**Australian Sports Drug Agency Amendment Act 1996**

**No. 20, 1996**

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

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| Contents |
| 1 | Short title ……………………………… | 615 |
| 2 | Commencement ……………………………… | 616 |
| 3 | Schedule(s) ……………………………… | 616 |
| Schedule 1—Amendment of the Australian Sports Drug Agency Act 1990 | 617 |

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[*Assented to 28 June 1996*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Australian Sports Drug Agency Amendment Act 1996.*

**2 Commencement**

(1) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent.

(2) Subject to subsection (3), section 3 and Schedule 1 commence on a day to be fixed by Proclamation.

(3) If section 3 and Schedule 1 do not commence under subsection (2) within 6 months after the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

**3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Australian Sports Drug Agency Act 1990

**1 Subsection 2(1)**

Insert:

**applicable procedures**,in relation to a sample provided by a competitor pursuant to a request made under Part 3, has the meaning given by Division 5 of that Part.

**assessed** means assessed by notice in writing given to the Agency.

**contract** includes any arrangement, whether formal or informal.

**drug testing program** means a program of testing for the use of drugs included in the schedule maintained by the Agency under paragraph 9(l)(a).

**foreign national sporting organisation** means a national sporting organisation of 3 foreign country.

**foreign sporting organisation** means a foreign government sports agency, a foreign national sporting organisation or a foreign antidoping body.

**national sporting organisation**, in relation to a particular sport, means:

(a) in respect of any country (including Australia)—a sporting organisation that is recognised by the International Sporting Federation that has international control over the sport as being the organisation responsible for administering the affairs of the sport, or of a substantial part or section of the sport, in that country; or

(b) in respect of a country other than Australia, if there is no International Sporting Federation that has international control over the sport—a sporting organisation that is generally recognised as being responsible for administering the affairs of the sport, or of a substantial part or section of the sport, in that country; or

(c) in respect of Australia, whether or not there is an International Sporting Federation that has international control over the sport—a sporting organisation that is recognised by the Commission, or is generally recognised, as being responsible for administering the affairs of the sport, or of a substantial part or section of the sport, in Australia.

**non-Australian** means a person who is neither an Australian citizen nor a permanent resident.

**organisation** includes an academy, institute or other similar body.

**Relevant International Sporting Federation,** in relation to a competitor, means an International Sporting Federation:

(a) of which the competitor’s relevant national sporting organisation is a member or with which that organisation is associated in any way; or

(a) of which the competitor’s relevant sporting organisation is a member or with which that organisation is associated in any way.

**relevant national sporting organisation**, in relation to a competitor, means a national sporting organisation:

(a) of which the competitor is, in his or her capacity as a competitor, a member or with which the competitor is, in that capacity, associated in any way; or

(b) of which the competitor’s relevant sporting organisation is a member or with which that organisation is associated in any way.

**relevant sporting organisation**, in relation to a competitor, means a sporting organisation (other than a national sporting organisation) of which the competitor is, in his or her capacity as a competitor, a member or with which the competitor is, in that capacity, associated in any way.

**reviewable decision** means:

(a) a decision by the Agency under subsection 17A(1) that a competitor did not have reasonable cause for failing to comply with a request to provide a sample; or

(b) a decision by the Agency under subsection 17M(1) that a positive test result from the final testing of a sample is valid.

**sporting competition** means a sporting event or a series of sporting events.

**sporting event** includes any sporting activity.

**sporting organisation** includes, but is not limited to, an organisation that:

(a) has control in a particular country, or part of a country, or internationally, of one or more sports or sporting events; or

(b) organises or administers one or more sports or sporting events; or

(c) accredits people to take part in sporting competition; or

(d) provides teams to compete in sporting competition; or

(e) trains, or provides finance for, people to take part in sporting competition.

**support** has the meaning given by section 3.

**temporarily resident non-Australian** means a non-Australian whom the Agency has requested to supply a sample at the request of, or under a contract entered into with, an Australian national sporting organisation.

**2 Subsection 2(1) (definitions of *applicable procedural*** ***requirement*, *at competition* and *Charter*)**

Repeal the definitions.

**3 Subsection 2(1) (definition of *competitor***)

Repeal the definition, substitute:

**competitor** has the meaning given by section 2A.

**4 Subsection 2(3)**

Repeal the subsection.

