



Australian Sports Anti-Doping Authority Act 2006

No. 6, 2006

**An Act to establish the Australian Sports
Anti-Doping Authority, and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

Part 1—Introduction	2
1 Short title	2
2 Commencement	2
3 Simplified outline	3
4 Definitions	3
5 When is there a vacancy?	10
6 Crown to be bound	11
7 Extension to external Territories	11
8 Extra-territorial application	11
Part 2—National Anti-Doping Scheme	12
Division 1—Making and amending the NAD scheme	12
9 Making the National Anti-Doping Scheme	12
10 Amending the National Anti-Doping Scheme	12
11 Public consultation	13
12 Use of relevant international anti-doping instruments	13
Division 2—What must be in the NAD scheme	14
13 Anti-doping rules etc. relating to certain athletes and support persons.....	14
14 Rights of athletes and support persons	15
15 Sporting administration body rules.....	16
16 Matters required by the regulations	17
Division 3—Miscellaneous	18
17 NAD scheme may deal with other matters	18
18 Decisions under the NAD scheme	18
19 Fees	18
Part 3—ASADA’s establishment, functions, powers and liabilities	19
20 Establishment	19
21 ASADA’s functions.....	19
22 ASADA’s powers.....	22
23 ASADA’s financial liabilities are Commonwealth liabilities	22
24 Minister may give directions to ASADA.....	22
Part 4—ASADA’s constitution and membership	24
Division 1—ASADA’s constitution	24
25 ASADA’s constitution.....	24

Division 2—ASADA’s membership	25
26 ASADA’s membership.....	25
27 Appointment of ASADA members.....	25
28 Period of appointment for ASADA members.....	25
29 Acting ASADA members.....	25
Division 3—Terms and conditions for ASADA members	28
30 Remuneration	28
31 Standing obligation to disclose interests.....	28
32 Obligation to disclose interests before deliberating on or deciding a particular matter	29
33 ASADA member to remain at arm’s length from deliberations and decisions of sporting administration bodies.....	31
34 Outside employment.....	31
35 Leave of absence	31
36 Resignation.....	31
37 Termination of appointment	32
38 Other terms and conditions.....	32
Part 5—Decision-making and delegation by ASADA	33
Division 1—Meetings	33
39 Holding of meetings	33
40 Presiding at meetings.....	33
41 Quorum.....	33
42 Voting at meetings etc.....	34
43 Conduct of meetings.....	34
44 Minutes.....	34
Division 2—Decisions without meetings	35
45 Decisions without meetings.....	35
46 Record of decisions	35
Division 3—Delegation	36
47 Delegation by ASADA.....	36
Division 4—Advisory committees	38
48 Advisory committees.....	38
Part 6—ASADA’s staff etc.	39
49 Staff.....	39
50 Persons assisting ASADA	39

Part 7—Australian Sports Drug Medical Advisory Committee	40
Division 1—ASDMAC’s establishment and functions	40
51 Establishment of ASDMAC	40
52 ASDMAC’s functions	40
Division 2—ASDMAC’s membership	42
53 ASDMAC’s membership	42
54 Appointment of ASDMAC members	42
55 Period of appointment for ASDMAC members	42
56 Acting ASDMAC members.....	43
Division 3—Terms and conditions for ASDMAC members	45
57 Remuneration	45
58 Standing obligation to disclose interests.....	45
59 Obligation to disclose interests before deliberating on or deciding a particular matter	46
60 ASDMAC member to remain at arm’s length from deliberations and decisions of sporting administration bodies.....	48
61 Leave of absence	48
62 Resignation.....	48
63 Termination of appointment	48
64 Other terms and conditions.....	49
Division 4—Decision-making and delegation by ASDMAC	50
65 Decision-making by ASDMAC.....	50
66 Delegation by ASDMAC.....	51
Part 8—Information management	52
Division 1—Access to, and use of, customs information	52
67 ASADA’s access to, and use of, customs information	52
68 Disclosing protected customs information to sporting administration bodies.....	53
Division 2—Protection of personal information	56
69 Entrusted persons.....	56
70 Designated associates	56
71 Protection of NAD scheme personal information.....	57
72 Protection of contract services personal information.....	58
73 Operation of <i>Privacy Act 1988</i> is not affected.....	59
Part 9—Other matters	60
74 Annual report.....	60
75 Minister may require ASADA to prepare reports or give information	60

76	Exemption from taxation	61
77	ASADA Chair not subject to direction by ASADA on certain matters	61
78	Protection from civil actions.....	62
79	Regulations.....	63



Australian Sports Anti-Doping Authority Act 2006

No. 6, 2006

**An Act to establish the Australian Sports
Anti-Doping Authority, and for other purposes**

[Assented to 7 March 2006]

The Parliament of Australia enacts:

Section 1

Part 1—Introduction

1 Short title

This Act may be cited as the *Australian Sports Anti-Doping Authority Act 2006*.

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 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	7 March 2006
2. Sections 3 to 79	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.	13 March 2006 (see F2006L00764)

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 Simplified outline

The following is a simplified outline of this Act:

- This Act sets up the Australian Sports Anti-Doping Authority (the ASADA).
- There is to be a National Anti-Doping Scheme (the NAD scheme), which is to be administered by the ASADA.
- The ASADA has other functions relating to sports drug and safety matters.
- This Act sets up the Australian Sports Drug Medical Advisory Committee (the ASDMAC).

4 Definitions

In this Act:

accredited foreign laboratory means:

- (a) a laboratory in a foreign country, where WADA recognises the laboratory as an accredited laboratory for the purpose of testing for drugs and doping methods in sport; or
- (b) a laboratory in a foreign country, where a prescribed organisation recognises the laboratory as a laboratory complying with:
 - (i) the International Standards Organisation's general requirements for the competence of calibration and testing laboratories; or
 - (ii) the prescribed requirements.

anti-doping rules has the meaning given by paragraph 13(1)(b).

anti-doping testing service means a service for testing one or more athletes for the use of drugs or doping methods, where the testing is by means of testing a sample provided by each athlete.

ASADA means the Australian Sports Anti-Doping Authority.

Section 4

ASADA Chair means the Chair of the ASADA.

ASADA Deputy Chair means the Deputy Chair of the ASADA.

ASADA member means a member of the ASADA, and includes the ASADA Chair and the ASADA Deputy Chair.

ASADA staff means the staff described in section 49.

ASC means the Australian Sports Commission.

ASDMAC means the Australian Sports Drug Medical Advisory Committee.

