers are traditionally much longer. A primary argument in favour of harmonisation is that it is simply not right that two *Athletes* from the same country who test positive for the same *Prohibited Substance* under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organisations to be more lenient with dopers. The lack of harmonisation of sanctions has also frequently been the source of jurisdictional conflicts between international federations and *National Anti-Doping Organisations*.

<sup>29</sup> Comment to Article 10.1: Whereas Article 9 *Disqualifies* the result in a single *Competition* in which the *Athlete* tested positive (for example the 100 metre backstroke), this Article may lead to *Disqualification* of all results in all races during the *Event* (for example the FINA World Championships).

**10.2.1.2** The anti-doping rule violation involves a *Specified Substance* and ASADA can establish that the anti-doping rule violation was intentional.

**10.2.2** If Article 10.2.1 does not apply, the period of *Ineligibility* shall be two years.

**10.2.3** As used in Articles 10.2 and 10.3, the term 'intentional' is meant to identify those *Athletes* who cheat. The term, therefore, requires that the *Athlete* or other *Person* engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an *Adverse Analytical Finding* for a substance which is only prohibited *In-Competition* shall be rebuttably presumed to be not 'intentional' if the substance is a *Specified Substance* and the *Athlete* can establish that the *Prohibited Substance* was *Used Out-of-Competition*. An anti-doping rule violation resulting from an *Adverse Analytical Finding* for a substance which is only prohibited *In-Competition* shall not be considered 'intentional' if the substance is not a *Specified Substance* and the *Athlete* can establish that the *Prohibited Substance* was *Used Out-of-Competition* in a context unrelated to sport performance.

### **10.3 *Ineligibility* for other anti-doping rule violations**

The period of *Ineligibility* for anti-doping rule violations other than as provided in Article 10.2 shall be as follows, unless Articles 10.5 or 10.6 are applicable:

**10.3.1** For violations of Article 2.3 or Article 2.5, the period of *Ineligibility* shall be four years unless, in the case of failing to submit to *Sample* collection, the *Athlete* can establish that the commission of the anti-doping rule violation was not intentional (as defined in Article 10.2.3), in which case the period of *Ineligibility* shall be two years.

**10.3.2** For violations of Article 2.4, the period of *Ineligibility* shall be two years, subject to reduction down to a minimum of one year, depending on the *Athlete's* degree of *Fault*. The flexibility between two years and one year of *Ineligibility* in this Article is not available to *Athletes* where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the *Athlete* was trying to avoid being available for *Testing*.

**10.3.3** For violations of Article 2.7 or 2.8, the period of *Ineligibility* shall be a minimum of four years up to lifetime *Ineligibility*, depending on the seriousness of the

violation. An Article 2.7 or Article 2.8 violation involving a *Minor* shall be considered a particularly serious violation and, if committed by *Athlete Support Personnel* for violations other than for *Specified Substances*, shall result in lifetime *Ineligibility* for *Athlete Support Personnel*. In addition, significant violations of Article 2.7 or 2.8 which may also violate non-sporting laws and regulations shall be reported to the competent administrative, professional or judicial authorities<sup>30</sup>.

**10.3.4** For violations of Article 2.9, the period of *Ineligibility* imposed shall be a minimum of two years, up to four years, depending on the seriousness of the violation.

**10.3.5** For violations of Article 2.10, the period of *Ineligibility* shall be two years, subject to reduction down to a minimum of one year, depending on the *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case<sup>31</sup>.

#### **10.4 Elimination of the period of *Ineligibility* where there is *No Fault or Negligence***<sup>32</sup>

If an *Athlete* or other *Person* establishes in an individual case that he or she bears *No Fault or Negligence*, then the otherwise applicable period of *Ineligibility* shall be eliminated.

#### **10.5 Reduction of the period of *Ineligibility* based on *No Significant Fault or Negligence***

**10.5.1** Reduction of sanctions for *Specified Substances* or *Contaminated Products* for Violations of Article 2.1, 2.2 or 2.6.

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<sup>30</sup> Comment to Article 10.3.3: Those who are involved in doping *Athletes* or covering up doping should be subject to sanctions which are more severe than the *Athletes* who test positive. Since the authority of sport organisations is generally limited to *Ineligibility* for accreditation, membership and other sport benefits, reporting *Athlete Support Personnel* to competent authorities is an important step in the deterrence of doping.

<sup>31</sup> Comment to Article 10.3.5: Where the 'other *Person*' referenced in Article 2.10 is an entity and not an individual, that entity may be disciplined as provided in Article 12.

<sup>32</sup> Comment to Article 10.4: This Article and Article 10.5.2 apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. They will only apply in exceptional circumstances, for example where an *Athlete* could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, *No Fault or Negligence* would not apply in the following circumstances: (a) a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (*Athletes* are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination); (b) the *Administration of a Prohibited Substance* by the *Athlete's* Personal physician or trainer without disclosure to the *Athlete* (*Athletes* are responsible for their choice of medical *Personnel* and for advising medical *Personnel* that they cannot be given any *Prohibited Substance*); and (c) sabotage of the *Athlete's* food or drink by a spouse, coach or other *Person* within the *Athlete's* circle of associates (*Athletes* are responsible for what they ingest and for the conduct of those *Persons* to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Article 10.5 based on *No Significant Fault or Negligence*.

#### **10.5.1.1** *Specified Substances*

Where the anti-doping rule violation involves a *Specified Substance*, and the *Athlete* or other *Person* can establish *No Significant Fault or Negligence*, then the period of *Ineligibility* shall be, at a minimum, a reprimand and no period of *Ineligibility* and, at a maximum, two years of *Ineligibility*, depending on the *Athlete's* or other *Person's* degree of *Fault*.

#### **10.5.1.2** *Contaminated Products*

In cases where the *Athlete* or other *Person* can establish *No Significant Fault or Negligence* and the detected *Prohibited Substance* came from a *Contaminated Product*, then the period of *Ineligibility* shall be, at a minimum, a reprimand and no period of *Ineligibility* and, at a maximum, two years' *Ineligibility*, depending on the *Athlete's* or other *Person's* degree of *Fault*<sup>33</sup>.

#### **10.5.2** Application of *No Significant Fault or Negligence* beyond the application of Article 10.5.1

If an *Athlete* or other *Person* establishes in an individual case where Article 10.5.1 is not applicable, that he or she bears *No Significant Fault or Negligence*, then, subject to further reduction or elimination as provided in Article 10.6, the otherwise applicable period of *Ineligibility* may be reduced based on the *Athlete* or other *Person's* degree of *Fault*, but the reduced period of *Ineligibility* may not be less than one-half of the period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this Article may be no less than eight years<sup>34</sup>.

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<sup>33</sup> Comment to Article 10.5.1.2: In assessing that *Athlete's* degree of *Fault*, it would, for example, be favourable for the *Athlete* if the *Athlete* had declared the product which was subsequently determined to be contaminated on his or her Doping Control form.

<sup>34</sup> Comment to Article 10.5.2: Article 10.5.2 may be applied to any anti-doping rule violation except those Articles where intent is an element of the anti-doping rule violation (for example Article 2.5, 2.7, 2.8 or 2.9) or an element of a particular sanction (for example Article 10.2.1) or a range of *Ineligibility* is already provided in an Article based on the *Athlete* or other *Person's* degree of *Fault*.



## 10.6 Elimination, reduction, or suspension of period of *Ineligibility* or other *Consequences* for reasons other than *Fault*

### 10.6.1 Substantial assistance in discovering or establishing anti-doping rule violations<sup>35</sup>.

**10.6.1.1** An *Anti-Doping Organisation* with results management responsibility for an anti-doping rule violation may, prior to a final appellate decision under Article 13 or the expiration of the time to appeal, suspend a part of the period of *Ineligibility* imposed in an individual case where the *Athlete* or other *Person* has provided *Substantial Assistance* to an *Anti-Doping Organisation*, another criminal authority or professional disciplinary body which results in: (a) the *Anti-Doping Organisation* discovering or bringing forward an anti-doping rule violation by another *Person*, or (b) which results in a criminal or disciplinary body discovering or bringing forward a criminal offence or the breach of professional rules committed by another *Person* and the information provided by the *Person* providing *Substantial Assistance* is made available to the *Anti-Doping Organisation* with results management responsibility. After a final appellate decision under Article 13 or the expiration of time to appeal, an *Anti-Doping Organisation* may only suspend a part of the otherwise applicable period of *Ineligibility* with the approval of WADA and the international federation. The extent to which the otherwise applicable period of *Ineligibility* may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the *Athlete* or other *Person* and the significance of the *Substantial Assistance* provided by the *Athlete* or other *Person* to the effort to eliminate doping in sport. No more than three-quarters of the otherwise applicable period of *Ineligibility* may be suspended. If the otherwise applicable period of *Ineligibility* is a lifetime, the non-suspended period under this Article must be no less than eight years. If the *Athlete* or other *Person* fails to continue to cooperate and to provide the complete and credible *Substantial Assistance* upon which a suspension of the period of *Ineligibility* was based,

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<sup>35</sup> Comment to Article 10.6.1: The cooperation of *Athletes*, *Athlete Support Personnel* and other *Persons* who acknowledge their mistakes and are willing to bring other anti-doping rule violations to light is important to clean sport. This is the only circumstance under the *Code* where the suspension of an otherwise applicable period of *Ineligibility* is authorised.

the *Anti-Doping Organisation* that suspended the period of ineligibility shall reinstate the original period of *Ineligibility*. If an *Anti-Doping Organisation* decides to reinstate a suspended period of *Ineligibility* or decides not to reinstate a suspended period of *Ineligibility*, that decision may be appealed by any *Person* entitled to appeal under Article 13.