**5 After section 2**

Insert:

**2A Competitors**

(1) The following people, and no others, are competitors for the purposes of this Act:

(a) an Australian citizen, or a permanent resident, who competes, or has been selected to compete, as a representative of Australia in international sporting competition;

(b) an Australian citizen, or a permanent resident, who has been assessed by an Australian national sporting organisation as having the potential to represent Australia in international sporting competition;

(c) a person who competes as a member of a team in sporting competition (whether held, or to be held, in or outside Australia) at a level at which:

(i) teams that represent Australia; or

(ii) teams that represent organisations in Australia and contain members who have been assessed by an Australian national sporting organisation as having the potential to represent Australia;

in international sporting competition take part;

(d) a person who competes in sporting competition and:

(i) is receiving support from the Commonwealth or the Commission; or

(ii) is a party to an arrangement with the Commonwealth or the Commission under which the person will receive support from the Commonwealth or the Commission;

(e) a person who competes in international sporting competition held, or to be held, in Australia;

(f) a person who competes in sporting competition at a level that has been assessed by an Australian national sporting organisation as being a level at which people representing Australia could be expected to compete;

(g) a person:

(i) who has been assessed by a foreign sporting organisation as having reached such a standard of performance in the field of sporting activity in which he or she competes as to be capable of representing in international sporting competition the country of which he or she is a citizen or in which he or she is ordinarily resident; and

(ii) in respect of whom the Agency has been requested by a foreign sporting organisation, or is required under a contract with a foreign sporting organisation, to obtain a sample for testing;

(h) a non-Australian in respect of whom the Agency has been requested by, or is required or permitted under a contract with:

(i) a foreign sporting organisation in the country of which the person is a citizen or in which the person is ordinarily resident; or

(ii) a relevant International Sporting Federation;

to obtain a sample for testing;

(i) a person in respect of whom the Agency, under an anti-doping arrangement, is required or permitted to obtain a sample for testing;

(j) a person whose name is entered on the Register and who, as a direct or indirect result of having his or her name so entered, is ineligible to take part in sporting competition.

(2) Subject to subsection (3), if a person:

(a) is training, or has at any time within the last 12 months trained, to compete in sporting competition or international sporting competition, or in sporting competition or international sporting competition at a particular level; or

(b) has, at any time within the last 12 months competed in sporting competition or international sporting competition, or in sporting competition or international sporting competition at a particular level;

the person is taken for the purposes of subsection (1) to be a person who competes in sporting competition or international sporting competition, or in sporting competition or international sporting competition at that level, as the case may be.

(3) A person is taken not to have been a competitor for the purposes of this Act at a particular time if the person:

(a) notified the relevant national sporting organisation before that time that he or she had retired from taking part in sporting competition; and

(b) has not, since the notification was given, taken part in sporting competition.

**6 Section 3**

Repeal the section, substitute:

**3 People receiving support**

(1) A person is taken for the purposes of this Act to be receiving support from a government or a government agency if the person, for the purpose of taking part in sporting activities, or for the purpose of training to take part in sporting activities:

(a) receives funding from the government or agency; or

(b) uses facilities that are provided (wholly or partly) by the government or agency, or are operated or maintained (wholly or partly) with funding received from the government or agency; or

(c) is a member of, or is in any way associated with, a sporting organisation that:

(i) receives funding from the government or agency; or

(ii) uses facilities that are provided (wholly or partly) by the government or agency, or are operated or maintained (wholly or partly) with funding received from the government or agency.

(2) In this section:

**government** means the Commonwealth, a State or a Territory.

**government agency** means the Commission or any sports academy, sports institute, or other similar body, of a State or Territory.

**7 Section 8**

Repeal the section, substitute:

**8 Objects**

The objects of the establishment of the Agency are:

(a) to deter the use of scheduled drugs or doping methods in sport; and

(b) to encourage the development of programs to educate the sporting community about matters relating to drugs in sport; and

(c) to advocate the international adoption of consistent and effective anti-doping programs; and

(d) to co-ordinate the development of a consistent and effective national response to matters relating to drugs in sport.

**8 Paragraphs 9(1)(c) to (q)**

Repeal the paragraphs, substitute:

(c) to develop and implement drug testing programs;

(d) to advocate the international development and implementation of consistent and effective anti-doping programs;

(e) to encourage Australian national sporting organisations, State and Territory sporting organisations and professional sporting organisations:

(i) to develop and implement comprehensive and consistent anti-doping initiatives (including initiatives relating to testing for the use of drugs and education about matters relating to drugs in sport); and

(ii) to use the services of the Agency and accredited laboratories;

(f) to develop and implement initiatives that increase the skills and knowledge of people involved in sporting activities about matters relating to drugs in sport;

(g) to advocate and support research in and outside Australia about drugs in sport;

(h) to implement anti-doping arrangements;

(i) to encourage the establishment of means for the carrying out by government Departments and authorities of the States and Territories of initiatives relating to drugs in sport;

(j) to co-operate with those Departments and authorities and with non-government sporting organisations to implement those initiatives;

(k). any other functions conferred on the Agency under this Act;

(l) to advise the Minister on matters falling within any of the abovementioned functions and related matters.

**9 Subsection 9(2)**

Omit “The Agency”, substitute “In the performance of its functions, the Agency”.

**10 Subsection 9(3)**

Repeal the subsection, substitute:

(3) In the performance of its functions, the Agency may prepare and keep a list of all people whom it knows to be competitors.