ASDMAC Chair means the Chair of the Australian Sports Drug Medical Advisory Committee.

ASDMAC member means a member of the Australian Sports Drug Medical Advisory Committee, and includes the ASDMAC Chair.

athlete means a participant in a sporting activity.

Australia, when used in a geographical sense, includes the external Territories.

constitutional corporation means a corporation to which paragraph 51(xx) of the Constitution applies.

contract includes a deed.

contract services personal information means personal information that:

- (a) is obtained in relation to the provision of services under paragraph 21(1)(k) or 52(1)(d); or
- (b) relates to the provision of services under paragraph 21(1)(k) or 52(1)(d).

designated associate has the meaning given by section 70.

disclose means divulge or communicate.

doping method includes:

- (a) the manipulation or substitution of any of the following:
 - (i) any human biological fluid;

- (ii) any human biological tissue (whether alive or otherwise);
- (iii) any human breath;
in a manner that is capable of concealing the use of a drug by the individual concerned; and
- (b) the use of a substance in a manner that is capable of concealing the use of a drug by the individual concerned; and
- (c) a prohibited method within the meaning of the World Anti-Doping Code; and
- (d) if the UNESCO Anti-Doping Convention has entered into force for Australia—a prohibited method within the meaning of that Convention.

drug includes:

- (a) any substance (whether naturally occurring or otherwise);
and
- (b) a prohibited substance within the meaning of the World Anti-Doping Code; and
- (c) if the UNESCO Anti-Doping Convention has entered into force for Australia—a prohibited substance within the meaning of that Convention.

entrusted person has the meaning given by section 69.

foreign country includes a region where:

- (a) the region is a colony, territory or protectorate of a foreign country; or
- (b) the region is part of a foreign country; or
- (c) the region is under the protection of a foreign country; or
- (d) a foreign country exercises jurisdiction or control over the region; or
- (e) a foreign country is responsible for the region's international relations.

foreign sporting organisation means:

- (a) a Department of State of a foreign country, or a government agency in a foreign country, that oversees sport in that country; or
- (b) a national sporting organisation of a foreign country; or

Section 4

- (c) an organisation established in a foreign country for the purpose of discouraging or eliminating the use of drugs and doping methods in sport; or
- (d) an accredited foreign laboratory; or
- (e) an International Sporting Federation.

General Anti-Doping Convention means:

- (a) the Anti-Doping Convention, done at Strasbourg on 16 November 1989 [1994] ATS 33; or
- (b) if the Convention has been amended by any amendment that has entered into force for Australia—the Convention as so amended.

Note: The text of the Convention is set out in Australian Treaty Series 1994 No. 33. In 2005, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII Internet site (www.austlii.edu.au).

International Olympic Committee means the organisation created by the Congress of Paris on 23 June 1894, being the organisation entrusted with the control and development of the modern Olympic Games.

International Sporting Federation, in relation to a particular type of sporting event or sporting activity, means a body having international control over that sport or sporting event.

International Standard means:

- (a) an International Standard that has been adopted by WADA in support of the World Anti-Doping Code; or
- (b) if:
 - (i) the Standard has been amended; and
 - (ii) the Standard, as so amended, has been adopted by WADA in support of the World Anti-Doping Code; the Standard as so amended.

NAD scheme or **National Anti-Doping Scheme** means:

- (a) the scheme prescribed for the purposes of section 9; or
- (b) if the scheme has been amended under section 10—the scheme as so amended.

NAD scheme personal information means personal information that:

- (a) is obtained in relation to the administration of the NAD scheme; or
- (b) relates to the administration of the NAD scheme.

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

- (a) in respect of Australia:
 - (i) 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 Australia; or
 - (ii) whether or not there is an International Sporting Federation that has international control over the sport—a sporting organisation that is recognised by the ASC, 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; or
- (b) in respect of a foreign country:
 - (i) 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
 - (ii) 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.

permitted anti-doping purpose has the meaning given by subsection 68(7).

Section 4

personal information has the same meaning as in the *Privacy Act 1988*.

protected customs information has the meaning given by subsection 67(2).

publish means publish on the Internet or otherwise.

registered medical practitioner means an individual registered or licensed as a medical practitioner under a law of a State or Territory.

relevant international anti-doping instrument means:

- (a) the World Anti-Doping Code; or
- (b) an International Standard; or
- (c) an international agreement to which Australia is a party, if the agreement is prescribed by the regulations for the purposes of this definition.

safety checking service means a service for testing one or more athletes for the purpose of ascertaining whether each athlete's physiological or psychological state makes it unsafe for him or her to participate in a sporting activity, where the testing is by means of testing a sample provided by the athlete.

sample means any of the following:

- (a) any human biological fluid;
- (b) any human biological tissue (whether alive or otherwise);
- (c) any human breath.

sporting administration body means:

- (a) the International Olympic Committee; or
- (b) WADA; or
- (c) a National Anti-Doping Organization as defined in the World Anti-Doping Code; or
- (d) a foreign sporting organisation; or
- (e) a national sporting organisation; or
- (f) a sporting organisation; or

(g) a tribunal, committee or other investigative body that is associated with a body referred to in one or more of paragraphs (a) to (f); or

(h) the ASC;

but does not include the ASADA.

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

sporting event includes any sporting activity.

sporting organisation includes an organisation that:

(a) has control in Australia, a foreign 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.

sports drug and safety matter means:

(a) a matter relating to drugs and/or doping methods in one or more sporting activities; or

(b) a matter relating to the safety of athletes.

support person means an individual who, in one or more of the following capacities:

(a) coach;

(b) trainer;

(c) manager;

(d) agent;

(e) team staff member;

(f) official;

(g) medical practitioner;

(h) para-medical practitioner;

works with or treats one or more athletes participating in, or preparing for, sporting activities.

Section 5

UNESCO Anti-Doping Convention means:

- (a) the International Convention Against Doping in Sport, adopted by the UNESCO General Conference at Paris on 19 October 2005; or
- (b) if the Convention has been amended by any amendment that has entered into force for Australia—the Convention as so amended.

Note: In 2005, the text of the final draft of the UNESCO International Convention Against Doping in Sport was accessible through the UNESCO Internet site (www.unesco.org).

vacancy, in relation to:

- (a) the office of an ASADA member; or
- (b) the office of an ASDMAC member;

has a meaning affected by section 5.

violation means breach.

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

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

World Anti-Doping Code means:

- (a) the World Anti-Doping Code adopted by the Foundation Board of WADA on 5 March 2003 at Copenhagen; or
- (b) if the Code has been amended—the Code as so amended.