**10.6.1.2** To further encourage *Athletes* and other *Persons* to provide *Substantial Assistance* to *Anti-Doping Organisations*, at the request of the *Anti-Doping Organisation* conducting results management or at the request of the *Athlete* or other *Person* who has, or has been asserted to have, committed an anti-doping rule violation, WADA may agree at any stage of the results management process, including after a final appellate decision under Article 13, to what it considers to be an appropriate suspension of the otherwise-applicable period of *Ineligibility* and other *Consequences*. In exceptional circumstances, WADA may agree to suspensions of the period of *Ineligibility* and other *Consequences* for *Substantial Assistance* greater than those otherwise provided in this Article, or even no period of *Ineligibility*, and/or no return of prize money or payment of fines or costs. WADA's approval shall be subject to reinstatement of sanction, as otherwise provided in this Article. Notwithstanding Article 13, WADA's decisions in the context of this Article may not be appealed by any other *Anti-Doping Organisation*.

**10.6.1.3** If any part of an otherwise applicable sanction is suspended because of *Substantial Assistance*, then notice providing justification for the decision shall be provided to the other *Anti-Doping Organisations* with a right to appeal under Article 13.2.3 as provided in Article 14.2. In unique circumstances where WADA determines that it would be in the best interest of anti-doping, WADA may authorise an *Anti-Doping Organisation* to enter into appropriate confidentiality agreements limiting or delaying the disclosure of the *Substantial Assistance* agreement or the nature of *Substantial Assistance* being provided.

#### **10.6.2** Admission of an Anti-Doping Rule Violation in the absence of other evidence

Where an *Athlete* or other *Person* voluntarily admits the commission of an anti-doping rule violation before having received notice of a *Sample* collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of *Ineligibility* may be reduced, but not below one-half of the period of *Ineligibility* otherwise applicable<sup>36</sup>.

#### **10.6.3** Prompt admission of an Anti-Doping Rule Violation after being confronted with a violation sanctionable under Article 10.2.1 or Article 10.3.1

An *Athlete* or other *Person* potentially subject to a four-year sanction under Article 10.2.1 or 10.3.1 (for evading or refusing *Sample* Collection or *Tampering* with *Sample* Collection), by promptly admitting the asserted anti-doping rule violation after being confronted by ASADA (or another *Anti-Doping Organisation*), and also upon the approval and at the discretion of both WADA and the *Anti-Doping Organisation* with results management responsibility, may receive a reduction in the period of *Ineligibility* down to a minimum of two years, depending on the seriousness of the violation and the *Athlete* or other *Person's* degree of *Fault*.

#### **10.6.4** Application of multiple grounds for reduction of a sanction

Where an *Athlete* or other *Person* establishes entitlement to reduction in sanction under more than one provision of Article 10.4, 10.5 or 10.6, before applying any reduction or suspension under Article 10.6, the otherwise applicable period of *Ineligibility* shall be determined in accordance with Articles 10.2, 10.3, 10.4 and 10.5. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under Article 10.6, then the period of *Ineligibility* may be reduced or suspended, but not to below one-fourth of the otherwise applicable period of *Ineligibility*<sup>37</sup>.

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<sup>36</sup> Comment to Article 10.6.2: This Article is intended to apply when an *Athlete* or other *Person* comes forward and admits to an anti-doping rule violation in circumstances where no *Anti-Doping Organisation* is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the *Athlete* or other *Person* believes he or she is about to be caught. The amount by which *Ineligibility* is reduced should be based on the likelihood that the *Athlete* or other *Person* would have been caught had he/she not come forward voluntarily.

<sup>37</sup> Comment to Article 10.6.4: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel (or sporting administration body if the *Athlete* waives their right to a hearing and admits the anti-doping rule violation/s) determines

## 10.7 Multiple violations

**10.7.1** For an *Athlete* or other *Person's* second anti-doping rule violation, the period of *Ineligibility* shall be the greater of:

- (a) six months;
- (b) one-half of the period of *Ineligibility* imposed for the first anti-doping rule violation without taking into account any reduction under Article 10.6; or
- (c) twice the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, without taking into account any reduction under Article 10.6.

The period of *Ineligibility* established may then be further reduced by the application of Article 10.6.

**10.7.2** A third anti-doping rule violation will always result in a lifetime period of *Ineligibility*, except if the third violation fulfils the condition for elimination or reduction of the period of *Ineligibility* under Article 10.4 or 10.5, or involves a violation of Article 2.4. In these particular cases, the period of *Ineligibility* shall be from eight years to lifetime *Ineligibility*.

**10.7.3** An anti-doping rule violation for which an *Athlete* or other *Person* has established *No Fault or Negligence* shall not be considered a prior violation for purposes of this Article.

**10.7.4** Additional rules for certain potential multiple violations

**10.7.4.1** For purposes of imposing sanctions under Article 10.7, an anti-doping rule violation will only be considered a second violation if the *Anti-Doping Organisation* can establish that the *Athlete* or other *Person* committed the second anti-doping rule violation after the *Athlete* or other *Person* received notice pursuant to Article 7, or after the *Anti-Doping Organisation* made reasonable efforts to give notice, of the first anti-doping rule violation. If the *Anti-Doping Organisation* cannot establish this, the violations shall be considered together as one single first violation, and the

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which of the basic sanctions (Articles 10.2, 10.3, 10.4 or 10.5) apply to the particular anti-doping rule violation. Second, if the basic sanction provides for a range of sanctions, the hearing panel/sporting administration body must determine the applicable sanction within that range according to the *Athlete* or other *Person's* degree of *Fault*. In a third step, the hearing panel/sporting administration body establishes whether there is a basis for elimination, suspension, or reduction of the sanction (Article 10.6). Finally, the hearing panel/sporting administration body decides on the commencement of the period of *Ineligibility* under Article 10.11. Several examples of how Article 10 is to be applied are in Appendix 2.

sanction imposed shall be based on the violation that carries the more severe sanction.

**10.7.4.2** If, after the imposition of a sanction for a first anti-doping rule violation, an *Anti-Doping Organisation* discovers facts involving an anti-doping rule violation by the *Athlete* or other *Person* which occurred prior to notification regarding the first violation, then the sporting administration body, in consultation with ASADA, shall impose an additional sanction based on the sanction that could have been imposed if the two violations had been adjudicated at the same time. Results in all *Competitions* dating back to the earlier anti-doping rule violation will be *Disqualified* as provided in Article 10.8.

**10.7.5** Multiple *Anti-Doping Rule Violations* during ten-year period

For purposes of Article 10.7, each anti-doping rule violation must take place within the same ten-year period in order to be considered multiple violations.

## **10.8 Disqualification of results in Competitions subsequent to Sample collection or commission of an anti-doping rule violation**

In addition to the automatic *Disqualification* of the results in the *Competition* which produced the positive *Sample* under Article 9, all other competitive results of the *Athlete* obtained from the date a positive *Sample* was collected (whether *In-Competition* or *Out-of-Competition*), or other anti-doping rule violation occurred, through the commencement of any *Provisional Suspension* or *Ineligibility* period, shall, unless fairness requires otherwise, be *Disqualified* with all of the resulting *Consequences*, including forfeiture of any medals, points and prizes<sup>38</sup>.

## **10.9 Allocation of CAS Cost Awards and Forfeited Prize Money**

The priority for repayment of CAS cost awards and forfeited prize money shall be: first, payment of costs awarded by CAS; second, reallocation of forfeited prize money to other *Athletes* if provided for in the rules of the international federation; and third, reimbursement of the expenses of ASADA (or any other *Anti-Doping Organisation*) that conducted results management in the case.

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<sup>38</sup> Comment to Article 10.8: Nothing in this Anti-Doping Policy precludes clean *Athletes* or other *Persons* who have been damaged by the actions of a *Person* who has committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such *Person*.

## 10.10 Financial Consequences

The imposition of a financial sanction (such as the recovery of funding by a sport organisation) shall not be considered a basis for reducing the *Ineligibility* or other sanction which would otherwise be applicable under this Anti-Doping Policy or the *Code*.

## 10.11 Commencement of *Ineligibility* period<sup>39</sup>

Except as provided below, the period of *Ineligibility* shall start on the date of the final hearing decision providing for *Ineligibility* or, if the hearing is waived or there is no hearing, on the date *Ineligibility* is accepted or otherwise imposed.

### 10.11.1 Delays not attributable to the *Athlete* or other *Person*

Where there have been substantial delays in the hearing process or other aspects of *Doping Control* not attributable to the *Athlete* or other *Person*, the body imposing the sanction may start the period of *Ineligibility* at an earlier date commencing as early as the date of *Sample* collection or the date on which another anti-doping rule violation last occurred. All competitive results achieved during the period of *Ineligibility*, including retroactive *Ineligibility*, shall be *Disqualified*<sup>40</sup>.

### 10.11.2 Timely admission

Where the *Athlete* or other *Person* promptly (which, in all *Events*, for an *Athlete* means before the *Athlete* competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by ASADA (or another *Anti-Doping Organisation*), the period of *Ineligibility* may start as early as the date of *Sample* collection or the date on which another anti-doping rule violation last occurred. In each case where this Article is applied, the *Athlete* or other *Person* shall serve at least one-half of the period of *Ineligibility* going forward from the date the *Athlete* or other *Person* accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed. This Article shall not apply where the period of *Ineligibility* already has been reduced under Article 10.6.3.

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<sup>39</sup> Comment to Article 10.11: Article 10.11 makes clear that delays not attributable to the *Athlete*, timely admission by the *Athlete* and *Provisional Suspension* are the only justifications for starting the period of *Ineligibility* earlier than the date of the final hearing decision.

<sup>40</sup> Comment to Article 10.11.1: In cases of anti-doping rule violations other than under Article 2.1, the time required for ASADA (or another *Anti-Doping Organisation*) to discover and develop facts sufficient to establish an anti-doping rule violation may be lengthy, particularly where the *Athlete* or other *Person* has taken affirmative action to avoid detection. In these circumstances, the flexibility provided in this Article to start the sanction at an earlier date should not be used.

**10.11.3** Credit for *Provisional Suspension* or period of *Ineligibility* served

**10.11.3.1** If a *Provisional Suspension* is imposed and respected by the *Athlete* or other *Person*, then the *Athlete* or other *Person* shall receive a credit for such period of *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed. If a period of *Ineligibility* is served pursuant to a decision that is subsequently appealed, then the *Athlete* or other *Person* shall receive a credit for such period of *Ineligibility* served against any period of *Ineligibility* which may ultimately be imposed on appeal.

