

# CRICKET AUSTRALIA ANTI-DOPING CODE

The Board of Cricket Australia has adopted the Australian National Anti-Doping Policy (**ANADP**) as the Cricket Australia Anti-Doping Code adapted and amended by the Cricket Australia Anti-Doping Code Schedule (**Schedule**) set out below, with effect from 3 June 2022.

The Cricket Australia Anti-Doping Code replaces the previous Cricket Australia Anti-Doping Code (Last amended 4 October 2020).

Capitalized terms in this Schedule are defined in the ANADP except to the extent that they are inconsistent with definitions set out in Article 21 of this Schedule in which case the definitions set out in Article 21 of this Schedule will apply.

## CRICKET AUSTRALIA ANTI-DOPING CODE SCHEDULE

### 1. Purpose

- 1.1. Cricket Australia has adopted the ANADP to impose clear prohibitions and controls in the sport of cricket in accordance with the mandatory provisions of the World Anti-Doping Code (**WADA Code**) and the ICC Anti-Doping Code (**ICC Code**), as part of Cricket Australia's responsibilities as a member of the ICC and its continuing efforts to:
  - a) maintain the integrity of the sport of cricket;
  - b) protect the rights and health of all participants in the sport of cricket; and
  - c) keep the sport of cricket free from doping.
- 1.2. For the avoidance of doubt, the ANADP reflects and supports the Fundamental Rationale for the WADA Code, as more particularly set out in the WADA Code.

### 2. Delegation of aspects of Doping Control and Education to Cricket Australia by ICC

- 2.1. As provided in the WADA Code and the ICC Code, (and without limiting SIA's role as the National Anti-Doping Organization as referred to in Article 2.3 of this Schedule and set out in the ANADP) the ICC is responsible for conducting all aspects of Doping Control within the sport of cricket. The ICC has delegated responsibility to conduct certain aspects of Doping Control and Anti-Doping Education in relation to Athletes other than International-Level Athletes to Cricket Australia as set out in Article 3 of this Schedule. Cricket Australia, as Delegated Third Party of the ICC, is required to perform such aspects in compliance with the WADA Code, International Standards and the ICC Code. Notwithstanding such delegation, the ICC always remains fully responsible for ensuring that any delegated aspects are performed in compliance with the WADA Code.
- 2.2. While the ICC has Testing authority over all Matches (as defined by the ICC Code), the ICC will focus its Testing under the ICC Code on International-Level Athletes (as defined by the ICC Code).
- 2.3. The ICC Code provides that Athletes participating at the national level are governed by the anti-doping rules of their National Anti-Doping Organization and the National Cricket

Federation under whose jurisdiction they participate (including in relation to TUEs and appeals). In the Australian context Athletes and Other Persons are governed by the NAD scheme and the ANADP.

### **3. Responsibilities of Cricket Australia as a Delegated Third Party of the ICC**

**3.1.** For the purpose of the ICC Code, and subject to Article 2.3 of this Schedule, the ICC has delegated responsibility to conduct certain aspects of Doping Control and anti-doping Education in relation to Athletes other than International-Level Athletes to Cricket Australia, who is considered a Delegated Third Party for that purpose.

#### **3.2. Article 1.2.5 of the ANADP is amended to read:**

Where Cricket Australia is responsible for conducting certain aspects of Doping Control as a Delegated Third Party of the ICC where SIA is not involved, or if the SIA CEO does not accept Results Management responsibility under the NAD Scheme for a possible anti-doping rule violation, Cricket Australia will exercise SIA's Testing and Results Management functions under the ANADP in respect of that possible anti-doping rule violation. Cricket Australia acknowledges that, pursuant to the WADA Code, the ICC retains overarching responsibility for ensuring that any of the aforementioned delegated aspects are performed in compliance with the WADA Code.

### **4. Application of ICC Code**

Certain Persons may also be subject to the anti-doping rules of other Anti-Doping Organisations, including (in the case of International-Level Athletes) the ICC Code, and that the same conduct of such Persons may implicate not only the ANADP but also such other anti-doping rules, including the ICC Code. The ANADP is not intended to limit the responsibilities of any Persons under the ICC Code. The jurisdictional and other issues arising when the same conduct implicates the ANADP and the ICC Code shall be resolved in favour of the ICC Code. The jurisdictional and other issues arising when the same conduct implicates the ICC Code and any other anti-doping rules shall be resolved in accordance with the WADA Code.

### **5. Cricket Australia's Jurisdiction to enforce and implement ANADP**

Cricket Australia is responsible for implementing, upholding and enforcing the ANADP with respect to Athletes and Other Persons that fall within Cricket Australia's anti-doping jurisdiction. This jurisdiction extends to Cricket Australia's board members, directors, officers, specific employees, Member Organizations and their employees to the extent that they are involved in any aspect of Doping Control, and to:

- a) Athletes or Other Persons who are members of Cricket Australia or a Member Organization, or are members of an organization that is a member, affiliate or licensee of a Member Organization;
- b) Athletes or Other Persons participating in Competitions and other activities organised, convened or authorised by Cricket Australia or by any of its Member Organizations, wherever held; and/or
- c) any other Athlete or Other Person who, by virtue of a contractual arrangement or otherwise, is subject to the jurisdiction of Cricket Australia for purposes of anti-doping;

whether or not such Athlete or Other Person is a citizen of or resident in Australia (**Cricket Australia's Anti-Doping Jurisdiction**).

## **6. Notification to ICC regarding Prohibited Association**

In addition to its obligations under Article 2.10.2 of the ANADP, if Cricket Australia becomes aware of any Person who meets the criteria described in Article 2.10.1.1, 2.10.1.2 or 2.10.1.3 it shall submit that information to the ICC and SIA.

## **7. Testing**

Where Cricket Australia is responsible for Testing as a Delegated Third Party of the ICC where SIA is not involved Cricket Australia shall engage a third-party Sample collection authority to conduct such Testing on its behalf in accordance with the International Standards for Testing and Investigations.

## **8. Testing of Minors**

- 8.1.** A Minor may not participate in any cricket Competition conducted under Cricket Australia's jurisdiction unless a parent or guardian of that Minor has consented to Testing of the Minor.
- 8.2.** For the purposes of the ANADP, such consent shall be deemed from the fact that the Minor has been permitted by his/her parent or guardian to participate in the sport. Confirmation in writing of such consent may be required to be provided at any time.
- 8.3.** Where the Minor is included in the National or Registered Testing Pool, such consent must be confirmed upon notification of inclusion in the pool as a pre-condition to further participation in the sport. In addition, the rules of a particular Competition may require the provision of written consent pursuant to Article 8 of this Schedule as a pre-condition to a Minor's participation in the Competition.

## **9. Non-Analytical Investigations**

Article 9 of this Schedule will replace Article 6A of the ANADP.

- 9.1.** When any Person falling under Cricket Australia's Anti-Doping Jurisdiction has information relevant to a possible anti-doping rule violation, that Person must immediately pass such information to the CA Anti-Doping Manager and SIA. That Person will have a continuing obligation to report any new knowledge or suspicion regarding any potential anti-doping rule violation to the CA Anti-Doping Manager and SIA, even if the Person's prior knowledge or suspicion has already been reported.

9.1.1. The Person must act in a discreet and confidential manner in discharging their obligations under this Anti-Doping Policy. The deliberate or willful 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 Cricket Australia's disciplinary rules or policies.

- 9.2. Where an investigation is required to determine whether an anti-doping rule violation may have occurred under the ANADP, unless otherwise agreed between Cricket Australia and SIA, SIA will conduct that investigation.
- 9.3. SIA will, as soon as reasonably practicable, advise Cricket Australia of a SIA investigation.
- 9.4. Cricket Australia may gather anti-doping intelligence and if SIA agrees may conduct investigations in accordance with the WADA Code and the International Standard for Testing and Investigations into the activities of any Athlete or other Person who falls within Cricket Australia's jurisdiction, that Cricket Australia believes may have committed an anti-doping violation under the ANADP.
- 9.5. Where Cricket Australia conducts its own investigation, Cricket Australia must do so in coordination with any investigation being undertaken by SIA and seek SIA's input into such investigation undertaken by Cricket Australia.
- 9.6. Cricket Australia shall have discretion, where it deems appropriate, to stay its own investigation pending the outcome of investigations being conducted by other Signatories and/or other relevant authorities.
- 9.7. All persons bound by this Anti-Doping Policy, and Cricket Australia, must assist, cooperate, and liaise with SIA in relation to any investigation into a potential anti-doping rule violation. Where Cricket Australia has approval by SIA to conduct its own investigation or be involved in a SIA investigation, the same obligations apply. Specifically, all Persons must cooperate with and assist SIA or Cricket Australia (were 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 SIA or CA (where relevant), even if to do so might tend to incriminate them or expose them to a penalty, sanction or other disciplinary measure.
- 9.8. For the avoidance of doubt, the common law privileges against self-incrimination and self-exposure to a penalty are abrogated by this Article. However, this abrogation is limited by and is subject to all of the rights, protections and limitations provided for in the SIA Act and the SIA Regulations.

## **10. Substance of Abuse Treatment Program**

Where Cricket Australia has Results Management responsibility, for the purposes of Article 10.2.4.1 of the ANADP, the period of ineligibility calculated under Article 10.2.4.1 of the ANADP may be reduced to one (1) month if the Athlete or Other Person satisfactorily completes a Substance of Abuse treatment program approved by Cricket Australia.

## **11. Cricket Australia will not grant Accreditation or access to a Competition or Activity during the period of Ineligibility**

Cricket Australia will not issue accreditation for, or otherwise granted access to any Athlete or Other Person who is subject to a period of Ineligibility, to any Competition or activity of the type referred to in Article 10.14.1 of the ANADP during the period of Ineligibility, and any such accreditation previously issued that is valid during the period of Ineligibility shall be withdrawn.

## **12. Consequences to team sports**

- 12.1.** Where, in any period of twelve months, more than one member of a team has been notified of a possible anti-doping rule violation under Article 7 of the ANADP, Cricket Australia or SIA shall conduct appropriate Target Testing of Athletes in that team.
- 12.2.** If more than two members of a team are found to have committed an anti-doping rule violation during an Event, this shall be treated as misconduct pursuant to Cricket Australia's disciplinary rules for which an appropriate sanction shall be imposed on the team as may be considered appropriate having due regard to the circumstances of such anti-doping rule violations (e.g., loss of points, Disqualification from the Event, or other sanction). For the avoidance of doubt, such sanction shall be in addition to any Consequences imposed upon the individual Athlete(s) committing the anti-doping rule violations.

## **13. Hearings**

- 13.1.** All hearings conducted pursuant to the ANADP will be conducted in accordance with Articles 13, 14, 15 and 16 of this Schedule (as relevant). Article 8 of the ANADP will not apply. For avoidance of doubt, references to Article 8 in the ANADP will be taken to refer to the Articles 13, 14, 15 and/or 16 of this Schedule (as relevant).
- 13.2. Fair Hearings:** Any Person who is asserted to have committed an anti-doping rule violation under the ANADP 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 under this Code will respect the following principles:
- d) a timely hearing;
  - e) a fair, impartial and Operationally Independent hearing body;
  - f) the right to representation at the Person's own expense;
  - g) 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, and conducted in accordance with the ANADP, International Standard for Results Management, and (where the hearing body is the NST) the NST Act.

- 13.3. 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/or the NST (where relevant), or other relevant hearing body recognised or approved by the SIA CEO.

- 13.4. Waiver of hearings:** The right to a hearing may be waived either expressly or by the Athlete's or Other Person's failure to challenge SIA's or Cricket Australia's (as relevant) assertion that an anti-doping rule violation has occurred within the time period provided in the Letter of Charge issued under Article 7.8 of the ANADP.
- 13.5. Presentation of matter at hearing:** SIA and Cricket Australia are both entitled to present evidence, file submissions, cross-examine witnesses and do anything necessary for the enforcement of the ANADP under Articles 13, 14, 15, 16 and 17 of this Schedule. Where SIA has Results Management responsibility, unless otherwise agreed in writing between SIA and Cricket Australia, SIA will take the lead in presenting the matter in any hearing.
- 13.6. Public Disclosure of Hearing Outcomes:** SIA and/or Cricket Australia shall report the outcome of all anti-doping rule violations in accordance with the WADA Code, the SIA Act and the NAD scheme, and the ANADP, as in force from time to time.
- 13.7. Appeals and review:** Decisions by a hearing panel under the ANADP may be appealed as provided in Article 17 of this Schedule.
- 13.8. 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 SIA (or any other Anti-Doping Organisation or Cricket Australia where relevant) may use any such information that arises as a result of that hearing process without having to first seek the permission of the relevant hearing body or the parties. In the case of CAS, this clause overrides R43 and R59 of the CAS Code of Sports-related Arbitration to the extent of any inconsistency. In the case of the NST, this clause operates subject to any relevant confidentiality direction made by an NST member.
- 13.9. Single Hearing before CAS:** Anti-doping rule violations asserted against International-Level Athletes, National-Level Athletes or Other Persons may, with the consent of the Athlete or Other Person, SIA (where it has Results Management responsibility in accordance with Article 7 of the ANADP), ICC, Cricket Australia and WADA, be heard in a single hearing directly at CAS.<sup>1</sup>

## 14. Hearing Body

- 14.1.** Unless the matter (including any Provisional Suspension) is referred to the NST by Cricket Australia in accordance with Article 16 of this Schedule, the hearing body for the purposes of the ANADP at first instance is the CA Anti-Doping Tribunal. Hearings before the CA Anti-Doping Tribunal will be conducted in accordance with Articles 13, 14 and 15 of this Schedule.

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<sup>1</sup> In some cases, the combined cost of holding a hearing in the first instance at the international or national level, then rehearing the case de novo before CAS can be very substantial. Where all of the parties identified in this Article are satisfied that their interests will be adequately protected in a single hearing, there is no need for the Athlete or Anti-Doping Organisations to incur the extra expense of two (2) hearings. An Anti-Doping Organisation may participate in the CAS hearing as an observer. Nothing set out in Article 13 precludes the Athlete or Other Person and SIA (where it has Results Management responsibility) and Cricket Australia to waive their right to appeal by agreement. Such waiver, however, only binds the parties to such agreement and not any other entity with a right of appeal under the Code.

**14.2.** Where a matter is referred to the CA Anti-Doping Tribunal for adjudication, the CA Anti-Doping Tribunal will be appointed as follows:

- a) Cricket Australia shall appoint a standing panel consisting of a President (who shall be a lawyer) and other persons with experience and expertise in Anti-Doping. Each panel member shall be independent of Cricket Australia, free of any conflict of interest and shall be Operationally Independent.
- b) The President of the Anti-Doping Panel shall appoint three members from the panel (which may include the President) to sit as the Anti-Doping Tribunal to hear each case. At least one appointed member of the CA Anti-Doping Tribunal shall be a lawyer and shall sit as the Chairperson of the CA Anti-Doping Tribunal.

**14.3. Preliminary Hearing:** The Chairperson of the CA Anti-Doping Tribunal may convene a preliminary hearing with Cricket Australia, and (where SIA has Results Management responsibility) SIA and their respective legal representatives, and with the Athlete or Other Person and his/her legal representatives (if any). The preliminary hearing should take place as soon as possible by telephone conference call unless the Chairperson determines otherwise. The non-participation of the Athlete or Other Person or his/her representatives at the preliminary hearing, after proper notice of the preliminary hearing has been provided, shall not prevent the Chairperson of the Anti-Doping Tribunal from proceeding with the preliminary hearing, whether or not any written submissions are made on behalf of the Athlete or Other Person. The purpose of the preliminary hearing is to allow the Chairperson to address any preliminary issues. In particular (but without limitation), the Chairperson may:

- a) determine the date(s) upon which the full hearing shall be held; and
- b) make such order/s as the Chairperson deems appropriate in relation to the production of relevant documents and/or other materials between the parties; provided that (save for good cause shown) no documents and/or other materials shall be ordered to be produced in relation to any Adverse Analytical Finding beyond the documents that the International Standard for Laboratories requires to be included in the laboratory documentation pack.

**14.4. Objection to members appointed:** The Parties shall be required to raise at the preliminary hearing any legitimate objection that he/she may have to any of the members of the CA Anti-Doping Tribunal convened to hear his/her case within seven days of the ground for challenge becoming known. Any unjustified delay in raising any such objection shall constitute a waiver of the objection. If any objection is made, the Chairperson of the CA Anti-Doping Tribunal shall rule on its legitimacy (or, if the objection relates to the Chairperson, the President of the CA Anti-Doping Panel shall rule). If, because of a legitimate objection or for any other reason, a member of the Anti-Doping Tribunal is, or becomes, unwilling or unable to hear the case, then the Chairperson of the Anti-Doping Tribunal may, at his/her absolute discretion:

- a) rule that a replacement member of the Anti-Doping Tribunal should be appointed (in which case the President of the Anti-Doping Panel shall appoint the replacement); or
- b) authorise the remaining members to hear the case on their own.

- 14.5.** Subject to the discretion of the Chairperson of the Anti-Doping Tribunal to order otherwise for good cause shown by either party, or if otherwise agreed between the parties, hearings before the Anti-Doping Tribunal shall: (a) take place at a venue or in a forum or manner specified by Cricket Australia; and (b) be conducted on a confidential basis unless the Athlete or Other Person requests a public hearing in accordance with the International Standard for Results Management.
- 14.6.** Each of Cricket Australia, the Athlete or Other Person and SIA (where SIA has Results Management responsibility) has the right to be present and to be heard at the hearing and the right to be represented at the hearing by legal counsel of his/her or its own choosing. For avoidance of doubt, in accordance with Article 13.5, where SIA has Results Management responsibility, unless otherwise agreed in writing between SIA and Cricket Australia, SIA will take the lead in presenting the matter in any hearing.
- 14.7.** Subject to Article 3.2.5 of the ANADP, the Athlete or Other Person may choose not to appear in person at any hearing, but rather to provide a written submission for consideration by the Anti-Doping Tribunal, in which case the Anti-Doping Tribunal shall consider the submission in its deliberations. However, the non-attendance of the Athlete or Other Person or their representative at the hearing, after proper notice of any hearing has been provided, shall not prevent the Anti-Doping Tribunal from proceeding with the hearing in their absence, whether or not any written submissions are made on their behalf.
- 14.8.** The procedure followed at the hearing shall be at the discretion of the Anti-Doping Tribunal. Any hearing must be conducted in a fair manner with a reasonable opportunity for each party to present evidence (including the right to call and to question witnesses by telephone or videoconference where necessary), address the Anti-Doping Tribunal and present his/her case. The Anti-Doping Tribunal may examine and cross-examine witnesses and/or may appoint a legal representative or other person as Counsel Assisting to do so.
- 14.9.** Save where the Chairperson orders otherwise for good cause shown by either party, the hearing shall be in English, and certified English translations shall be submitted of any non-English documents put before the Anti-Doping Tribunal. The cost of the translation shall be borne by the party offering the document(s).
- 14.10.** If required by the Chairperson, Cricket Australia shall make arrangements to have the hearing recorded and/or transcribed (save for the private deliberations of the Anti-Doping Tribunal). If the Athlete or Other Person needs an interpreter, Cricket Australia shall also arrange for an interpreter to attend the hearing. Such costs of transcription and interpretation shall be paid by Cricket Australia, subject to any costs-shifting order that the Anti-Doping Tribunal may make.
- 14.11.** SIA (where it does not have Results Management responsibility), the ICC, WADA, and where applicable, Sport Australia (the Australian Sports Commission), the Commonwealth Games Australia and relevant State Institutes of Sport/State Academies of Sport, shall have the right to be kept apprised by Cricket Australia of the status of the proceedings before the Anti-Doping Tribunal, as well as the right to attend hearings of the Anti-Doping Tribunal as an observer or an interested or affected party. The Chairperson of the Anti-Doping Tribunal will inform those relevant parties of such right to attend as an observer or interested/affected party as applicable.