Note: In 2005, the text of the World Anti-Doping Code was accessible through the Internet site of the World Anti-Doping Agency (www.wada-ama.org).

5 When is there a vacancy?

- (1) For the purposes of a reference in:
 - (a) this Act to a vacancy in the office of an ASADA member; or
 - (b) the *Acts Interpretation Act 1901* to a vacancy in the membership of a body;

there are taken to be 5 offices of ASADA members in addition to the ASADA Chair and the ASADA Deputy Chair.

- (2) For the purposes of a reference in:
- (a) this Act to a vacancy in the office of an ASDMAC member;
or
 - (b) the *Acts Interpretation Act 1901* to a vacancy in the membership of a body;
- there are taken to be 6 offices of ASDMAC members in addition to the ASDMAC Chair.

6 Crown to be bound

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

7 Extension to external Territories

This Act extends to every external Territory.

8 Extra-territorial application

This Act extends to acts, omissions, matters and things outside Australia (unless the contrary intention appears).

Part 2—National Anti-Doping Scheme

Division 1—Making and amending the NAD scheme

9 Making the National Anti-Doping Scheme

The regulations must prescribe a scheme about any or all of the following matters:

- (a) the implementation of the General Anti-Doping Convention;
- (b) if the UNESCO Anti-Doping Convention has entered into force for Australia—the implementation of that Convention;
- (c) ancillary or incidental matters.

Note: Section 4 provides that *NAD scheme* or *National Anti-Doping Scheme* means:

- (a) the scheme prescribed for the purposes of this section; or
- (b) if the scheme has been amended under section 10—the scheme as so amended.

10 Amending the National Anti-Doping Scheme

- (1) The ASADA may, by legislative instrument, amend the NAD scheme, so long as the amended NAD scheme is about any or all of the following matters:
 - (a) the implementation of the General Anti-Doping Convention;
 - (b) if the UNESCO Anti-Doping Convention has entered into force for Australia—the implementation of that Convention;
 - (c) ancillary or incidental matters.

Note: For public consultation requirements, see section 11.

- (2) The ASADA may, under subsection (1), amend the NAD scheme:
 - (a) to implement the UNESCO Anti-Doping Convention, if that Convention enters into force for Australia after the commencement of this section; or
 - (b) to implement amendments of the UNESCO Anti-Doping Convention, if those amendments enter into force for Australia after the commencement of this section; or

- (c) to implement amendments of the General Anti-Doping Convention, if those amendments enter into force for Australia after the commencement of this section.
- (3) Subsection (2) does not limit subsection (1).
- (4) The regulations must not amend or repeal the NAD scheme after the commencement of this section.

11 Public consultation

- (1) Before making a section 10 instrument that amends the NAD scheme, the ASADA must:
 - (a) publish a draft of the instrument and invite people to make submissions to the ASADA on the draft; and
 - (b) consider any submissions that are received within the time limit specified by the ASADA when it published the draft.
- (2) The time limit specified by the ASADA when it publishes the draft must be at least 28 days after the day of publication.
- (3) A failure to comply with this section does not affect the validity of the instrument.

12 Use of relevant international anti-doping instruments

- (1) The NAD scheme may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in a relevant international anti-doping instrument:
 - (a) as in force or existing at a particular time; or
 - (b) as in force or existing from time to time.
- (2) Subsection (1) has effect despite anything in subsection 14(2) of the *Legislative Instruments Act 2003*.
- (3) Subsection (1) has effect subject to sections 9 and 10.

Division 2—What must be in the NAD scheme

13 Anti-doping rules etc. relating to certain athletes and support persons

- (1) The NAD scheme must:
- (a) provide that one or more specified classes of athletes and support persons are subject to the NAD scheme; and
 - (b) contain rules (the *anti-doping rules*) applicable to athletes and support persons; and
 - (c) authorise the ASADA to request an athlete to keep the ASADA informed of where the athlete can be found; and
 - (d) authorise the ASADA to request an athlete to provide a sample; and
 - (e) authorise the ASADA to test, or arrange the testing of, samples so provided; and
 - (f) authorise the ASADA to investigate possible violations of the anti-doping rules; and
 - (g) authorise the ASADA to disclose information obtained during such investigations for the purposes of, or in connection with, such investigations; and
 - (h) authorise the ASADA to make findings relating to such investigations; and
 - (i) require the ASADA to establish and maintain a register of such findings; and
 - (j) authorise the ASADA to notify athletes, support persons and sporting administration bodies of:
 - (i) findings on the register mentioned in paragraph (i); and
 - (ii) the ASADA's recommendations as to the consequences of such findings; and
 - (k) authorise the ASADA to present:
 - (i) findings on the register mentioned in paragraph (i); and
 - (ii) the ASADA's recommendations as to the consequences of such findings;at hearings of the Court of Arbitration for Sport and other sporting tribunals, either:

- (iii) at the request of a sporting administration body; or
- (iv) on the ASADA's own initiative; and
- (l) authorise the ASADA to make entries on, or remove entries from, the register mentioned in paragraph (i); and
- (m) authorise the ASADA to publish information on and relating to the register mentioned in paragraph (i) if:
 - (i) the ASADA considers the publication to be in the public interest; or
 - (ii) the athlete or support person to whom the information relates has consented to the publication;and the other conditions (if any) specified in the NAD scheme for the purposes of this paragraph are satisfied.

Note: The NAD scheme may make different provision with respect to different matters or different classes of matters (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

- (2) The anti-doping rules may deal with matters arising before or after the commencement of this section.

14 Rights of athletes and support persons

- (1) The NAD scheme must comply with the rights of athletes and support persons set out in subsections (2) to (4).

Rights

- (2) An athlete has a right to be notified orally, or in writing, of the possible consequences of a failure to comply with a request by the ASADA:
 - (a) to provide a sample; or
 - (b) to keep the ASADA informed of where the athlete can be found.
- (3) If the ASADA proposes to enter the name and particulars of an athlete, or support person, on the register mentioned in paragraph 13(1)(i):
 - (a) the athlete or support person has a right to be notified in writing about the proposal; and

Section 15

- (b) the athlete or support person has a right to make written submissions to the ASADA about the proposal; and
 - (c) the athlete or support person has a right to be notified in writing of a decision of the ASADA to make such an entry on the register.
- (4) An athlete or support person has a right to apply to the Administrative Appeals Tribunal for review of a decision of the ASADA to enter his or her name and particulars on the register mentioned in paragraph 13(1)(i).

