



# **Australian Sports Drug Agency Amendment Act 2004**

**No. 24, 2004**

**An Act to amend the *Australian Sports Drug Agency  
Act 1990*, and for related purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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## Contents

1	Short title .....	1
2	Commencement .....	2
3	Schedule(s) .....	2
<b>Schedule 1—Australian Sports Drug Agency Act 1990</b>		<b>3</b>
Part 1—Amendments		3
Part 2—Transitional provisions		22





# Australian Sports Drug Agency Amendment Act 2004

No. 24, 2004

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## An Act to amend the *Australian Sports Drug Agency Act 1990*, and for related purposes

[Assented to 25 March 2004]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Australian Sports Drug Agency Amendment Act 2004*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	25 March 2004
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	30 July 2004 ( <i>Gazette</i> 2004, No. GN28)

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Australian Sports Drug Agency Act 1990**

### **Part 1—Amendments**

#### **1 Subsection 2(1) (definition of *analytical investigative body*)**

Omit “an International Sporting Federation”, substitute “a sporting administration body”.

#### **2 Subsection 2(1)**

Insert:

*International Standard* means an International Standard adopted by WADA in support of the World Anti-Doping Code and, unless a contrary intention appears, means that Standard as in force from time to time.

#### **3 Subsection 2(1)**

Insert:

*NADO* means a National Anti-Doping Organization as defined in the World Anti-Doping Code.

#### **4 Subsection 2(1)**

Insert:

*negative test result*, in relation to a competitor, means a finding that satisfies the following paragraphs:

- (a) the finding is made by means of testing a sample provided by the competitor;
- (b) the testing is:
  - (i) by an accredited laboratory; or
  - (ii) using analytical techniques and equipment specified in a drug testing scheme;
- (c) the finding is not a positive test result.

## 5 Subsection 2(1)

Insert:

***positive test result***, in relation to a competitor who competes in a particular field of sporting activity, means a finding that satisfies the following paragraphs:

- (a) the finding is made by means of testing a sample provided by the competitor;
- (b) the testing:
  - (i) reveals the presence of a scheduled drug in the sample or otherwise reveals the use by the competitor of a scheduled drug; or
  - (ii) reveals the use by the competitor of a scheduled doping method;
- (c) if the schedule of the drug testing scheme (the ***governing scheme***) that includes the drug or doping method sets out a permitted level in relation to that drug or doping method and that field of sporting activity—the testing reveals that the permitted level has been exceeded;
- (d) the testing is:
  - (i) by an accredited laboratory; or
  - (ii) using analytical techniques and equipment specified in the governing scheme.

## 6 Subsection 2(1)

Insert:

***scheduled doping method*** means a doping method included in a schedule set out in a drug testing scheme.

## 7 Subsection 2(1)

Insert:

***scheduled drug*** means a drug included in a schedule set out in a drug testing scheme.

## 8 Subsection 2(1) (definition of ***scheduled drug or doping method***)

Repeal the definition, substitute:



*scheduled drug or doping method* means a scheduled drug or a scheduled doping method.

**9 Subsection 2(1) (after paragraph (a) of the definition of *sporting administration body*)**

Insert:

(aa) WADA; or

(ab) a NADO; or

**10 Subsection 2(1) (paragraph (e) of the definition of *sporting administration body*)**

After “paragraph (a),”, insert “ (aa), (ab),”.

**11 Subsection 2(1)**

Insert:

*sports drug matter* has the meaning given by subsection 4A(2).

**12 Subsection 2(1)**

Insert:

*tampers*, in relation to a sports drug matter, has the meaning given by subsection 4A(1).

**13 Subsection 2(1) (definition of *therapeutic approval body*)**

Omit “an International Sporting Federation”, substitute “a sporting administration body”.

**14 Subsection 2(1)**

Insert:

*WADA* means the World Anti-Doping Agency established in November 1999 under the law of Switzerland.

Note: The Agency was established following a resolution by the World Conference on Doping in Sport convened by the International Olympic Committee in Lausanne in February 1999.

**15 Subsection 2(1)**

Insert:

***World Anti-Doping Code*** means the World Anti-Doping Code adopted by the Foundation Board of WADA on 5 March 2003 at Copenhagen and, unless a contrary intention appears, means that Code as in force from time to time.

Note: In 2004, the text of the World Anti-Doping Code was accessible on the Internet through the web site of the World Anti-Doping Agency ([www.wada-ama.org](http://www.wada-ama.org)).