**10.11.3.2** If an *Athlete* or other *Person* voluntarily accepts a *Provisional Suspension* in writing from the sporting administration body and thereafter respects the *Provisional Suspension*, the *Athlete* or other *Person* shall receive a credit for such period of voluntary *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed. A copy of the *Athlete* or other *Person*'s voluntary acceptance of a *Provisional Suspension* shall be provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation under Article 14.1<sup>41</sup>.

**10.11.3.3** No credit against a period of *Ineligibility* shall be given for any time period before the effective date of the *Provisional Suspension* or voluntary *Provisional Suspension* regardless of whether the *Athlete* elected not to compete or was suspended by his or her team.

**10.11.3.4** In *Team Sports*, where a period of *Ineligibility* is imposed upon a team, unless fairness requires otherwise, the period of *Ineligibility* shall start on the date of the final hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed. Any period of team *Provisional Suspension* (whether imposed or voluntarily accepted) shall be

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<sup>41</sup> Comment to Article 10.11.3.2: An *Athlete*'s voluntary acceptance of a *Provisional Suspension* is not an admission by the *Athlete* and shall not be used in any way as to draw an adverse inference against the *Athlete*.

credited against the total period of *Ineligibility* to be served.

## 10.12 Status during *Ineligibility*

### 10.12.1 Prohibition against participation during *Ineligibility*

No *Athlete* or other *Person* who has been declared *Ineligible* may, during the period of *Ineligibility*, participate in any capacity in a *Competition* or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organised by any *Signatory*, *Signatory's* member organisation, or a club or other member organisation of a *Signatory's* member organisation, or in *Competitions* authorised or organised by any professional league or any international- or national- level *Event* organisation or any elite or national-level sporting activity funded by a government agency.

An *Athlete* or other *Person* subject to a period of *Ineligibility* longer than four years may, after completing four years of the period of *Ineligibility*, participate as an *Athlete* in local sport *Events* not sanctioned or otherwise under the jurisdiction of a *Code Signatory* or member of a *Code Signatory*, but only so long as the local sport *Event* is not at a level that could otherwise qualify such *Athlete* or other *Person* directly or indirectly to compete in (or accumulate points toward) a national championship or *International Event*, and does not involve the *Athlete* or other *Person* working in any capacity with *Minors*.

An *Athlete* or other *Person* subject to a period of *Ineligibility* shall remain subject to *Testing*<sup>42</sup>.

### 10.12.2 Return to training

As an exception to Article 10.12.1, an *Athlete* may return to train with a team or to use the facilities of a club or other member organisation of a *Signatory's* member organisation during the shorter of: (1) the last two

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<sup>42</sup> Comment to Article 10.12.1: For example, subject to Article 10.12.2, an *Ineligible Athlete* cannot participate in a training camp, exhibition or practice organised by his or her *Sporting Administration Body* or a club which is a member of that *Sporting Administration Body* or which is funded by a government agency. Further, an *Ineligible Athlete* may not compete in a non-*Signatory* professional league (for example, the National Hockey League, the National Basketball League). *Events* organised by a non-*Signatory International Event* organisation or a non-*Signatory* national-level event organisation without triggering the *Consequences* set forth in Article 10.12.3. The term 'activity' also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organisation described in this Article. *Ineligibility* imposed in one sport shall also be recognised by other sports (see Article 15.1, Mutual recognition).



months of the *Athlete's* period of *Ineligibility*, or (2) the last one-fourth of the period of *Ineligibility* imposed<sup>43</sup>.

### **10.12.3** Violation of the prohibition of participation during *Ineligibility*

Where an *Athlete* or other *Person* who has been declared *Ineligible* violates the prohibition against participation during *Ineligibility* described in Article 10.12.1, the results of such participation shall be *Disqualified* and a new period of *Ineligibility* equal in length to the original period of *Ineligibility* shall be added to the end of the original period of *Ineligibility*. The new period of *Ineligibility* may be adjusted based on the *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case. The determination of whether an *Athlete* or other *Person* has violated the prohibition against participation, and whether an adjustment is appropriate, shall be made by the sporting administration body in consultation with ASADA (and any other *Anti-Doping Organisation*). This decision may be appealed under Article 13.

Where an *Athlete Support Person* or other *Person* assists a *Person* in violating the prohibition against participation during *Ineligibility*, an *Anti-Doping Organisation* with jurisdiction over such *Athlete Support Person* or other *Person* shall impose sanctions for a violation of Article 2.9 for such assistance.

### **10.12.4** Withholding of financial support during *Ineligibility*

In addition, for any anti-doping rule violation not involving a reduced sanction as described in Article 10.4 or 10.5, some or all sport-related financial support or other sport-related benefits received by such *Person* will be withheld by *Signatories*, *Signatories'* member organisations and governments.

## **10.13 Automatic publication of sanction**

A mandatory part of each sanction shall include automatic publication, as provided in Article 14.3.

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<sup>43</sup> Comment to Article 10.12.2: In many *Team Sports* and some individual sports (for example, ski jumping and gymnastics), an *Athlete* cannot effectively train on his/her own so as to be ready to compete at the end of the *Athlete's* period of *Ineligibility*. During the training period described in this Article, an *Ineligible Athlete* may not compete or engage in any activity described in Article 10.12.1 other than training.

## **ARTICLE 11    *CONSEQUENCES TO TEAMS***

### **11.1    *Testing of Team Sports***

Where more than one member of a team in a *Team Sport* has been notified of an anti-doping rule violation under Article 7 in connection with an *Event*, the ruling body for the *Event* shall conduct appropriate *Target Testing* of the team during the *Event Period*.

### **11.2    *Consequences for Team Sports***

If more than two members of a team in a *Team Sport* are found to have committed an anti-doping rule violation during an *Event Period*, the ruling body of the *Event* shall impose an appropriate sanction on the team (for example, loss of points, *Disqualification* from a *Competition* or *Event*, or other sanction) in addition to any *Consequences* imposed upon the individual *Athletes* committing the anti-doping rule violation.

### **11.3    *Event ruling body may establish stricter Consequences for Team Sports***

The ruling body for an *Event* may elect to establish rules for the *Event* which impose *Consequences for Team Sports* stricter than those in Article 11.2 for purposes of the *Event*<sup>44</sup>.

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<sup>44</sup> Comment to Article 11.3: For example, the International Olympic Committee could establish rules which would require *Disqualification* of a team from the Olympic Games based on a lesser number of anti-doping rule violations during the period of the Games.

## **ARTICLE 12    SANCTIONS AGAINST SPORTING BODIES**

### **12.1    Withholding funding for non-compliance**

ASADA may request the Australian Sports Commission and any other relevant public authorities to withhold some or all funding or other non-financial support to Sporting Administration Bodies that are not in compliance with this Anti-Doping Policy.

### **12.2    Disciplinary action against a sporting administration body**

ASADA may request the Australian Sports Commission, Australian Olympic Committee or the Australian Commonwealth Games Association to take additional disciplinary action against a sporting administration body with respect to recognition, the eligibility of its officials and Athletes to participate in International Events, and fines based on the following:

- 12.2.1**            Four or more violations of this Anti-Doping Policy (other than violations involving Article 2.4) are committed by *Athletes* or other *Persons* affiliated with the sporting administration body within a 12-month period.
  
- 12.2.2**            More than one *Athlete* or other *Person* from the sporting administration body commits an anti-doping rule violation during an *International Event*.
  
- 12.2.3**            The sporting administration body has failed to make diligent efforts to keep ASADA informed about an Athlete's whereabouts after receiving a request for that information from ASADA.

## ARTICLE 13 APPEALS

### 13.1 Decisions subject to appeal

Decisions made under this Anti-Doping Policy may be appealed as set forth below in Articles 13.2 through 13.6 or as otherwise provided in this Anti-Doping Policy, the *Code* or the *International Standards*. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review provided in the *Anti-Doping Organisation's* rules must be exhausted, provided that such review respects the principles set forth in Article 13.2.2 (except as provided in Article 13.1.3).

#### 13.1.1 Scope of review not limited

The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker.

#### 13.1.2 CAS shall not defer to the findings being appealed

In making its decision, CAS need not give deference to the discretion exercised by the body whose decision is being appealed<sup>45</sup>.

#### 13.1.3 WADA is not required to exhaust internal remedies

Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within the *Anti-Doping Organisation's* process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the *Anti-Doping Organisation's* process.

### 13.2 Appeals from decisions regarding *Anti-Doping Rule Violations, Consequences, Provisional Suspensions, recognition of decisions and jurisdiction*

A decision that an anti-doping rule violation was committed, a decision imposing *Consequences* or not imposing *Consequences* for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision by WADA not to grant an exception to the six months' notice requirement for a retired *Athlete* to return to *Competition* under Article 5.7.1; a decision by WADA assigning results management under Article 7.1 of the *Code*; a decision by ASADA (or other *Anti-Doping Organisation*) not to bring forward an *Adverse Analytical Finding* or an *Atypical Finding* as an anti-doping rule violation, or a decision

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<sup>45</sup> Comment to Article 13.1.2: CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.

not to go forward with an anti-doping rule violation after an investigation under Article 7.7; a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing*; the sporting administration body's failure to comply with Article 7.9; a decision that ASADA, the sporting administration body (or another *Anti-Doping Organisation*) lacks jurisdiction to rule on an alleged anti-doping rule violation or its *Consequences*; a decision to suspend, or not suspend, a period of *Ineligibility* or to reinstate, or not reinstate, a suspended period of *Ineligibility* under Article 10.6.1; a decision under Article 10.12.3; and a decision by ASADA (or another *Anti-Doping Organisation*) not to recognise another *Anti-Doping Organisation's* decision under Article 15, may be appealed exclusively as provided in Articles 13.2 – 13.6.

**13.2.1** Appeals involving *International-Level Athletes* or *International Events*

In cases arising from participation in an *International Event* or in cases involving *International-Level Athletes*, the decision may be appealed exclusively to the Appeals Division of CAS<sup>46</sup>.

**13.2.2** Appeals involving other *Athletes* or other *Persons*

In cases where Article 13.2.1 is not applicable, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court.