Waiver of rights

- (5) The NAD scheme may allow an athlete or support person to waive a right under the NAD scheme. However, the NAD scheme must not allow waiver of a right to apply to a court, tribunal or other body or person for review of a decision under the NAD scheme.

15 Sporting administration body rules

- (1) The NAD scheme must:
- (a) contain rules (the *sporting administration body rules*) that:
 - (i) are applicable to one or more specified sporting administration bodies; and
 - (ii) relate to the anti-doping rules; and
 - (b) authorise the ASADA to monitor the compliance by sporting administration bodies with the sporting administration body rules; and
 - (c) authorise the ASADA to notify the ASC about the extent of such compliance by sporting administration bodies other than the ASC; and
 - (d) authorise the ASADA to publish reports about the extent of compliance by sporting administration bodies with the sporting administration body rules.

Note: The NAD scheme may make different provision with respect to different matters or different classes of matters (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

- (2) The following are examples of sporting administration body rules:

- (a) rules about promoting compliance with the anti-doping rules by athletes and support persons;
- (b) rules about referring possible violations of the anti-doping rules to the ASADA;
- (c) rules about assisting, and giving information, to the ASADA in relation to investigations of possible violations of the anti-doping rules;
- (d) rules about taking action in response to the ASADA's findings relating to such investigations;
- (e) rules about hearings and appeals arising from such findings.

16 Matters required by the regulations

The regulations may provide that the NAD scheme must deal with specified matters.

Division 3—Miscellaneous

17 NAD scheme may deal with other matters

Division 2 does not limit the matters in relation to which the NAD scheme may make provision.

18 Decisions under the NAD scheme

The NAD scheme may make provision in relation to a matter by conferring a power to make a decision of an administrative character on any or all of the following:

- (a) the ASADA;
- (b) the ASDMAC;
- (c) a body specified in regulations made for the purposes of this paragraph.

19 Fees

- (1) The NAD scheme may authorise the ASADA and/or the ASDMAC to charge fees for performing their functions under the NAD scheme.
- (2) A fee:
 - (a) must not be such as to amount to taxation; and
 - (b) is payable to the Commonwealth.

Part 3—ASADA's establishment, functions, powers and liabilities

20 Establishment

- (1) This section applies to the body corporate established by section 6 of the *Australian Sports Drug Agency Act 1990*.
- (2) That body corporate continues in existence by force of this section as a body corporate, under and subject to the provisions of this Act, under the name Australian Sports Anti-Doping Authority.

Note: See also section 25B of the *Acts Interpretation Act 1901*.

21 ASADA's functions

- (1) The ASADA has the following functions:
 - (a) such functions as are conferred on the ASADA by Part 2;
 - (b) such functions as are conferred on the ASADA by the NAD scheme;
 - (c) to advise the ASC about sports drug and safety matters that should be included in any agreement under which the ASC gives money to a sporting organisation;
 - (d) to advise the ASC about recognising a sporting organisation as being responsible for administering the affairs of a sport, or of a substantial part or section of a sport, in Australia;
 - (e) to support, encourage, develop and implement initiatives that increase the skills and knowledge of people involved in sporting activities about sports drug and safety matters;
 - (f) to support and encourage the sporting community to develop and implement comprehensive programs, and education initiatives, about sports drug and safety matters;
 - (g) to support, encourage and conduct research about sports drug and safety matters;
 - (h) to collect, analyse, interpret and disseminate information about sports drug and safety matters;

Section 21

- (i) to encourage the development of ways for the States and Territories, and sporting organisations, to carry out initiatives about sports drug and safety matters;
- (j) to cooperate with the States and Territories, and with sporting organisations, to carry out initiatives about sports drug and safety matters;
- (k) to provide the following services under contract on behalf of the Commonwealth:
 - (i) anti-doping testing services;
 - (ii) safety checking services;
 - (iii) other services (including information technology services) relating to sports drug and safety matters;
- (l) to make resources and facilities (including secretariat services and clerical assistance) available to the ASDMAC for the purposes of enabling the ASDMAC to perform its functions;
- (m) such other functions as are conferred on the ASADA by this Act or any other law of the Commonwealth;
- (n) to advise the Minister about matters relating to any of the above functions;
- (o) to do anything incidental to or conducive to the performance of any of the above functions.

Note: For *sports drug and safety matter*, see section 4.

Constitutional limits

- (2) The ASADA may perform its functions only:
 - (a) for purposes related to external affairs, including:
 - (i) giving effect to an international agreement to which Australia is a party; and
 - (ii) addressing matters of international concern; and
 - (iii) by way of the performance of its functions in a place outside Australia; or
 - (b) for purposes related to money appropriated for the purposes of the Commonwealth; or
 - (c) for purposes related to the granting of financial assistance to a State on such terms and conditions as the Parliament thinks fit; or

- (d) for purposes related to the executive power of the Commonwealth; or
- (e) for purposes related to the collection of statistics; or
- (f) in, or for purposes related to, a Territory; or
- (g) in a Commonwealth place (within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*);
- (h) by way of, or for purposes related to, trade and commerce:
 - (i) between Australia and places outside Australia; or
 - (ii) among the States; or
 - (iii) within a Territory, between a State and a Territory or between 2 Territories; or
- (i) by way of the provision of:
 - (i) an anti-doping testing service; or
 - (ii) a safety checking service;to a constitutional corporation, where:
 - (iii) the service involves testing one or more employees of the constitutional corporation; and
 - (iv) the results of the testing are relevant to the relationship between the constitutional corporation and the employee or employees; or
- (j) by way of the provision of a service to a constitutional corporation, where the service is provided to protect the constitutional corporation's business reputation from being damaged by the use of drugs and/or doping methods in sport; or
- (k) in connection with a postal, telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution; or
- (l) by way of the provision of a service to:
 - (i) the Commonwealth; or
 - (ii) an authority of the Commonwealth; or
- (m) for purposes related to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth; or
- (n) by way of the provision of a service, if the provision of the service:
 - (i) utilises the ASADA's spare capacity; or

Section 22

- (ii) maintains or improves the specialised technical skills of the ASADA staff in relation to the testing of athletes; and does not impede the ASADA's capacity to perform its other functions.

22 ASADA's powers

- (1) The ASADA has power to do all things necessary or convenient to be done for or in connection with the performance of its functions, other than the power:
 - (a) to acquire, hold and dispose of real and personal property; or
 - (b) to enter into contracts; or
 - (c) to lease the whole or any part of any land or building for the purposes of the ASADA.