## **15. Decisions of CA Anti-Doping Tribunal**

- 15.1.** The Anti-Doping Tribunal shall announce its decision in writing, with reasons, as soon as possible after the conclusion of the hearing. That written decision will be sent without delay to the parties, WADA, the ICC, SIA and any other party that has a right, further to Article 17 of this Schedule, to appeal the decision. The decision shall set out and explain:
- a) with reasons, the Anti-Doping Tribunal's findings as to whether any anti-doping rule violation(s) has/have been committed;
  - b) with reasons, the Anti-Doping Tribunal's findings as to what Consequences, if any, are to be imposed including, if applicable, findings as to why the maximum potential sanction was not imposed;
  - c) with reasons, the date that such Consequences shall come into force and effect pursuant to Article 10.13 of the ANADP; and
  - d) the rights of appeal applicable pursuant to Article 17 of this Schedule.
- 15.2.** Where possible, the Anti-Doping Tribunal shall have discretion to announce the substance of its decision to the parties prior to the issue of the written reasoned decision referred to in Article 15.1 of this Schedule, in cases where a Provisional Suspension has been imposed or where it otherwise deems appropriate. For the avoidance of doubt, however: (a) the Anti-Doping Tribunal shall still be required to issue a written, reasoned decision in accordance with Article 15.1 of this Schedule; and (b) the time to appeal pursuant to Article 17 of this Schedule shall not run until receipt of that written, reasoned decision.
- 15.3.** Cricket Australia shall pay the costs of convening the CA Anti-Doping Tribunal and of staging the hearing, subject to any costs-shifting order that the Anti-Doping Tribunal may make further to Article 15.4 of this Schedule.
- 15.4.** Should it be found that an anti-doping rule violation has not been committed, SIA (or Cricket Australia where relevant) shall reimburse the Athlete or Other Person the application fee and their proportion of the arbitration costs. Each party shall otherwise bear its own costs, legal, expert, hearing, and otherwise. Any recovery of costs will not be considered a basis for reducing the period of Ineligibility or other sanction that would otherwise be applicable.
- 15.5.** Subject only to the rights of appeal under Article 17 of this Schedule, any decision of the Anti-Doping Tribunal will:
- a) be the full, final and complete disposition of the case;
  - b) be binding on all parties; and
  - c) not be subject to further administrative review at the national level.

## **16. Referral of Hearing to NST**

Cricket Australia may, at its discretion, refer a matter for adjudication (at first instance) to be heard by the National Sports Tribunal (**NST**) instead of the CA Anti-Doping Tribunal<sup>2</sup>, in which case:

- a) the hearing body for the purposes of the ANADP at first instance will be the NST.
- b) The hearing will be conducted in accordance with Article 13 of this Schedule and the NST Act and instruments made under it as in force from time to time.
- c) The Person electing to have a hearing in accordance with the ANADP will be responsible for filing their application for a hearing with the NST and paying any applicable fees.

## **17. Appeals**

**17.1.** Decisions made under the ANADP may be challenged solely by appeal as set out in Article 17 of this Schedule (or as otherwise provided in the WADA Code or International Standards). Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise.

**17.2. Decisions subject to appeal:** Any of the matters set out in Article 13.2 of the ANADP may be appealed exclusively to CAS, by any of the parties described in Article 17.3 of this Schedule:

**17.3. Parties entitled to Appeal:** The following parties have the right to appeal exclusively to CAS:

- a) the Athlete or Other Person who is the subject of the decision being appealed;
- b) Cricket Australia;
- c) SIA and (if different) the National Anti-Doping Organisation(s) of the Person's country of residence, country of nationality, and country where they are licensed to participate in sport;
- d) the ICC;
- e) any other Anti-Doping Organisation under whose Code a sanction could have been imposed for the anti-doping rule violation in question; and
- f) WADA.

**17.4.** Other than Articles 13.2.1, 13.2.2 and 13.2.3 of the ANADP (which will not apply), Article 13 of the ANADP will apply with respect to Appeals brought under this Article 17 of this Schedule.

**17.5. Appeal Procedure:** In all appeals to CAS pursuant to Article 17 of this Schedule:

- a) CAS's Code of Sports-related Arbitration shall apply, save as amended below.

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<sup>2</sup> Comment: If a matter is to be referred to the NST, this will be specified in the Letter of Charge issued under Article 7.8 of the ANADP.

- b) Cross appeals and other subsequent appeals are specifically permitted in accordance with Article 13.2.4 of the ANADP.
- c) Any party entitled to appeal under this Article 17 may, within 15 days of receipt of the decision, request a copy of the full case file pertaining to that decision. Where such information is not forthcoming from the decision-making body upon request, any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the parties to the decision being appealed, and the information shall be provided if CAS so directs.
- d) The decision of CAS shall be final and binding on all parties, and no right of appeal shall lie from the CAS decision.

## **18. Public Disclosure**

SIA will not unreasonably refuse to agree to Cricket Australia making a public disclosure of information in accordance with Article 14.3.1 of the ANADP.

## **19. Communication and up-to-date whereabouts information**

**19.1. Contact details:** It is also the sole responsibility of each Athlete to ensure that Cricket Australia is able to communicate with them efficiently and reliably in relation to matters arising under the ANADP. To that end, each Athlete shall be deemed to be contactable at the postal address and telephone number that they have specified on any Doping Control form that they complete in relation to Testing under the ANADP and it shall be the Athlete's responsibility to complete such contact details (the Athlete's Nominated Address) as necessary to ensure that they are contactable at the Athlete's Nominated Address. Any notice sent by Cricket Australia to an Athlete at the Athlete's Nominated Address shall be deemed to have been received by the Athlete within five (5) days of the date of delivery to the Athlete's Nominated Address.

**19.2. Whereabouts information – CA Contracted Athletes:** Athletes who are under contract to Cricket Australia must provide to Cricket Australia accurate and up-to-date whereabouts information and keep this information updated so as to enable Testing (including Out-of-Competition Testing). This information must include all relevant details while the Athlete is on any period of leave (annual, parental or otherwise).

**19.3. Whereabouts information – Member Organization Contracted Athletes:** Athletes who are under contract to a Member Organization must provide to that Member Organization and to Cricket Australia accurate and up-to-date whereabouts information and keep this information updated so as to enable Testing (including Out-of-Competition Testing). This information must include all relevant details while the Athlete is on any period of leave (annual, parental or otherwise).

## **20. Disclosure of certain matters to Cricket Australia**

Where an Athlete or Other Person is required to disclose information in accordance with Article 21.1.5, 21.2.4 or 21.3.2 of the ANADP, they must also disclose this information to Cricket Australia.

## 21. DEFINITIONS

CA Anti-Doping Manager means an appointee of Cricket Australia from time to time to give effect to the ANADP and, if no Person is appointed, the Head of Integrity of Cricket Australia.

Delegated Third Party means any Person to which an Anti-Doping Organization delegates any aspect of Doping Control or Anti-Doping Education programs including, but not limited to, third parties or other Anti-Doping Organizations that conduct Sample collection or other Doping Control services or Anti-Doping Educational programs for the Anti-Doping Organization, or individuals serving as independent contractors who perform Doping Control services for the Anti-Doping Organization (e.g., non-employee Doping Control officers or chaperones). This definition does not include CAS.

In-Competition means any time from 0600 local time on the first day of the Competition in question until one hour after its completion or abandonment for whatever reason (including rain) irrespective of whether there has been any play whatsoever in the Competition at the time of abandonment. Such periods (and only such periods) shall be deemed “In-Competition” periods for purposes of the ANADP, so that, by way of example only:

- a) the entire duration of any Competition lasting more than one day will be considered to be In-Competition;
- b) where a Competition overflows into a ‘reserve’ day which has been set aside, then, for the purposes of the ANADP, the In-Competition period shall continue until the completion of the Competition;
- c) where a ‘reserve’ day has been set aside for a Competition, but the Competition concludes prior to the commencement of play on the ‘reserve’ day, then such ‘reserve’ day will not be considered to fall within the In-Competition period; and
- d) where an Athlete is not selected as a member of a starting XI or as an officially designated substitute for a particular Competition, then the duration of such Competition will not be considered to fall within the In-Competition period relevant for that Athlete.

Member Organization for the purposes of the ANADP, means bodies that are members of Cricket Australia or otherwise affiliated with Cricket Australia, being Cricket Victoria, Cricket New South Wales, Queensland Cricket, Cricket Tasmania, WA Cricket, South Australian Cricket Association, Northern Territory Cricket, Cricket ACT, and all W/BBL Clubs.

# AUSTRALIAN NATIONAL ANTI-DOPING POLICY

## INTERPRETATION

This Anti-Doping Policy takes effect on **1 January 2021**.

In this Anti-Doping Policy, references to the *Sporting Administration Body* are to be read as references to the *Sporting Administration Body* that has approved this policy as the anti-doping policy for their sport in accordance with the rules of their sport. *Sporting Administration Body* references in the policy to the International Federation are references to that *Sporting Administration Body's* International Federation.<sup>1</sup>

## WARNING TO *ATHLETES* AND *OTHER PERSONS*

- 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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# 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, as well as the board members, directors, officers, specified employees of the *Sport Administration Body* and its member or affiliate organisation, and *Delegated Third Parties* and their employees.

The *Sporting Administration Body* agrees to be bound by the *Sporting Administration Body* Rules as contained in clause 2.04 of the *NAD scheme* as in force from time to time.

## 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 Australian Olympic Committee, the *Sporting Administration Body* shall accept and abide by the spirit and terms of SIA's Anti-Doping Program 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, *Participants* and *Non-participants*.

**1.2.2** Under this Anti-Doping Policy the *Sporting Administration Body* recognises the authority and responsibility of SIA under this Anti-Doping Policy and the SIA Act and SIA Regulations (including carrying out *Testing* and Investigations). 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.

**1.2.3** Where relevant the *Sporting Administration Body* agrees to be knowledgeable of, comply with, and be bound by the Australian Olympic Committee Anti-Doping By-Law, as in force from time to time and as applicable.<sup>2</sup>

**1.2.4** Where relevant in addition to its *Education* obligations under Article 17 of this Anti-Doping Policy, the *Sporting Administration Body* agrees, in collaboration with the Australian Olympic Committee, to inform and educate the *Persons* listed in Articles 1.3.1.1 to 1.3.1.5 as applicable, of their obligations under the Australian

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<sup>2</sup> Australian Olympic Committee Anti-Doping By-Law is posted on the Australian Olympic Committee website ([www.olympics.com.au](http://www.olympics.com.au)) under "Reports and Documents" and under "Anti-Doping". This By-Law applies to any *Sporting Administration Body*, *Athlete* or *Other Person* who falls under the authority of the Australian Olympic Committee.

Olympic Committee Anti-Doping By-Law, as in force from time to time, and of their rights foregone, in return for the privilege to participate in an Olympic sport.

- 1.2.5** If the SIA CEO does not accept *Results Management* responsibility under the *NAD scheme* for a possible anti-doping rule violation, the *Sporting Administration Body* will exercise *SIA's Results Management* functions under this Anti-Doping Policy in respect of that possible anti-doping rule violation.

### **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 *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 *Other Person* who, by virtue of an accreditation, a licence 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* 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 the relevant 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 (6) months before they will be eligible for such *Events*; and

**1.3.1.5** *Recreational Athletes*, i.e. any *Person* who engages or participates in sport or fitness activities for recreational purposes but who would not otherwise compete in *Competitions* or *Events* organised, recognised, or hosted by the *Sporting Administration Body*, or by any affiliated or non-affiliated association, organisation, club, team, or league and who, within the five (5) years prior to committing any anti-doping rule violation, has not been an *International-Level Athlete* (as defined by each International Federation consistent with the *International Standard for Testing and Investigations*) or *National-Level Athlete* (as defined by *SIA* or other *National Anti-Doping Organisation* consistent with the *International Standard for Testing and Investigations*); has not represented Australia or any other country in an *International Event* in an open category;<sup>3</sup> or has not been included within any *Registered Testing Pool* or other whereabouts information pool maintained by any International Federation, *SIA* or other *National Anti-Doping Organisation*.

**1.3.1.6** any *Athlete* 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 (6) months following the last time the *Athlete* 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 *Results Management* and unless an *Athlete* has retired, *Athletes* shall remain subject to *Testing* for that six-month period and be subject to any subsequent *Results Management* in accordance with Article 16. The continuation of the application of this Anti-Doping Policy prevails regardless of 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*, *SIA Act*, *SIA Regulations* and *NAD scheme* give *SIA* jurisdiction in respect of compliance with the anti-doping rules as defined in the *SIA Act*, including all

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<sup>3</sup> Comment to *Recreational Athlete*: The term 'open category' is meant to exclude competition that is limited to junior or age group categories.

*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 SIA 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 the relevant sport.

**1.3.4** Where relevant the *Persons* listed in Articles 1.3.1.1 to 1.3.1.4 agree to be knowledgeable of, comply with, and be bound by the Australian Olympic Committee Anti-Doping By-Law, as in force from time to time and as applicable.<sup>4</sup>

#### **1.4 Interaction between this Policy and the *Sporting Administration Body's* Disciplinary Rules or Policies**

The *Sporting Administration Body* has its own disciplinary rules or policies regulating the conduct of its members, which apply to all *Athletes* or *Other Persons*. These rules or policies cover conduct that either does not constitute an anti-doping rule violation, or conduct that is, or is related to, behaviour that does constitute a possible anti-doping rule violation. Breaches of these rules or policies are managed separately by the *Sporting Administration Body*, including public disclosure, suspension or termination of contracts, and consequential sanctions.

The *Sporting Administration Body's* disciplinary rules or policies shall not limit or change the effect of this Anti-Doping Policy. Where there is any ambiguity or conflict, this Anti-Doping Policy prevails.

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<sup>4</sup> The Australian Olympic Committee Anti-Doping By-Law is posted on the Australian Olympic Committee website ([www.olympics.com.au](http://www.olympics.com.au) under "The Australian Olympic Committee" and "Athlete Guidelines"). This By-Law applies to any *Sporting Administration Body*, *Athlete* or *Other Person* who falls under the authority of the Australian Olympic Committee.

## 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 2.11 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 the *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>5</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 A or B Sample* is split into two (2) parts and the analysis of the confirmation part of the split *Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the first part of the

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<sup>5</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.

split *Sample* or the *Athlete* waives analysis of the confirmation part of the split *Sample*.<sup>6</sup>

**2.1.3** Excepting those substances for which a *Decision Limit* is specifically identified in the *Prohibited List* or a *Technical Document*, the presence of any reported 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*, *International Standards*, or *Technical Documents* may establish special criteria for reporting or the evaluation of certain *Prohibited Substances*.

## **2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method<sup>7</sup>**

**2.2.1** It is the *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>8</sup>

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<sup>6</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*.

<sup>7</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>8</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 by an Athlete**

Evading *Sample* collection; or refusing or failing to submit to *Sample* collection without compelling justification after notification by a duly authorised *Person*.<sup>9</sup>

## **2.4 Whereabouts Failures by an Athlete**

Any combination of three (3) missed tests and/or filing failures, as defined in the *International Standard for Results Management*, 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 by an Athlete or Other Person**

## **2.6 Possession of a Prohibited Substance or a Prohibited Method by an Athlete or Athlete Support Person**

**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 consistent with a TUE granted to an Athlete in accordance with Article 4.4 or other acceptable justification.*<sup>10</sup>

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<sup>9</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>10</sup> Comments 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. Acceptable justification may include, for example, (a) an *Athlete* or a team doctor carrying *Prohibited Substances* or *Prohibited Methods* for dealing with acute and emergency situations (e.g. an epinephrine auto-injector), or (b) an *Athlete Possessing a Prohibited Substance* or *Prohibited Method* for therapeutic reasons shortly prior to applying for and receiving a determination on a *TUE*.

**2.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method by an Athlete or Other Person**

**2.8 Administration or Attempted Administration by any Athlete or Other Person 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 or Attempted Complicity by an Athlete or Other Person**

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity or *Attempted* complicity involving an anti-doping rule violation, *Attempted* anti-doping rule violation or violation of Article 10.14.1 by another *Person*.<sup>11</sup>

**2.10 Prohibited Association by an Athlete or Other Person**

**2.10.1** 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:

**2.10.1.1** If subject to the authority of an *Anti-Doping Organisation*, is serving a period of *Ineligibility*; or

**2.10.1.2** 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 (6) years from the criminal, professional or disciplinary decision or the duration of the criminal, disciplinary or professional sanction imposed; or

**2.10.1.3** Is serving as a front or intermediary for an individual described in Article 2.10.1.1 or 2.10.1.2.

**2.10.2** To establish a violation of Article 2.10, an *Anti-Doping Organisation* must establish that the *Athlete* or *Other Person* knew of the *Athlete Support Person*'s disqualifying status.

The burden shall be on the *Athlete* or *Other Person* to establish that any association with an *Athlete Support Person* described in Article 2.10.1.1 or 2.10.1.2 is not in a

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<sup>11</sup> Comment to Article 2.9: Complicity or *Attempted* Complicity may include either physical or psychological assistance.

professional or sport-related capacity and/or that such association could not have been reasonably avoided.

*Anti-Doping Organisations* that are aware of *Athlete Support Personnel* who meet the criteria described in Article 2.10.1.1, 2.10.1.2, or 2.10.1.3 shall submit that information to WADA.<sup>12</sup>

## **2.11 Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting to Authorities**

Where such conduct does not otherwise constitute a violation of Article 2.5:

**2.11.1** Any act which threatens or seeks to intimidate another *Person* with the intent of discouraging the *Person* from the good-faith reporting of information that relates to an alleged anti-doping rule violation or alleged non-compliance with the *Code to WADA*, an *Anti-Doping Organisation*, law enforcement, regulatory or professional disciplinary body, hearing body or *Person* conducting an investigation for WADA or an *Anti-Doping Organisation*.

**2.11.2** Retaliation against a *Person* who, in good faith, has provided evidence or information that relates to an alleged anti-doping rule violation or alleged non-compliance with the *Code to WADA*, an *Anti-Doping Organisation*, law enforcement, regulatory or professional disciplinary body, hearing body or *Person* conducting an investigation for WADA or an *Anti-Doping Organisation*.<sup>13</sup>

For purposes of Article 2.11, retaliation, threatening and intimidation include an act taken against such *Person* either because the act lacks a good faith basis or is a disproportionate response.<sup>14</sup>

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<sup>12</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. This also prohibits association with any other *Athlete* who is acting as a coach or *Athlete Support Person* while serving a period of *Ineligibility*. 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.

While Article 2.10 does not require the *Anti-Doping Organisation* to notify the *Athlete* or *Other Person* about the *Athlete Support Person*'s disqualifying status, such notice, if provided, would be important evidence to establish that the *Athlete* or *Other Person* knew about the disqualifying status of the *Athlete Support Person*.