(3A) A list kept under subsection (3) may contain, in relation to each person whose name is included in the list, any of the following particulars:

(a) addresses of usual places of residence and employment;

(b) date of birth;

(c) telephone numbers of usual places of residence and employment;

(d) if the person is under 18 years of age or has an intellectual disability—the name, and the addresses and telephone numbers, of the usual places of residence and employment of a person who has long-term parental responsibility for, or is the guardian of, the first-mentioned person;

(e) sporting activities engaged in;

(f) membership of sporting organisations;

(g) whether the holder of a scholarship granted by a government, a governmental authority or a sporting organisation;

(h). times and places of training;

(i) membership of a national team;

(j) if the person is competing or training outside Australia—the date on which the person is expected to return to Australia;

(k) the capacity in which the person takes part in sporting competition (for example, whether as an amateur, as a professional, as a representative of a country);

(l) how the person may be contacted if he or she is competing or training outside Australia;

(m) any other particulars necessary to enable the Agency to perform its functions.

**11 Heading to Part 3**

Repeal the heading, substitute:

Part 3—Requesting, collecting and testing of samples by Agency

**12 Before section 11**

Insert in Part 3:

**Division 1—Application of Part**

10A Part not to apply if Part 3A applies

This Part does not authorise, or apply in relation to, the making of a request to a competitor or the consequences of making such a request if Division 1 of Part 3A authorises, or applies in relation to, the making of a request to the competitor or the consequences of making such a request.

**Division 2—Register of notifiable events**

**13 Sections 12 to 17C**

Repeal the sections, substitute:

**Division 3—Request to provide sample**

**12 Making of request**

(1) The Agency may request a competitor to provide a sample.

(2) Subject to subsection (3), the request is to be made in accordance with the regulations.

(3) The regulations may make provision as to the manner in which a request is to be made but may provide that strict compliance with regulations so made is not required and substantial compliance is sufficient.

**13 Provision of sample**

(1) The regulations must provide, in relation to a competitor who has been requested to provide a sample, that:

(a) the competitor:

(i) is entitled, subject to subparagraph (ii), to have a representative of his or her choice present to oversee the process of the collection of the sample; but

(ii) is not entitled to have such a representative present to witness the actual passing of the sample unless the competitor suffers from a disability that may require him or her to be given assistance in passing the sample; and

(b) the Agency is to notify the competitor orally or in writing of:

(i) the procedure for collecting and testing samples; and

(ii) the competitor’s rights under regulations made in accordance with paragraph (a); and

(iii) the possible consequences of a failure to comply with a request to provide a sample; and

(iv) the possible consequences of returning a positive test result; and

(v) the classes of persons who, or organisations and bodies which, are required, under section 17T, to be notified of the particulars of an entry in the Register relating to the competitor; and

(iv) the competitor’s right to make submissions under sections 17 and 17L; and

(vii) the classes of persons to whom, and organisations and bodies to which, under section 17H, a negative test result may be disclosed.

(2) Regulations made for the purposes of paragraph (1)(b) may provide that strict compliance with those regulations is not required and substantial compliance is sufficient.

**14 Notice of request**

When the Agency has requested a competitor to provide a sample:

(a) if it appears to the Agency that the competitor is likely to fail to comply with the request and the Agency thinks that the relevant national sporting organisation should be given an opportunity to try to persuade the competitor to comply with the request—the Agency may tell the organisation of the competitor’s likely failure to comply with the request; and

(b) if the competitor claims to have retired from taking part in sporting competition—the Agency may request the relevant national sporting organisation to tell the Agency whether the competitor has notified the organisation that he or she has retired from taking part in sporting competition and, if so, the date of notification.

**Division** 4**—Failure to provide sample**

**Subdivision A—General**

**15 When failure to comply with request to provide a sample is taken** **to have occurred**

For the purposes of this Part, a competitor fails to comply with a request by the Agency to provide a sample if, and only if, the manner in which the Agency requested the competitor to provide the sample was, subject to subsection 12(3), in accordance with the regulations and:

(a) the competitor fails to provide a sample as required by the regulations; or

(b) the competitor fails to complete or sign any form required by the regulations to be completed or signed by the competitor; or

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

**Subdivision B—Failure by Australian citizen, permanent resident or temporarily resident non-Australian to provide sample**

**16 Application of Subdivision**

This Subdivision applies only in relation to a failure by a competitor who is an Australian citizen, a permanent resident or a temporarily resident non-Australian to comply with a request to provide a sample.

**1**7 **Notice to competitor who has failed to provide a sample**

(1) The Agency must, as soon as practicable, give the competitor a written notice:

(a) stating that the competitor has failed to comply with the request; and

(b) telling the competitor that he or she, or a person acting on his or her behalf, may, within 7 days after receiving the notice:

(i) make a written submission to the Agency to the effect that the competitor had reasonable cause for failing to comply with the request; or

(ii) by written notice given to the Agency, waive his or her right to make such a submission; and

(c) setting out the Agency’s obligations under sections 17R, 17T and 18.

(2) If the Agency considers that the competitor is likely to:

(a) take part in international sporting competition; or

(b) take part in a trial to select Australian representatives to compete in international sporting competition;

before the end of the period of 7 days after the competitor receives the notice, the Agency may substitute in the notice any shorter period that it considers appropriate in the circumstances for the period of 7 days referred to in paragraph (1)(b).