Note: For the power to enter into contracts etc. on behalf of the Commonwealth for the benefit of the ASADA, see section 44 of the *Financial Management and Accountability Act 1997* as it applies in relation to the ASADA as an Agency.

- (2) A right to sue is taken not to be personal property for the purposes of paragraph (1)(a).

23 ASADA's financial liabilities are Commonwealth liabilities

- (1) Any financial liabilities of the ASADA are taken to be liabilities of the Commonwealth.
- (2) For the purposes of this section:

financial liability means a liability to pay a person an amount, where the amount, or the method for working out the amount, has been determined.

24 Minister may give directions to ASADA

- (1) The Minister may, by legislative instrument, give directions to the ASADA in relation to the performance of its functions and the exercise of its powers.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) However, such a direction must not relate to:
 - (a) a particular athlete, or a particular support person, who is subject to the NAD scheme; or
 - (b) the testing of a particular athlete under an anti-doping testing service, or safety checking service, being provided by the ASADA.
- (3) The ASADA must comply with a direction under subsection (1).

Part 4—ASADA's constitution and membership

Division 1—ASADA's constitution

25 ASADA's constitution

- (1) The ASADA:
 - (a) is a body corporate with perpetual succession; and
 - (b) must have a seal; and
 - (c) may sue and be sued in its corporate name.
- (2) The seal of the ASADA is to be kept in such custody as the ASADA directs and must not be used except as authorised by the ASADA.
- (3) All courts, judges and persons acting judicially must:
 - (a) take judicial notice of the imprint of the seal of the ASADA appearing on a document; and
 - (b) presume that the document was duly sealed.

Division 2—ASADA's membership

26 ASADA's membership

The ASADA consists of the following members:

- (a) a Chair;
- (b) a Deputy Chair;
- (c) at least 1, and not more than 5, other members.

27 Appointment of ASADA members

- (1) Each ASADA member is to be appointed by the Minister by written instrument.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

- (2) The Minister must not appoint a person as an ASADA member unless the Minister is satisfied that the person has qualifications relevant to, or special experience or interest in, a field related to the ASADA's functions.
- (3) The ASADA Chair holds office on a full-time basis.
- (4) An ASADA member, other than the ASADA Chair, holds office on a part-time basis.

28 Period of appointment for ASADA members

An ASADA member holds office for the period specified in his or her instrument of appointment. The period must not exceed 5 years.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

29 Acting ASADA members

Acting ASADA Chair

- (1) The Minister may appoint a person to act as the ASADA Chair:

Part 4 ASADA's constitution and membership

Division 2 ASADA's membership

Section 29

- (a) during a vacancy in the office of the ASADA Chair, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the ASADA Chair:
 - (i) is absent from duty or Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Acting ASADA member (other than ASADA Chair)

- (2) The Minister may appoint a person to act as an ASADA member (other than the ASADA Chair):
 - (a) during a vacancy in the office of an ASADA member (other than the ASADA Chair), whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when an ASADA member (other than the ASADA Chair):
 - (i) is absent from duty or Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Qualifications

- (3) A person is not eligible for appointment to act as:
 - (a) the ASADA Chair; or
 - (b) an ASADA member (other than the ASADA Chair);unless the person is eligible for appointment as an ASADA member.

Note: See subsection 27(2).

Validation

- (4) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or

(d) the occasion to act had not arisen or had ceased.

Note: See section 33A of the *Acts Interpretation Act 1901*.

Division 3—Terms and conditions for ASADA members

30 Remuneration

- (1) An ASADA member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the ASADA member is to be paid the remuneration that is prescribed in the regulations.
- (2) An ASADA member is to be paid the allowances that are prescribed in the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

31 Standing obligation to disclose interests

Obligation to disclose interests

- (1) An ASADA member must disclose any interest he or she has if that interest could conflict with the proper performance of the functions of his or her office. Disclosure is required whether or not there is any particular matter under consideration that gives rise to an actual conflict of interest.
- (2) The disclosure must be by notice in writing given to the Minister, and to each of the other ASADA members, as soon as practicable after the member becomes aware of the potential for conflict of interest.

Some types of interests that must be disclosed

- (3) Without limiting subsection (1), an ASADA member is taken to have an interest that could conflict with the proper performance of the functions of his or her office if he or she:
 - (a) participates in, or is involved in any way in the administration of, a sport; or

- (b) is a member of, or is involved in any way in the administration of, a sporting administration body; or
 - (c) is involved in any way in the administration of a sporting event or sporting venue; or
 - (d) is related to, or has some involvement in the affairs of:
 - (i) an athlete who is subject to the NAD scheme; or
 - (ii) a support person who is subject to the NAD scheme; or
 - (iii) an individual tested under an anti-doping testing service, or a safety checking service, previously provided by the ASADA; or
 - (iv) an individual who could be tested under an anti-doping testing service, or a safety checking service, being provided by the ASADA.
- (4) Subsections (1) and (3) apply to interests:
- (a) whether direct or indirect, and whether or not pecuniary; and
 - (b) whether acquired before or after the discloser's appointment.

32 Obligation to disclose interests before deliberating on or deciding a particular matter

Obligation to disclose interests

- (1) An ASADA member (the *discloser*) who has an interest that could conflict with the proper performance of the functions of his or her office, as they give him or her a role in the deliberations or decisions of the ASADA in relation to a particular matter, must not perform that role in relation to that matter unless:
 - (a) he or she has disclosed that interest to each of the other ASADA members; and
 - (b) each of those members has consented to the discloser performing that role in relation to that matter despite the possible conflict of interest.
- (2) An ASADA member, other than the ASADA Chair, who gives a consent under paragraph (1)(b) must, as soon as practicable, advise the ASADA Chair that he or she has given the consent.

Section 32

- (3) If an interest is disclosed under subsection (1), the ASADA Chair must, as soon as practicable, give the Minister a written notice:
- (a) describing the interest and the matter; and
 - (b) advising the Minister whether the ASADA members have consented as mentioned in paragraph (1)(b).