<sup>13</sup> Comment to Article 2.11.2: This Article is intended to protect *Persons* who make good faith reports, and does not protect *Persons* who knowingly make false reports.

<sup>14</sup> Comment to Article 2.11.2: Retaliation would include, for example, actions that threaten the physical or mental well-being or economic interests of the reporting *Persons*, their families or associates. Retaliation would not include an *Anti-Doping Organisation* asserting in good faith an anti-doping rule violation against the reporting *Person*. For purposes of Article 2.11, a report is not made in good faith where the *Person* making the report knows the report to be false.

# 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, except as provided in Articles 3.2.2 and 3.2.3, the standard of proof shall be by a balance of probability.<sup>15</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.<sup>16</sup> The following rules of proof shall be applicable in doping cases:

**3.2.1** Analytical methods or *Decision Limits* approved by WADA after consultation within the relevant scientific community or which have been the subject of peer review are presumed to be scientifically valid. Any *Athlete* or *Other Person* seeking to challenge whether the conditions for such presumption have been met or 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. The initial hearing body, appellate body or CAS, on its own initiative, may also inform WADA of any such challenge. Within ten (10) days of WADA's receipt of such notice and the case file related to such challenge, WADA shall also have the right to intervene as a party, appear as amicus curiae or otherwise provide evidence in such proceeding.<sup>17</sup> In cases before CAS, at WADA's request, the CAS panel shall

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<sup>15</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>16</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*.

<sup>17</sup> Comment to Article 3.2.1: For certain *Prohibited Substances*, WADA may instruct WADA-accredited laboratories not to report *Samples* as an *Adverse Analytical Finding* if the estimated concentration of the *Prohibited Substance* or its *Metabolites* or *Markers* is below a *Minimum Reporting Level*. WADA's decision in determining that *Minimum Reporting Level* or in determining which *Prohibited Substances* should be subject to *Minimum Reporting Levels* shall not be subject to challenge. Further, the laboratory's estimated concentration of such *Prohibited Substance* in a *Sample* may only be an estimate. In no event shall the possibility that the exact concentration of the *Prohibited Substance* in the *Sample* may be below the *Minimum Reporting Level* constitute a defence to an anti-doping rule violation based on the presence of that *Prohibited Substance* in the *Sample*.

appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge.

**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 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>18</sup>

**3.2.3** Departures from any other *International Standard* or other anti-doping rule or policy set forth in the *Code* or in this Anti-Doping Policy shall not invalidate analytical results or other evidence of an anti-doping rule violations, and shall not constitute a defence to an anti-doping rule violation;<sup>19</sup> provided, however, if the *Athlete* or *Other Person* establishes that a departure from one of the specific *International Standard* provisions listed below could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding* or whereabouts failure, then the *Anti-Doping Organisation* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding* or the whereabouts failure:

- (i) a departure from the *International Standard* for Testing and Investigations related to *Sample* collection or *Sample* handling which could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding*, in which case the *Anti-*

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<sup>18</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*. Thus, once the *Athlete* or *Other Person* establishes the departure by a balance of probability, the *Athlete* or *Other Person*'s burden on causation is the somewhat lower standard of proof – "could reasonably have caused." If the *Athlete* or *Other Person* satisfies these standards, 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*.

<sup>19</sup> Comment to Article 3.2.3: Departures from an *International Standard* or other rule unrelated to *Sample* collection or handling, *Adverse Passport Finding*, or *Athlete* notification relating to whereabouts failure or B *Sample* opening – e.g., the *International Standard* for Education, *International Standard* for the Protection of Privacy and Personal Information or *International Standard* for Therapeutic Use Exemptions – may result in compliance proceedings by WADA but are not a defence in an anti-doping rule violation proceeding and are not relevant on the issue of whether the *Athlete* committed an anti-doping rule violation. Similarly, the *Anti-Doping Organisation*'s violation of the document referenced in Article 20.7.7 of the *Code* (the *Athletes' Anti-Doping Rights Act*) shall not constitute a defence to an anti-doping rule violation.

*Doping Organisation* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*;

- (ii) a departure from the *International Standard for Results Management* or *International Standard for Testing and Investigations* related to an *Adverse Passport Finding* which could reasonably have caused an anti-doping rule violation, in which case the *Anti-Doping Organisation* shall have the burden to establish that such departure did not cause the anti-doping rule violation;
- (iii) a departure from the *International Standard for Results Management* related to the requirement to provide notice to the *Athlete* of the *B Sample* opening which could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding*, in which case the *Anti-Doping Organisation* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*;<sup>20</sup>
- (iv) a departure from the *International Standard for Results Management* related to *Athlete* notification which could reasonably have caused an anti-doping rule violation based on a whereabouts failure, in which case the *Anti-Doping Organisation* shall have the burden to establish that such departure did not cause the whereabouts failure.

**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 irrefutable 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

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<sup>20</sup> Comment to Article 3.2.3 (iii): the *Anti-Doping Organisation* would meet its burden to establish that such departure did not cause the *Adverse Analytical Finding* by showing that, for example, the *B Sample* opening and analysis were observed by an independent witness and no irregularities were observed.

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.

## **ARTICLE 4 THE *PROHIBITED LIST***

### **4.1 Incorporation of the *Prohibited List***

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 (3) 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.<sup>21</sup>

### **4.2 *Prohibited Substances* and *Prohibited Methods* Identified on the *Prohibited List***

#### **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.<sup>22</sup>

#### **4.2.2 *Specified Substances* or *Specified Methods***

For purposes of the application of Article 10, all *Prohibited Substances* shall be *Specified Substances* except as identified on the *Prohibited List*. No *Prohibited*

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<sup>21</sup> Comment to Article 4.1: The current *Prohibited List* is available on WADA's website at <https://www.wada-ama.org>. The *Prohibited List* will be revised and published on an expedited basis whenever the need arises. However, for the sake of predictability, a new *Prohibited List* will be published every year whether or not changes have been made

<sup>22</sup> Comment to Article 4.2.1: *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*.



*Method* shall be a *Specified Method* unless it is specifically identified as a *Specified Method* on the *Prohibited List*.<sup>23</sup>

#### **4.2.3 Substances of Abuse**

For purposes of applying Article 10, *Substances of Abuse* shall include those *Prohibited Substances* which are specifically identified as *Substances of Abuse* on the *Prohibited List* because they are frequently abused in society outside of the context of sport.

### **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*, the classification of a substance as prohibited at all times or *In-Competition* only, the classification of a substance or method as a *Specified Substance*, *Specified Method* or *Substance of Abuse* is final and shall not be subject to challenge by an *Athlete* or *Other Person* including, but not limited to, any challenge based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.

### **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)*, the membership and operation of which is described in the *SIA Act* and *SIA Regulations*. 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 Articles 4.1 or 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.sportintegrity.gov.au](http://www.sportintegrity.gov.au) with assistance

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<sup>23</sup> Comment to Article 4.2.2: The *Specified Substances* and *Specified Methods* identified in Article 4.2.2 should not in any way be considered less important or less dangerous than other doping substances or methods. Rather, they are simply substances and methods which are more likely to have been consumed or used by an *Athlete* for a purpose other than the enhancement of sport performance.

from their doctor. ASDMAC will consider applications for the grant 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 the TUE section of [www.sportintegrity.gov.au](http://www.sportintegrity.gov.au). ASDMAC's decision shall be final (except as outlined in Article 4.4.6) 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*. ASDMAC will consider applications for the grant 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 the TUE section of [www.sportintegrity.gov.au](http://www.sportintegrity.gov.au). ASDMAC's decision shall be final (except as outlined in Article 4.4.6) 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>24 25</sup>

#### 4.4.3 Retroactive TUE Applications

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 Article 4.4.2, the *Athlete* may apply for a retroactive TUE for any *Prohibited Substance* or *Prohibited Method* that they are *Using* for therapeutic reasons.

#### 4.4.4 TUE Recognition

A TUE granted by ASDMAC is valid at any national level in any country and does not need to be formally recognised by any other *National Anti-Doping Organisation*.

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<sup>24</sup> Comment to Article 4.4.2: In accordance with Article 5.1 of the *International Standard for Therapeutic Use Exemptions*, ASDMAC may decline to consider advance applications for TUEs from *National-Level Athletes* in sports that are not prioritised by SIA in its test distribution planning. In that case ASDMAC must permit any such *Athlete* who is subsequently tested to apply for a retroactive TUE. Additionally, ASDMAC must publicise such a policy on its website for the benefit of affected *Athletes*.

<sup>25</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. 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.

However, it is not automatically valid if the *Athlete* becomes an *International-Level Athlete* or competes in an *International Event*, unless it is recognised by the relevant International Federation or *Major Event Organisation* in accordance with the *International Standard for Therapeutic Use Exemptions* as follows:

**4.4.4.1** Where the *Athlete* already has a *TUE* granted by ASDMAC for the substance or method in question, unless their *TUE* will be automatically recognised by the International Federation or *Major Event Organisation*, the *Athlete* shall apply to their International Federation or to the *Major Event Organisation* to recognise that *TUE*. If that *TUE* meets the criteria set out in the *International Standard for Therapeutic Use Exemptions*, then the International Federation or *Major Event Organisation* must recognise it.

If the International Federation or *Major Event Organisation* considers that the *TUE* granted by ASDMAC does not meet those criteria and so refuses to recognise it, the International Federation or *Major Event Organisation* shall promptly notify the *Athlete* and ASDMAC with reasons.

#### International Federations

Where the International Federation has refused to recognise the *TUE* granted by ASDMAC, the *Athlete* and ASDMAC shall have twenty one (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, ASDMAC must determine whether the original *TUE* that it granted should nevertheless remain valid for national-level *Competition* and *Out-of-Competition Testing* (provided that the *Athlete* ceases to be an *International-Level Athlete* and does not participate in international-level *Competition*). Pending ASDMAC's decision, the *TUE* remains valid for national-level *Competition* and *Out-of-*

*Competition Testing* (but is not valid for international-level *Competition*).<sup>26</sup>

#### *Major Event Organisations*

A decision by a *Major Event Organisation* not to recognise or not to grant a *TUE* may be appealed by the *Athlete* exclusively to an independent body established or appointed by the *Major Event Organisation* for that purpose. If the *Athlete* does not appeal (or the appeal is unsuccessful), the *Athlete* may not *Use* the substance or method in question in connection with the *Event*, but any *TUE* granted by the *Athlete's National Anti-Doping Organisation* or International Federation for that substance or method remains valid outside of that *Event*.

**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* as soon as the need arises. If the International Federation denies the *Athlete's* application, it shall notify the *Athlete* promptly, with reasons.

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 twenty one (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-

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<sup>26</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 must publish and keep updated a notice on its website that sets out clearly (1) which *Athletes* under its authority are required to apply to it for a *TUE*, (2) which *TUE* decisions of other *Anti-Doping Organisations* it will automatically recognise in lieu of such application and (3) which *TUE* decisions of other *Anti-Doping Organisations* will have to be submitted to it for recognition. If an *Athlete's TUE* falls into a category of automatically recognised *TUEs*, then he/she does not need to apply to his or her International Federation for recognition of that *TUE*.

In accordance with the requirements of the *International Standard for Therapeutic Use Exemptions*, ASDMAC will help *Athletes* determine when they need to submit *TUEs* granted by ASDMAC to an International Federation or *Major Event Organisation* for recognition and will guide and support those *Athletes* through the recognition process.

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.

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 twenty one (21) day review deadline expires.<sup>27</sup>

#### **4.4.5 Expiration, 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) will be withdrawn if the *Athlete* does not promptly comply with any requirements or conditions imposed by ASDMAC upon grant of the *TUE*; (c) may be withdrawn by ASDMAC 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 their *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, withdrawal or reversal of the *TUE*. The review pursuant to Article 5.1.1.1 of the *International Standard for Results Management* of an *Adverse Analytical Finding*, reported shortly after the *TUE* expiry, withdrawal, or reversal, shall include consideration of whether such 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 ASDMAC review members, as described in the *SIA Act* and *SIA Regulations*.

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<sup>27</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.

- 4.4.6.2** WADA shall review any decision by an International Federation not to recognise a *TUE* granted by ASDMAC that is referred to WADA by the *Athlete* or ASDMAC. In addition, WADA must review an International Federation's decision 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.<sup>28</sup>
- 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>29</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 render a decision within a reasonable time on a properly submitted application for the grant or recognition of a *TUE* or for review of a *TUE* decision shall be considered a denial of the application thus triggering the applicable rights of review or appeal.

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<sup>28</sup> Comment to Article 4.4.6.2: WADA shall be entitled to charge a fee to cover the costs of: (a) any review it is required to conduct in accordance with Article 4.4.6; and (b) any review it chooses to conduct, where the decision being reviewed is reversed.

<sup>29</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<sup>30</sup>

*Testing* and investigations may be undertaken for any anti-doping purpose. They shall be conducted in conformity with the provisions of the *International Standard for Testing and Investigations* and (where relevant) the requirements of the *SIA Act*, *SIA 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 *SIA*. *Testing* shall be undertaken to obtain analytical evidence as to whether the *Athlete* has violated Article 2.1 (*Presence of a Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample*) or Article 2.2 (*Use or Attempted Use* by an *Athlete* of a *Prohibited Substance* or a *Prohibited Method*).
- 5.1.2 *SIA* 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).
- 5.1.3 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 *SIA* and cooperate with any investigation by *SIA* as required.

### 5.2 Authority to Test

- 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*, *SIA* 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 licence holders

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<sup>30</sup> Comment to Article 5.1: Where *Testing* is conducted for anti-doping purposes, the analytical results and data may be used for other legitimate purposes under the *Anti-Doping Organisation's* rules. See example in comment to Article 23.2.2 of the *Code* (at footnote 115).

of the International Federation or the *Sporting Administration Body*, or their member organisations or affiliates.

- 5.2.2** For the avoidance of doubt, *SIA* 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.<sup>31</sup>
- 5.2.3** *WADA* shall have *In-Competition* and *Out-of-Competition Testing Authority* as set out in Article 20.7.10 of the *Code*.
- 5.2.4** If the International Federation or *Major Event Organisation* delegates or contracts any part of *Testing* to *SIA* (directly or through a *National Federation*), *SIA* may collect additional *Samples* or direct the laboratory to perform additional types of analysis at *SIA*'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*, then, where agreed with that other *Anti-Doping Organisation* or otherwise provided in Article 7 of the *Code*, *SIA* 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 below, only a single organisation shall have authority to conduct *Testing* at *Event Venues* during an *Event Period*. At *International Events* held in Australia, the international organisation which is the ruling body for the *Event* shall have authority to conduct *Testing*. At *National Events* held in Australia, *SIA* shall have authority to conduct *Testing*. At the request of the ruling body for an *Event*, any *Testing* conducted 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

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<sup>31</sup> Comment to Article 5.2.2: *SIA* may obtain additional authority to conduct *Testing* by means of bilateral or multilateral agreements with other *Signatories*. Unless the *Athlete* has identified a sixty-minute *Testing* window between the hours of 11:00 p.m. and 6:00 a.m., or has otherwise consented to *Testing* during that period, *SIA* 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 *SIA* had sufficient suspicion for *Testing* during this time period shall not be a defence to an anti-doping rule violation based on such test or attempted test.



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, in accordance with the procedures set out in the *International Standard for Testing and Investigations*, ask WADA for permission to conduct *Testing* and to determine how to coordinate such *Testing*. 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*.<sup>32</sup> For the avoidance of doubt, where the *Anti-Doping Organisation* initiating the test is SIA, Article 7.1.1 shall apply.

## **5.4 Testing Requirements**

**5.4.1** SIA shall conduct test distribution planning and *Testing* as required by the *International Standard for Testing and Investigations*.

**5.4.2** Where reasonably feasible, SIA will coordinate *Testing* through ADAMS in order to maximise the effectiveness of the combined *Testing* effort and to avoid unnecessary repetitive *Testing*.

## **5.5 Athlete Whereabouts Information**

**5.5.1** SIA has established a *Registered Testing Pool* of those *Athletes* who are required to provide whereabouts information in the manner specified in the *International Standard for Testing and Investigations* and who shall be subject to *Consequences* for Article 2.4 violations as provided in Article 10.3.2. SIA shall coordinate with the International Federation the identification of such *Athletes* and the collection of their whereabouts information.

**5.5.1.1** Where the *Athlete* is in SIA's *Registered Testing Pool*, the *Athlete* must provide whereabouts information in accordance with the

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<sup>32</sup> Comment to Article 5.3.2: Before giving approval to SIA to initiate and conduct *Testing* at an *International Event*, WADA shall consult with the international organisation which is the ruling body for the event. Before giving approval to an International Federation to initiate and conduct *Testing* at a *National Event*, WADA shall consult with SIA. The *Anti-Doping Organisation* "initiating and directing *Testing*" may, if it chooses, enter into agreements with a *Delegated Third Party* to which it delegates responsibility for *Sample* collection or other aspects of the *Doping Control* process.

requirements in the *Code, International Standard for Testing and Investigations* and the *NAD scheme*.

- 5.5.2** SIA shall make available, through ADAMS, a list which identifies those *Athletes* included in its *Registered Testing Pool* by name. SIA shall regularly review and update as necessary its criteria for including *Athletes* in its *Registered Testing Pool*, and shall periodically (but not less than quarterly) review the list of *Athletes* in its *Registered Testing Pool* to ensure that each listed *Athlete* continues to meet the relevant criteria. *Athletes* shall be notified before they are included in SIA's *Registered Testing Pool* and when they are removed from that pool. The notification shall contain the information set out in the *International Standard for Testing and Investigations*.
- 5.5.3** Where an *Athlete* is included in an international *Registered Testing Pool* by the International Federation and in SIA's *Registered Testing Pool*, SIA 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.
- 5.5.4** In accordance with the requirements in the *Code, International Standard for Testing and Investigations* and *NAD scheme*, each *Athlete* in SIA's *Registered Testing Pool* shall do the following: (a) advise SIA of his or her whereabouts on a quarterly basis; (b) update that information as necessary so that it remains accurate and complete at all times; and (c) make himself or herself available for *Testing* at such whereabouts filing.
- 5.5.5** For the purposes of Article 2.4 above, an *Athlete's* failure to comply with the requirements of the *International Standard for Testing and Investigations* shall be deemed a filing failure or a missed test, as defined in Annex B of the *International Standard for Results Management*, where the conditions set forth in Annex B 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.
- 5.5.6** An *Athlete* who has been designated for inclusion in SIA's *Registered Testing Pool* or SIA's *National Testing Pool* will continue to be subject to the obligation to comply with the whereabouts requirements set out in this Article, the *International Standard for Testing and Investigations* unless and until:
- (a) the *Athlete* gives written notice to SIA in accordance with this Article that he or she has retired from *Competition*; or

- (b) SIA has given written notice to the *Athlete* that they no longer satisfy the criteria for inclusion in SIA's *Registered Testing Pool* or SIA's *National Testing Pool*.

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

Upon receipt of a notification in accordance with this Article, SIA will, as soon as reasonably practicable, provide the *Athlete* and the *Sporting Administration Body* with a written confirmation of the *Athlete*'s retirement.