## **16 After section 4**

Insert:

### **4A People tampering with sports drug matters**

- (1) For the purposes of this Act, a person ***tampers*** with a sports drug matter if the person causes, arranges or participates in any of the following conduct:
  - (a) altering, or attempting to alter, for an improper purpose;
  - (b) bringing, or attempting to bring, improper influence to bear;
  - (c) interfering, or attempting to interfere, improperly to:
    - (i) alter results; or
    - (ii) prevent normal procedures from occurring;in relation to that sports drug matter.
- (2) For the purposes of this Act, a ***sports drug matter*** is any of the following matters:
  - (a) the requesting, collection or handling of samples, or information, under any of the following:
    - (i) a drug testing scheme;
    - (ii) an arrangement covered by subsection 17ZC(1);
    - (iii) a contract entered into by the Agency for the provision of drug testing services or safety checking services;
    - (iv) Part 3A (including procedures described in section 17Z);
  - (b) the testing of samples under any of the following, the results of those tests or the handling of the results of those tests:
    - (i) a drug testing scheme;
    - (ii) an arrangement covered by subsection 17ZC(1);
    - (iii) a contract entered into by the Agency for the provision of drug testing services or safety checking services;

- (iv) Part 3A (including procedures described in section 17Z);
  - (c) the requesting by the Agency of an arrangement covered by subsection 17ZC(1);
  - (d) the handling under this Act of information relating to a matter covered by a drug testing scheme (not being information covered by paragraph (e));
  - (e) the handling under this Act of information relating to a matter covered by:
    - (i) an arrangement covered by subsection 17ZC(1)); or
    - (ii) a drug testing scheme as a result of such an arrangement;
  - (f) the handling of information under section 67B.
- (3) In this section:

*handling*, in relation to information, includes disclosing, communicating, notifying and making publicly available.

#### **17 Paragraph 9(2)(a)**

After “drugs”, insert “or doping methods”.

#### **18 After paragraph 11(2)(c)**

Insert:

- (ca) authorises the Agency to request a competitor to keep the Agency informed of where the competitor can be found; and

#### **19 After paragraph 11(2)(f)**

Insert:

- (fa) requires the Agency to enter the name of a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the circumstance that the competitor deliberately evaded an attempt by the Agency to make a request of the kind mentioned in paragraph (c); and
- (fb) requires the Agency to enter the name of a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the circumstance that the competitor failed to comply with a request of the kind mentioned in paragraph (ca); and

- (fc) requires the Agency to enter the name of a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the following circumstances:
  - (i) the competitor failed to comply with a request of the kind mentioned in paragraph (ca);
  - (ii) but for this failure, the Agency would have made a request of the kind mentioned in paragraph (c) to the competitor; and
- (fd) requires the Agency to enter the name of a competitor on that Register if the competitor tampered with a sports drug matter covered by subparagraph 4A(2)(a)(i) or (b)(i) or paragraph 4A(2)(d); and

**20 Paragraph 11(2)(g)**

Omit “(e) or (f)”, substitute “(e), (f), (fa), (fb), (fc) or (fd)”.

**21 At the end of paragraph 11(2)(h)**

Add:

- (iii) for an entry of the kind mentioned in paragraph (fd)—each relevant national sporting organisation, and relevant sporting organisation, in relation to each competitor whose interests may have been affected by the tampering; and

**22 Subsection 11(2) (note 2)**

Repeal the note.

**23 After subsection 11(3)**

Insert:

- (3A) Circumstances specified for the purposes of paragraph (2)(fa), (fb) or (fc) may differ according to the fields of sporting activities in which competitors compete.

**24 Subsection 11(4)**

After “(3)”, insert “or (3A)”.

**25 Subsection 11(5)**

Repeal the subsection, substitute:

*Applying, adopting or incorporating matters contained in the World Anti-Doping Code, International Standards or other instruments*

- (5) A drug testing scheme may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any of the following, whether as in force at a particular time, or as amended and in force from time to time:
- (a) the World Anti-Doping Code;
  - (b) an International Standard;
  - (c) any other instrument made by a sporting administration body.

## **26 Paragraph 12(c)**

Repeal the paragraph, substitute:

- (c) after providing the sample, the competitor fails to do anything in relation to the sample that is required by the scheme to be done by the competitor.

Note: The heading to section 12 is altered by adding at the end “**to provide a sample**”.