**13.2.3** *Persons* entitled to appeal

In cases under Article 13.2.1, the following parties shall have the right to appeal to CAS:

- (a) the *Athlete* or other *Person* who is the subject of the decision being appealed;
- (b) the other party to the case in which the decision was rendered;
- (c) the international federation;
- (d) ASADA and (if different) the *National Anti-Doping Organisation* of the *Person's* country of residence or countries where the *Person* is a national or license holder;
- (e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic

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<sup>46</sup> Comment to Article 13.2.1: CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.

Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and

(f) WADA.

In cases under Article 13.2.2, the following parties, at a minimum, shall have the right to appeal:

(a) the *Athlete* or other *Person* who is the subject of the decision being appealed;

(b) the other party to the case in which the decision was rendered;

(c) the international federation;

(d) ASADA and (if different) the *National Anti-Doping Organisation* of the *Person's* country of residence;

(e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and

(f) WADA.

Notwithstanding any other provision herein, the only *Person* who may appeal from a *Provisional Suspension* is the *Athlete* or other *Person* upon whom the *Provisional Suspension* is imposed.

#### **13.2.4** Cross Appeals and other subsequent appeals allowed

Cross appeals and other subsequent appeals by any respondent named in cases brought to CAS under the *Code* are specifically permitted. Any party with a right to appeal under this Article 13 must file a cross appeal or subsequent appeal at the latest with the party's answer<sup>47</sup>.

### **13.3 Failure to render a timely decision**

Where, in a particular case, an *Anti-Doping Organisation* fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by WADA,

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<sup>47</sup> Comment to Article 13.2.4: This provision is necessary because since 2011, CAS rules no longer permit an *Athlete* the right to cross appeal when an *Anti-Doping Organisation* appeals a decision after the *Athlete's* time for appeal has expired. This provision permits a full hearing for all parties.

WADA may elect to appeal directly to CAS as if an *Anti-Doping Organisation* had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines that an anti-doping rule violation was committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorney fees in prosecuting the appeal shall be reimbursed to WADA by the *Anti-Doping Organisation*<sup>48</sup>.

### **13.4 Appeals relating to TUEs**

TUE decisions may be appealed exclusively as provided in Article 4.4.

### **13.5 Notification of appeal decisions**

Any *Anti-Doping Organisation* that is a party to an appeal shall promptly provide the appeal decision to the *Athlete* or other *Person* and to the other *Anti-Doping Organisations* that would have been entitled to appeal under Article 13.2.3 as provided under Article 14.2.

### **13.6 Time for filing appeals**

#### **13.6.1 Appeals to CAS**

The time to file an appeal to CAS shall be twenty-one days from the date of receipt of the decision by the appealing party. This notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings that led to the decision being appealed:

(a) Within fifteen days from notice of the decision, such party/ies shall have the right to request a copy of the case file from the body that issued the decision;

(b) If such a request is made within the fifteen-day period, then the party making such request shall have twenty-one days from receipt of the file to file an appeal to CAS.

This notwithstanding, the filing deadline for an appeal filed by WADA shall be the later of:

(a) Twenty-one days after the last day on which any other party in the case could have appealed; or

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<sup>48</sup> Comment to Article 13.3: Given the different circumstances of each anti-doping rule violation investigation and results management process, it is not feasible to establish a fixed time period for an *Anti-Doping Organisation* to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the *Anti-Doping Organisation* and give the *Anti-Doping Organisation* an opportunity to explain why it has not yet rendered a decision.

(b) Twenty-one days after *WADA*'s receipt of the complete file relating to the decision.



## ARTICLE 14 CONFIDENTIALITY AND REPORTING

### 14.1 Information concerning *Adverse Analytical Findings, Atypical Findings, and other asserted anti-doping rule violations*

#### 14.1.1 Notice of Anti-Doping Rule Violations to *Athletes* and other *Persons*

Notice to *Athletes* or other *Persons* that an anti-doping rule violation is being asserted against them shall occur as provided under Articles 7 and 14 of this Anti-Doping Policy. Notice to an *Athlete* or other *Person* who is a member of the sporting administration body may be put into effect by delivery of the notice to the sporting administration body.

#### 14.1.2 Notice of anti-doping rule violations to the international federation and WADA

Notice of the assertion of an anti-doping rule violation to the international federation and WADA shall occur as provided under Articles 7 and 14 of this Anti-Doping Policy, simultaneously with the notice to the *Athlete* or other *Person*.

#### 14.1.3 Content of an anti-doping rule violation Notice

Notification shall include: the *Athlete's* name, country, sport and discipline within the sport, the *Athlete's* competitive level, whether the test was *In-Competition* or *Out-of-Competition*, the date of *Sample* collection, the analytical result reported by the laboratory, and other information as required by the *International Standard for Testing and Investigations* (where applicable), or, for anti-doping rule violations other than under Article 2.1, the rule violated and the basis of the asserted violation.

#### 14.1.4 Status reports

Except with respect to investigations which have not resulted in notice of an anti-doping rule violation pursuant to Article 14.1.1, the international federation and WADA shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to Article 7, 8 or 13 and shall be provided with a prompt written reasoned explanation or decision explaining the resolution of the matter.

#### **14.1.5** Confidentiality

The recipient organisations shall not disclose this information beyond those *Persons* with a need to know (which would include the appropriate personnel at the applicable *National Olympic Committee, National Federation*, and team in a *Team Sport*) until ASADA, the sporting administration body or other *Anti-Doping Organisation* has made public disclosure or has failed to make Public Disclosure as required in Article 14.3.

### **14.2 Notice of anti-doping rule violation decisions and request for files**

**14.2.1** Anti-doping rule violation decisions rendered pursuant to Article 7.11, 8.6, 10.4, 10.5, 10.6, 10.12.3 or 13.5 shall include the full reasons for the decision, including, if applicable, a justification for why the greatest possible *Consequences* were not imposed. Where the decision is not in English or French, ASADA or another *Anti-Doping Organisation* shall provide a short English or French summary of the decision and the supporting reasons.

**14.2.2** An *Anti-Doping Organisation* having a right to appeal a decision received pursuant to Article 14.2.1 may, within fifteen days of receipt, request a copy of the full case file pertaining to the decision.

### **14.3 Public disclosure**

**14.3.1** The identity of any *Athlete* or other *Person* who is asserted by ASADA or another *Anti-Doping Organisation* to have committed an anti-doping rule violation, may be *Publicly Disclosed* by ASADA or another *Anti-Doping Organisation* only after notice has been provided to the *Athlete* or other *Person* in accordance with Article 7.3, 7.4, 7.5, 7.6 or 7.7 and simultaneously to WADA and the international federation in accordance with Article 14.1.2.

**14.3.2** No later than twenty days after it has been determined in a final appellate decision under Article 13.2.1 or 13.2.2, or such appeal has been waived, or a hearing in accordance with Article 8 has been waived, or the assertion of an anti-doping rule violation has not been timely challenged, ASADA and the sporting administration body must *Publicly Report* the disposition of the matter, including the sport, the anti-doping rule violated, the name of the *Athlete* or other *Person* committing the violation, the

*Prohibited Substance or Prohibited Method* involved (if any) and the *Consequences* imposed. ASADA and the sporting administration body must also *Publicly Report* within twenty days the results of final appeal decisions concerning anti-doping rule violations, including the information described above.

**14.3.3** In any case where it is determined, after a hearing or appeal, that the *Athlete* or other *Person* did not commit an anti-doping rule violation, the decision may be *Publicly Disclosed* only with the consent of the *Athlete* or other *Person* who is the subject of the decision. ASADA and the sporting administration body shall use reasonable efforts to obtain such consent. If consent is obtained, ASADA and the sporting administration body shall *Publicly Disclose* the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

**14.3.4** Publication shall be accomplished at a minimum by placing the required information on ASADA's website or publishing it through other means and leaving the information up for the longer of one month or the duration of any period of *Ineligibility*.

**14.3.5** Neither ASADA, nor the sporting administration body, nor any official of either body, shall publicly comment on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to the *Athlete* or other *Person* against whom an anti-doping rule violation is asserted, or their representatives.

**14.3.5(a)** Where an *Athlete* or other *Person* or their representative comments about their matter the *Athlete* or other *Person* is taken to have consented to ASADA commenting in response to their matter for the purposes of the ASADA Act.

**14.3.6** The mandatory *Public Reporting* required in Article 14.3.2 shall not be required where the *Athlete* or other *Person* who has been found to have committed an anti-doping rule violation is a *Minor*. Any optional *Public Reporting* in a case involving a *Minor* shall be proportionate to the facts and circumstances of the case.

## 14.4 Data privacy

**14.4.1** ASADA may collect, store, process or disclose personal information relating to *Athletes* and other *Persons* where necessary and appropriate to conduct their anti-doping activities under the *ASADA Act*, *ASADA Regulations*, the *NAD scheme*, *Code*, the *International Standards* (including specifically the *International Standard for the Protection of Privacy and Personal Information*), the *Australian Privacy Principles*, the *Archives Act 1983 (Cth)*, and this Anti-Doping Policy as in force from time to time.

**14.4.2** Any *Participant* who submits information including personal data to any *Person* in accordance with this Anti-Doping Policy shall be deemed to have agreed, pursuant to applicable data protection laws and otherwise, that such information may be collected, processed, disclosed and used by such *Person* for the purposes of the implementation of this Anti-Doping Policy, in accordance with the *International Standard for the Protection of Privacy and Personal Information*, the *Australian Privacy Principles*, the *Archives Act 1983 (Cth)*, *ASADA Act*, *ASADA Regulations*, the *NAD scheme* as in force from time to time, and otherwise as required to implement this Anti-Doping Policy.

## **ARTICLE 15 APPLICATION AND RECOGNITION OF DECISIONS**

**15.1** Subject to the right to appeal provided in Article 13, *Testing*, hearing results or other final adjudications of any *Signatory* which are consistent with the *Code* and are within that *Signatory's* authority shall be applicable worldwide and shall be recognised and respected by ASADA and the sporting administration body<sup>49</sup>.

**15.2** ASADA and the sporting administration body shall recognise the measures taken by other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*.