**5.5.7 Retirement does not:**

- (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;
- (b) excuse the *Athlete* from assisting, cooperating and liaising with SIA and other *Anti-Doping Organisations* in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation;
- (c) prevent the analysis of a *Sample* given by the *Athlete* on or before their retirement date;
- (d) affect the results of *Testing* referred to in (a) or (b).

**5.5.8** An *Athlete* who wants to retire from the *Registered Testing Pool* of the International Federation must follow the International Federation's retirement procedures.

***National Testing Pool***

**5.5.9** In accordance with the *International Standard for Testing and Investigations*, SIA has established the *National Testing Pool*, comprising *Athletes* who are subject to less stringent requirements than *Athletes* included in SIA's *Registered Testing Pool*.

**5.5.10** SIA shall notify *Athletes* before they are included in the *National Testing Pool* and when they are removed. The notification to the *Athlete* will include the

whereabouts requirements, and the consequences that may apply in the event of non-compliance, as set out in Articles 5.5.11 and 5.5.12.

**5.5.11** An *Athlete* who is included in the *National Testing Pool* is required to provide SIA with the following whereabouts information so that they may be located for *Testing*:

- (a) complete contact details, including: home address, telephone number(s), and email address;
- (b) the *Athlete's* date of birth, and other details as required by SIA to enable the *Athlete's* identity to be verified;
- (c) an overnight address for each day in the quarter;
- (d) a *Competition/Event* schedule for the quarter;
- (e) details of the *Athlete's* regular training or other activity<sup>33</sup> schedule for the quarter, and the location of the training or other activity; and
- (f) any other information that SIA considers is reasonably necessary to assist it to locate the *Athlete*.

The *Athlete* is to provide the information to SIA through ADAMS on or before the date and time required by SIA.<sup>34</sup> The *Athlete* is also required to keep the information up to date at all times.

**5.5.12** A failure by the *Athlete* to provide the information on or before the date and time required by SIA or to keep the information updated may result in SIA, in its absolute discretion:

- (a) issuing a warning letter to the *Athlete*;
- (b) including the *Athlete* in SIA's *Registered Testing Pool*.

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<sup>33</sup> This is any activity that is part of the *Athlete's* regular routine: for example, a rehabilitation routine, employment schedule, or education timetable.

<sup>34</sup> The notification to the *Athlete* will provide information on how to use ADAMS.

## **Domestic Testing Pool**

**5.5.13** SIA also maintains a *Domestic Testing Pool*. An *Athlete* who is included in SIA's *Domestic Testing Pool* is required to provide the following information to the *Sporting Administration Body* and to ensure that it is kept up to date:

- (a) complete contact details, including: home address, telephone number(s), and email address;
- (b) the *Athlete's* date of birth, and other details as required by SIA to enable the *Athlete's* identity to be verified.

**5.5.14** Whereabouts information provided by an *Athlete* while in SIA's *Registered Testing Pool* or *National Testing Pool* will be accessible through ADAMS to WADA and to other *Anti-Doping Organisations* having authority to test that *Athlete* as provided in Article 5.2 above, shall be maintained in strict confidence at all times; it shall be used exclusively for purposes of planning, coordinating or conducting *Doping Control*, providing information relevant to the *Athlete Biological Passport* or other analytical results, to support an investigation into a potential anti-doping rule violation, or to support proceedings alleging an anti-doping rule violation, 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.

## **5.6 Retired Athletes Returning to Competition**

**5.6.1** If an *International-Level* or *National-Level Athlete* in a *Registered Testing Pool* or SIA's *National 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 (6) months prior written notice to the International Federation and SIA for *Athletes* in a *Registered Testing Pool* or SIA alone for *Athletes* in SIA's *National Testing Pool*.

WADA, in consultation with the International Federation and SIA, or SIA alone for *Athletes* in SIA's *National Testing Pool* may grant an exemption to the six-month written notice rule where the strict application of that rule would be unfair to the *Athlete*. This decision may be appealed under Article 13.<sup>35</sup>

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<sup>35</sup> WADA has developed a protocol and exemption application form that *Athletes* must use to make such requests, and a decision template that the International Federation must use to provide its decision. Both template documents are available on WADA's website at: [www.wada-ama.org](http://www.wada-ama.org).

Any competitive results obtained in violation of this Article 5.6.1 shall be *Disqualified* unless the *Athlete* can establish that he or she could not have reasonably known that this was an *International Event* or a *National Event*.

**5.6.2** If an *Athlete* retires from sport while subject to a period of *Ineligibility*, the *Athlete* must notify *SIA* and the *Sporting Administration Body* that imposed the period of *Ineligibility* in writing of such retirement. If the *Athlete* then wishes to return to active competition in sport, the *Athlete* shall not resume competing in *International Events* or *National Events* until the *Athlete* has made himself or herself available for *Testing* by giving six (6) 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 (6) months) to *SIA* and to their International Federation.

## ARTICLE 6 ANALYSIS OF *SAMPLES*

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

### 6.1 Use of Accredited and Approved Laboratories

**6.1.1** For purposes of directly establishing an *Adverse Analytical Finding* under Article 2.1, *Samples* shall be analysed only in WADA-accredited laboratories or laboratories otherwise approved by WADA. The choice of the WADA-accredited or WADA-approved laboratory used for the *Sample* analysis shall be determined exclusively by SIA.<sup>36</sup>

**6.1.2** As provided in Article 3.2, facts related to anti-doping rule violations may be established by any reliable means. This would include, for example, reliable laboratory or other forensic testing conducted outside of WADA-accredited or approved laboratories.

### 6.2 Purpose of Analysis of *Samples* and Data

*Samples* and related analytical data or *Doping Control* information shall be analysed to detect *Prohibited Substances* and *Prohibited Methods* identified on the *Prohibited List* 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 SIA in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including for DNA or genomic profiling, or for any other legitimate anti-doping purpose.<sup>37</sup>

### 6.3 Research on *Samples* and Data

*Samples*, related analytical data and *Doping Control* information may be used for anti-doping research purposes, although no *Sample* may be used for research without the *Athlete's* written consent. *Samples* and related analytical data or *Doping Control* information used for research purposes shall first be processed in such a manner as to prevent *Samples* and related analytical data or *Doping Control* information being traced back to a particular *Athlete*. Any research

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<sup>36</sup> Comment to Article 6.1.1: Violations of Article 2.1 may be established only by *Sample* analysis performed by a WADA-accredited laboratory or another laboratory approved by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.

<sup>37</sup> Comment to Article 6.2: For example, relevant *Doping Control*-related information could be used to direct *Target Testing* or to support an anti-doping rule violation proceeding under Article 2.2, or both.

involving *Samples* and related analytical data or *Doping Control* information shall adhere to the principles set out in Article 19 of the *Code*.<sup>38</sup>

#### **6.4 Standards for *Sample* Analysis and Reporting**

In accordance with Article 6.4 of the *Code*, *Anti-Doping Organisations* shall ask laboratories to analyse *Samples* in conformity with the *International Standard* for Laboratories and the *International Standard* for Testing and Investigations.

Laboratories at their own initiative and expense may analyse *Samples* for *Prohibited Substances* or *Prohibited Methods* not included on the standard *Sample* analysis menu, or as requested by SIA. Results from any such analysis shall be reported to SIA and have the same validity and *Consequences* as any other analytical result.<sup>39</sup>

#### **6.5 Further Analysis of a *Sample* Prior to or During Results Management**

There shall be no limitation on the authority of a laboratory to conduct repeat or additional analysis on a *Sample* prior to the time SIA notifies an *Athlete* that the *Sample* is the basis for an Article 2.1 anti-doping rule violation charge. If after such notification SIA wishes to conduct additional analysis on that *Sample*, it may do so with the consent of the *Athlete* or approval from a hearing body.

#### **6.6 Further Analysis of a *Sample* After it has been Reported as Negative or has Otherwise not Resulted in an Anti-Doping Rule Violation Charge**

After a laboratory has reported a *Sample* as negative, or the *Sample* has not otherwise resulted in an anti-doping rule violation charge, it may be stored and subjected to further analyses for the purpose of Article 6.2 above at any time exclusively at the direction of either the *Anti-Doping Organisation* that initiated and directed *Sample* collection or WADA. Any other *Anti-Doping Organisation* with authority to test the *Athlete* that wishes to conduct further analysis on a stored *Sample* may do so with the permission of the *Anti-Doping Organisation* that initiated and directed *Sample* collection or WADA, and shall be responsible for any follow-up *Results Management*. Any *Sample* storage or further analysis initiated by WADA or another *Anti-Doping Organisation* shall

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<sup>38</sup> Comment to Article 6.3: As is the case in most medical or scientific contexts, use of *Samples* and related information for quality assurance, quality improvement, method improvement and development or to establish reference populations is not considered research. *Samples* and related information used for such permitted non-research purposes must also first be processed in such a manner as to prevent them from being traced back to the particular *Athlete*, having due regard to the principles set out in Article 19 of the *Code*, as well as the requirements of the *International Standard* for Laboratories and *International Standard* for the Protection of Privacy and Personal Information.

<sup>39</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.



be at WADA's or that organisation's expense. Further analysis of *Samples* shall conform with the requirements of the *International Standard for Laboratories*.

## **6.7 Split of A or B Sample**

Where WADA, an *Anti-Doping Organisation with Results Management Authority*, and/or a WADA-accredited laboratory (with approval from WADA or the *Anti-Doping Organisation with Results Management Authority*) wishes to split an A or B *Sample* for the purpose of using the first part of the split *Sample* for an A *Sample* analysis and the second part of the split *Sample* for confirmation, then the procedures set forth in the *International Standard for Laboratories* shall be followed.

## **6.8 WADA's Right to Take Possession of Samples and Data**

WADA may, in its sole discretion at any time, with or without prior notice, take physical possession of any *Sample* and related analytical data or information in the possession of a laboratory or *Anti-Doping Organisation*. Upon request by WADA, the laboratory or *Anti-Doping Organisation* in possession of the *Sample* or data shall immediately grant access to and enable WADA to take physical possession of the *Sample* or data.<sup>40</sup> If WADA has not provided prior notice to the laboratory or *Anti-Doping Organisation* before taking possession of a *Sample* or data, it shall provide such notice to the laboratory and each *Anti-Doping Organisation* whose *Samples* or data have been taken by WADA within a reasonable time after taking possession. After analysis and any investigation of a seized *Sample* or data, WADA may direct another *Anti-Doping Organisation* with authority to test the *Athlete* to assume *Results Management* responsibility for the *Sample* or data if a potential anti-doping rule violation is discovered.<sup>41</sup>

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<sup>40</sup> Comment to Article 6.8: Resistance or refusal to WADA taking physical possession of *Samples* or data could constitute *Tampering, Complicity* or an act of non-compliance as provided in the *International Standard for Code Compliance by Signatories*, and could also constitute a violation of the *International Standard for Laboratories*. Where necessary, the laboratory and/or the *Anti-Doping Organisation* shall assist WADA in ensuring that the seized *Sample* or data are not delayed in exiting the applicable country.

<sup>41</sup> Comment to Article 6.8: WADA would not, of course, unilaterally take possession of *Samples* or analytical data without good cause related to a potential anti-doping rule violation, non-compliance by a *Signatory* or doping activities by another *Person*. However, the decision as to whether good cause exists is for WADA to make in its discretion and shall not be subject to challenge. In particular, whether there is good cause or not shall not be a defence against an anti-doping rule violation or its *Consequences*.

# 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 *SIA*.

**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's* disciplinary rules or policies.

## 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 *SIA* and the *Sporting Administration Body*, *SIA* will conduct the investigation.

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

**6A.2.2** Where *SIA* 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 *SIA*. The *Sporting Administration Body* must also seek *SIA'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 *SIA* in relation to any investigation into a potential anti-doping rule violation. Where the *Sporting Administration Body* has approval by *SIA* to conduct its own investigation or be involved in an *SIA* investigation, the same obligations apply. Specifically, all *Persons* must cooperate with and assist *SIA* 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 *SIA* 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: RESPONSIBILITY, INITIAL REVIEW, NOTICE AND PROVISIONAL SUSPENSIONS***

*Results Management* under this Anti-Doping Policy establishes a process designed to resolve anti-doping rule violation matters in a fair, expeditious and efficient manner.

### **7.1      *Responsibility for Conducting Results Management***

**7.1.1** Subject to Article 1.2.5, *SIA* 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 *SIA Act*, the *SIA Regulations*, and the *NAD scheme* as in force from time to time. This includes any matters:

- (a) referred to the *Sporting Administration Body* by other *Anti-Doping Organisations for Results Management*, where *SIA* agrees to take responsibility for *Results Management*;
- (b) where *SIA* is the *Testing Authority*.

**7.1.2** Where *SIA* elects to collect additional *Samples* in the circumstances set out in Article 5.2.4 above, then it shall be considered the *Anti-Doping Organisation* that initiated and directed *Sample* collection and will have *Results Management* responsibility. However, where *SIA* only directs the laboratory to perform additional types of analysis at *SIA*'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** *Results Management* in relation to a potential whereabouts failure (a filing failure or a missed test) shall be administered by the *Anti-Doping Organisation* (i.e. the International Federation or *SIA*) with which the *Athlete* in question files whereabouts information. If *SIA* determines a filing failure or a missed test, it shall submit that information to WADA through ADAMS, where it will be made available to other relevant *Anti-Doping Organisations*.

**7.1.4** For *Results Management* relating to a *Sample* initiated and taken during an *Event* conducted by a *Major Event Organisation*, or an anti-doping rule violation occurring during such *Event*, the *Major Event Organisation* for that *Event* shall assume *Results Management* responsibility to at least the limited extent of conducting a hearing to determine whether an anti-doping rule violation was

committed and, if so, the applicable *Disqualifications* under Articles 9 and 10.1, any forfeiture of any medals, points, or prizes from that *Event*, and any recovery of costs applicable to the anti-doping rule violation. In the event the *Major Event Organisation* assumes only limited *Results Management* responsibility, the case shall be referred by the *Major Event Organisation* to the International Federation for completion of *Results Management*.<sup>42</sup>

**7.1.5** WADA may direct an *Anti-Doping Organisation* to conduct *Results Management* in a particular case. If that *Anti-Doping Organisation* refuses to conduct *Results Management* within a reasonable deadline set by WADA, such refusal shall be considered an act of non-compliance, and WADA may direct another *Anti-Doping Organisation* with authority over the *Athlete* or *Other Person*, that is willing to do so, to take *Results Management* responsibility in place of the refusing *Anti-Doping Organisation* or, if there is no such *Anti-Doping Organisation*, any other *Anti-Doping Organisation* that is willing to do so. In such case, the refusing *Anti-Doping Organisation* shall reimburse the costs and attorney fees of conducting *Results Management* to the other *Anti-Doping Organisation* designated by WADA, and a failure to reimburse costs and attorney's fees shall be considered an act of non-compliance.

## **7.2 Review and Notification regarding Potential Anti-Doping Rule Violations**

SIA shall carry out the review and notification with respect to any potential anti-doping rule violation in accordance with the *International Standard for Results Management* and the NAD scheme.

## **7.3 Identification of Prior Anti-Doping Rule Violations**

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

## **7.4 Provisional Suspensions<sup>43</sup>**

**7.4.1** Mandatory *Provisional Suspension* after an *Adverse Analytical Finding* or *Adverse Passport Finding*

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<sup>42</sup> Comment to Article 7.1.4: The International Federation may refer the matter to the *Sporting Administration Body* to conduct *Results Management* under this Anti-Doping Policy.

<sup>43</sup> Comment to Article 7.4: Before a *Provisional Suspension* can be unilaterally imposed by the *Sporting Administration Body*, the internal review specified in this Anti-Doping Policy and the *International Standard for Results Management* must first be completed.

If the *Sporting Administration Body* receives an *Adverse Analytical Finding* or an *Adverse Passport Finding* (upon completion of the *Adverse Passport Finding* review process) for a *Prohibited Substance* or a *Prohibited Method* that is not a *Specified Substance* or a *Specified Method*, it shall impose a *Provisional Suspension* on the *Athlete* promptly upon or after the review and notification required by Article 7.2 above.

A mandatory *Provisional Suspension* may be eliminated if: (i) the *Athlete* demonstrates to the *National Sports Tribunal* that the violation is likely to have involved a *Contaminated Product*, or (ii) the violation involves a *Substance of Abuse* and the *Athlete* establishes entitlement to a reduced period of *Ineligibility* under Article 10.2.4.1.

The decision of the *National Sports Tribunal* not to eliminate a mandatory *Provisional Suspension* on account of the *Athlete's* assertion regarding a *Contaminated Product* shall not be appealable.

#### **7.4.2** Optional *Provisional Suspension* Based on an *Adverse Analytical Finding* for *Specified Substances*, *Specified Methods*, *Contaminated Products*, or Other Anti-Doping Rule Violations

The *Sporting Administration Body* may impose a *Provisional Suspension* for anti-doping rule violations not covered by Article 7.4.1 prior to the analysis of the *Athlete's* B Sample or final hearing as described in Article 8.

An optional *Provisional Suspension* may be lifted at the discretion of the *Sporting Administration Body* at any time prior to the decision of the *National Sports Tribunal* under Article 8, unless provided otherwise in the *International Standard for Results Management*.

#### **7.4.3** Opportunity for a Hearing or Appeal

Notwithstanding Articles 7.4.1 and 7.4.2 above, a *Provisional Suspension* may not be imposed unless the *Athlete* or *Other Person* is given: (a) an opportunity for a *Provisional Hearing*, either before or on a timely basis after the imposition of the *Provisional Suspension*; or (b) an opportunity for an expedited hearing in accordance with Article 8 on a timely basis after the imposition of the *Provisional Suspension*.

The imposition of a *Provisional Suspension*, or the decision not to impose a *Provisional Suspension*, may be appealed in an expedited process in accordance with Article 13.2 below.

#### **7.4.4** Voluntary acceptance of *Provisional Suspension*

An *Athlete* on their own initiative may voluntarily accept a *Provisional Suspension* if he or she does so prior to the later of: (i) the expiration of ten (10) days from the report of the *B Sample* (or waiver of the *B Sample*) or ten (10) days from the notice of any other anti-doping rule violation, or (ii) the date on which the *Athlete* first competes after such report or notice.

*Other Persons* on their own initiative may voluntarily accept a *Provisional Suspension* if done so within ten (10) days from the notice of the anti-doping rule violation.

Upon such voluntary acceptance, the *Provisional Suspension* shall have the full effect and be treated in the same manner as if the *Provisional Suspension* had been imposed under Article 7.4.1 or 7.4.2; provided, however, at any time after voluntarily accepting a *Provisional Suspension*, the *Athlete* or *Other Person* may withdraw such acceptance, in which event the *Athlete* or *Other Person* shall not receive any credit for time previously served during the *Provisional Suspension*.

**7.4.5** If a *Provisional Suspension* is imposed based on an *A Sample Adverse Analytical Finding* and a subsequent *B Sample* analysis (if requested by the *Athlete* or *SIA*) 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 an *Event* 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 reinserted, without otherwise affecting the *Event*, the *Athlete* or team may continue to take part in the *Event*.