## **27 Paragraph 13(1)(b)**

Repeal the paragraph, substitute:

- (b) a competitor has returned a positive test result in relation to a sample and the competitor did not have an approval for the use of the drug concerned for therapeutic purposes;
- (c) a competitor has returned a positive test result in relation to a sample and the competitor had an approval for the use of the drug concerned for therapeutic purposes but did not comply with the conditions of that approval.

## **28 Subsection 13(1) (note)**

Repeal the note.

## **29 After subsection 13(1)**

Insert:

- (1A) In specifying a circumstance as mentioned in paragraph (1)(b) or (c), a drug testing scheme may, for example, provide that an

approval for the use of a drug for therapeutic purposes only counts if it was granted:

- (a) by ASDMAC; or
- (b) by a therapeutic approval body; or
- (c) as a result of a review or appeal (or similar process) that relates directly or indirectly to a decision of ASDMAC or a therapeutic approval body.

### **30 Section 14**

Repeal the section.

### **31 Subsection 15(2)**

Omit “the Agency to provide a sample.”, substitute:  
the Agency:

- (a) to provide a sample; or
- (b) to keep the Agency informed of where the competitor can be found.

### **32 Subsection 16(3)**

Omit all the words from and including “the Agency must”, substitute:  
the Agency must, as soon as practicable, give notice of that fact (the *review decision*) as follows:

- (c) if the Agency notified a person, organisation or body of the making of the entry—the Agency must give written notice of the review decision to the person, organisation or body;
- (d) if the Agency made information relating to the entry publicly available under provisions of a drug testing scheme covered by section 17BB—the Agency must give public notice of the review decision by the same means as was used to make the information publicly available.

### **33 Section 17**

After “11(2)(c)” (wherever occurring), insert “or (ca)”.

Note: The heading to section 17 is altered by inserting “, or keep informed of location,” after “sample”.

### **34 Paragraphs 17B(1)(c) and (d)**

Repeal the paragraphs.

**35 At the end of paragraph 17B(1)(e)**

Add “of the sample”.

**36 At the end of subsection 17B(1)**

Add:

- ; or (f) any evasion by the competitor of an attempt to make a request of the kind mentioned in paragraph 11(2)(c) or 17ZC(1)(a); or
- (g) any failure by the competitor to provide information about where the competitor can be found; or
- (h) the inability, because of a failure of the kind mentioned in paragraph (g), of the Agency or a sporting administration body to make a request of the kind mentioned in paragraph (f); or
- (i) any tampering by the competitor with a sports drug matter covered by subparagraph 4A(2)(a)(i) or (ii) or (b)(i) or (ii), or paragraph 4A(2)(c), (d) or (e).

**37 Subsection 17B(2)**

Repeal the subsection, substitute:

- (2) A drug testing scheme may permit the Agency to disclose information to one or more specified sporting administration bodies if:
  - (a) the information relates to any of the following circumstances that the Agency knows or has reason to believe has occurred:
    - (i) a competitor failed to comply with a request of the kind mentioned in paragraph 11(2)(c) or 17ZC(1)(a);
    - (ii) a competitor returned a positive test result in relation to a sample provided pursuant to a request of the kind mentioned in subparagraph (i);
    - (iii) a competitor deliberately evaded an attempt to make a request of the kind mentioned in subparagraph (i);
    - (iv) a competitor failed to provide information to the Agency or a sporting administration body about where the competitor can be found;
    - (v) because of a failure referred to in subparagraph (iv) by a competitor, the Agency or a sporting administration

body was unable to make a request of the kind mentioned in subparagraph (i) to the competitor;

- (vi) a competitor tampered with a sports drug matter covered by subparagraph 4A(2)(a)(i) or (ii) or (b)(i) or (ii), or paragraph 4A(2)(c), (d) or (e); and
- (b) the Agency has not yet decided whether or not an entry should be made on the Register of Notifiable Events for the drug testing scheme in relation to that circumstance; and
- (c) the Agency has taken reasonable steps to satisfy itself that the information will not be used or disclosed by the body, or any of the bodies, in a way that would be unfairly prejudicial to the interests of the competitor.

(2A) If:

- (a) the Agency discloses information to a sporting administration body under provisions of a drug testing scheme covered by subsection (2); and
- (b) the Agency later decides that an entry should not be made on the Register of Notifiable Events for the scheme in relation to the circumstance concerned;

the Agency must, as soon as practicable, notify the sporting administration body of that decision.