Some types of interests that must be disclosed

- (4) Without limiting subsection (1), an ASADA member is taken to have an interest that could conflict with the proper performance of the functions of his or her office, as they give him or her a role in the deliberations or decisions of the ASADA in relation to a particular matter, if:
- (a) the member has a material personal interest in the matter; or
 - (b) the matter concerns a particular sport and the member participates in, or is involved in any way in the administration of, that sport; or
 - (c) the matter concerns a particular sporting administration body and the member is a member of, or is involved in any way in the administration of, that body; or
 - (d) the matter concerns a particular sporting event or sporting venue and the member is involved in any way in the administration of that event or venue; or
 - (e) the matter concerns an athlete who is subject to the NAD scheme, and the member is related to, or has some involvement in the affairs of, that athlete; or
 - (f) the matter concerns a support person who is subject to the NAD scheme, and the member is related to, or has some involvement in the affairs of, that support person; or
 - (g) the matter concerns an individual tested under an anti-doping testing service, or safety checking service, previously provided by the ASADA, and the member is related to, or has some involvement in the affairs of, that individual; or
 - (h) the matter concerns an individual who could be tested under an anti-doping testing service, or safety checking service, being provided by the ASADA, and the member is related to, or has some involvement in the affairs of, that individual.

- (5) Subsection (1) applies to interests:

- (a) whether direct or indirect, and whether or not pecuniary; and
 - (b) whether acquired before or after the discloser's appointment.
- (6) Subsection (4) applies to interests whether acquired before or after the discloser's appointment.

33 ASADA member to remain at arm's length from deliberations and decisions of sporting administration bodies

An ASADA member must not take part in any deliberations or decisions of a sporting administration body in relation to a particular matter if the member has participated in any deliberations or decisions of the ASADA in relation to the matter.

34 Outside employment

The ASADA Chair must not engage in paid employment outside the duties of the ASADA Chair's office without the Minister's approval.

35 Leave of absence

- (1) The ASADA Chair has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant the ASADA Chair leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.
- (3) The ASADA Chair may grant leave of absence to any other ASADA member on the terms and conditions that the ASADA Chair determines.

36 Resignation

- (1) An ASADA member may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

Section 37

37 Termination of appointment

- (1) The Minister may terminate the appointments of all of the ASADA members if the Minister is of the opinion that the ASADA's performance has been unsatisfactory.
- (2) The Minister may terminate the appointment of an ASADA member for misbehaviour or physical or mental incapacity.
- (3) The Minister may terminate the appointment of an ASADA member if:
 - (a) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the member fails, without reasonable excuse, to comply with section 31, 32 or 33; or
 - (c) the Minister is satisfied that the performance of the member has been unsatisfactory; or
 - (d) if the member is the ASADA Chair—the member fails to comply with section 34; or
 - (e) if the member is the ASADA Chair—the member is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 consecutive months; or
 - (f) if the member is not the ASADA Chair—the member is absent, except on leave of absence, from 3 consecutive meetings of the ASADA; or
 - (g) the member commits an offence against section 71 or 72.

38 Other terms and conditions

An ASADA member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

Part 5—Decision-making and delegation by ASADA

Division 1—Meetings

39 Holding of meetings

- (1) The ASADA is to hold such meetings as are necessary for the performance of its functions.
- (2) The ASADA Chair:
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting within 30 days after receiving a written request from the Minister or from at least 2 other ASADA members.

40 Presiding at meetings

- (1) The ASADA Chair presides at all meetings at which he or she is present.
- (2) If the ASADA Chair is not present at a meeting, the ASADA Deputy Chair presides.
- (3) If neither the ASADA Chair nor the ASADA Deputy Chair is present at a meeting, the ASADA members present must appoint one of themselves to preside.

41 Quorum

- (1) At a meeting of the ASADA, 3 ASADA members constitute a quorum.
- (2) However, if:
 - (a) section 32 prevents an ASADA member from participating in the deliberations or decisions of the ASADA in relation to a particular matter; and

Part 5 Decision-making and delegation by ASADA

Division 1 Meetings

Section 42

(b) when the member leaves the meeting concerned there is no longer a quorum present;
the remaining ASADA members at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting in relation to that matter.

42 Voting at meetings etc.

- (1) At a meeting of the ASADA, a question is decided by a majority of the votes of the ASADA members present and voting.
- (2) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

43 Conduct of meetings

The ASADA may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* provides for participation in meetings by telephone etc.

44 Minutes

The ASADA must keep minutes of its meetings.

Division 2—Decisions without meetings

45 Decisions without meetings

- (1) A decision is taken to have been made at a meeting of the ASADA if:
 - (a) without meeting, a majority of the ASADA members indicate agreement with the proposed decision in accordance with the method determined by the ASADA under subsection (2); and
 - (b) all the ASADA members were informed of the proposed decision, or reasonable efforts were made to inform all the ASADA members of the proposed decision.
- (2) Subsection (1) applies only if the ASADA:
 - (a) has determined that it applies; and
 - (b) has determined the method by which ASADA members are to indicate agreement with proposed decisions.
- (3) Paragraph (1)(a) does not apply to an ASADA member who is prevented by section 32 from deliberating on the proposed decision.

46 Record of decisions

The ASADA must keep a record of decisions made in accordance with section 45.

Division 3—Delegation

47 Delegation by ASADA

- (1) The ASADA may, by writing, delegate any or all of its functions and powers to:
 - (a) an ASADA member; or
 - (b) a committee consisting of 2 or more ASADA members; or
 - (c) a member of the ASADA staff; or
 - (d) an individual whose services are made available to the ASADA under section 50; or
 - (e) an individual appointed as a chaperone, or as a drug testing official, under the NAD scheme.
- (2) Subsection (1) does not apply to the power to make an instrument amending the NAD scheme.
- (3) Paragraphs (1)(a), (c), (d) and (e) do not apply to a function or power conferred by the NAD scheme if the function or power is declared by the NAD scheme to be a function or power that can only be delegated to a committee consisting of 2 or more ASADA members.
- (4) Paragraph (1)(e) does not apply to a function or power unless it is conferred by the NAD scheme.
- (5) A delegate must comply with any written directions of the ASADA.
- (6) The ASADA must cause to be kept written records of a decision of a committee consisting of 2 or more ASADA members if:
 - (a) the committee has been delegated a function or power under paragraph (1)(b); and
 - (b) the decision relates to the delegated function or power.
- (7) A record kept under subsection (6) is prima facie evidence that the decision was duly made as recorded if the record is signed by an ASADA member who was a member of the committee at the time when the decision was made.

(8) A record kept under subsection (6) is not a legislative instrument.

Division 4—Advisory committees

48 Advisory committees

- (1) The ASADA may, by writing, establish advisory committees to assist it in performing any of its functions.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) An advisory committee consists of such individuals as the ASADA from time to time appoints, by writing, to the committee.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

- (3) The ASADA may give an advisory committee written directions as to:

- (a) the way in which the committee is to carry out its functions; and
- (b) procedures to be followed in relation to meetings.