## **7.5 Results Management Decisions**

*Results Management* decisions or adjudications by *SIA* or the *Sporting Administration Body* must not purport to be limited to a particular geographic area and shall be consistent with the *NAD scheme* (where *SIA* is the *Results Management Authority*), the *International Standard for Results Management*, and the terms of this Anti-Doping Policy. Such decisions are to address and determine, without limitation, the following issues (as relevant to the type of decision or adjudication): whether an anti-doping rule violation was committed or asserted to have been

committed, whether a *Provisional Suspension* should be imposed, the specific Articles that have been violated or asserted to have been violated, and the factual basis for any determination. In addition, decisions and adjudications are to set out all *Consequences* flowing from the anti-doping rule violation(s), including applicable *Disqualifications* under Articles 9 and 10.10 below, any forfeiture of medals or prizes, any period of *Ineligibility* (and the date it begins to run) and any *Financial Consequences*.<sup>44</sup>

## 7.6 Notification of Results Management Decisions

SIA shall notify *Athletes*, *Other Persons*, *Signatories* and WADA of *Results Management* decisions as provided in Article 14, below and in the *International Standard for Results Management*, and any other parties in accordance with clause 4.17 of the NAD Scheme.

## 7.7 Retirement from Sport<sup>45</sup>

If an *Athlete* or *Other Person* retires while SIA (or another *Anti-Doping Organisation*) is conducting the *Results Management* process, SIA (or the other *Anti-Doping Organisation*) retains jurisdiction to complete its *Results Management* process. If an *Athlete* or *Other Person* retires before any *Results Management* process has begun, and SIA 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, SIA or the other *Anti-Doping Organisation* has authority to conduct *Results Management* in respect of that anti-doping rule violation.

## 7.8 Letter of Charge

Once the SIA CEO makes an assertion of an anti-doping rule violation in accordance with the SIA Act, NAD scheme, and the *International Standard for Results Management*, then unless otherwise agreed in writing between SIA and the *Sporting Administration Body*, SIA will:

- (a) notify the *Athlete* or *Other Person*, the *Sporting Administration Body*, the International Federation, WADA, relevant government sports agencies, and relevant *Anti-Doping Organisations* of the assertion, and

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<sup>44</sup> Comment to Article 7.5: Each decision should address whether an anti-doping rule violation was committed and all *Consequences* flowing from the violation, including any *Disqualifications* other than *Disqualification* under Article 10.1 (which is left to the ruling body for an *Event*). Pursuant to Article 15, such decision and its imposition of *Consequences* shall have automatic effect in every sport in every country. For example, for a determination that an *Athlete* committed an anti-doping rule violation based on an *Adverse Analytical Finding* for a *Sample* taken *In-Competition*, the *Athlete's* results obtained in the *Competition* would be *Disqualified* under Article 9 and all other competitive results obtained by the *Athlete* from the date the *Sample* was collected through the duration of the period of *Ineligibility* are also *Disqualified* under Article 10.10; if the *Adverse Analytical Finding* resulted from *Testing* at an *Event*, it would be the *Major Event Organisation's* responsibility to decide whether the *Athlete's* other individual results in the *Event* prior to *Sample* collection are also *Disqualified* under Article 10.1.

<sup>45</sup> Comment to Article 7.7: Conduct by an *Athlete* or *Other Person* before the *Athlete* or *Other Person* was subject to the authority 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.



- (b) issue the *Athlete* or *Other Person* with a Letter of Charge under this Article and in accordance with the *International Standard for Results Management*.

**Note:** *Athletes* and *Other Persons* are responsible for keeping their contact details up to date with the *Sporting Administration Body*. Delivery (including means of delivery listed in clause 6.01 of the *NAD scheme*) 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.

## **7.9 Lower-Level Athletes**

**7.9.1** In the case where the SIA CEO decides, under the *NAD scheme*, that a possible non-presence anti-doping rule violation (except a violation of Article 2.3 or Article 2.5) by a *Lower-Level Athlete* does not warrant action, the SIA CEO may give written notification to the *Sporting Administration Body* so it can consider whether disciplinary or other action should be taken against the *Lower-Level Athlete*.

The CEO's written notification may recommend that the *Sporting Administration Body* take certain action against the *Lower-Level Athlete*, including, but not limited to: requiring the *Lower-Level Athlete* to undertake anti-doping *Education*; taking disciplinary action against the *Lower-Level Athlete* under the *Sporting Administration Body's* disciplinary rules or policies.

## **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 SIA 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 Letter of Charge asserting the violation, then he or she shall be deemed to have admitted the violation, to have waived their right to 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 SIA 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 *SIA*, 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.

## **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:

- (a) a timely hearing;
- (b) a fair, impartial and Operationally Independent hearing body;
- (c) the right to representation at the Person's own expense;
- (d) 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, and conducted in accordance with the *Code, International Standard for Results Management*, and (where the hearing body is the NST) the *NST Act*.

### **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 *NST*, or other relevant hearing body recognised or approved by the *SIA* CEO.

### **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 *SIA's* assertion that an anti-doping rule violation has occurred within the time period provided in the Letter of Charge issued under Article 7.8.

### **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 the *NST*. Subject to Article 13.2, any appeal from a first-instance decision will be heard initially by the Appeals Division of the *NST*. Any appeal from the Appeals Division of the *NST* will be heard by the Appeals Division of *CAS* in accordance with the provisions applicable before such court.

**8.4.2** Should a *Person* elect to have a hearing in accordance with Article 8 or Article 7.4.3, the *Person* will be responsible for filing their application for a hearing with the *NST* and paying any applicable fees.

**8.4.3** *SIA* 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 *SIA* and the *Sporting Administration Body*, *SIA* will take the lead in presenting the matter in any hearing.

## **8.5 Right to attend Hearings**

The International Federation, WADA and, where applicable, Sport Australia (the Australian Sports Commission), the Australian Olympic Committee, Paralympics Australia (the Australian Paralympic Committee), Commonwealth Games Australia, and relevant State Institutes of Sport/State Academies of Sport shall have the right to attend hearings as an observer or an interested or affected party.

The process for informing those relevant parties of such right to attend as an observer or interested/affected party as applicable is set out in the *NST* CEO's determination as to the practice and procedure of the *NST* in arbitration, made under section 41 of the *NST Act*, as in force from time to time.

## **8.6 NST Determination**

**8.6.1** *The NST* 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**

*SIA* and the *Sporting Administration Body* shall report the outcome of all anti-doping rule violations in accordance with the *Code*, the *SIA Act* and the *NAD scheme*, and this Anti-Doping Policy, as in force from time to time.

## 8.8 Appeals and Review

Decisions by the *NST* 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 *SIA* (or any other *Anti-Doping Organisation*) may use any such information that arises as a result of that hearing process without having to first seek the permission of the relevant hearing body or the parties. In the case of *CAS*, this clause overrides R43 and R59 of the *CAS Code of Sports-related Arbitration* to the extent of any inconsistency. In the case of the *NST*, this clause operates subject to any relevant confidentiality direction made by an *NST* member.<sup>46</sup>

## 8.10 Single Hearing Before CAS

Anti-doping rule violations asserted against *International-Level Athletes*, *National-Level Athletes* or *Other Persons* may, with the consent of the *Athlete* or *Other Person*, *SIA* (where it has *Results Management* responsibility in accordance with Article 7), the *Sporting Administration Body* and *WADA*, be heard in a single hearing directly at *CAS*.<sup>47</sup>

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<sup>46</sup> Comment to Article 8.9: Section 41 of the *National Sports Tribunal (Practice and Procedure) Determination 2020* provides for an *NST* member to give directions for the confidentiality of information before the *NST*.

<sup>47</sup> Comment to Article 8.10: In some cases, the combined cost of holding a hearing in the first instance at the international or national level, then rehearing the case *de novo* before *CAS* can be very substantial. Where all of the parties identified in this Article are satisfied that their interests will be adequately protected in a single hearing, there is no need for the *Athlete* or *Anti-Doping Organisations* to incur the extra expense of two (2) hearings. An *Anti-Doping Organisation* may participate in the *CAS* hearing as an observer. Nothing set out in Article 8.4 precludes the *Athlete* or *Other Person* and *SIA* (where it has *Results Management* responsibility) and the *Sporting Administration Body* to waive their right to appeal by agreement. Such waiver, however, only binds the parties to such agreement and not any other entity with a right of appeal under the *Code*.

## **ARTICLE 9     AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS<sup>48</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>48</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>49</sup>

### 10.1 Disqualification of Results in the *Event* during which an Anti-Doping Rule Violation occurs<sup>50</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 elimination, reduction or suspension pursuant to Article 10.5, 10.6 or 10.7:

**10.2.1** The period of *Ineligibility*, subject to Article 10.2.4, shall be four years where:

**10.2.1.1** The anti-doping rule violation does not involve a *Specified Substance* or a *Specified Method*, unless the *Athlete* or *Other*

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<sup>49</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>50</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).

Person can establish that the anti-doping rule violation was not intentional.<sup>51</sup>

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

**10.2.2** If Article 10.2.1 does not apply, subject to Article 10.2.4.1, the period of *Ineligibility* shall be two (2) years.

**10.2.3** As used in Article 10.2, the term 'intentional' is meant to identify those *Athletes* or *Other Persons* who engage in conduct which they 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.<sup>52</sup> 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.

**10.2.4** Notwithstanding any other provision in Article 10.2, where the anti-doping rule violation involves a *Substance of Abuse*:

**10.2.4.1** If the *Athlete* can establish that any ingestion or *Use* occurred *Out-of-Competition* and was unrelated to sport performance, then the period of *Ineligibility* shall be three (3) months *Ineligibility*.

In addition, the period of *Ineligibility* calculated under this Article 10.2.4.1 may be reduced to one (1) month if the *Athlete* or *Other Person* satisfactorily completes a *Substance of Abuse* treatment program approved by SIA. The period of *Ineligibility*

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<sup>51</sup> Comment to Article 10.2.1.1: While it is theoretically possible for an *Athlete* or *Other Person* to establish that the anti-doping rule violation was not intentional without showing how the *Prohibited Substance* entered one's system, it is highly unlikely that in a doping case under Article 2.1 an *Athlete* will be successful in proving that the *Athlete* acted unintentionally without establishing the source of the *Prohibited Substance*.

<sup>52</sup> Comment to Article 10.2.3: Article 10.2.3 provides a special definition of "intentional" which is to be applied solely for purposes of Article 10.2.



established in this Article 10.2.4.1 is not subject to any reduction based on any provision in Article 10.6.<sup>53</sup>

**10.2.4.2** If the ingestion, *Use* or *Possession* occurred *In-Competition*, and the *Athlete* can establish that the context of the ingestion, *Use* or *Possession* was unrelated to sport performance, then the ingestion, *Use* or *Possession* shall not be considered intentional for purposes of Article 10.2.1 and shall not provide a basis for a finding of *Aggravating Circumstances* under Article 10.4.

### **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 10.6 or 10.7 are applicable:

**10.3.1** For violations of Article 2.3 or Article 2.5, the period of *Ineligibility* shall be four (4) years except: (i) in the case of failing to submit to *Sample* collection, if the *Athlete* can establish that the commission of the anti-doping rule violation was not intentional, in which case the period of *Ineligibility* shall be two (2) years; (ii) in all other cases, if the *Athlete* or *Other Person* can establish exceptional circumstances that justify a reduction of the period of *Ineligibility*, the period of *Ineligibility* shall be in a range from two (2) years to four (4) years depending on the *Athlete* or *Other Person's* degree of *Fault*; or (iii) in a case involving a *Protected Person* or *Recreational Athlete*, the period of *Ineligibility* shall be in a range between a maximum of two (2) years and, at a minimum, a reprimand and no period of *Ineligibility*, depending on the *Protected Person* or *Recreational Athlete's* degree of *Fault*.

**10.3.2** For violations of Article 2.4, the period of *Ineligibility* shall be two (2) years, subject to reduction down to a minimum of one (1) year, depending on the *Athlete's* degree of *Fault*. The flexibility between two (2) years and one (1) 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*.

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<sup>53</sup> Comment to Article 10.2.4.1: The determinations as to whether the treatment program is approved and whether the *Athlete* or *Other Person* has satisfactorily completed the program shall be made in the sole discretion of SIA. This Article is intended to give SIA the leeway to apply their own judgment to identify and approve legitimate and reputable, as opposed to "sham", treatment programs. It is anticipated, however, that the characteristics of legitimate treatment programs may vary widely and change over time such that it would not be practical for WADA to develop mandatory criteria for acceptable treatment programs.

**10.3.3** For violations of Article 2.7 or 2.8, the period of *Ineligibility* shall be a minimum of four (4) years up to lifetime *Ineligibility*, depending on the seriousness of the violation. An Article 2.7 or Article 2.8 violation involving a *Protected Person* 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>54</sup>

**10.3.4** For violations of Article 2.9, the period of *Ineligibility* imposed shall be a minimum of two (2) years, up to lifetime *Ineligibility*, depending on the seriousness of the violation.

**10.3.5** For violations of Article 2.10, the period of *Ineligibility* shall be two (2) years, subject to reduction down to a minimum of one (1) year, depending on the *Athlete* or *Other Person's* degree of *Fault* and other circumstances of the case.<sup>55</sup>

**10.3.6** For violations of Article 2.11, the period of *Ineligibility* shall be a minimum of two (2) years, up to lifetime *Ineligibility*, depending on the seriousness of the violation by the *Athlete* or *Other Person*.<sup>56</sup>

#### **10.4 Aggravating Circumstances which may increase the Period of *Ineligibility***

If SIA establishes in an individual case involving an anti-doping rule violation other than violations under Article 2.7 (*Trafficking* or *Attempted Trafficking*), 2.8 (*Administration* or *Attempted Administration*), 2.9 (*Complicity* or *Attempted Complicity*) or 2.11 (*Acts by an Athlete* or *Other Person* to Discourage or Retaliate Against Reporting) that *Aggravating Circumstances* are present which justify the imposition of a period of *Ineligibility* greater than the standard sanction, then the period of *Ineligibility* otherwise applicable shall be increased by an additional period of *Ineligibility* of up to two (2) years depending on the seriousness of the violation and the nature of the

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<sup>54</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>55</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>56</sup> Comment to Article 10.3.6: Conduct that is found to violate both Article 2.5 (*Tampering*) and Article 2.11 (*Acts by an Athlete* or *Other Person* to Discourage or Retaliate against Reporting to Authorities) shall be sanctioned based on the violation that carries the more severe sanction.

*Aggravating Circumstances*, unless the *Athlete* or *Other Person* can establish that he or she did not knowingly commit the anti-doping rule violation.<sup>57</sup>

## **10.5 Elimination of the Period of *Ineligibility* where there is *No Fault or Negligence***<sup>58</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.

## **10.6 Reduction of the Period of *Ineligibility* based on *No Significant Fault or Negligence***

### **10.6.1 Reduction of Sanctions in Particular Circumstances for Violations of Article 2.1, 2.2 or 2.6.**

All reductions under Article 10.6.1 are mutually exclusive and not cumulative.

#### **10.6.1.1**      *Specified Substances or Specified Methods*

Where the anti-doping rule violation involves a *Specified Substance* (other than a *Substance of Abuse*), or *Specified Method*, 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 (2) years *Ineligibility*, depending on the *Athlete's* or *Other Person's* degree of *Fault*.

#### **10.6.1.2**      *Contaminated Products*

In cases where the *Athlete* or *Other Person* can establish both *No Significant Fault or Negligence* and that the detected *Prohibited Substance* (other than a *Substance of Abuse*) came from a

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<sup>57</sup> Comment to Article 10.4: Violations under Articles 2.7 (*Trafficking or Attempted Trafficking*), 2.8 (*Administration or Attempted Administration*), 2.9 (*Complicity or Attempted Complicity*) and 2.11 (*Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting to Authorities*) are not included in the application of Article 10.4 because the sanctions for these violations already build in sufficient discretion up to a lifetime ban to allow consideration of any *Aggravating Circumstance*.

<sup>58</sup> Comment to Article 10.5: This Article and Article 10.6.2 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.) 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 10.6 based on *No Significant Fault or Negligence*.

*Contaminated Product*, then the period of *Ineligibility* shall be, at a minimum, a reprimand and no period of *Ineligibility*, and at a maximum, two (2) years *Ineligibility*, depending on the *Athlete's* or *Other Person's* degree of *Fault*.<sup>59</sup>

### **10.6.1.3** *Protected Persons or Recreational Athletes*

Where the anti-doping rule violation not involving a *Substance of Abuse* is committed by a *Protected Person or Recreational Athlete*, and the *Protected Person or Recreational Athlete* 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 (2) years *Ineligibility*, depending on the *Protected Person or Recreational Athlete's* degree of *Fault*.

## **10.6.2** Application of *No Significant Fault or Negligence* beyond the application of Article 10.6.1

If an *Athlete* or *Other Person* establishes in an individual case where Article 10.6.1 is not applicable that he or she bears *No Significant Fault or Negligence*, then, subject to further reduction or elimination as provided in Article 10.7, 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 (8) years.<sup>60</sup>

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<sup>59</sup> Comment to Article 10.6.1.2: In order to receive the benefit of this Article, the *Athlete* or *Other Person* must establish not only that the detected *Prohibited Substance* came from a *Contaminated Product*, but must also separately establish *No Significant Fault or Negligence*. It should be further noted that *Athletes* are on notice that they take nutritional supplements at their own risk. The sanction reduction based on *No Significant Fault or Negligence* has rarely been applied in *Contaminated Product* cases unless the *Athlete* has exercised a high level of caution before taking the *Contaminated Product*. In assessing whether the *Athlete* can establish the source of the *Prohibited Substance*, it would, for example, be significant for purposes of establishing whether the *Athlete* actually *Used* the *Contaminated Product*, whether the *Athlete* had declared the product which was subsequently determined to be contaminated on the *Doping Control* form. This Article should not be extended beyond products that have gone through some process of manufacturing. Where an *Adverse Analytical Finding* results from environment contamination of a "non-product" such as tap water or lake water in circumstances where no reasonable person would expect any risk of an anti-doping rule violation, typically there would be *No Fault or Negligence* under Article 10.5.

<sup>60</sup> Comment to Article 10.6.2: Article 10.6.2 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 2.11) 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*.

## 10.7 Elimination, Reduction, or Suspension of Period of *Ineligibility* or Other Consequences for Reasons other than *Fault*

### 10.7.1 *Substantial Assistance* in discovering or establishing Code violations.<sup>61</sup>

**10.7.1.1** An *Anti-Doping Organisation* with *Results Management* responsibility for an anti-doping rule violation may, prior to an appellate decision under Article 13 below or the expiration of the time to appeal, suspend a part of the *Consequences* (other than *Disqualification* and mandatory *Public Disclosure*) imposed in an individual case where the *Athlete* or *Other Person* has provided *Substantial Assistance* to an *Anti-Doping Organisation*, criminal authority or professional disciplinary body which results in:

(i) the *Anti-Doping Organisation* discovering or bringing forward an anti-doping rule violation by another *Person*; or

(ii) 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; or

(iii) which results in WADA initiating a proceeding against a Signatory, WADA-accredited laboratory or *Athlete* passport management unit (as defined in the *International Standard for Laboratories*) for non-compliance with the *Code*, *International Standard* or *Technical Document*; or

(iv) with the approval by WADA, which results in a criminal or disciplinary body bringing forward a criminal offence or the breach of professional or sport rules arising out of a sport integrity violation other than doping.