17A Agency to decide whether competitor had reasonable cause for failure to provide a sample

(1) Subject to this section, the Agency must decide whether the competitor had reasonable cause for failing to comply with the request.

(2) The Agency must not:

(a) before the time fixed under subsection (3), decide that the competitor did not have reasonable cause for failing to comply with the request; or

(b) make such a decision without having had due regard to any written submissions made by or on behalf of the competitor in accordance with subparagraph 17(1)(b)(i).

(3) The time fixed for the purposes of paragraph (2)(a) is:

(a) if, within the period stated in the notice given by the Agency to the competitor under subsection 17(1), the Agency receives a written notice by or on behalf of the competitor waiving his or her right to make a submission—the time when the notice of waiver is received by the Agency; or

(b) if, within the period stated in the notice, the Agency receives a written submission by or on behalf of the competitor—the time when the submission is received by the Agency; or

(c) if, within the period stated in the notice, the Agency:

(i) does not receive a written notice by or on behalf of the competitor waiving his or her right to make a submission; and

(ii) does not receive a written submission by or on behalf of the competitor;

the end of that period.

**17B Notice of Agency’s decision**

(1) When the Agency has decided whether a competitor had reasonable cause for failing to comply with a request to provide a sample, the following provisions apply.

(2) The Agency must, as soon as practicable, give a written notice to the competitor telling him or her of the decision.

(3) If:

(a) the competitor had initially failed to comply with a request to provide a sample; and

(b) the Agency had, under paragraph 14(a), told the relevant national sporting organisation that the competitor was likely to fail to comply with the request; and

(c) the Agency decides that the competitor had reasonable cause for failing to comply with the request;

the Agency must, as soon as practicable, give a written notice to the relevant national sporting organisation telling it of the decision.

(4) If the Agency decides that the competitor did not have reasonable cause for failing to comply with the request, the Agency must include in the notice to the competitor:

(a) the reasons for the decision; and

(b) a statement to the effect that, if the competitor is dissatisfied with the decision, application for review of the decision may, subject to the Administrative Appeals Tribunal Act 1975, be made to the Administrative Appeals Tribunal.

(5) A failure to comply with subsection (3) or (4) does not affect the validity of the decision concerned.

**Subdivision C—Failure by non-Australian other than a temporarily resident non-Australian to provide sample**

**17C Application of Subdivision**

This Subdivision applies only in relation to a failure by a competitor who is a non-Australian other than a temporarily resident non-Australian to comply with a request to provide a sample.

**17D Notice to International Sporting Federation**

(1) The Agency must, as soon as practicable, notify the relevant International Sporting Federation of the failure.

(2) If that Federation requests the Agency to take any further action, the Agency may comply with the request so far as it is capable of doing so.

Division 5—How sample is to be dealt with

**17E Applicable procedures to be followed**

A sample provided by a competitor must be dealt with, subject to section 17G, in accordance with the applicable procedures in relation to the sample.

**17F Applicable procedures to be prescribed by regulations**

(1) The **applicable procedures** are those prescribed by the regulations.

(2) Regulations prescribing applicable procedures may be of general or specially limited application or may differ according to differences in time, locality, place or circumstance.

(3) Regulations prescribing applicable procedures may include requirements relating to the following:

(a) the selection of competitors who may be requested to provide samples;

(b) the notifying of competitors concerned;

(c) the collection of samples;

(d) the transport of samples to an accredited laboratory;

(e) the testing of samples;

(f) the notifying of a result from the initial testing of a sample;

(g) the notifying of a result from the final testing of a sample.

17G Extent to which regulations prescribing procedures need not be strictly complied with

(1) Subject to subsection (2), the regulations may provide that particular procedures prescribed for the purposes of section 17F need not be strictly complied with and that substantial compliance is sufficient.

(2) Subsection (1) does not apply to procedures relating to the following matters:

(a) the accredited laboratories by which samples are to be tested;

(b) ensuring that a sample is not tampered with by anyone who is not authorised to deal with the sample;

(c) ensuring that a sample’s container is securely sealed and identified;

(d) the entering, on forms relating to the provision of samples for testing, of numbers of containers, or numbers of seals of containers, holding any part of the sample;

(e) the signing of those forms by people required to do so.

**Division 6—Return of negative test result**

17H Disclosure of negative test result

Application

(1) This section applies if either the initial testing or the final testing of a sample provided by a competitor returns a negative test result.

Disclosure if competitor is an Australian citizen, a permanent resident or a temporarily resident non-Australian

(2) If the competitor is an Australian citizen, a permanent resident or a temporarily resident non-Australian, the Agency may disclose particulars of the result to:

(a) the competitor; and

(b) if:

(i) the Agency thinks that the competitor may be under 18 years of age or may have an intellectual disability; and

(ii) the Agency is aware of the name, and the address of the usual place of residence or employment, of a person who has long-term parental responsibility for, or is the guardian of, the competitor;

the person who has that responsibility or is such a guardian; and

(c) the relevant national sporting organisation; and

(d) the relevant International Sporting Federation.