Note: The heading to section 17B is replaced by the heading “**Disclosure to sporting administration bodies of information relating to circumstances that have led or may lead to an entry being made in the Register**”.

### **38 Subsection 17B(5)**

Repeal the subsection, substitute:

- (5) Nothing in this section limits, or is limited by, any other provision of this Act or a drug testing scheme under which the Agency is required or permitted to disclose information.

### **39 After section 17B**

Insert:

#### **17BA Disclosure to sporting administration bodies of information for the purposes of drug testing programs**

- (1) This section applies to:



- (a) information relating to the testing, or attempted testing, of competitors under drug testing schemes or under arrangements covered by subsection 17ZC(1); and
  - (b) information relating to decisions of ASDMAC to approve, or to refuse to approve, the use of scheduled drugs for therapeutic purposes; and
  - (c) information provided to the Agency under drug testing schemes relating to where competitors can be found.
- (2) Subject to subsection (3), a drug testing scheme may permit the Agency or ASDMAC to disclose information to which this section applies to one or more sporting administration bodies for the purposes of one or more drug testing programs.
- (3) A drug testing scheme must not permit the Agency or ASDMAC to disclose information for the purposes of one or more drug testing programs unless the Agency or ASDMAC has taken reasonable steps to satisfy itself that the information disclosed will not be used or disclosed for other purposes.
- (4) Without limiting subsection (2) or (3), a drug testing scheme may limit the circumstances in which disclosures may occur, including, for example, by:
  - (a) limiting the sporting administration bodies to which information may be disclosed; or
  - (b) limiting the drug testing programs for the purposes of which information may be disclosed.
- (5) Nothing in this section limits, or is limited by, any other provision of this Act or a drug testing scheme under which the Agency or ASDMAC is required or permitted to disclose information.
- (6) In this section:

***drug testing program*** means a program for the testing of people who participate in sports, to determine whether they are using particular drugs or doping methods.

**17BB Public disclosure of information relating to entries in a Register**

- (1) This section applies to information relating to entries concerning competitors that are made on the Register of Notifiable Events for a drug testing scheme.
- (2) A drug testing scheme may permit the Agency to make information to which this section applies publicly available.
- (3) Nothing in this section limits, or is limited by, any other provision of this Act or a drug testing scheme under which the Agency is required or permitted to disclose information.

**40 Subsection 17C(2)**

Omit “11(2)(f)”, substitute “11(2)(f), (fa), (fb) or (fc)”.

**41 Paragraph 17J(a)**

After “safety checking services”, insert “, or the way in which the Agency may provide services under such contracts”.

**42 Subsection 17ZA(1)**

After “making”, insert “, or attempted making,”.

**43 Paragraphs 17ZA(1)(c) and (d)**

Repeal the paragraphs.

**44 At the end of paragraph 17ZA(1)(e)**

Add “of the sample”.

**45 At the end of subsection 17ZA(1)**

Add:

- ; or (f) any evasion by the competitor of the attempt by the Agency to make the request; or
- (g) the inability of the Agency to make the request because the competitor could not be found using information available to the Agency; or
- (h) any tampering by the competitor with a sports drug matter covered by subparagraph 4A(2)(a)(iv) or (b)(iv).

**46 Paragraph 17ZB(a)**

After “safety checking services”, insert “, or the way in which the Agency may provide services under such contracts”.

**47 Paragraph 17ZC(1)(c)**

After “making”, insert “, or attempted making,”.

**48 Subparagraph 17ZC(1)(c)(iv)**

Repeal the subparagraph.

**49 At the end of subparagraph 17ZC(1)(c)(v)**

Add “of the sample”.

**50 At the end of paragraph 17ZC(1)(c)**

Add:

- ; or (vi) any failure by the person to keep the sporting administration body informed of where the person can be found; or
- (vii) the inability, because of a failure of the kind mentioned in subparagraph (vi), of the sporting administration body to make the request; or
- (viii) any tampering by the person with a sports drug matter covered by subparagraph 4A(2)(a)(ii) or (b)(ii).