After an appellate decision under Article 13 or the expiration of time to appeal, an *Anti-Doping Organisation* may only suspend a

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<sup>61</sup> Comment to Article 10.7.1: The cooperation of *Athletes*, *Athlete Support Personnel* or *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.

part of the otherwise applicable *Consequences* 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, non-compliance with the *Code*, and/or sport integrity violations. 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 (8) years. For purposes of this paragraph, the otherwise applicable period of *Ineligibility* shall not include any period of *Ineligibility* that could be added under Article 10.9.3.2.

If so requested by an *Athlete* or *Other Person* who seeks to provide *Substantial Assistance*, the *Anti-Doping Organisation* with *Results Management* responsibility shall allow the *Athlete* or *Other Person* to provide the information to the *Anti-Doping Organisation* subject to a *Without Prejudice Agreement*.

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 *Consequences* was based, the *Anti-Doping Organisation* that suspended *Consequences* shall reinstate the original *Consequences*. If an *Anti-Doping Organisation* decides to reinstate suspended *Consequences* or decides not to reinstate suspended *Consequences*, that decision may be appealed by any *Person* entitled to appeal under Article 13.

- 10.7.1.2** 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, or other violation of the *Code*, WADA may agree at any

stage of the *Results Management* process, including after an 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*, no mandatory *Public Disclosure* and/or no return of prize money or payment of fines or costs. WADA's approval shall be subject to reinstatement of *Consequences*, as otherwise provided in this Article. Notwithstanding Article 13, WADA's decisions in the context of this Article 10.7.1.2 may not be appealed.

**10.7.1.3** If an *Anti-Doping Organisation* suspends any part of an otherwise applicable sanction 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. 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.

## **10.7.2 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>62</sup>

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<sup>62</sup> Comment to Article 10.7.2: 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

### **10.7.3** 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 10.5, 10.6 or 10.7, before applying any reduction or suspension under Article 10.7, the otherwise applicable period of *Ineligibility* shall be determined in accordance with Articles 10.2, 10.3, 10.5, and 10.6. If the *Athlete* or *Other Person* establishes an entitlement to a reduction or suspension of the period of *Ineligibility* under Article 10.7, then the period of *Ineligibility* may be reduced or suspended, but not to below one-fourth of the otherwise applicable period of *Ineligibility*.

### **10.7.4** Lower-Level Athletes

Where a *Lower-Level Athlete* commits an anti-doping rule violation (other than a violation of Articles 2.1, 2.3 and 2.5), the SIA CEO may, depending on the *Lower-Level Athlete's* degree of *Fault* and other circumstances of the case, recommend a sanction ranging from a reprimand and compulsory anti-doping education, through to the maximum period of ineligibility that may be imposed for the violation.

Where a *Lower-Level Athlete* commits a violation of one or more of Articles 2.1, 2.3 and 2.5, this anti-doping policy applies in the same way as it does to a *National-Level Athlete* or an *International-Level Athlete* who commits one of those violations.

## **10.8 Results Management Agreements**

### **10.8.1** One-Year Reduction for Certain Anti-Doping Rule Violations Based On Early Admission and Acceptance of Sanction

Where an *Athlete* or *Other Person*, after being notified by SIA or the *Sporting Administration Body* of a potential anti-doping rule violation that carries an asserted period of *Ineligibility* of four (4) or more years (including any period of *Ineligibility* asserted under Article 10.4), admits the violation and accepts the asserted period of *Ineligibility* no later than twenty (20) days after receiving notice of an anti-doping rule violation charge, the *Athlete* or *Other Person* may receive a one-year reduction in the period of *Ineligibility* asserted by SIA or the

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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 or she not come forward voluntarily.



*Sporting Administration Body*. Where the *Athlete* or *Other Person* receives the one-year reduction in the asserted period of *Ineligibility* under this Article 10.8.1, no further reduction in the asserted period of *Ineligibility* shall be allowed under any other Article.<sup>63</sup>

#### **10.8.2 Case Resolution Agreement**

Where the *Athlete* or *Other Person* admits an anti-doping rule violation after being confronted with the anti-doping rule violation by *SIA* and agrees to *Consequences* acceptable to *SIA*, the *Sporting Administration Body* and *WADA*, at their sole discretion, then: (a) the *Athlete* or *Other Person* may receive a reduction in the period of *Ineligibility* based on an assessment by *SIA*, the *Sporting Administration Body* and *WADA* of the application of Articles 10.1 through 10.7 to the asserted anti-doping rule violation, the seriousness of the violation, the *Athlete* or *Other Person's* degree of *Fault* and how promptly the *Athlete* or *Other Person* admitted the violation; and (b) 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, however, where this Article is applied, the *Athlete* or *Other Person* shall serve at least one-half of the agreed-upon period of *Ineligibility* going forward from the earlier of the date the *Athlete* or *Other Person* accepted the imposition of a sanction or a *Provisional Suspension* which was subsequently respected by the *Athlete* or *Other Person*. The decision by *WADA*, *SIA* and the *Sporting Administration Body* to enter or not enter into a case resolution agreement, and the amount of the reduction to and the starting date of the period of *Ineligibility* are not matters for determination or review by a hearing body and are not subject to appeal under Article 13.

If so requested by an *Athlete* or *Other Person* who seeks to enter into a case resolution agreement under this Article, *SIA* and the *Sporting Administration Body* shall allow the *Athlete* or *Other Person* to discuss an admission of the anti-doping rule violation with it subject to a *Without Prejudice Agreement*.<sup>64</sup>

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<sup>63</sup> Comment to Article 10.8.1: For example, if *SIA* or the *Sporting Administration Body* alleges that an *Athlete* has violated Article 2.1 for *Use* of an anabolic steroid and asserts the applicable period of *Ineligibility* is four (4) years, then the *Athlete* may unilaterally reduce the period of *Ineligibility* to three (3) years by admitting the violation and accepting the three-year period of *Ineligibility* within the time specified in this Article, with no further reduction allowed. This resolves the case without any need for a hearing.

<sup>64</sup> Comment to Article 10.8.2: Any mitigating or aggravating factors set forth in this Article 10 shall be considered in arriving at the *Consequences* set forth in the case resolution agreement, and shall not be applicable beyond the terms of that agreement.

## 10.9 Multiple Violations

### 10.9.1 Second or Third Anti-Doping Rule Violation

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

- (a) A six month period of *Ineligibility*; or
- (b) A period of *Ineligibility* in the range between:
  - (i) the sum of the period of *Ineligibility* imposed for the first anti-doping rule violation plus the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, and
  - (ii) twice the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation.

The period of *Ineligibility* within this range shall be determined based on the entirety of the circumstances and the *Athlete* or *Other Person's* degree of *Fault* with respect to the second violation.

**10.9.1.2** 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*.

**10.9.1.3** The period of *Ineligibility* established in Articles 10.9.1.1 and 10.9.1.2 may then be further reduced by the application of Article 10.7.

**10.9.2** An anti-doping rule violation for which an *Athlete* or *Other Person* has established *No Fault or Negligence* shall not be considered a violation for purposes of Article 10.9. In addition, an anti-doping rule violation sanctioned under Article 10.2.4.1 shall not be considered a violation for purposes of Article 10.9.

### 10.9.3 Additional rules for Certain Potential Multiple Violations

**10.9.3.1** For purposes of imposing sanctions under Article 10.9, except as provided in Articles 10.9.3.2 and 10.9.3.3, 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 additional 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 sanction imposed shall be based on the violation that carries the more severe sanction, including the application of *Aggravating Circumstances*. Results in all *Competitions* dating back to the earlier anti-doping rule violation will be *Disqualified* as provided in Article 10.10.<sup>65</sup>

**10.9.3.2** If the *Anti-Doping Organisation* establishes that an *Athlete or Other Person* committed an additional anti-doping rule violation prior to notification, and that the additional violation occurred twelve (12) months or more before or after the first-noticed violation, then the period of *Ineligibility* for the additional violation shall be calculated as if the additional violation were a stand-alone first violation and this period of *Ineligibility* is served consecutively, rather than concurrently, with the period of *Ineligibility* imposed for the earlier-noticed violation. Where this Article 10.9.3.2 applies, the violations taken together shall constitute a single violation for purposes of Article 10.9.1.

**10.9.3.3** If the *Anti-Doping Organisation* establishes that an *Athlete or Other Person* committed a violation of Article 2.5 in connection with the *Doping Control* process for an underlying asserted anti-doping rule violation, the violation of Article 2.5 shall be treated as

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<sup>65</sup> Comment to Article 10.9.3.1: The same rule applies where, after the imposition of a sanction, the *Anti-Doping Organisation* discovers facts involving an anti-doping rule violation that occurred prior to notification for a first anti-doping rule violation – e.g., the *Anti-Doping Organisation* shall impose a sanction based on the sanction that could have been imposed if the two (2) violations had been adjudicated at the same time, including the application of *Aggravating Circumstances*.

a stand-alone first violation and the period of *Ineligibility* for such violation shall be served consecutively, rather than concurrently, with the period of *Ineligibility*, if any, imposed for the underlying anti-doping rule violation. Where this Article 10.9.3.3 is applied, the violations taken together shall constitute a single violation for purposes of Article 10.9.1.

**10.9.3.4** If the *Anti-Doping Organisation* establishes that an *Athlete* or *Other Person* has committed a second or third anti-doping rule violation during a period of *Ineligibility*, the periods of *Ineligibility* for the multiple violations shall run consecutively, rather than concurrently.

#### **10.9.4** Multiple Anti-Doping Rule Violations during Ten-Year period

For purposes of Article 10.9, each anti-doping rule violation must take place within the same ten-year period in order to be considered multiple violations.

### **10.10 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>66</sup>

### **10.11 Forfeited Prize Money**

If the *Sporting Administration Body* recovers prize money forfeited as a result of an anti-doping rule violation, it shall take reasonable measures to allocate and distribute this prize money to the *Athletes* who would have been entitled to it had the forfeiting *Athlete* not competed.<sup>67</sup>

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<sup>66</sup> Comment to Article 10.10: 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*.

<sup>67</sup> Comment to Article 10.11: This Article is not intended to impose an affirmative duty on an *Anti-Doping Organisation* to take any action to collect forfeited prize money. If the *Anti-Doping Organisation* elects not to take any action to collect forfeited prize money, it may assign its right to recover such money to the *Athlete(s)* who should have otherwise received the money. "Reasonable measures to allocate and distribute this prize money" could include using collected forfeited prize money as agreed upon by the *Anti-Doping Organisation* and its *Athletes*.

## 10.12 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*.

## 10.13 Commencement of *Ineligibility* Period

Where an *Athlete* is already serving a period of *Ineligibility* for an anti-doping rule violation, any new period of *Ineligibility* shall commence on the first day after the current period of *Ineligibility* has been served. Otherwise, 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.

### 10.13.1 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* and the *Athlete* or *Other Person* can establish that such delays are 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>68</sup>

### 10.13.2 Credit for *Provisional Suspension* or Period of *Ineligibility* Served

**10.13.2.1** If a *Provisional Suspension* is 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 the *Athlete* or *Other Person* does not respect a *Provisional Suspension*, then the *Athlete* or *Other Person* shall receive no credit for any period of *Provisional Suspension* served. 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

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<sup>68</sup> Comment to Article 10.13.1: In cases of anti-doping rule violations other than under Article 2.1, the time required for SIA (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.

such period of *Ineligibility* served against any period of *Ineligibility* which may ultimately be imposed on appeal.

**10.13.2.2** 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>69</sup>

**10.13.2.3** 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.

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

## **10.14 Status during *Ineligibility* or *Provisional Suspension***

**10.14.1** Prohibition against Participation during *Ineligibility* or *Provisional Suspension*

No *Athlete* or *Other Person* who has been declared *Ineligible* or is subject to a *Provisional Suspension* may, during a period of *Ineligibility* or

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<sup>69</sup> Comment to Article 10.13.2.2: 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*.

*Provisional Suspension*, 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 governmental agency.

An *Athlete* or *Other Person* subject to a period of *Ineligibility* longer than four (4) years may, after completing four (4) years of the period of *Ineligibility*, participate as an *Athlete* in local sport events not sanctioned or otherwise under the authority 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 *Protected Persons*.

An *Athlete* or *Other Person* subject to a period of *Ineligibility* shall remain subject to *Testing* and any requirement by *SIA* or the *Sporting Administration Body* to provide whereabouts information.<sup>70</sup>

#### **10.14.2** Return to Training

As an exception to Article 10.14.1, an *Athlete* may return to train with a team or to use the facilities of a club or other member organisation of the *Sporting Administration Body* or a *Signatory's* member organisation during the shorter of: (1) the last two months of the *Athlete's* period of

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<sup>70</sup> Comment to Article 10.14.1: For example, subject to Article 10.14.2, 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 10.14.3. 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, Automatic Binding Effect of Decisions). An *Athlete* or *Other Person* serving a period of *Ineligibility* is prohibited from coaching or serving as an *Athlete Support Person* in any other capacity at any time during the period of *Ineligibility*, and doing so could also result in a violation of Article 2.10 by another *Athlete*. Any performance standard accomplished during a period of *Ineligibility* shall not be recognised by *SIA*, the *Sporting Administration Body* or other *National Federations* in Australia for any purpose.

*Ineligibility*, or (2) the last one-fourth of the period of *Ineligibility* imposed.<sup>71</sup>

**10.14.3** Violation of the Prohibition of Participation during *Ineligibility* or *Provisional Suspension*

Where an *Athlete* or *Other Person* who has been declared *Ineligible* violates the prohibition against participation during *Ineligibility* described in Article 10.14.1, 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*, including a reprimand and no 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 *Anti-Doping Organisation* or *Sporting Administration Body* (in consultation with *SIA*) whose *Results Management* led to the imposition of the initial period of *Ineligibility*. This decision may be appealed under Article 13.

An *Athlete* or *Other Person* who violates the prohibition against participation during a *Provisional Suspension* described in Article 10.14.1 shall receive no credit for any period of *Provisional Suspension* served and the results of such participation shall be *Disqualified*.

Where an *Athlete Support Person* or *Other Person* assists a *Person* in violating the prohibition against participation during *Ineligibility* or a *Provisional Suspension*, 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.

**10.14.4** Withholding of Financial Support during *Ineligibility*

In addition, for any anti-doping rule violation not involving a reduced sanction as described in Article 10.5 or 10.6, some or all sport-related financial support or other sport-related benefits received by such *Person*

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<sup>71</sup> Comment to Article 10.14.2: 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 10.14.1 other than training.



will be withheld by *Signatories*, *Signatories'* member organisations and governments.

### **10.15 Automatic Publication of Sanction**

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

### **10.16 Anti-Doping *Education***

Prior to returning to sport after serving any period of *Ineligibility*, an *Athlete* or *Other Person* must have completed an anti-doping *Education* program sanctioned by *SIA*.

# 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>72</sup>

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<sup>72</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

SIA may request the Australian Sports Commission and any other relevant public authorities to withhold some or all funding or other non-financial support to the *Sporting Administration Body*, if the *Sporting Administration Body* fails to comply with, implement, uphold, or enforce this Anti-Doping Policy.

## 12.2 Disciplinary Action against a *Sporting Administration Body*

SIA may request the Australian Sports Commission, Australian Olympic Committee or Commonwealth Games Australia 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 SIA informed about an *Athlete's* whereabouts after receiving a request for that information from SIA.
- 12.2.4 The *Sporting Administration Body* has failed to adopt or comply with its *Education Plan*.

# ARTICLE 13 **RESULTS MANAGEMENT: APPEALS**<sup>73</sup>

## 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 13.7 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.

### 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. Any party to the appeal may submit evidence, legal arguments and claims that were not raised in the first instance hearing so long as they arise from the same cause of action or same general facts or circumstances raised or addressed in the first instance hearing.<sup>74</sup>

### 13.1.2 The NST or CAS shall not defer to the findings being appealed

In making its decision, the NST or CAS shall not give deference to the discretion exercised by the body whose decision is being appealed.<sup>75</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*

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<sup>73</sup> Comment to Article 13: The object of the *Code* is to have anti-doping matters resolved through fair and transparent internal processes with a final appeal. Anti-doping decisions by *Anti-Doping Organisations* are made transparent in Article 14. Specified *Persons* and organisations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested *Persons* and organisations with a right to appeal under Article 13 does not include *Athletes*, or their *National Federations*, who might benefit from having another competitor *Disqualified*.

<sup>74</sup> Comment to Article 13.1.1: The revised language is not intended to make a substantive change to the 2015 *Code*, but rather for clarification. For example, where an *Athlete* was charged in the first instance hearing only with *Tampering* but the same conduct could also constitute *Complicity*, an appealing party could pursue both *Tampering* and *Complicity* charges against the *Athlete* in the appeal.

<sup>75</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. In the NST, section 95 of the *National Sports Tribunal (Practice and Procedure) Determination 2020* provides that the Tribunal is to conduct an appeal by way of a rehearing, unless the involved parties to the appeal agree that an appeal can be decided without a hearing, and the Tribunal is satisfied that it would be appropriate to determine the matter without a hearing. The Tribunal has the discretion to exclude evidence presented by the parties on appeal if it was available to them or could reasonably have been discovered by them before the determination or decision appealed against was made.

process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the *Anti-Doping Organisation's* process.<sup>76</sup>

### **13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, Provisional Suspensions, Implementation of Decisions and Authority**

A decision:

- that an anti-doping rule violation was committed,
- imposing *Consequences* or not imposing *Consequences* for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed;
- that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription);
- by WADA not to grant an exception to the six months' notice requirement for a retired *Athlete* to return to competition under Article 5.6.1;
- by WADA assigning *Results Management* under Article 7.1 of the *Code*;
- by SIA (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 not to go forward with an anti-doping rule violation after an investigation in accordance with the *International Standard for Results Management*;
- to impose, or lift, a *Provisional Suspension* as a result of a *Provisional Hearing*;
- that SIA, the *Sporting Administration Body* (or another *Anti-Doping Organisation*) lacks jurisdiction to rule on an alleged anti-doping rule violation or its *Consequences*;
- to suspend, or not suspend, *Consequences* or to reinstate, or not reinstate, *Consequences* under Article 10.7.1;
- under Article 10.14.3;
- by SIA (or another *Anti-Doping Organisation*) not to implement another *Anti-Doping Organisation's* decision under Article 15;
- under Article 27.3

may be appealed exclusively as provided in this Article 13.2.

The following may also be appealed exclusively as provided in Article 13.2:

- an *Anti-Doping Organisation's* failure to comply with Article 7.4;
- an *Anti-Doping Organisation's* failure to comply with Articles 7.1.4 and 7.1.5;

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<sup>76</sup> Comment to Article 13.1.3: Where a decision has been rendered before the final stage of the *Anti-Doping Organisation's* process (for example, a first hearing before the NST) and no party elects to appeal that decision to the Appeals Division of the NST, then WADA may appeal directly to CAS.

- an *Anti-Doping Organisation's* failure to comply with Article 10.8.1;

### **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 CAS.<sup>77</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 initially to the Appeals Division of the *NST* in accordance with the process set out in the *NST Act* and instruments made under it, as in force from time to time.<sup>78</sup> Decisions from the Appeals Division of the *NST* may be appealed to the Appeals Division of CAS in accordance with the provisions applicable before such court.