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<sup>49</sup> Comment to Article 15.1: The extent of recognition of *TUE* decisions of other *Anti-Doping Organisations* shall be determined by Article 4.4 and the *International Standard for Therapeutic Use Exemptions*.

## **ARTICLE 16 INCORPORATION OF THIS ANTI-DOPING POLICY AND OBLIGATIONS OF THE SPORTING ADMINISTRATION BODY**

**16.1** The sporting administration body and its members shall comply with this Anti-Doping Policy. This Anti-Doping Policy shall also be incorporated either directly or by reference into the sporting administration body's rules so that ASADA may enforce the anti-doping policy itself directly as against *Athletes* and other *Persons* under the sporting administration body's jurisdiction.

**16.2** The sporting administration body shall establish rules requiring all *Athletes* and each *Athlete Support Personnel* who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel in a *Competition* or activity authorised or organised by the sporting administration body or one of its member organisations to agree to be bound by this Anti-Doping Policy and to submit the results management authority to the *Anti-Doping Organisation* responsible under *the Code* as a condition of such participation.

**16.3** The sporting administration body shall report any information suggesting or relating to an anti-doping rule violation to ASADA and to the international federation, and shall cooperate with investigations conducted by any *Anti-Doping Organisation* with authority to conduct the investigation.

**16.4** The sporting administration body shall have disciplinary rules in place to prevent *Athlete Support Personnel* who are *Using Prohibited Substances or Prohibited Methods* without valid justification from providing support to *Athletes* under the jurisdiction of ASADA or the sporting administration body.

**16.5** The sporting administration body shall be required to conduct anti-doping education in coordination with ASADA.

## **ARTICLE 17    STATUTE OF LIMITATIONS**

No anti-doping rule violation proceeding may be commenced against an *Athlete* or other *Person* unless he or she has been notified of the anti-doping rule violation as provided in Article 7, or notification has been reasonably attempted, within ten years from the date the violation is asserted to have occurred.

## **ARTICLE 18 COMPLIANCE REPORTS TO WADA**

This article has been removed by ASADA.



## **ARTICLE 19    EDUCATION**

ASADA, in collaboration with the sporting administration body, will support the sporting administration body to plan, implement, evaluate and monitor anti-doping information, education and prevention programs on at least the issues listed at Article 18.2 of the *Code*, and shall support active participation by *Athletes* and *Athlete Support Personnel* in such programs.

## **ARTICLE 20 AMENDMENT AND INTERPRETATION OF ANTI-DOPING POLICY**

**20.1** This Anti-Doping Policy may be amended from time to time by the sporting administration body subject to written approval by the ASADA CEO under clause 2.04 of the *NAD scheme*.

**20.2** This Anti-Doping Policy shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.

**20.3** The headings (with the exception of Article 2) used for the various Parts and Articles of this Anti-Doping Policy are for convenience only and shall not be deemed part of the substance of this Anti-Doping Policy or to affect in any way the language of the provisions to which they refer.

**20.4** *The Code* and the *International Standards* shall be considered integral parts of this Anti-Doping Policy and shall prevail in case of conflict.

**20.5** This Anti-Doping Policy has been adopted pursuant to the applicable provisions of the *Code* and shall be interpreted in a manner that is consistent with applicable provisions of the *Code*. The Introduction shall be considered an integral part of this Anti-Doping Policy.

**20.6** The comments annotating various provisions of the *Code* and this Anti-Doping Policy shall be used to interpret this Anti-Doping Policy.

**20.7** This Anti-Doping Policy takes full force and effect on 1 January 2015 (the 'Effective Date'). It shall not apply retroactively to matters pending before the Effective Date; provided, however, that:

**20.7.1** Anti-doping rule violations taking place prior to the Effective Date count as 'first violations' or 'second violations' for purposes of determining sanctions under Article 10 for violations taking place after the Effective Date.

**20.7.2** The retrospective periods in which prior violations can be considered for purposes of multiple violations under Article 10.7.5 and the statute of limitations set forth in Article 17 are procedural rules and should be applied retroactively; provided, however, that Article 17 shall only be applied retroactively if the statute of limitation period has not already expired by the Effective Date. Otherwise, with respect to any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an

anti-doping rule violation which occurred prior to the Effective Date, the case shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, unless the panel hearing the case determines the principle of 'lex mitior' appropriately applies under the circumstances of the case.

- 20.7.3** Any Article 2.4 whereabouts failure (whether a filing failure or a missed test, as those terms are defined in the *International Standard for Testing and Investigations*) prior to the Effective Date shall be carried forward and may be relied upon, prior to expiry, in accordance with the *International Standard for Testing and Investigation*, but it shall be deemed to have expired 12 months after it occurred.
- 20.7.4** With respect to cases where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date, but the *Athlete* or other *Person* is still serving the period of *Ineligibility* as of the Effective Date, the *Athlete* or other *Person* may apply to the *Anti-Doping Organisation* which had results management responsibility for the anti-doping rule violation to consider a reduction in the period of *Ineligibility* in light of this Anti-Doping Policy. Such application must be made before the period of *Ineligibility* has expired. The decision rendered may be appealed pursuant to Article 13.2. This Anti-Doping Policy shall have no application to any case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.
- 20.7.5** For purposes of assessing the period of *Ineligibility* for a second violation under Article 10.7.1, where the sanction for the first violation was determined based on rules in force prior to the Effective Date, the period of *Ineligibility* which would have been assessed for that first violation had this Anti-Doping Policy been applicable, shall be applied.

## **ARTICLE 21 INTERPRETATION OF THE *CODE***

- 21.1** The official text of the *Code* shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.
- 21.2** The comments annotating various provisions of *the Code* shall be used to interpret the *Code*.
- 21.3** The *Code* shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the *Signatories* or governments.
- 21.4** The headings used for the various Parts and Articles of the *Code* are for convenience only and shall not be deemed part of the substance of the *Code* or to affect in any way the language of the provisions to which they refer.
- 21.5** The *Code* shall not apply retroactively to matters pending before the date the *Code* is accepted by a *Signatory* and implemented in its rules. However, pre-*Code* anti-doping rule violations would continue to count as 'first violations' or 'second violations' for the purposes of determining sanctions under Article 10 for subsequent post-*Code* violations.
- 21.6** The Purpose, Scope and Organisation of the World Anti-Doping Program and the *Code* and Appendix 1, Definitions, and Appendix 2, Examples of the Application of Article 10, shall be considered integral parts of the *Code*.

## **ARTICLE 22    ADDITIONAL ROLES AND RESPONSIBILITIES OF *ATHLETES* AND OTHER *PERSONS***

### **22.1 Roles and responsibilities of *Athletes***

- 22.1.1            To be knowledgeable of and comply with this Anti-Doping Policy.
- 22.1.2            To be available for *Sample* collection at all times<sup>50</sup>.
- 22.1.3            To take responsibility, in the context of anti-doping, for what they ingest and *Use*.
- 22.1.4            To inform medical personnel of their obligation not to *Use Prohibited Substances* and *Prohibited Methods* and to take responsibility to make sure that any medical treatment received does not violate this Anti-Doping Policy.
- 22.1.5            To disclose to the international federation and to ASADA any decision by a non-*Signatory* finding that the *Athlete* committed an anti-doping rule violation within the previous ten years.
- 22.1.6            To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations.

### **22.2 Roles and responsibilities of *Athlete Support Personnel***

- 22.2.1            To be knowledgeable of and comply with this Anti-Doping Policy.
- 22.2.2            To cooperate with the *Athlete Testing* program.
- 22.2.3            To use his or her influence on *Athlete* values and behaviour to foster anti-doping attitudes.
- 22.2.4            To disclose to the international federation and to ASADA any decision by a non-*Signatory* finding that he or she committed an anti-doping rule violation within the previous ten years.
- 22.2.5            To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations.

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<sup>50</sup> Comment to Article 22.1.2: With due regard to an *Athlete's* human rights and privacy, legitimate anti-doping considerations sometimes require *Sample* collection late at night or early in the morning. For example, it is known that some *Athletes* use low doses of EPO during these hours so that it will be undetectable in the morning.

**22.2.6** *Athlete Support Personnel shall not Use or Possess any Prohibited Substance or Prohibited Method without valid justification.*

**NOTE:** Coaches and other *Athlete Support Personnel* are often role models for *Athletes*. They should not be engaging in personal conduct which conflicts with their responsibility to encourage their *Athletes* not to dope. *Use or Possession of a Prohibited Substance or Prohibited Method* by an *Athlete Support Person* without valid justification is not an anti-doping rule violation under the Code, but it is a breach under the sporting administration body Code of Conduct.



## APPENDIX 1 DEFINITIONS<sup>51</sup>

**ADAMS:** The Anti-Doping Administration and Management System is a web-based database management tool for data entry, storage, sharing and reporting designed to assist stakeholders and WADA in their anti-doping operations in conjunction with data protection legislation.

**Administration:** Providing, supplying, supervising, facilitating, or otherwise participating in the Use or Attempted Use by another Person of a Prohibited Substance or Prohibited Method. However, this definition shall not include the actions of bona fide medical personnel involving a Prohibited Substance or Prohibited Method used for genuine and legal therapeutic purposes or other acceptable justification and shall not include actions involving Prohibited Substances which are not prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate that such Prohibited Substances are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**Adverse Analytical Finding:** A report from a WADA-accredited laboratory or other WADA-approved laboratory that, consistent with the International Standard for Laboratories and related Technical Documents, identifies in a Sample the presence of a Prohibited Substance or its Metabolites or Markers (including elevated quantities of endogenous substances) or evidence of the Use of a Prohibited Method.

**Adverse Passport Finding:** A report identified as an Adverse Passport Finding as described in the applicable International Standards.

**Anti-Doping Organisation:** A Signatory that is responsible for adopting rules for initiating, implementing or enforcing any part of the Doping Control process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other Major Event Organisations that conduct Testing at their Events, WADA, international federations, and National Anti-Doping Organisations. For the purposes of this Anti-Doping Policy, ASADA is an Anti-Doping Organisation.