- (4) If:

- (a) a committee member has incurred reasonable expenses in performing his or her duties as a committee member; and
- (b) the committee member is neither an ASADA member nor a member of the ASADA staff; and
- (c) the ASADA Chair has approved the reimbursement of those expenses;

the ASADA must, on behalf of the Commonwealth, reimburse those expenses.

- (5) An appointment to an advisory committee is not a public office within the meaning of the *Remuneration Tribunal Act 1973*.
- (6) An instrument under subsection (1) is not a legislative instrument.
- (7) A direction under subsection (3) is not a legislative instrument.

Part 6—ASADA's staff etc.**49 Staff**

- (1) The staff of the ASADA are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the ASADA Chair and the ASADA staff together constitute a Statutory Agency; and
 - (b) the ASADA Chair is the Head of that Statutory Agency.

50 Persons assisting ASADA

The ASADA may also be assisted:

- (a) by officers and employees of Agencies (within the meaning of the *Public Service Act 1999*); or
- (b) by officers and employees of authorities of the Commonwealth;

whose services are made available to the ASADA in connection with the performance of any of its functions.

Part 7—Australian Sports Drug Medical Advisory Committee

Division 1—ASDMAC's establishment and functions

51 Establishment of ASDMAC

The Australian Sports Drug Medical Advisory Committee established under the *Australian Sports Drug Agency Act 1990* continues in existence by force of this section, under and subject to the provisions of this Act.

Note: See also section 25B of the *Acts Interpretation Act 1901*.

52 ASDMAC's functions

- (1) The ASDMAC has the following functions:
 - (a) such functions as are conferred on the ASDMAC by the NAD scheme;
 - (b) to give advice and information to the ASADA and the ASC about:
 - (i) the performance of the ASDMAC's functions; and
 - (ii) sports drug and safety matters;
 - (c) to give advice and information to sporting administration bodies about individual cases that involve:
 - (i) sports drug and safety matters; or
 - (ii) any other matter arising out of the provision of anti-doping testing services or safety checking services;
 - (d) to provide services relating to sports drug and safety matters under contract on behalf of the Commonwealth;
 - (e) such other functions as are conferred on the ASDMAC by this Act or any other law of the Commonwealth;
 - (f) to do anything incidental to or conducive to the performance of any of the above functions.

Note: For *sports drug and safety matter*, see section 4.

Constitutional limits

- (2) Subsection 21(2) applies to the functions of the ASDMAC in a corresponding way to the way in which it applies to the functions of the ASADA.

Division 2—ASDMAC's membership

53 ASDMAC's membership

The ASDMAC consists of the following members:

- (a) a Chair;
- (b) at least 3, and not more than 6, other members.

54 Appointment of ASDMAC members

- (1) Each ASDMAC member is to be appointed by the Minister by written instrument.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

- (2) The Minister must not appoint a person as an ASDMAC member unless:
 - (a) the person is a registered medical practitioner; and
 - (b) the Minister is satisfied that the person has knowledge of, or experience in, one or more of the following fields:
 - (i) sports medicine;
 - (ii) clinical pharmacology;
 - (iii) endocrinology;
 - (iv) a field specified in regulations made for the purposes of this subparagraph.
- (3) An ASDMAC member holds office on a part-time basis.

55 Period of appointment for ASDMAC members

An ASDMAC member holds office for the period specified in his or her instrument of appointment. The period must not exceed 5 years.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

56 Acting ASDMAC members

Acting ASDMAC Chair

- (1) The Minister may appoint a person to act as the ASDMAC Chair:
 - (a) during a vacancy in the office of the ASDMAC Chair, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the ASDMAC Chair:
 - (i) is absent from duty or Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Acting ASDMAC member (other than ASDMAC Chair)

- (2) The Minister may appoint a person to act as an ASDMAC member (other than the ASDMAC Chair):
 - (a) during a vacancy in the office of an ASDMAC member (other than the ASDMAC Chair), whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when an ASDMAC member (other than the ASDMAC Chair):
 - (i) is absent from duty or Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Qualifications

- (3) A person is not eligible for appointment to act as:
 - (a) the ASDMAC Chair; or
 - (b) an ASDMAC member (other than the ASDMAC Chair);unless the person is eligible for appointment as an ASDMAC member.

Note: See subsection 54(2).

Section 56

Validation

- (4) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
- (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.

Note: See section 33A of the *Acts Interpretation Act 1901*.

Division 3—Terms and conditions for ASDMAC members

57 Remuneration

- (1) An ASDMAC member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the ASDMAC member is to be paid the remuneration that is prescribed in the regulations.
- (2) An ASDMAC member is to be paid the allowances that are prescribed in the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

58 Standing obligation to disclose interests

Obligation to disclose interests

- (1) An ASDMAC member must disclose any interest he or she has if that interest could conflict with the proper performance of the functions of his or her office. Disclosure is required whether or not there is any particular matter under consideration that gives rise to an actual conflict of interest.
- (2) The disclosure must be by notice in writing given to the Minister, and to each of the other ASDMAC members, as soon as practicable after the member becomes aware of the potential for conflict of interest.

Some types of interests that must be disclosed

- (3) Without limiting subsection (1), an ASDMAC member is taken to have an interest that could conflict with the proper performance of the functions of his or her office if he or she:
 - (a) participates in, or is involved in any way in the administration of, a sport; or

Section 59

- (b) is a member of, or is involved in any way in the administration of, a sporting administration body; or
 - (c) is involved in any way in the administration of a sporting event or sporting venue; or
 - (d) is related to, or has some involvement in the affairs of:
 - (i) an athlete who is subject to the NAD scheme; or
 - (ii) a support person who is subject to the NAD scheme; or
 - (iii) an individual tested under an anti-doping testing service, or a safety checking service, previously provided by the ASADA; or
 - (iv) an individual who could be tested under an anti-doping testing service, or a safety checking service, being provided by the ASADA.
- (4) Subsections (1) and (3) apply to interests:
- (a) whether direct or indirect, and whether or not pecuniary; and
 - (b) whether acquired before or after the discloser's appointment.

59 Obligation to disclose interests before deliberating on or deciding a particular matter

Obligation to disclose interests

- (1) An ASDMAC member (the *discloser*) who has an interest that could conflict with the proper performance of the functions of his or her office, as they give him or her a role in the deliberations or decisions of the ASDMAC in relation to a particular matter, must not perform that role in relation to that matter unless:
 - (a) he or she has disclosed that interest to each of the other ASDMAC members; and
 - (b) each of those members has consented to the discloser performing that role in relation to that matter despite the possible conflict of interest.
- (2) An ASDMAC member, other than the ASDMAC Chair, who gives a consent under paragraph (1)(b) must, as soon as practicable, advise the ASDMAC Chair that he or she has given the consent.