### **13.2.3** *Persons* entitled to appeal

#### **13.2.3.1** Appeals Involving *International-Level Athletes* or *International Events*

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 relevant International Federation;
- (d) *SIA* and (if different) the *National Anti-Doping Organisation* of the *Person's* country of residence or countries where the *Person* is a national or licence holder or countries where the *Person* is a national or license holder;

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<sup>77</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.

<sup>78</sup> These are the *National Sports Tribunal Rule 2020* and the *National Sports Tribunal (Practice and Procedure) Determination 2020*.

- (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.

#### **13.2.3.2 Appeals Involving Other *Athletes* or *Other Persons***

In cases under Article 13.2.2, the following parties, at a minimum, shall have the right to appeal to the *NST* Appeals Division (and from there, to the *CAS* Appeals Division):

- (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 relevant International Federation;
- (d) *SIA* 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 Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and
- (f) WADA.

For cases under Article 13.2.2, WADA, the International Olympic Committee, the International Paralympic Committee, and the relevant International Federation shall also have the right to appeal to *CAS* from the decision of the *NST* Appeals Division.

Any party filing an appeal shall be entitled to assistance from *CAS* to obtain all relevant information from the *Anti-Doping Organisation* whose

decision is being appealed and the information shall be provided if CAS so directs.

#### **13.2.3.3** Duty to Notify

All parties to any CAS appeal must ensure that WADA and all other parties with a right to appeal have been given timely notice of the appeal.

#### **13.2.3.4** Appeal from *Imposition of Provisional Suspension*

Notwithstanding any other provision herein, the only *Person* who may appeal from the imposition of 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>79</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, 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>80</sup>

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

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

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<sup>79</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.

<sup>80</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.



## 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.

## 13.6 Time for Filing Appeals

### 13.6.1 Appeals to CAS or to the Appeals Division of the NST<sup>81</sup>

The time to file an appeal to CAS or the NST shall be twenty-one (21) 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 (15) days from the notice of the decision, such party/ies shall have the right to request a copy of the full case file pertaining to the decision from the *Anti-Doping Organisation* that had *Results Management* authority;
- (b) If such a request is made within the fifteen (15) day period, then the party making the request shall have twenty-one (21) days from receipt of the file to file an appeal to CAS or to the Appeals Division of the NST.

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

- (a) Twenty-one (21) days after the last day on which any other party in the case could have appealed; or
- (b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision.

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<sup>81</sup> Paragraph 38(4)(a) of the NST Act provides that where the relevant anti-doping policy specifies a period within which an appeal may be made to the Appeals Division of the NST, the application must be made before the end of that period.

### **13.7 CAS Fees**

In the case of any appeals before CAS each party shall bear the arbitration costs in accordance with CAS Code of Sports-related Arbitration. Should it be found that no anti-doping rule violation has been committed, SIA shall reimburse the *Athlete* or *Other Person* their application fee and their portion of the arbitration costs. Each party shall otherwise bear their own costs.

## 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*.

If at any point during *Results Management* up until the anti-doping rule violation charge, the *Results Management Authority* decides not to move forward with a matter, it must notify the *Athlete* or *Other Person* (provided that the *Athlete* or *Other Person* had been already informed of the ongoing *Results Management*).

#### 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*.

If at any point during *Results Management* up until the anti-doping rule violation charge under Article 7 of the *International Standard for Results Management*, the *Results Management Authority* decides not to move forward with a matter, it must give notice (with reasons) to the *Anti-Doping Organisations* with a right of appeal under Article 13.2.3.

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

Notification of an anti-doping rule violation shall include: the *Athlete's* or *Other Person'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 Results Management*.

Notification of anti-doping rule violations other than under Article 2.1 shall also include 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 SIA, the *Sporting Administration Body* or other *Anti-Doping Organisation* has made *Public Disclosure* or has failed to make *Public Disclosure* as permitted by Article 14.3.<sup>82</sup>

### **14.2 Notice of Anti-Doping Rule Violation or Violations of *Ineligibility* or *Provisional Suspension* Decisions and Request for Files**

**14.2.1** Anti-doping rule violation decisions or decisions related to violations of *Ineligibility* or *Provisional Suspension* rendered pursuant to Article 7.6, 8.6, 10.5, 10.6, 10.7 10.14.3 or 13.5 shall include the full reasons for the decision, including, if applicable, a justification for why the maximum potential sanction was not imposed. Where the decision is not in English or French, SIA 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 (15) days of receipt, request a copy of the full case file pertaining to the decision.

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<sup>82</sup> Comment to Article 14.1.5: Part 8 of the SIA Act contains criminal offences for the disclosure of information by 'entrusted persons' other than as permitted by the SIA Act. This is defined by s 69 of the SIA Act to include the SIA CEO and staff, and contractors and consultants engaged by SIA, among others. SIA is also subject to the *Privacy Act 1988*, and the Australian Privacy Principles made under that Act.

### **14.3 Public Disclosure**

**14.3.1** After notice has been provided to the *Athlete* or *Other Person* in accordance with the *International Standard for Results Management*, and to the applicable *Anti-Doping Organisations* in accordance with Article 14.1.2, the identity of any *Athlete* or *Other Person* who is notified of a potential anti-doping rule violation, the *Prohibited Substance* or *Prohibited Method* and the nature of the violation involved, and whether the *Athlete* or *Other Person* is subject to a *Provisional Suspension* may be *Publicly Disclosed* by SIA or by the *Sporting Administration Body*, but only to the extent previously agreed by SIA.

SIA can agree to the *Sporting Administration Body* disclosing some or all of the following in relation to a potential anti-doping rule violation: the identity of the *Athlete* or *Other Person*, the *Prohibited Substance* or *Prohibited Method*, the nature of the violation or violations, and whether a *Provisional Suspension* has been imposed or accepted.

For the avoidance of doubt, SIA can refuse to agree to the *Sporting Administration Body Publicly Disclosing* any information under this Article 14.3.1.

**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, or the matter has been resolved under Article 10.8, or a new period of *Ineligibility*, or reprimand, has been imposed under Article 10.14.3, SIA and the *Sporting Administration Body* must *Publicly Disclose* 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. SIA and the *Sporting Administration Body* must also *Publicly Disclose* within twenty (20) days the results of final appeal decisions concerning anti-doping rule violations, including the information described above.

**14.3.3** After an anti-doping rule violation has been determined to have been committed in an appellate decision under Article 13.2.1 or 13.2.2 or such appeal has been waived, or in a hearing in accordance with Article 8 or

where such hearing has been waived, or the assertion of an anti-doping rule violation has not otherwise been timely challenged, or the matter has been resolved under Article 10.8, SIA and the *Sporting Administration Body* may make public such determination or decision and may comment publicly on the matter.

**14.3.4** 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 fact that the decision has been appealed may be *Publicly Disclosed*. However, the decision itself and the underlying facts may not be *Publicly Disclosed* except with the consent of the *Athlete* or *Other Person* who is the subject of the decision. SIA and the *Sporting Administration Body* shall use reasonable efforts to obtain such consent. If consent is obtained, SIA 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.

**14.3.5** Publication shall be accomplished at a minimum by placing the required information on SIA's website and leaving the information up for the longer of one (1) month or the duration of any period of *Ineligibility*.

**14.3.6** Except as provided in Articles 14.3.1 and 14.3.3, neither SIA, nor WADA-accredited laboratory, 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, or based on information provided by, the *Athlete*, *Other Person* or their entourage or other representatives.

**14.3.6(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 SIA commenting in response to their matter for the purposes of the SIA Act.

**14.3.7** The mandatory *Public Disclosure* 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*, *Protected Person*, or *Recreational Athlete*. Any optional *Public Disclosure* in a case involving a

*Minor, Protected Person, or Recreational Athlete* shall be proportionate to the facts and circumstances of the case.

## 14.4 Data Privacy

**14.4.1** SIA may collect, store, process or disclose personal information relating to *Athletes* and *Other Persons* collected in accordance with this Policy for the purposes of conducting its activities under the SIA Act, SIA 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*, and this Anti-Doping Policy as in force from time to time.<sup>83</sup>

**14.4.2** Any *Participant* who submits personal information to any *Person* in accordance with this Anti-Doping Policy shall be deemed to have agreed 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)*, SIA Act, SIA Regulations, the NAD scheme as in force from time to time, and otherwise as required to implement this Anti-Doping Policy.

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<sup>83</sup> For further information, see SIA's Athlete Privacy Policy: [www.sportintegrity.gov.au](http://www.sportintegrity.gov.au)

## ARTICLE 15 IMPLEMENTATION OF DECISIONS

### 15.1 Automatic Binding Effect of Decisions by *Signatory Anti-Doping Organisations*

- 15.1.1** A decision of an anti-doping rule violation made by a *Signatory Anti-Doping Organisation*, an appellate body (Article 13.2.2 of the Code) or CAS shall, after the parties to the proceeding are notified, automatically be binding beyond the parties to the proceeding upon *SIA* and the *Sporting Administration Body*, as well as every *Signatory* in every sport with the effects described below:
- 15.1.1.1** A decision by any of the above-described bodies imposing a *Provisional Suspension* (after a *Provisional Hearing* has occurred or the *Athlete* or *Other Person* has either accepted the *Provisional Suspension* or has waived the right to a *Provisional Hearing*, expedited hearing or expedited appeal offered in accordance with Article 7.4.3) automatically prohibits the *Athlete* or *Other Person* from participation (as described in Article 10.14.1) in all sports within the authority of any *Signatory* during the *Provisional Suspension*.
- 15.1.1.2** A decision by any of the above-described bodies imposing a period of *Ineligibility* (after a hearing has occurred or been waived) automatically prohibits the *Athlete* or *Other Person* from participation (as described in Article 10.14.1) in all sports within the authority of any *Signatory* for the period of *Ineligibility*.
- 15.1.1.3** A decision by any of the above-described bodies accepting an anti-doping rule violation automatically binds all *Signatories*.
- 15.1.1.4** A decision by any of the above-described bodies to *Disqualify* results under Article 10.10 for a specified period automatically *Disqualifies* all results obtained within the authority of any *Signatory* during the specified period.
- 15.1.2** *SIA* and the *Sporting Administration Body* shall recognise and implement a decision and its effects as required by Article 15.1.1, without any further action required, on the earlier of the date *SIA* receives actual notice of the decision or the date the decision is placed into *ADAMS*.



**15.1.3** A decision by an *Anti-Doping Organisation*, an appellate body or CAS to suspend, or lift, *Consequences* shall be binding upon SIA and the *Sporting Administration Body* without any further action required, on the earlier of the date SIA receives actual notice of the decision or the date the decision is placed into ADAMS.

**15.1.4** Notwithstanding any provision in Article 15.1.1, however, a decision of an anti-doping rule violation by a *Major Event Organisation* made in an expedited process during an *Event* shall not be binding on SIA or the *Sporting Administration Body* unless the rules of the *Major Event Organisation* provide the *Athlete* or *Other Person* with an opportunity to an appeal under non-expedited procedures.<sup>84</sup>

## **15.2 Implementation of Other Decisions by *Anti-Doping Organisations***

SIA and the *Sporting Administration Body* may decide to implement other anti-doping decisions rendered by *Anti-Doping Organisations* not described in Article 15.1.1 above, such as a *Provisional Suspension* prior to a *Provisional Hearing* or acceptance by the *Athlete* or *Other Person*.<sup>85</sup>

## **15.3 Implementation of Decisions by Body that is not a *Signatory***

An anti-doping decision by a body that is not a *Signatory* to the *Code* shall be implemented by SIA and the *Sporting Administration Body*, if SIA finds that the decision purports to be within the authority of that body and the anti-doping rules of that body are otherwise consistent with the *Code*.<sup>86</sup>

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<sup>84</sup> Comment to Article 15.1.4: By way of example, where the rules of the *Major Event Organisation* give the *Athlete* or *Other Person* the option of choosing an expedited CAS appeal or a CAS appeal under normal CAS procedure, the final decision or adjudication by the *Major Event Organisation* is binding on other *Signatories* regardless of whether the *Athlete* or *Other Person* chooses the expedited appeal option.

<sup>85</sup> Comment to Articles 15.1 and 15.2: *Anti-Doping Organisation* decisions under Article 15.1 are implemented automatically by other *Signatories* without the requirement of any decision or further action on the *Signatories'* part. For example, when a *Sporting Administration Body* decides to *Provisionally Suspend* an *Athlete*, that decision is given automatic effect at the *International Federation* level. To be clear, the "decision" is the one made by the *Sporting Administration Body*, there is not a separate decision to be made by the *International Federation*. Thus, any claim by the *Athlete* that the *Provisional Suspension* was improperly imposed can only be asserted against the *Sporting Administration Body*. Implementation of *Anti-Doping Organisations'* decisions under Article 15.2 is subject to each *Signatory's* discretion. A *Signatory's* implementation of a decision under Article 15.1 or Article 15.2 is not appealable separately from any appeal of the underlying decision. 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*.

<sup>86</sup> Comment to Article 15.3: Where the decision of a body that has not accepted the *Code* is in some respects *Code* compliant and in other respects not *Code* compliant, *Signatories* should attempt to apply the decision in harmony with the principles of the *Code*. For example, if in a process consistent with the *Code* a non-*Signatory* has found an *Athlete* to have committed an anti-doping rule violation on account of the presence of a *Prohibited Substance* in the *Athlete's* body but the period of *Ineligibility* applied is shorter than the period provided for in the *Code*, then all *Signatories* should recognise the finding of an anti-doping rule violation and the *Athlete's* *Sporting Administration Body* should conduct a hearing consistent with Article 8 to determine whether the longer period of *Ineligibility* provided in the *Code* should be imposed. A *Signatory's* implementation of a decision or its decision not to implement a decision under Article 15.3 is appealable under Article 13.

## **ARTICLE 16    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 17    *EDUCATION***

*SIA* shall plan, implement, evaluate and promote *Education* in line with the requirements of Article 18.2 of the *Code* and the *International Standard for Education*.

*SIA* will support the *Sporting Administration Body* to plan and implement an anti-doping *Education* program in line with Article 18.2 of the *Code*, the *International Standard for Education* and its *SIA Education Plan*.

The *Sporting Administration Body* shall support active participation by *Athletes* and *Other Persons* in such programs.

## **ARTICLE 18 INCORPORATION OF THIS ANTI-DOPING POLICY AND OBLIGATIONS OF THE *SPORTING ADMINISTRATION BODY***

**18.1** The *Sporting Administration Body* and its members shall comply with the *Code*, *International Standards*, and this Anti-Doping Policy. As set out in Article 1.1 above, the *Sporting Administration Body* is also required to comply with the *Sporting Administration Body* rules in clause 2.04 of the *NAD scheme*.

**18.2** The *Sporting Administration Body* shall accept and abide by the spirit and terms of Australia's National Anti-Doping Program and these Anti-Doping Rules as a condition of receiving financial and/or other assistance from the Australian Government.<sup>87</sup>

**18.3** The *Sporting Administration Body* will incorporate this Anti-Doping Policy either directly or by reference into its governing documents, constitution and/or rules as part of the rules of sport that bind their members so that the *Sporting Administration Body* or *SIA* (as the case may be) may enforce the anti-doping policy itself directly as against *Athletes* and *Other Persons* under the *Sporting Administration Body's* authority.

**18.4** By adopting this Anti-Doping Policy, and incorporating it into its governing documents and rules of sport, the *Sporting Administration Body* shall cooperate with and support *SIA* in that function. The *Sporting Administration Body* shall also recognise, abide by and implement the decisions made pursuant to this Anti-Doping Policy, including the decisions imposing sanctions on *Persons* under their authority.

**18.5** The *Sporting Administration Body* shall take appropriate action to enforce compliance with the *Code*, *International Standards*, and this Anti-Doping Policy by, among other things:

- (i) conducting *Testing* only under the documented authority of their International Federation and using *SIA* or another *Sample* collection authority to collect *Samples* in compliance with the *International Standard for Testing and Investigations*;
- (ii) recognising the authority of *SIA* in accordance with Article 5.2.1 of the *Code* and assisting as appropriate with the implementation of *SIA's Testing* program for their sport;

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<sup>87</sup> Comment to Article 18.2: *SIA* shall work cooperatively with its Government and *National Olympic Committee* to ensure that recognition of *SIA* and acceptance and application of these Anti-Doping Rules represents a pre-condition to a *National Federation's* receipt of any financial and/or other assistance from the Government and/or the *National Olympic Committee*.

- (iii) analysing all *Samples* collected using a WADA-accredited or WADA-approved laboratory in accordance with Article 6.1; and
- (iv) ensuring that any anti-doping rule violation cases discovered by the *Sporting Administration Body* are adjudicated by an *Operationally Independent* hearing panel in accordance with Article 8.1 and the *International Standard for Results Management*.

**18.6** 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 to the *Results Management* authority of any *Anti-Doping Organisation* in conformity with the *Code* as a condition of such participation.

**18.7** The *Sporting Administration Body* shall report any information suggesting or relating to an anti-doping rule violation to *SIA* and to the International Federation, and shall cooperate with investigations conducted by any *Anti-Doping Organisation* with authority to conduct the investigation.

**18.8** 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 *SIA* or the *Sporting Administration Body*.

**18.9** The *Sporting Administration Body* shall be required to conduct anti-doping *Education* in coordination with *SIA*.

## **ARTICLE 19 RESEARCH**

This Article has not been included by SIA.

## **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 SIA CEO under clause 2.04 of the *NAD scheme*.

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

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

**20.4** The headings 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.

**20.5** Where the term “days” is used in this Anti-Doping Policy, or in the *Code* or an *International Standard*, it shall mean calendar days unless otherwise specified.

**20.6** This Anti-Doping Policy has been adopted pursuant to the applicable provisions of the *Code* and the *International Standards* and shall be interpreted in a manner that is consistent with applicable provisions of the *Code* and the *International Standards*. The *Code*, including the Purpose, Scope and Organization of the World Anti-Doping Program (as outlined in the *Code*) and Appendix 1, Definitions, shall be considered integral parts of this Anti-Doping Policy and shall prevail in the case of conflict.

**20.7** 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 of this Anti-Doping Policy for subsequent post-*Code* violations.

**20.8** This Anti-Doping Policy shall come into effect on 1 January 2021 (the ‘Effective Date’), and supersedes any previous Anti-Doping Policy of the *Sporting Administration Body*. This Anti-Doping Policy shall not apply retroactively to matters pending before the Effective Date; provided, however, that:

**20.8.1** 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.

**20.8.2** 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, shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, and not by the substantive anti-doping rules set out in these Anti-Doping Rules, unless the panel hearing the case determines the principle of “lex mitior” appropriately applies under the circumstances of the case.

For these purposes, the retrospective periods in which prior violations can be considered for purposes of multiple violations under Article 10.9.4 and the statute of limitations set forth in Article 16 are procedural rules, not substantive rules, and should be applied retroactively along with all of the other procedural rules in these Anti-Doping Rules (provided, however, that Article 16 shall only be applied retroactively if the statute of limitations period has not already expired by the Effective Date).

**20.8.3** Any Article 2.4 whereabouts failure (whether a filing failure or a missed test, as those terms are defined in the *International Standard for Results Management*) prior to the Effective Date shall be carried forward and may be relied upon, prior to expiry, in accordance with the *International Standard for Results Management*, but it shall be deemed to have expired twelve (12) months after it occurred.