**ADRVP:** The Anti-Doping Rule Violation Panel constituted pursuant to the ASADA Act.

**Archives Act 1983(Cth):** is the Commonwealth legislation that governs the retention and disposal of Commonwealth records. ASADA's Disposal Authority document is approved pursuant to that legislation, and it categorises types of records and classifies how long those records must be retained, and how they must be stored.

**ASADA:** The Australian Sports Anti-Doping Authority.

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<sup>51</sup> Comment: Defined terms shall include their plural and possessive forms, as well as those terms used as other parts of speech.



**ASADA Act:** The *Australian Sports Anti-Doping Authority Act 2006* (Cth).

**ASADA Regulations:** The *Australian Sports Anti-Doping Authority Regulations 2006* (Cth) (the *National Anti-Doping scheme* is contained in Schedule 1 to the Regulations).

**ASDMAC:** *Australian Sports Drug Medical Advisory Committee* constituted pursuant to the ASADA Act.

**Athlete:** Any *Person* who competes in sport at the international level (as defined by each international federation), or the national level (as defined by each *National Anti-Doping Organisation*). For the purposes of this Anti-Doping Policy, *Athlete* includes any *Person* falling within the scope of Article 1.3.1 or 1.3.2. An *Anti-Doping Organisation* has discretion to apply anti-doping rules to an *Athlete* who is neither an *International-Level Athlete* nor a *National-Level Athlete*, and thus to bring them within the definition of '*Athlete*'. In relation to *Athletes* who are neither *International-Level* nor *National-Level Athletes*, an *Anti-Doping Organisation* may elect to: conduct limited *Testing* or no *Testing* at all; analyse *Samples* for less than the full menu of *Prohibited Substances*; require limited or no whereabouts information; or not require advance *TUEs*. However, if an Article 2.1, 2.3 or 2.5 anti-doping rule violation is committed by any *Athlete* over whom an *Anti-Doping Organisation* has authority who competes below the international or national level, then the *Consequences* set forth in the *Code* (except Article 14.3.2) must be applied. For purposes of Article 2.8 and Article 2.9 and for purposes of anti-doping information and education, any *Person* who participates in sport under the authority of any *Signatory*, government, or other sports organisation accepting the *Code* is an *Athlete*.

**Athlete Biological Passport:** The program and methods of gathering and collating data as described in the *International Standard for Testing and Investigations* and *International Standard for Laboratories*.

**Athlete Support Person:** Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other *Person* working with, treating or assisting an *Athlete* participating in or preparing for sports *Competition* whether a member of a sporting administration body or not falling within the scope of Article 1.3.1 or 1.3.2.

**Attempt:** Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an anti-doping rule violation. Provided, however, there shall be no anti-doping rule violation based solely on an *Attempt* to commit a violation if the *Person* renounces the *Attempt* prior to it being discovered by a third party not involved in the *Attempt*.

**Atypical Finding:** A report from a WADA-accredited laboratory or other WADA-approved laboratory which requires further investigation as provided by the *International Standard for Laboratories* or related Technical Documents prior to the determination of an *Adverse Analytical Finding*.

**Atypical Passport Finding:** A report described as an *Atypical Passport Finding* as described in the applicable *International Standards*.

**Australian Privacy Principles:** are contained in Schedule 1 of the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth) which amends the Privacy Act 1988 (Cth). ASADA is required to comply with this legislation.

**CAS:** The Court of Arbitration for Sport.

**Code:** The World Anti-Doping Code.

**Competition:** A single race, match, game or singular sport contest. For example, a basketball game or the finals of the Olympic 100-meter race in athletics. For stage races and other sport contests where prizes are awarded on a daily or other interim basis the distinction between a *Competition* and an *Event* will be as provided in the rules of the applicable international federation.

**Consequences of Anti-Doping Rule Violations ('Consequences'):** An *Athlete's* or other *Person's* violation of an anti-doping rule may result in one or more of the following:

- (a) *Disqualification* means the *Athlete's* results in a particular *Competition* or *Event* are invalidated, with all resulting *Consequences* including forfeiture of any medals, points and prizes;
- (b) *Ineligibility* means the *Athlete* or other *Person* is barred on account of an anti-doping rule violation for a specified period of time from participating in any *Competition* or other activity or funding as provided in Article 10.12.1;
- (c) *Provisional Suspension* means the *Athlete* or other *Person* is barred temporarily from participating in any *Competition* or activity prior to the final decision at a hearing conducted under Article 8;
- (d) *Financial Consequences* means a financial sanction imposed for an anti-doping rule violation or to recover costs associated with an anti-doping rule violation; and
- (e) *Public Disclosure* or *Public Reporting* means the dissemination or distribution of information to the general public or *Persons* beyond those *Persons* entitled to earlier

notification in accordance with Article 14. Teams in *Team Sports* may also be subject to *Consequences* as provided in Article 11 of the *Code*.

**Contaminated Product:** A product that contains a *Prohibited Substance* that is not disclosed on the product label or in information available in a reasonable internet search.

**Disqualification:** See *Consequences of Anti-Doping Rule Violations*.

**Doping Control:** All steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps and processes in between such as provision of whereabouts information, *Sample* collection and handling, laboratory analysis, *TUEs*, results management and hearings.

**Event:** A series of individual *Competitions* conducted together under one ruling body (for example, the Olympic Games, FINA World Championships, or Pan American Games).

**Event Venues:** Those venues so designated by the ruling body for the *Event*.

**Event Period:** The time between the beginning and end of an *Event*, as established by the ruling body of the *Event*.

**Fault:** *Fault* is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an *Athlete* or other *Person's* degree of *Fault* include, for example, the *Athlete's* or other *Person's* experience, whether the *Athlete* or other *Person* is a *Minor*, special considerations such as impairment, the degree of risk that should have been perceived by the *Athlete* and the level of care and investigation exercised by the *Athlete* in relation to what should have been the perceived level of risk. In assessing the *Athlete's* or other *Person's* degree of *Fault*, the circumstances considered must be specific and relevant to explain the *Athlete's* or other *Person's* departure from the expected standard of behaviour. Thus, for example, the fact that an *Athlete* would lose the opportunity to earn large sums of money during a period of *Ineligibility*, or the fact that the *Athlete* only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of *Ineligibility* under Article 10.5.1 or 10.5.2<sup>52</sup>.

**Financial Consequences:** See *Consequences of Anti-Doping Rule Violations*.

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<sup>52</sup> Comment: The criteria for assessing an *Athlete's* degree of *Fault* is the same under all Articles where *Fault* is to be considered. However, under Article 10.5.2, no reduction of sanction is appropriate unless, when the degree of *Fault* is assessed, the conclusion is that *No Significant Fault or Negligence* on the part of the *Athlete* or other *Person* was involved.

***In-Competition:*** Unless provided otherwise in the rules of an international federation or the ruling body of the *Event* in question, '*In-Competition*' means the period commencing twelve hours before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*<sup>53</sup>.

***Individual Sport:*** Any sport that is not a *Team Sport*.

***Ineligibility:*** See *Consequences of Anti-Doping Rule Violations*.

***International Event:*** An *Event* or *Competition* where the International Olympic Committee, the International Paralympic Committee, an international federation, a *Major Event Organisation*, or another international sport organisation is the ruling body for the *Event* or appoints the technical officials for the *Event*.

***International-Level Athlete:*** *Athletes* as defined in Article 1.4.1.1 of this Anti-Doping Policy.

***International Standard:*** A standard adopted by WADA in support of the *Code*. Compliance with an *International Standard* (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the *International Standard* were performed properly. *International Standards* shall include any Technical Documents issued pursuant to the *International Standard*.

***Major Event Organisations:*** The continental associations of *National Olympic Committees* and other international multi-sport organisations that function as the ruling body for any continental, regional or other *International Event*.

***Marker:*** A compound, group of compounds or biological variable(s) that indicates the *Use* of a *Prohibited Substance* or *Prohibited Method*.

***Metabolite:*** Any substance produced by a biotransformation process.

***Minor:*** A natural *Person* who has not reached the age of eighteen years.

***NAD scheme:*** The *National Anti-Doping scheme* which is contained in Schedule 1 to the *Australian Sports Anti-Doping Authority Regulations 2006 (Cth)*.

***National Anti-Doping Organisation:*** The entity(ies) designated by each country as possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of *Samples*, the management of test results, and the conduct of hearings at the national level. If this designation has not been made by the competent public authority(ies), the entity shall be the country's *National Olympic Committee* or its designee.

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<sup>53</sup> Comment: An international federation or ruling body for an *Event* may establish an "*In-Competition*" period that is different than the *Event Period*.

**National Event:** A sport *Event* or *Competition* involving *International* or *National-Level Athletes* that is not an *International Event*.

**National Federation:** A national or regional entity which is a member of or is recognised by an international federation as the entity governing the international federation's sport in that nation or region.

**National-Level Athlete:** *Athletes* who compete in sport at the national level, as defined by each *National Anti-Doping Organisation*, consistent with the *International Standard for Testing and Investigations*. In Australia, *National-Level Athletes* are defined as set out in Article 1.4.

**National Olympic Committee:** The organisation recognised by the International Olympic Committee. The term *National Olympic Committee* shall also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical *National Olympic Committee* responsibilities in the anti-doping area.

**No Fault or Negligence:** The *Athlete* or other *Person's* establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had *Used* or been administered the *Prohibited Substance* or *Prohibited Method* or otherwise violated an anti-doping rule. Except in the case of a *Minor*, for any violation of Article 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

**No Significant Fault or Negligence:** The *Athlete* or other *Person's* establishing that his or her *Fault* or negligence, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the anti-doping rule violation. Except in the case of a *Minor*, for any violation of Article 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system<sup>54</sup>.

**Out-of-Competition:** Any period which is not *In-Competition*.

**Participant:** Any *Athlete* or *Athlete Support Person*.

**Person:** A natural *Person* or an organisation or other entity. For the avoidance of doubt, *Person* includes *Athletes* and *Athlete Support Personnel*.