Disclosure if competitor is a non-Australian other than a temporarily resident non-Australian

(3) If the competitor is a non-Australian, other than a temporarily resident non-Australian, the Agency may disclose particulars of the result to:

(a) the competitor; and

(b) any foreign anti-doping body that the Agency thinks appropriate.

**Division 7—Return of positive test result by Australian citizen, permanent resident or temporarily resident non-Australian**

**17J Application of Division**

This Division applies only in relation to a sample provided by a competitor who is an Australian citizen, a permanent resident or a temporarily resident non-Australian.

**17K Positive test result from initial testing of a sample**

(1) This section applies if the initial testing of a competitor’s sample returns a positive test result.

(2) The competitor is entitled to be present at, or to be represented at, the final testing of the sample (including the unsealing of the sample).

(3) The Agency must, as soon as practicable, give the competitor a written notice:

(a) stating that the initial testing of the sample has returned a positive test result; and

(b) stating the competitor’s rights under subsection (2); and

(c) stating the possible consequences of the final testing of the sample returning a positive test result, including the classes of persons, organisations or bodies that would be required under section 17T to be notified of the particulars of an entry in the Register relating to the competitor.

(4) The Agency may give the relevant national sporting organisation any information that it thinks appropriate about the return of the

positive test result from the initial testing of the sample other than information that would enable the identification of the competitor.

**17L Notice of positive test result from final testing of a sample**

(1) This section applies if the final testing of a competitor’s sample returns a positive test result.

(2) The Agency must, as soon as practicable, give the competitor a written notice:

(a) stating that the final testing of the sample has returned a positive test result; and

(b) telling the competitor that, if the competitor has any information or evidence (**relevant information or evidence**) that may affect the validity of the results of the initial or final testing of the sample, he or she, or a person on his or her behalf, may, within 7 days after receiving the notice:

(i) make a written submission to the Agency setting out the relevant information or evidence; or

(ii) by written notice given to the Agency, waive his or her right to make such a submission; and

(c) setting out the Agency’s obligations under sections 17S, 17T and 18.

(3) If the Agency considers that the competitor is likely to:

(a) take part in international sporting competition; or

(b) take part in a trial to select people to represent Australia in international sporting competition;

before the end of the period of 7 days after the competitor receives the notice, the. Agency may substitute in the notice any shorter period that it considers appropriate in the circumstances for the period of 7 days referred to in paragraph (2)(b).

**17M Agency to decide whether positive test result is valid**

(1) Subject to this section, the Agency must decide whether a positive test result from the final testing of a sample is valid.

(2) The Agency must not:

(a) before the time fixed under subsection (3), decide that the positive test result is valid; or

(b) make such a decision without having had due regard to any relevant information or evidence set out in a written submission made by or on behalf of the competitor in accordance with subparagraph 17L(2)(b)(i).

(3) The time fixed for the purposes of paragraph (2)(a) is:

(a) if, within the period stated in the notice given by the Agency to the competitor under subsection 17L(2), the Agency receives a written notice by or on behalf of the competitor waiving his or her right to make a submission—the time when the notice of waiver is received by the Agency; or

(b) if, within the period stated in the notice, the Agency receives a written submission by or on behalf of the competitor—the time when the submission is received by the Agency; or

(c) if, within the period stated in the notice, the Agency:

(i) does not receive a written notice by or on behalf of the competitor waiving his or her right to make a submission; or

(ii) does not receive a written submission by or on behalf of the competitor;

the end of that period.

(4) The Agency may decide that the positive test result is invalid only if the Agency is satisfied that:

(a) the applicable procedures relating to the sealing of any container holding the sample have not been complied with; or

(b) the sample was not tested by an accredited laboratory; or

(c) the sample was tampered with by someone other than the competitor or a person chosen by the competitor to oversee any part of the collection or testing of the sample.

**17N Notice to competitor of Agency’s decision as to validity of positive test result from final testing of sample**

(1) As soon as practicable after the Agency makes a decision as to the validity of a positive test result from the final testing of a sample, the Agency must give the competitor written notice of the decision.

(2) If the Agency decides that the positive test result is valid, the Agency must include in the notice:

(a) the reasons for the decision; and

(b) a statement to the effect that, if the competitor is dissatisfied with the decision, application for review of the decision may, subject to the Administrative Appeals Tribunal Act 1975, be made to the Administrative Appeals Tribunal.

(3) A failure to comply with subsection (2) does not affect the validity of the decision concerned.

**Division 8—Return of positive test result by non-Australian other than a temporarily resident non-Australian**

**17P Application of Division**

This Division applies only in relation to a sample provided by a non-Australian other than a temporarily resident non-Australian.

**17Q Positive test result from initial testing of a sample**

(1) If the initial testing of a sample returns a positive test result, the Agency must, as soon as practicable, notify the relevant International Sporting Federation of the result.

(2) If that Federation requests the Agency to take any further action, the Agency may comply with the request so far as it is capable of doing so.