**20.8.4** 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.

**20.8.5** For purposes of assessing the period of *Ineligibility* for a second violation under Article 10.9.1, 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.<sup>88</sup>

**20.8.6** Changes to the *Prohibited List* and *Technical Documents* relating to substances or methods on the *Prohibited List* shall not, unless they specifically provide otherwise, be applied retroactively. As an exception, however, when a *Prohibited Substance* or a *Prohibited Method* has been removed from the *Prohibited List*, an *Athlete* or *Other Person* currently serving a period of *Ineligibility* on account of the formerly *Prohibited Substance* or *Prohibited Method* 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 the removal of the substance or method from the *Prohibited List*.

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<sup>88</sup> Comment to Article 20.8.5: Other than the situation described in Article 20.8.4, where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date and the period of *Ineligibility* imposed has been completely served, this Anti-Doping Policy may not be used to re-characterise the prior violation.

# ARTICLE 21 ADDITIONAL ROLES AND RESPONSIBILITIES OF *ATHLETES* AND OTHER *PERSONS*

## 21.1 Roles and Responsibilities of *Athletes*

- 21.1.1 To be knowledgeable of and comply with this Anti-Doping Policy.
- 21.1.2 To be available for *Sample* collection at all times.<sup>89</sup>
- 21.1.3 To take responsibility, in the context of anti-doping, for what they ingest and *Use*.
- 21.1.4 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.
- 21.1.5 To disclose to their International Federation and to *SIA* any decision by a non-*Signatory* finding that the *Athlete* committed an anti-doping rule violation within the previous ten (10) years.
- 21.1.6 To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations.
- 21.1.7 To disclose the identity of their *Athlete Support Personnel* upon request by any *Anti-Doping Organisation* with authority over the *Athlete*.

## 21.2 Roles and Responsibilities of *Athlete Support Personnel*

- 21.2.1 To be knowledgeable of and comply with this Anti-Doping Policy.
- 21.2.2 To cooperate with the *Athlete Testing* program.
- 21.2.3 To use their influence on *Athlete* values and behaviour to foster anti-doping attitudes.
- 21.2.4 To disclose to the International Federation and to *SIA* any decision by a non-*Signatory* finding that they committed an anti-doping rule violation within the previous ten (10) years.

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<sup>89</sup> Comment to Article 21.1.2: 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.

**21.2.5** To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations.<sup>90</sup>

**21.2.6** *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 may be a breach under the *Sporting Administration Body's* disciplinary rules or policies.

### **21.3 Roles and Responsibilities of *Other Persons***

**21.3.1** To be knowledgeable of and comply with this Anti-Doping Policy.

**21.3.2** To disclose to *SIA* and to the International Federation any decision by a non-*Signatory* finding that they committed an anti-doping rule violation within the previous ten (10) years.

**21.3.3** To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations.

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<sup>90</sup> Comment to Article 21.2.5: Failure to cooperate is not an anti-doping rule violation under the *Code*, but it may be the basis for disciplinary action under the rules of the *Sporting Administration Body*.

# APPENDIX 1 DEFINITIONS<sup>91</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*, establishes in a *Sample* the presence of a *Prohibited Substance* or its *Metabolites* or *Markers* 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*.

**Aggravating Circumstances:** Circumstances involving, or actions by, an *Athlete* or *Other Person* which may justify the imposition of a period of *Ineligibility* greater than the standard sanction. Such circumstances and actions shall include, but are not limited to: the *Athlete* or *Other Person Used* or *Possessed* multiple *Prohibited Substances* or *Prohibited Methods*, *Used* or *Possessed* a *Prohibited Substance* or *Prohibited Method* on multiple occasions or committed multiple other anti-doping rule violations; a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of *Ineligibility*; the *Athlete* or *Person* engaged in deceptive or obstructive conduct to avoid the detection or adjudication of an anti-doping rule violation; or the *Athlete* or *Other Person* engaged in *Tampering* during *Results Management*. For the avoidance of doubt, the examples of circumstances and conduct described herein are not exclusive and other similar circumstances or conduct may also justify the imposition of a longer period of *Ineligibility*.

**Anti-Doping Activities:** Anti-doping *Education* and information, test distribution planning, maintenance of a *Registered Testing Pool*, managing *Athlete Biological Passports*, conducting

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<sup>91</sup> Comment to Definitions: Defined terms shall include their plural and possessive forms, as well as those terms used as other parts of speech.

*Testing*, organising analysis of *Samples*, gathering of intelligence and conduct of investigations, processing of *TUE* applications, *Results Management*, monitoring and enforcing compliance with any *Consequences* imposed, and all other activities related to anti-doping to be carried out by or on behalf of an *Anti-Doping Organisation*, as set out in the *Code* and/or the *International Standards*.

**Anti-Doping Organisation:** WADA or 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*, International Federations, and *National Anti-Doping Organisations*. For the purposes of this Anti-Doping Policy, SIA is an *Anti-Doping Organisation*.

**Archives Act 1983 (Cth):** is the Commonwealth legislation that governs the retention and disposal of Commonwealth records. SIA'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.

**ASDMAC:** Australian Sports Drug Medical Advisory Committee constituted under the SIA 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 elected to exercise its authority to test and who competes below the international or national level, then the *Consequences* set out in the *Code* 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*.<sup>92</sup>

***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 Personnel:*** 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 to the *Privacy Act 1988* (Cth). *SIA* 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-metre 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

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<sup>92</sup> Comment to *Athlete*: Individuals who participate in sport may fall in one of five categories: 1) *International-Level Athlete*, 2) *National-Level Athlete*, 3) individuals who are not *International* or *National-Level Athletes* but over whom the International Federation or *National Anti-Doping Organisation* has chosen to exercise authority, 4) *Recreational Athlete*, and 5) individuals over whom no International Federation or *National Anti-Doping Organisation* has, or has chosen to, exercise authority. All *International-* or *National-Level Athletes* are subject to the anti-doping rules of the *Code*, with the precise definitions of international and national level sport to be set forth in the anti-doping rules of the International Federations and *National Anti-Doping Organisations*.

*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 10.14;
- (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* 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.

**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.

**Decision Limit**: The value of the result for a threshold substance in a *Sample*, above which an *Adverse Analytical Finding* shall be reported, as defined in the *International Standard for Laboratories*.

**Delegated Third Party**: Any *Person* to which *SIA* delegates any aspect of *Doping Control* or anti-doping *Education* programs including, but not limited to, third parties or other *Anti-Doping Organisations* that conduct *Sample* collection or other *Doping Control* services or anti-doping *Education* programs for *SIA*, or individuals serving as independent contractors who perform *Doping Control* services for *SIA* (e.g. non-employee *Doping Control* officers or chaperones). This definition does not include *CAS*.

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

**Domestic Testing Pool:** Is the pool of *Athletes* designated as such by SIA, who are neither in SIA's *Registered Testing Pool* nor SIA's *National Testing Pool* and who are subject to *Testing* both *In-Competition* and *Out-of-Competition* as part of SIA's test distribution plan.

**Doping Control:** All steps and processes from test distribution planning through to ultimate disposition of any appeal and the enforcement of *Consequences* including all steps and processes in between, including but not limited to, *Testing*, investigations, whereabouts, *TUEs*, *Sample* collection and handling, laboratory analysis, *Results Management* and investigations or proceedings relating to violations of Article 10.14 (*Status During Ineligibility or Provisional Suspension*).

**Education:** The process of learning to instill values and develop behaviors that foster and protect the spirit of sport, and to prevent intentional and unintentional doping.

**Education Plan:** The plan that outlines the required and recommended *Education* interventions for all members of the *Sporting Administration Body* across key integrity threats including doping.

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

**Event Venues:** Those venues so designated by the ruling body for 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 *Protected Person*, 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 10.6.1 or 10.6.2.<sup>93</sup>

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

**In-Competition:** The period commencing at 11:59 p.m. on the day 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*. Provided, however, WADA may approve, for a particular sport, an alternative definition if an International Federation provides a compelling justification that a different definition is necessary for its sport; upon such approval by WADA, the alternative definition shall be followed by all *Major Event Organisations* for that particular sport.<sup>94</sup>

**Independent Observer Program:** A team of observers and/or auditors, under the supervision of WADA, who observe and provide guidance on the *Doping Control* process prior to or during certain *Events* and report on their observations as part of WADA's compliance monitoring program.

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

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

**Institutional Independence:** Hearing panels on appeal shall be fully independent institutionally from the *Anti-Doping Organisation* responsible for *Results Management*. They must therefore not in any way be administered by, connected or subject to the *Anti-Doping Organisation* responsible for *Results Management*.

**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*.

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<sup>93</sup> Comment to *Fault*: 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 10.6.2, 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.

<sup>94</sup> Comment to *In-Competition*: Having a universally accepted definition for *In-Competition* provides greater harmonisation among *Athletes* across all sports, eliminates or reduces confusion among *Athletes* about the relevant timeframe for *In-Competition Testing*, avoids inadvertent *Adverse Analytical Findings* in between *Competitions* during an *Event* and assists in preventing any potential performance enhancement benefits from Substances prohibited *Out-of-Competition* being carried over to the *Competition* period.

**International-Level Athlete:** Athletes who compete in sport at the international level, as determined by each International Federation, consistent with the *International Standard for Testing and Investigations*.<sup>95</sup>

**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*.

**Lower-Level Athlete:** An Athlete who is neither a *National-Level Athlete* nor an *International-Level Athlete* nor a *Recreational Athlete*.

**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.

**Minimum Reporting Level:** The estimated concentration of a *Prohibited Substance* or its *Metabolite(s)* or *Marker(s)* in a *Sample* below which WADA-accredited laboratories should not report that *Sample* as an *Adverse Analytical Finding*.

**Minor:** A natural *Person* who has not reached the age of eighteen (18) years.

**NAD scheme:** The *National Anti-Doping scheme* which is contained in Schedule 1 to the *Sport Integrity Australia Regulations 2020* (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*, manage test results, and conduct *Results Management* at the national level. If this designation has not been made by the competent public authority(ies), the entity

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<sup>95</sup> Comment to *International-Level Athlete*: Consistent with the *International Standard for Testing and Investigations*, the International Federation is free to determine the criteria it will use to classify Athletes as *International-Level Athletes*, e.g., by ranking, by participation in particular *International Events*, by type of license, etc. However, it must publish those criteria in clear and concise form, so that Athletes are able to ascertain quickly and easily when they will become classified as *International-Level Athletes*. For example, if the criteria include participation in certain *International Events*, then the International Federation must publish a list of those *International Events*.

shall be the country's *National Olympic Committee* or its designee. In Australia, the *National Anti-Doping Organisation* is SIA.

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

**National Federation:** A national or regional entity in Australia 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:**

- (a) an *Athlete* in the SIA CEO's *Registered Testing Pool*, *National Testing Pool* or *Domestic Testing Pool*; or
- (b) an *Athlete* who participates in or prepares for a sporting event or sporting competition declared under clause 1.05A of the *NAD scheme* and published on the SIA website.

**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. In Australia, the *National Olympic Committee* is the Australian Olympic Committee.

**National Sports Tribunal (NST):** The Australian tribunal established by the *National Sports Tribunal Act 2019*(Cth).

**National Testing Pool:** is the pool of *Athletes* designated as such by SIA, who are neither in SIA's *Registered Testing Pool* nor SIA's *Domestic Testing Pool* and who are subject to testing both *In-Competition* and *Out-of-Competition* as part of SIA's test distribution plan and who may be asked for whereabouts information.

**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 *Protected Person* or *Recreational Athlete*, 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 *Protected Person* or *Recreational Athlete*, for any violation of Article 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

**Non-participant:** A *Person* who is neither an *Athlete* nor an *Athlete Support Person*, and who is bound by this Anti-Doping Policy.

**NST Act:** *The National Sports Tribunal Act 2019(Cth)*.

**Operational Independence:** This means that (1) board members, staff members, commission members, consultants and officials of the *Anti-Doping Organisation* with responsibility for *Results Management* or its affiliates (e.g., member federation or confederation), as well as any *Person* involved in the investigation and pre-adjudication of the matter cannot be appointed as members and/or clerks (to the extent that such clerk is involved in the deliberation process and/or drafting of any decision) of hearing panels of that *Anti-Doping Organisation* with responsibility for *Results Management* and (2) hearing panels shall be in a position to conduct the hearing and decision-making process without interference from the *Anti-Doping Organisation* or any third party. The objective is to ensure that members of the hearing panel or individuals otherwise involved in the decision of the hearing panel, are not involved in the investigation of, or decisions to proceed with, the case.

**Other Person:** Includes an *Athlete Support Person* or a *Non-participant*.

**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.

**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 *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>96</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*.

***Protected Person:*** An *Athlete* or other natural *Person* who at the time of the anti-doping rule violation: (i) has not reached the age of sixteen (16) years; (ii) has not reached the age of eighteen (18) years and is not included in any *Registered Testing Pool* and has never competed in any *International Event* in an open category; or (iii) for reasons other than age has been determined to lack legal capacity under applicable national legislation.<sup>97</sup>

***Provisional Hearing:*** For purposes of Article 7.4.3, 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>98</sup>

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

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

***Recreational Athlete:*** In Australia, *Recreational Athlete* is defined as set out in the Introduction to this Anti-Doping Policy (Section “Scope of this Anti-Doping Policy”).

***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

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<sup>96</sup> Comment to *Possession*: Under this definition, anabolic 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 anabolic steroids and intended to have control over them. Similarly, in the example of anabolic 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 anabolic steroids were in the cabinet and that the *Athlete* intended to exercise control over them. 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>97</sup> Comment to *Protected Person*: The *Code* treats *Protected Persons* differently than other *Athletes* or *Persons* in certain circumstances based on the understanding that, below a certain age or intellectual capacity, an *Athlete* or *Other Person* may not possess the mental capacity to understand and appreciate the prohibitions against conduct contained in the *Code*. This would include, for example, a Paralympic *Athlete* with a documented lack of legal capacity due to an intellectual impairment. The term “open category” is meant to exclude competition that is limited to junior or age group categories.

<sup>98</sup> Comment to *Provisional Hearing*: 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 7.4.3, is a full hearing on the merits conducted on an expedited time schedule.

*Samples*, the management of results, the review of *TUEs*, the conduct of hearings, and the conduct of *Educational* programs at a regional level.

**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 5.5 of the *Code* and the *International Standard for Testing and Investigations*. In Australia, SIA's *Registered Testing Pool* is defined as set out in Article 5.5 of this Anti-Doping Policy.

**Results Management:** The process encompassing the timeframe between notification as per Article 5 of the *International Standard for Results Management*, or in certain cases (e.g., Atypical Finding, Athlete Biological Passport, whereabouts failure), such pre-notification steps expressly provided for in Article 5 of the *International Standard for Results Management*, through the charge until the final resolution of the matter, including the end of the hearing process at first instance or on appeal (if an appeal was lodged).

**Results Management Authority:** The *Anti-Doping Organisation* responsible for conducting *Results Management* in a given case.

**Sample or Specimen:** Any biological material collected for the purposes of *Doping Control*.<sup>99</sup>

**SIA:** Sport Integrity Australia.

**SIA Act:** The *Sport Integrity Australia Act 2020* (Cth).

**SIA Regulations:** The *Sport Integrity Australia Regulations 2020* (Cth) (the *National Anti-Doping scheme* is contained in Schedule 1 to the Regulations).

**Signatories:** Those entities accepting the *Code* and agreeing to implement the *Code*, as provided in Article 23 of the *Code*.

**Specified Method:** See Article 4.2.2.

**Specified Substance:** See Article 4.2.2.

**Sport:** The *Sporting Administration Body* who is party to this Anti-Doping Policy.

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<sup>99</sup> Comment *Sample or Specimen*: 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.

**Sporting Administration Body:** A *Sporting Administration Body* as defined by the SIA Act.

**Sporting administration body Rules:** The *Sporting Administration Body Rules* as contained in the NAD scheme. Definitions from the NAD scheme are to be used when interpreting the *Sporting Administration Body Rules*.

**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.

**Substance of Abuse:** See Article 4.2.3.

**Substantial Assistance:** For purposes of Article 10.7.1, a *Person* providing *Substantial Assistance* must: (1) fully disclose in a signed written statement or recorded interview all information he or she possesses in relation to anti-doping rule violations or other proceeding described in Article 10.7.1.1, and (2) fully cooperate with the investigation and adjudication of any case or matter 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 or proceeding which is initiated or, if no case or proceeding is initiated, must have provided a sufficient basis on which a case or proceeding could have been brought.

**Tampering:** Intentional 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, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a *Sample*, affecting or making impossible the analysis of a *Sample*, falsifying documents submitted to an *Anti-Doping Organisation* or *TUE* committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the *Anti-Doping Organisation* or hearing body to affect *Results Management* or the imposition of *Consequences*, and any other similar intentional interference or *Attempted* interference with any aspect of *Doping Control*.<sup>100</sup>

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

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<sup>100</sup> Comment to *Tampering*: 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, altering a *Sample* by the addition of a foreign substance, or intimidating or attempting to intimidate a potential witness or a witness who has provided testimony or information in the *Doping Control* process. *Tampering* includes misconduct which occurs during the *Results Management* process. See Article 10.9.3.3. However, actions taken as part of a *Person's* legitimate defense to an anti-doping rule violation charge shall not be considered *Tampering*. Offensive conduct towards a *Doping Control* official or other *Person* involved in *Doping Control* which does not otherwise constitute *Tampering* shall be addressed in the disciplinary rules of sport organisations.

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

**Technical Document:** A document adopted and published by WADA from time to time containing mandatory technical requirements on specific anti-doping topics as set forth in an *International Standard*.

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

**Testing Authority:** The *Anti-Doping Organisation* that authorises *Testing* on *Athletes* it has authority over. It may authorise a *Delegated Third Party* to conduct *Testing* pursuant to the authority of and in accordance with the rules of the *Anti-Doping Organisation*. Such authorisation shall be documented. The *Anti-Doping Organisation* authorising *Testing* remains the *Testing Authority* and ultimately responsible under the *Code* to ensure the *Delegated Third Party* conducting the *Testing* does so in compliance with the requirements of the *International Standard for Testing and Investigations*.

**Therapeutic Use Exemption (TUE):** A *Therapeutic Use Exemption* allows an *Athlete* with a medical condition to Use a *Prohibited Substance* or *Prohibited Method*, but only if the conditions set out in Article 4.4 and the *International Standard for Therapeutic Use Exemptions* are met.

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

**Without Prejudice Agreement:** For purposes of Articles 10.7.1.1 and 10.8.2, a written agreement between an *Anti-Doping Organisation* and an *Athlete* or *Other Person* that allows the *Athlete* or *Other Person* to provide information to the *Anti-Doping Organisation* in a defined time-limited setting with the understanding that, if an agreement for *Substantial Assistance* or a case resolution agreement is not finalised, the information provided by the *Athlete* or *Other Person* in this particular setting may not be used by the *Anti-Doping Organisation* against the *Athlete* or *Other Person* in any *Results Management* proceeding under the *Code*, and that the information provided by the *Anti-Doping Organisation* in this particular setting may not be used by the *Athlete* or *Other Person* against the *Anti-Doping Organisation* in any *Results Management* proceeding under the *Code*. Such an agreement shall not preclude the *Anti-Doping Organisation*, *Athlete* or *Other Person* from using any information or evidence gathered from any source other than during the specific time-limited setting described in the agreement.