**51 Subsection 17ZC(2)**

Repeal the subsection, substitute:

- (2) A drug testing scheme may, in relation to the Register of Notifiable Events for that scheme:
  - (a) authorise the Agency to enter the name of a competitor on that Register if the competitor fails, without reasonable cause, to comply with a request of the kind mentioned in paragraph (1)(a); and
  - (b) authorise the Agency to enter the name of a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the circumstance that the competitor has returned a positive test result in relation to a sample provided pursuant to such a request; and

- (c) authorise the Agency to enter the name of a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the circumstance that the competitor deliberately evaded an attempt to make such a request; and
- (d) authorise the Agency to enter the name of a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the circumstance that the competitor failed to keep the sporting administration body informed of where the competitor can be found; and
- (e) authorise the Agency to enter the name of a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the following circumstances:
  - (i) the competitor failed to keep the sporting administration body informed of where the competitor can be found;
  - (ii) but for this failure, the body would have made a request of the kind mentioned in paragraph (1)(a) to the competitor; and
- (f) authorise the Agency to enter the name of a competitor on that Register if the competitor tampered with a sports drug matter covered by subparagraph 4A(2)(a)(ii) or (b)(ii) or paragraph 4A(2)(c) or (e); and
- (g) authorise the Agency to enter, on that Register, specified particulars relating to a competitor referred to in another paragraph of this subsection.

## **52 Subsection 17ZC(4)**

After “(2)(b)”, insert “, (c), (d) or (e)”.

## **53 After subsection 17ZC(6)**

Insert:

- (6A) Circumstances specified for the purposes of paragraph (2)(c), (d) or (e) may differ according to the fields of sporting activities in which competitors compete.

## **54 Subsection 17ZC(7)**

After “(6)”, insert “or (6A)”.

**55 Subsection 17ZC(9)**

Repeal the subsection.

**56 Paragraph 17ZD(a)**

After “safety checking services”, insert “, or the way in which the Agency may provide services under such contracts”.

**57 Subsection 18(2AA)**

Repeal the subsection.

**58 Paragraph 65C(2)(b)**

Omit “paragraph 13(1)(b)”, substitute “paragraphs 13(1)(b) and (c) and subsection 13(1A)”.

**59 After paragraph 65C(2)(b)**

Insert:

- (ba) participating in reviews or appeals (or similar processes) that relate directly or indirectly to decisions of ASDMAC approving, or refusing to approve, the use of scheduled drugs for therapeutic purposes;

**60 At the end of subsection 65C(2)**

Add:

- ; (d) disclosing information, for the purposes of drug testing programs, to sporting administration bodies (see section 17BA).

**61 Paragraph 66(1)(a)**

After “International Olympic Committee”, insert “or WADA”.

**62 Section 67B**

Repeal the section, substitute:

**67B Notifying sporting administration bodies about tampering with sports drug matters**

- (1) The Agency may notify a sporting administration body of circumstances that the Agency knows or has reason to believe involve a person tampering with a sports drug matter if:
  - (a) that body is connected with a field of sporting activity in which the person is involved; or
  - (b) that body is a relevant national sporting organisation, or relevant sporting organisation, in relation to a sporting participant whose interests may have been affected by the tampering.

Note: For example, the Agency could notify a participant's sporting administration body if the coach of a rival participant tampered with a sample provided by the first-mentioned participant.

- (2) For the purposes of this section, the definitions of *relevant national sporting organisation* and *relevant sporting organisation* in subsection 2(1) have effect as if a reference in those definitions to a competitor included a reference to a sporting participant.
- (3) Nothing in this section limits, or is limited by, any other provision of this Act or a drug testing scheme under which the Agency is required or permitted to disclose information.
- (4) In this section:  
*sporting participant* means:
  - (a) a competitor; or
  - (b) any other participant in a sporting activity.

**67BA Disclosing information about various matters related to use of scheduled drugs and doping methods etc.**

- (1) This section applies to information that relates, or appears to relate, to any of the following:
  - (a) the use by a person of a scheduled drug or doping method;
  - (b) the possession by a person of a scheduled drug or doping method;
  - (c) trafficking by a person in a scheduled drug or doping method;

- (d) the administration by a person of a scheduled drug or doping method;
  - (e) a person attempting to engage in any conduct referred to in paragraphs (a) to (d);
  - (f) a person aiding, abetting, covering up, or being involved in any other type of complicity relating to, any conduct referred to in paragraphs (a) to (e).
- (2) The Agency may disclose information to which this section applies to:
- (a) a sporting administration body specified for the purposes of this section in a drug testing scheme whose schedule of drugs and doping methods includes the drug or doping method to which the information relates; or
  - (b) the Australian Federal Police; or
  - (c) the Australian Customs Service.
- (3) Nothing in this section limits, or is limited by, any other provision of this Act or a drug testing scheme under which the Agency is required or permitted to disclose information.
- (4) In this section:

***possession***, when used in relation to a doping method, means possession of skills, knowledge, substances, equipment or technology necessary to engage in, or that can be used to engage in, the doping method.