**Division 9—Entry of competitor’s name on Register**

**17R Entry of competitor’s name on Register—failure to provide a sample**

If:

(a) a competitor referred to in section 16 fails to comply with a request to provide a sample; and

(b) the Agency decides under subsection 17A(1) that the competitor did not have reasonable cause for failing to comply with the request;

the Agency must, as soon as practicable, enter on the Register the competitor’s name and any other particulars known to the Agency that are required by the regulations to be entered.

**17S Entry of competitor’s name on Register—positive test result**

If:

(a) the final testing of a sample provided by a competitor referred to in section 17J returns a positive test result; and

(b) the Agency decides under subsection 17M(1) that the positive test result is valid;

the Agency must, as soon as practicable, enter on the Register the competitor’s name and any other particulars known to the Agency that are required by the regulations to be entered.

**17T Notice of entry of competitor’s name on Register**

Application

(1) This section applies when the Agency enters a competitor’s name and other particulars on the Register, whether under section 11, 17R or 17S.

Notice of entry on Register

(2) The Agency must, as soon as practicable, give written notice of the making, and of particulars, of the entry to:

(a) the competitor; and

(b) if:

(i) the Agency thinks that the competitor may be under 18 years of age or may have an intellectual disability; and

(ii) the Agency is aware of the name, and the address of the usual place of residence or employment, of a person who has long-term parental responsibility for, or is the guardian of, the competitor;

the person who has that responsibility or is such a guardian; and

(c) if the Agency is aware that the competitor receives support from the Commission—the Commission; and

(d) if the Agency is aware that the competitor receives support from an academy, institute or other similar body of a State or Territory—the institute, academy or other body; and

(e) the relevant national sporting organisation.

Notice to identify all other persons, organisations or bodies notified

(3) When the Agency gives a notice of the making of an entry on the Register under this section, the Agency must include in the notice a statement setting out the name of each other person to whom, or organisation or body to which, the Agency has given or proposes to give notice of the making of the entry.

Copy of competitor’s submission may be given to national sporting organisation in certain circumstances

(4) If the Agency gives to a national sporting organisation a notice under this section of the making of an entry on the Register in relation to a competitor, the Agency may, if the organisation requests, also give the organisation:

(a) a statement of the Agency’s reasons for the decision under section 17A or 17M that resulted in the entry being made on the Register; and

(b) if the competitor consents in writing, a copy of any submission made by or on behalf of the competitor to the Agency under section 17 or 17L.

(5) A failure to comply with subsection (2), (3) or (4) does not affect the validity of the entry of the competitor’s name and other particulars on the Register.

**17U Certain competitors’ names to be removed from the Register**

(1) This section applies if:

(a) a competitor’s name, and other particulars, have been entered on the Register; and

(b) at the time of the occurrence of the event as a result of which the competitor’s name was entered on the Register the competitor was under 18 years of age; and

(c) as a direct or indirect result of having his or her name so entered, the competitor has been prevented from taking part, or has become ineligible to take part, in sporting competition for a particular period (the **suspension period**).

(2) Subject to subsection (3), the Agency must, as soon as practicable after the end of the suspension period, remove from the Register the name and other particulars entered as mentioned in paragraph (l)(a) in relation to the competitor.

(3) If, as a result of the competitor’s name being entered on the Register as mentioned in paragraph (1)(a), the Commission has disqualified the competitor from:

(a) receiving funding from the Commission; or

(b) using facilities that:

(i) are provided, in whole or in part, by the Commission; or

(ii) are operated or maintained, in whole or in part, with funding received from the Commission;

for a period (the **disqualification period**)that ends after the suspension period, subsection (2) does not apply but the Agency must, as soon as practicable after the end of the disqualification period, remove from the Register the name and other particulars entered as mentioned in paragraph (1)(a) in relation to the competitor.

**Division 10—Review of decisions**

**17V Reviews by Administrative Appeals Tribunal**

Application may be made to the Administrative Appeals Tribunal for the review of a reviewable decision.

**17W Action by Agency following decision or order on review**

(1) If the Administrative Appeals Tribunal sets aside a reviewable decision, the Agency must, as soon as practicable, remove from the Register any entry that was made as a result of the Agency’s decision.

(2) If, after the making of an entry on the Register in relation to a decision of the Agency:

(a) the entry is removed from the Register under subsection (1) of this section; or

(b) an order is made under section 41 of the Administrative Appeals Tribunal Act 1975 staying or otherwise affecting the operation or implementation of the decision, or an order so made is afterwards revoked;

the Agency must, as soon as practicable, give written notice of that fact to each person to whom, and each organisation or body to which, notice of the making of the entry was given.

Part 3A—Requesting, collecting and testing of samples on behalf of or by a foreign sporting organisation

**Division 1—Testing on behalf of a foreign sporting organisation**

**17X Agency may contract with foreign sporting organisations to collect and test samples**

(1) The Agency may enter into a contract with a foreign sporting organisation under which the Agency may:

(a) collect samples from people for the purpose of testing whether any scheduled drug or doping method is present in the samples; and

(b) arrange for the secure transport of the samples to an accredited laboratory; and

(c) arrange for the testing of the samples by an accredited laboratory; and

(d) give notice of the results of the testing so far as is permitted by section 17ZA.