**Possession:** The actual, physical *Possession*, or the constructive *Possession* (which shall be found only if the *Person* has exclusive control or intends to exercise control over the *Prohibited Substance* or *Prohibited Method* or the premises in which a *Prohibited Substance* or *Prohibited Method* exists); provided, however, that if the *Person* does not have exclusive control over the

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<sup>54</sup> Comment: For Cannabinoids, an *Athlete* may establish *No Significant Fault or Negligence* by clearly demonstrating that the context of the *Use* was unrelated to sport performance.

*Prohibited Substance* or *Prohibited Method* or the premises in which a *Prohibited Substance* or *Prohibited Method* exists, constructive *Possession* shall only be found if the *Person* knew about the presence of the *Prohibited Substance* or *Prohibited Method* and intended to exercise control over it. Provided, however, there shall be no anti-doping rule violation based solely on *Possession* if, prior to receiving notification of any kind that the *Person* has committed an anti-doping rule violation, the *Person* has taken concrete action demonstrating that the *Person* never intended to have *Possession* and has renounced *Possession* by explicitly declaring it to an *Anti-Doping Organisation*. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a *Prohibited Substance* or *Prohibited Method* constitutes *Possession* by the *Person* who makes the purchase<sup>55</sup>.

***Prohibited List:*** The WADA list identifying the *Prohibited Substances* and *Prohibited Methods*.

***Prohibited Method:*** Any method so described on the *Prohibited List*.

***Prohibited Substance:*** Any substance, or class of substances, so described on the *Prohibited List*.

***Provisional Hearing:*** For purposes of Article 7.9, an expedited abbreviated hearing occurring prior to a hearing under Article 8 that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form<sup>56</sup>.

***Provisional Suspension:*** See *Consequences of Anti-Doping Rule Violations*.

***Publicly Disclose or Publicly Report:*** See *Consequences of Anti-Doping Rule Violations*.

***Regional Anti-Doping Organisation:*** A regional entity designated by member countries to coordinate and manage delegated areas of their national anti-doping programs, which may include the adoption and implementation of anti-doping rules, the planning and collection of *Samples*, the management of results, the review of *TUEs*, the conduct of hearings, and the conduct of educational programs at a regional level.

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<sup>55</sup> Comment: Under this definition, steroids found in an *Athlete's* car would constitute a violation unless the *Athlete* establishes that someone else used the car; in that event, the *Anti-Doping Organisation* must establish that, even though the *Athlete* did not have exclusive control over the car, the *Athlete* knew about the steroids and intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of an *Athlete* and spouse, the *Anti-Doping Organisation* must establish that the *Athlete* knew the steroids were in the cabinet and that the *Athlete* intended to exercise control over the steroids. The act of purchasing a *Prohibited Substance* alone constitutes *Possession*, even where, for example, the product does not arrive, is received by someone else, or is sent to a third party address.

<sup>56</sup> Comment: A *Provisional Hearing* is only a preliminary proceeding which may not involve a full review of the facts of the case. Following a *Provisional Hearing*, the *Athlete* remains entitled to a subsequent full hearing on the merits of the case. By contrast, an 'expedited hearing', as that term is used in Article 7.9, is a full hearing on the merits conducted on an expedited time schedule.

**Registered Testing Pool:** The pool of highest-priority *Athletes* established separately at the international level by international federations and at the national level by *National Anti-Doping Organisations*, who are subject to focused *In-Competition* and *Out-of-Competition Testing* as part of that international federation's or *National Anti-Doping Organisation's* test distribution plan and therefore are required to provide whereabouts information as provided in Article 5.6 of the *Code* and the *International Standard for Testing and Investigations*.

**SAB:** *sporting administration body*.

**the Sporting Administration Body Rules:** *Sporting Administration Body Rules*.

**Sample or Specimen:** Any biological material collected for the purposes of *Doping Control*<sup>57</sup>.

**Sporting Administration Body:** A sporting administration body as defined by the ASADA Act.

**Sporting Administration Body Rules:** The Sporting Administration Body Rules as contained in Appendix 3 to this Anti-Doping Policy, having been extracted from the *NAD scheme*. Definitions from the *NAD scheme* are to be used when interpreting the Sporting Administration Body Rules.

**Signatories:** Those entities signing the *Code* and agreeing to comply with the *Code*, as provided in Article 23 of the *Code*.

**Specified Substance:** See Article 4.2.2.

**Sport:** The sporting administration body who is party to this Anti-Doping Policy.

**Strict Liability:** The rule which provides that under Article 2.1 and Article 2.2, it is not necessary that intent, *Fault*, negligence, or knowing *Use* on the *Athlete's* part be demonstrated by the *Anti-Doping Organisation* in order to establish an anti-doping rule violation.

**Substantial Assistance:** For purposes of Article 10.6.1, a *Person* providing *Substantial Assistance* must: (1) fully disclose in a signed written statement all information he or she possesses in relation to anti-doping rule violations, and (2) fully cooperate with the investigation and adjudication of any case related to that information, including, for example, presenting testimony at a hearing if requested to do so by an *Anti-Doping Organisation* or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

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<sup>57</sup> Comment: It has sometimes been claimed that the collection of blood *Samples* violates the tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim.

**Tampering:** Altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring.

**Target Testing:** Selection of specific *Athletes* for *Testing* based on criteria set forth in the *International Standard for Testing and Investigations*.

**Team Sport:** A sport in which the substitution of players is permitted during a *Competition*.

**Testing:** The parts of the *Doping Control* process involving test distribution planning, *Sample* collection, *Sample* handling, and *Sample* transport to the laboratory.

**Trafficking:** Selling, giving, transporting, sending, delivering or distributing (or *Possessing* for any such purpose) a *Prohibited Substance* or *Prohibited Method* (either physically or by any electronic or other means) by an *Athlete*, *Athlete Support Person* or any other *Person* subject to the jurisdiction of an *Anti-Doping Organisation* to any third party; provided, however, this definition shall not include the actions of 'bona fide' medical *Personnel* involving a *Prohibited Substance* used for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**Tribunal:** A hearing body that is compliant with Article 8 of the *Code*.

**TUE:** *Therapeutic Use Exemption*, as described in Article 4.4.

**TUE Committee or TUEC:** *Therapeutic Use Exemption Committee*. In Australia, this role is fulfilled by the *Australian Sports Drug Medical Advisory Committee*.

**TUERC:** *Therapeutic Use Exemption Review Committee*.

**UNESCO Convention:** The International Convention against Doping in Sport adopted by the 33rd session of the UNESCO General Conference on 19 October 2005 including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport.

**Use:** The utilisation, application, ingestion, injection or consumption by any means whatsoever of any *Prohibited Substance* or *Prohibited Method*.

**WADA:** The World Anti-Doping Agency.





## APPENDIX 2    EXAMPLES OF THE APPLICATION OF ARTICLE 10

### EXAMPLE 1.

**Facts:** An Adverse Analytical Finding results from the presence of an anabolic steroid in an In-Competition test (Article 2.1); the Athlete promptly admits the anti-doping rule violation; the Athlete establishes No Significant Fault or Negligence; and the Athlete provides Substantial Assistance.

#### Application of Consequences:

1. The starting point would be Article 10.2. Because the *Athlete* is deemed to have *No Significant Fault* that would be sufficient corroborating evidence (Articles 10.2.1.1 and 10.2.3) that the anti-doping rule violation was not intentional, the period of *Ineligibility* would thus be two years, not four years (Article 10.2.2).
2. In a second step, the panel would analyse whether the *Fault*-related reductions (Articles 10.4 and 10.5) apply. Based on *No Significant Fault or Negligence* (Article 10.5.2) since the anabolic steroid is not a *Specified Substance*, the applicable range of sanctions would be reduced to a range of two years to one year (minimum one-half of the two-year sanction). The panel would then determine the applicable period of *Ineligibility* within this range based on the *Athlete's* degree of *Fault*. (Assume for purposes of illustration in this example that the panel would otherwise impose a period of *Ineligibility* of 16 months.)
3. In a third step, the panel would assess the possibility for suspension or reduction under Article 10.6 (reductions not related to *Fault*). In this case, only Article 10.6.1 (*Substantial Assistance*) applies. (Article 10.6.3, Prompt Admission, is not applicable because the period of *Ineligibility* is already below the two-year minimum set forth in Article 10.6.3.) Based on *Substantial Assistance*, the period of *Ineligibility* could be suspended by three-quarters of 16 months. The minimum period of *Ineligibility* would thus be four months. (Assume for purposes of illustration in this example that the panel suspends ten months and the period of *Ineligibility* would thus be six months.)
4. Under Article 10.11, the period of *Ineligibility*, in principle, starts on the date of the final hearing decision. However, because the *Athlete* promptly admitted the anti-doping rule violation, the period of *Ineligibility* could start as early as the date of *Sample* collection, but in any event the *Athlete* would have to serve at least one-half of the *Ineligibility* period (that is, three months) after the date of the hearing decision (Article 10.11.2).

5. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would have to automatically *Disqualify* the result obtained in that *Competition* (Article 9).
6. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of the *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.
7. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).
8. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team or to use the facilities of a club or other member organisation of a *Signatory* or its affiliates during the shorter of:
  - (a) the last two months of the *Athlete's* period of *Ineligibility*, or
  - (b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2).
 Thus, the *Athlete* would be allowed to return to training one and one-half months before the end of the period of *Ineligibility*.

## **EXAMPLE 2.**

**Facts:** An *Adverse Analytical Finding* results from the presence of a stimulant which is a *Specified Substance* in an *In-Competition* test (Article 2.1); the *Anti-Doping Organisation* is able to establish that the *Athlete* committed the anti-doping rule violation intentionally; the *Athlete* is not able to establish that the *Prohibited Substance* was *Used Out-of-Competition* in a context unrelated to sport performance; the *Athlete* does not promptly admit the anti-doping rule violation as alleged; the *Athlete* does provide *Substantial Assistance*.

### **Application of Consequences:**

1. The starting point would be Article 10.2. Because the *Anti-Doping Organisation* can establish that the anti-doping rule violation was committed intentionally and the *Athlete* is unable to establish that the substance was permitted *Out-of-Competition* and the *Use* was unrelated to the *Athlete's* sport performance (Article 10.2.3), the period of *Ineligibility* would be four years (Article 10.2.1.2).
2. Because the violation was intentional, there is no room for a reduction based on *Fault* (no application of Articles 10.4 and 10.5). Based on *Substantial Assistance*, the sanction

could be suspended by up to three-quarters of the four years. The minimum period of *Ineligibility* would thus be one year.