***trafficking*** means:

- (a) selling, giving, transporting, sending, delivering or distributing; and
- (b) when used in relation to a doping method, means trafficking (as defined in paragraph (a)) in skills, knowledge, substances, equipment or technology necessary to engage in, or that can be used to engage in, the doping method.

#### **67BB Public disclosure of information relating to negative test results**

- (1) This section applies to information relating to the return, by competitors, of negative test results.

- (2) The Agency may make information to which this section applies publicly available in any way it thinks appropriate.
- (3) Nothing in this section limits, or is limited by, any other provision of this Act or a drug testing scheme under which the Agency is required or permitted to disclose information.

**63 Subparagraph 67C(1)(d)(ii)**

Repeal the subparagraph.

**64 At the end of paragraph 67C(1)(d)**

Add:

- ; or (iv) any evasion by the competitor of an attempt to make a request of the kind mentioned in paragraph 11(2)(c) or 17ZC(1)(a); or
- (v) any failure by the competitor to provide information about where the competitor can be found; or
- (vi) the inability, because of a failure of the kind mentioned in subparagraph (v), of the Agency or a sporting administration body to make a request of the kind mentioned in subparagraph (iv); or
- (vii) any tampering by the competitor with a sports drug matter covered by subparagraph 4A(2)(a)(i) or (ii) or (b)(i) or (ii), or paragraph 4A(2)(c), (d) or (e).

**65 Paragraph 67C(2)(b)**

After “requests”, insert “, or attempts to request,”.

**66 Subsection 67C(2)**

After “out of the request,”, insert “or attempted request,”.

**67 Paragraph 67C(2)(d)**

Repeal the paragraph.

**68 At the end of subsection 67C(2)**

Add:

- ; or (f) any evasion by the person of the attempt by the Agency to make the request; or



- (g) any failure by the person to keep the Agency informed of where the person can be found; or
- (h) the inability, because of a failure of the kind mentioned in paragraph (g), of the Agency to make the request; or
- (i) any tampering by the person with a sports drug matter covered by subparagraph 4A(2)(a)(iii) or (b)(iii).

**69 After section 72**

Insert:

**72A Operation of *Privacy Act 1988* is not affected**

Nothing in this Act or a drug testing scheme limits the operation of the *Privacy Act 1988*.

## Part 2—Transitional provisions

### 70 Certain amendments apply to all drug testing schemes

Subject to the other items in this Part, the amendments made by items in Part 1 of this Schedule that affect the matters that must or may be dealt with in a drug testing scheme, or that affect how a matter must or may be dealt with in a drug testing scheme, apply in relation to all drug testing schemes, whether formulated before or after the commencement of those items.

### 71 Certain amendments do not authorise disclosure of information held before the commencement of the amendments

The amendments made by items in Part 1 of this Schedule that affect the disclosure (however described) of information by the Agency or ASDMAC do not apply in relation to information held by the Agency or ASDMAC before the commencement of those items.

### 72 Certain amendments do not apply to conduct that occurred before the commencement of the amendments

The amendments made by items in Part 1 of this Schedule that relate to any of the following circumstances:

- (a) a person evading a request to provide a sample;
- (b) a person failing to comply with a request to provide information about where he or she can be found;
- (c) a request to provide a sample not being able to be made to a person because of a failure by the person to provide information about where he or she can be found;
- (d) a person tampering with a sports drug matter;

do not apply in relation to any such circumstance that occurred before the commencement of those items.

**73 Certain amendments apply to contracts entered into before or after the commencement of the amendments**

The amendments made by items 41, 46 and 56 apply in relation to contracts, whether entered into before or after the commencement of those items.

**74 Certain amendments do not apply to samples requested before the commencement of the amendments**

The amendments made by items 4, 5, 30, 55 and 57 do not apply in relation to samples requested before the commencement of those items.

**75 Continued effect of certain regulations**

Regulations:

- (a) in force immediately before the commencement of an item in Part 1 of this Schedule; and
- (b) that were so in force for the purposes of a provision of the *Australian Sports Drug Agency Act 1990* that is amended by that item;

have effect after that commencement as if they were made for the purposes of that provision as so amended.

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*[Minister's second reading speech made in—  
House of Representatives on 19 February 2004  
Senate on 11 March 2004]*