(2) The Agency may do anything required or permitted by the contract to be done or necessary to be done to give effect to the contract.

17Y Making of request at instance of foreign sporting organisation

If:

(a) the Agency has been asked by, or is required or permitted under a contract with, a foreign sporting organisation to request a competitor to provide a sample for testing; or

(b) the Agency is required or permitted under an anti-doping arrangement to request a competitor to provide a sample for testing;

the Agency may request the competitor to provide a sample for testing.

17Z Procedures to be followed

The procedures to be followed in respect of the making of the request, the collection and testing of the sample and the notifying of the results of the testing of the sample are:

(a) if paragraph 17Y(a) applies—the procedures agreed to between the Agency and the foreign sporting organisation; or

(b) if paragraph 17Y(b) applies—the procedures stated in, or determined under, the anti-doping arrangement.

17ZA Notifying matters arising out of testing

(1) The Agency may notify the relevant foreign sporting organisation of any matter arising out of the making of the request to the competitor, including:

(a) a failure by the competitor to provide a sample; or

(b) a failure by the competitor to complete or sign any form required by the Agency to be completed or signed by the competitor or to do anything in relation to the sample that is required by the Agency to be done; or

(c) any provision of a sample by a person who was not the competitor and represented, by pretending to be the competitor, that the sample was provided by the competitor; or

(d) any other interference with the provision, collection or testing of the sample; or

(e) the results of the testing.

(2) Subject to subsection (3), the Agency may notify any matter referred to in subsection (1) to:

(a) the competitor; and

(b) if:

(i) the Agency thinks that the competitor may be under 18 years of age or may have an intellectual disability; and

(ii) the Agency is aware of the name, and the address of the usual place of residence or employment, of a person who has long-term parental responsibility for, or is the guardian of, the competitor;

the person who has that responsibility or is such a guardian; and

(c) if the Agency is aware that the competitor receives support from the Commission—the Commission; and

(d) if the Agency is aware that the competitor receives support from an academy, institute or other similar body of a State or Territory—the institute, academy or other body; and

(e) the relevant national sporting organisation.

(3) The Agency is not to notify a person, organisation or body of a matter under subsection (2) if the relevant foreign sporting organisation directs the Agency not to do so.

**Division 2—Testing by a foreign sporting organisation**

17ZB Disclosure if Australian citizen or permanent resident is requested by foreign sporting organisation to provide sample for testing

(1) Subject to subsection (2), if:

(a) a competitor who is an Australian citizen or a permanent resident was requested by a foreign sporting organisation to provide a sample for testing; and

(b) the foreign sporting organisation tells the Agency:

(i) that the competitor has refused to provide a sample to the organisation; or

(ii) that another person has provided a sample to the organisation and has represented, by pretending to be

the competitor, that the sample was provided by the competitor; or

(iii) the testing of the sample provided by the competitor returned a positive test result;

the Agency may disclose the information received from the foreign sporting organisation to any one or more of the persons, organisations or bodies referred to in paragraphs 17T(2)(a), (b), (c), (d) and (e).

(2) If the foreign sporting organisation is a foreign anti-doping body that was not an approved anti-doping body when the request for the provision of the sample was made, subsection (1) does not permit the Agency to disclose the information received from the anti-doping body unless and until the anti-doping body is approved under section 66C.

**14 After subsection 18(2A)**

Insert:

(2B) The Minister may, in writing, request the Agency to give to the Minister a written notice stating, in respect of each competitor named in the Minister’s request:

(a) who is not an Australian citizen, a permanent resident or a temporarily resident non-Australian and has, pursuant to a request by the Agency under Part 3, provided a sample for testing; or

(b) who, pursuant to a request by the Agency under Part 3A, has provided a sample for testing;

any information that is stated in the Minister’s request in relation to the outcome of the Agency’s request to the competitor to provide a sample.

**15 Subsection 18(3)**

Omit “or (2A)”, substitute “, (2A) or (2B)”.

**16 Subsections 47(2) and (3)**

Repeal the subsections, substitute:

(2) The first strategic plan prepared after the commencement of this subsection is to be expressed to relate to the period that began at the end of the last preceding strategic plan and ends on 30 June 2000, 30 June 2001 or 30 June 2002, as the Minister determines.

(3) Each strategic plan after the strategic plan to which subsection (2) applies is to relate to a period determined by the Minister (being a period of 3, 4 or 5 years) beginning at the end of the period to which the immediately preceding strategic plan relates.

**17 Subsection 56(2)**

Omit being terms and conditions that are, as far as practicable, equivalent to terms and conditions that are applicable to similar employment in the Australian Public Service”.