3. Under Article 10.11, the period of *Ineligibility* would start on the date of the final hearing decision.
4. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would automatically *Disqualify* the result obtained in the *Competition*.
5. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.
6. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).
7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team or to use the facilities of a club or other member organisation of a *Signatory* or its affiliates during the shorter of:

(a) the last two months of the *Athlete's* period of *Ineligibility*, or

(b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2).

Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*.

### **EXAMPLE 3.**

**Facts:** An *Adverse Analytical Finding* results from the presence of an anabolic steroid in an *Out-of-Competition* test (Article 2.1); the *Athlete* establishes *No Significant Fault or Negligence*; the *Athlete* also establishes that the *Adverse Analytical Finding* was caused by a *Contaminated Product*.

#### **Application of Consequences:**

1. The starting point would be Article 10.2. Because the *Athlete* can establish through corroborating evidence that he did not commit the anti-doping rule violation intentionally, that is, he had *No Significant Fault in Using a Contaminated Product* (Articles 10.2.1.1 and 10.2.3), the period of *Ineligibility* would be two years (Article 10.2.2).

2. In a second step, the panel would analyse the *Fault*-related possibilities for reductions (Articles 10.4 and 10.5). Since the *Athlete* can establish that the anti-doping rule violation was caused by a *Contaminated Product* and that he acted with *No Significant Fault or Negligence* based on Article 10.5.1.2, the applicable range for the period of *Ineligibility* would be reduced to a range of two years to a reprimand. The panel would determine the period of *Ineligibility* within this range, based on the *Athlete's* degree of *Fault*. (Assume for purposes of illustration in this example that the panel would otherwise impose a period of *Ineligibility* of four months.)
3. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would be *Disqualified* unless fairness requires otherwise.
4. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).
5. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team or to use the facilities of a club or other member organisation of a *Signatory* or its affiliates during the shorter of:

(a) the last two months of the *Athlete's* period of *Ineligibility*, or

(b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2).

Thus, the *Athlete* would be allowed to return to training one month before the end of the period of *Ineligibility*.

#### **EXAMPLE 4.**

**Facts:** An *Athlete* who has never had an *Adverse Analytical Finding* or been confronted with an anti-doping rule violation spontaneously admits that she *Used* an anabolic steroid to enhance her performance. The *Athlete* also provides *Substantial Assistance*.

#### **Application of Consequences:**

1. Since the violation was intentional, Article 10.2.1 would be applicable and the basic period of *Ineligibility* imposed would be four years.
2. There is no room for *Fault*-related reductions of the period of *Ineligibility* (no application of Articles 10.4 and 10.5).

3. Based on the *Athlete's* spontaneous admission (Article 10.6.2) alone, the period of *Ineligibility* could be reduced by up to one-half of the four years. Based on the *Athlete's Substantial Assistance* (Article 10.6.1) alone, the period of *Ineligibility* could be suspended up to three-quarters of the four years. Under Article 10.6.4, in considering the spontaneous admission and *Substantial Assistance* together, the most the sanction could be reduced or suspended would be up to three-quarters of the four years. The minimum period of *Ineligibility* would be one year.
4. The period of *Ineligibility*, in principle, starts on the day of the final hearing decision (Article 10.11). If the spontaneous admission is factored into the reduction of the period of *Ineligibility*, an early start of the period of *Ineligibility* under Article 10.11.2 would not be permitted. The provision seeks to prevent an *Athlete* from benefitting twice from the same set of circumstances. However, if the period of *Ineligibility* was suspended solely on the basis of *Substantial Assistance*, Article 10.11.2 may still be applied, and the period of *Ineligibility* started as early as the *Athlete's* last *Use* of the anabolic steroid.
5. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of the anti-doping rule violation until the start of the period of *Ineligibility* would be *Disqualified* unless fairness requires otherwise.
6. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).
7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team or to use the facilities of a club or other member organisation of a *Signatory* or its affiliates during the shorter of:
  - (a) the last two months of the *Athlete's* period of *Ineligibility*, or
  - (b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2).

Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*.

#### **EXAMPLE 5.**

**Facts:** An *Athlete Support Person* helps to circumvent a period of *Ineligibility* imposed on an *Athlete* by entering him into a *Competition* under a false name. The *Athlete Support Person* comes forward with this anti-doping rule violation (Article 2.9) spontaneously before being notified of an anti-doping rule violation by an *Anti-Doping Organisation*.

### **Application of Consequences:**

1. According to Article 10.3.4, the period of *Ineligibility* would be from two up to four years, depending on the seriousness of the violation. (Assume for purposes of illustration in this example that the panel would otherwise impose a period of *Ineligibility* of three years.)
2. There is no room for *Fault*-related reductions since intent is an element of the anti-doping rule violation in Article 2.9 (see comment to Article 10.5.2).
3. According to Article 10.6.2, provided that the admission is the only reliable evidence, the period of *Ineligibility* may be reduced down to one-half. (Assume for purposes of illustration in this example that the panel would impose a period of *Ineligibility* of 18 months.)
4. The information referred to in Article 14.3.2 must be *Publicly Disclosed* unless the *Athlete Support Person* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).

### **EXAMPLE 6.**

**Facts:** An *Athlete* was sanctioned for a first anti-doping rule violation with a period of *Ineligibility* of 14 months, of which four months were suspended because of *Substantial Assistance*. Now, the *Athlete* commits a second anti-doping rule violation resulting from the presence of a stimulant which is not a *Specified Substance* in an *In-Competition* test (Article 2.1); the *Athlete* establishes *No Significant Fault or Negligence*; and the *Athlete* provided *Substantial Assistance*. If this were a first violation, the panel would sanction the *Athlete* with a period of *Ineligibility* of 16 months and suspend six months for *Substantial Assistance*.

### **Application of Consequences:**

1. Article 10.7 is applicable to the second anti-doping rule violation because Article 10.7.4.1 and Article 10.7.5 apply.
2. Under Article 10.7.1, the period of *Ineligibility* would be the greater of:
  - (a) six months;
  - (b) one-half of the period of *Ineligibility* imposed for the first anti-doping rule violation without taking into account any reduction under Article 10.6 (in this example, that would equal one-half of 14 months, which is seven months); or
  - (c) twice the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, without taking into account any

reduction under Article 10.6 (in this example, that would equal two times 16 months, which is 32 months).

Thus, the period of *Ineligibility* for the second violation would be the greater of (a), (b) and (c), which is a period of *Ineligibility* of 32 months.

3. In a next step, the panel would assess the possibility for suspension or reduction under Article 10.6 (non-*Fault*-related reductions). In the case of the second violation, only Article 10.6.1 (*Substantial Assistance*) applies. Based on *Substantial Assistance*, the period of *Ineligibility* could be suspended by three-quarters of 32 months<sup>58</sup>.

The minimum period of *Ineligibility* would thus be eight months. (Assume for purposes of illustration in this example that the panel suspends eight months of the period of *Ineligibility* for *Substantial Assistance*, thus reducing the period of *Ineligibility* imposed to two years.)

4. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would automatically Disqualify the result obtained in the *Competition*.
5. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.
6. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).
7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team to use the facilities of a club or other member organisation of a *Signatory* or its affiliates during the shorter of:

(a) the last two months of the *Athlete's* period of *Ineligibility*, or

(b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2).

Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*

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<sup>58</sup> Comment: Upon the approval of WADA in exceptional circumstances, the maximum suspension of the period of *Ineligibility* for *Substantial Assistance* may be greater than three-quarters, and reporting and publication may be delayed.



## APPENDIX 3 SPORTING ADMINISTRATION BODY RULES

A sporting administration body must:

(a) at all times have in place, maintain and enforce anti-doping policies and practices that comply with:

(i) the mandatory provisions of the *Code* and *International Standards*; and

(ii) the *NAD scheme*; and

(b) not adopt its anti-doping policy unless it has been approved by the CEO or not substantively amend its anti-doping policy unless the amendment has been approved by the CEO; and

(c) ensure that at all times it has the authority to enforce its anti-doping policy; and

(d) immediately inform the CEO of an alleged breach of its anti-doping policy and cooperate with any investigation into the matter; and

(e) provide to the CEO appropriate details or reports related to investigations, hearings, appeals and sanctions; and

(f) provide the CEO with relevant information in a timely manner, including sporting administration body and international federation anti-doping policies, policy amendments, policy endorsement and implementation date, *Athlete* whereabouts information, *Athlete* education, information relating to *Events* and camps, lists of *Athletes* subject to anti-doping policies and advice relating to *Athletes* in the CEO's *Registered Testing Pool* and *Domestic Testing Pool*; and

(g) ensure that other rules and regulations of the sport do not override the provisions of its anti-doping policy; and

(h) comply with, implement and enforce its anti-doping policy to the satisfaction of the CEO; and

(i) submit to the operations of the CEO; and

(j) refer all instances of possible anti-doping rule violations to the CEO for investigation and cooperate with any investigation, as required; and

(k) allow the CEO to present anti-doping cases at hearings unless the CEO has approved the sporting administration body presenting its own case; and

- (l) recognise the CEO as having a right to appeal decisions relating to anti-doping cases, including in cases the CEO has not presented the anti-doping case at the hearing; and
- (m) accept findings by the *ADRVP*, act on findings by the *ADRVP*, ensure that a notice of an alleged anti-doping rule violation is issued in accordance with a recommendation made by the CEO, and enforce sanctions imposed by a sporting tribunal; and
- (n) ensure that its members and staff cooperate with the CEO; and
- (o) promote information, education and other anti-doping programmes in accordance with the *World Anti-Doping Code* and as requested by the CEO; and
- (p) comply with any other conditions relating to anti-doping and notified to it by the Australian Sports Commission that the Australian Sports Commission is required by legislation or by the CEO to require from sporting organisations to which the Australian Sports Commission provides funding, services and support.