**18 Section 64**

Repeal the section, substitute:

64 Investment of money

(1) The money of the Agency not immediately required for the purposes of the Agency may be invested:

(a) on deposit with an approved bank;

(b) in securities of the Commonwealth or of a State or Territory;

(c) in securities guaranteed by the Commonwealth, a State or Territory;

(d) in any other manner approved by the Treasurer.

(2) In this section**:**

**approved bank** means:

(a) the Reserve Bank of Australia;

(b) a bank as defined in subsection 5(1) of the Banking Act 1959;

(c) a bank established by or under a State Act;

(d) any other bank that the Treasurer approves in relation to the Agency.

**19 Section 66B**

Repeal the section.

**20 Subsection 66C(1)**

Omit “accord with the procedures contained in the Charter relating to those matters”, substitute “are satisfactory”.

**21 Section 66D**

Add at the end:

(2) If such a request is made, the Agency may set out in the request, or may make a further request to the anti-doping body setting out, any matters relevant to the request that the Agency thinks appropriate, including the procedures to be followed for requesting the provision of the sample, collecting and testing the sample and notifying the results of the testing.

**22 After subsection 67(4)**

Insert:

(4A) Nothing in this section:

(a) prevents the Agency or an accredited laboratory from disclosing or communicating to the International Olympic Committee or to an International Sporting Federation any statistics of test results in respect of samples provided by people competing, or training to compete, in sporting competition relevant to the Committee or Federation, as the case may be, provided that the identity of a competitor whose sample has been tested is not revealed; or

(b) if the Agency has carried out a test of a sample at the request of, or under a contract with, a foreign anti-doping body— prevents the Australian Sports Drug Testing Laboratory from notifying that body and the Agency of the results of the test; or

(c) if the Agency has carried out a test of a sample under an anti­doping arrangement—prevents the Australian Sports Drug Testing Laboratory from notifying the foreign anti-doping body referred to in the arrangement.

**23 After section 67**

Insert:

**67A Provisions relating to giving of notices**

A written notice by the Agency to a person or to a sporting organisation for the purposes of this Act or the regulations may be given:

(a) in respect of a notice to a person:

(i) by delivering it personally to the person; or

(ii) by sending it by post, or by means of a prescribed courier service, to the person at the address of the person’s place of residence last known to the Agency; or

(iii) if the person has notified the Agency of a number to which notices may be sent to the person by facsimile transmission—by sending it to the person by facsimile transmission to that number; or

(iv) if the notice is to be given to a competitor but cannot be given as mentioned in subparagraph (i), (ii) or (iii)—by sending by post, or by means of a prescribed courier service, to the relevant sporting organisation, at its address last known to the Agency, a written notice (to which the notice to the competitor is attached in a sealed envelope addressed to the competitor) requesting the organisation to send the envelope to the competitor; or

(b) in respect of a notice to a sporting organisation:

(i) by sending it by post, or by means of a prescribed courier service, to the organisation at its address last known to the Agency; or

(ii) if the organisation has notified the Agency of a number to which notices may be sent to the organisation by facsimile transmission—by sending it to the organisation by facsimile transmission to that number; or

(c) in any case—in any other manner prescribed by the regulations.

67B Person interfering with collection of sample

If:

(a) a competitor is requested by the Agency to provide a sample; and

(b) the Agency believes that another person:

(i) has provided a sample and represented, by pretending to be the competitor, that the sample was provided by the competitor; or

(ii) has otherwise interfered with the provision, collection or testing of the sample;

the Agency may notify the relevant national sporting organisation of the circumstances of the other person’s actions as understood by the Agency.

**24 Saving and transitional provisions**

Definitions

(1) In this item, unless the contrary intention appears:

**Principal Act** means the Australian Sports Drug Agency Act 1990 as in force immediately before the commencement of this Schedule.

**the Agency** means the Australian Sports Drug Agency.

Continued application of Principal Act

(2) Despite the amendments made by this Schedule, the Principal Act continues to apply in relation to any request for the provision of a sample made by the Agency to a person before the commencement of this Schedule.

Existing list of competitors

(3) A list maintained by the Agency under subsection 9(3) of the Principal Act continues in existence as a list kept by the Agency under subsection 9(3) of that Act as amended by this Schedule.

Existing contracts with foreign sporting organisations

(4) A contract entered into by the Agency under section 66B of the Principal Act and in force immediately before the commencement of this Schedule continues in force as if it had been entered into under section 17X of that Act as amended by this Schedule, but nothing in such a contract permits the Agency to notify the results of a testing carried out under the contract except as permitted by section 17ZA of that Act as so amended.

Existing approvals of foreign anti-doping bodies

(5) An approval of a foreign anti-doping body in force under subsection 66C(1) of the Principal Act continues in force as if it were an approval of the body under subsection 66C(1) of that Act as amended by this Schedule.

Existing regulations to continue in force

(6) The regulations in force immediately before the commencement of this Schedule under the Principal Act continue in force as if made under that

Act as amended by this Schedule except to the extent to which they are amended by regulations coming into force on or after that commencement.

[Minister’s second reading speech made in—

Senate on 8 May 1996

House of Representatives on 19 June 1996]