- (3) If an interest is disclosed under subsection (1), the ASDMAC Chair must, as soon as practicable, give the Minister a written notice:
- (a) describing the interest and the matter; and
 - (b) advising the Minister whether the ASDMAC members have consented as mentioned in paragraph (1)(b).

Some types of interests that must be disclosed

- (4) Without limiting subsection (1), an ASDMAC member is taken to have an interest that could conflict with the proper performance of the functions of his or her office, as they give him or her a role in the deliberations or decisions of the ASDMAC in relation to a particular matter, if:
- (a) the member has a material personal interest in the matter; or
 - (b) the matter concerns a particular sport and the member participates in, or is involved in any way in the administration of, that sport; or
 - (c) the matter concerns a particular sporting administration body and the member is a member of, or is involved in any way in the administration of, that body; or
 - (d) the matter concerns a particular sporting event or sporting venue and the member is involved in any way in the administration of that event or venue; or
 - (e) the matter concerns an athlete who is subject to the NAD scheme, and the member is related to, or has some involvement in the affairs of, that athlete; or
 - (f) the matter concerns a support person who is subject to the NAD scheme, and the member is related to, or has some involvement in the affairs of, that support person; or
 - (g) the matter concerns an individual tested under an anti-doping testing service, or safety checking service, previously provided by the ASADA, and the member is related to, or has some involvement in the affairs of, that individual; or
 - (h) the matter concerns an individual who could be tested under an anti-doping testing service, or safety checking service, being provided by the ASADA, and the member is related to, or has some involvement in the affairs of, that individual.

Section 60

- (5) Subsection (1) applies to interests:
 - (a) whether direct or indirect, and whether or not pecuniary; and
 - (b) whether acquired before or after the discloser's appointment.
- (6) Subsection (4) applies to interests whether acquired before or after the discloser's appointment.

60 ASDMAC member to remain at arm's length from deliberations and decisions of sporting administration bodies

An ASDMAC member must not take part in any deliberations or decisions of a sporting administration body in relation to a particular matter if the member has participated in any deliberations or decisions of the ASDMAC in relation to the matter.

61 Leave of absence

- (1) The Minister may grant the ASDMAC Chair leave of absence on the terms and conditions that the Minister determines.
- (2) The ASDMAC Chair may grant leave of absence to any other ASDMAC member on the terms and conditions that the ASDMAC Chair determines.

62 Resignation

- (1) An ASDMAC member may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

63 Termination of appointment

- (1) The Minister may terminate the appointments of all of the ASDMAC members if the Minister is of the opinion that the ASDMAC's performance has been unsatisfactory.

- (2) The Minister may terminate the appointment of an ASDMAC member for misbehaviour or physical or mental incapacity.
- (3) The Minister may terminate the appointment of an ASDMAC member if:
 - (a) the member ceases to be a registered medical practitioner; or
 - (b) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (c) the member fails, without reasonable excuse, to comply with section 58, 59 or 60; or
 - (d) the Minister is satisfied that the performance of the member has been unsatisfactory; or
 - (e) the member is absent, except on leave of absence, from 3 consecutive meetings of the ASDMAC; or
 - (f) the member commits an offence against section 71 or 72.

64 Other terms and conditions

An ASDMAC member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

Division 4—Decision-making and delegation by ASDMAC

65 Decision-making by ASDMAC

- (1) The regulations may specify:
 - (a) the manner in which the ASDMAC is to perform its functions; and
 - (b) the procedure to be followed at or in relation to meetings of the ASDMAC, including matters with respect to the following:
 - (i) the convening of meetings of the ASDMAC;
 - (ii) the number of ASDMAC members who are to constitute a quorum;
 - (iii) the selection of an ASDMAC member to preside at meetings of the ASDMAC in the absence of the ASDMAC Chair;
 - (iv) the manner in which questions arising at a meeting of the ASDMAC are to be decided.
- (2) A resolution is taken to have been passed at a meeting of the ASDMAC if:
 - (a) without meeting, a majority of ASDMAC members indicate agreement with the resolution in accordance with the method determined by the ASDMAC under subsection (4); and
 - (b) all ASDMAC members were informed of the proposed resolution, or reasonable efforts had been made to inform all ASDMAC members of the proposed resolution.
- (3) Paragraph (2)(a) does not apply to an ASDMAC member who is prevented by section 59 from deliberating on the proposed resolution.
- (4) Subsection (2) has effect only if the ASDMAC:
 - (a) determines that it has effect; and
 - (b) determines the method by which ASDMAC members are to indicate agreement with resolutions.

66 Delegation by ASDMAC

- (1) The ASDMAC may, by resolution, delegate any or all of its functions and powers to an ASDMAC member.
- (2) A delegation under subsection (1) continues in force despite a change in the membership of the ASDMAC.
- (3) A delegate under subsection (1) must comply with any directions given, by resolution, by the ASDMAC.
- (4) Either:
 - (a) a delegation under subsection (1); or
 - (b) a direction under subsection (3);may be varied or revoked by resolution of the ASDMAC (whether or not there has been a change in the membership of the ASDMAC).
- (5) A certificate signed by the ASDMAC Chair stating any matter with respect to a delegation under subsection (1) is prima facie evidence of the matter.
- (6) A document purporting to be a certificate mentioned in subsection (5) is taken to be such a certificate and to have been duly given unless the contrary is established.

Part 8—Information management

Division 1—Access to, and use of, customs information

67 ASADA's access to, and use of, customs information

- (1) For the purposes of section 16 of the *Customs Administration Act 1985*:
- (a) the ASADA is taken to be a Commonwealth agency; and
 - (b) the ASADA Chair is taken to be the principal officer of that Commonwealth agency; and
 - (c) if protected information (within the meaning of that section) relates to the importation into Australia, or the attempted importation into Australia, of a prohibited substance (within the meaning of the NAD scheme), and any of the following conditions is satisfied:
 - (i) the importation or attempted importation contravenes a law of the Commonwealth;
 - (ii) there are reasonable grounds to suspect that an athlete subject to the NAD scheme, or a support person subject to the NAD scheme, is responsible for the importation or attempted importation;
 - (iii) there are reasonable grounds to suspect that the prohibited substance is for use by one or more athletes subject to the NAD scheme;the information is taken to be information that will be used by the ASADA for the purposes of the ASADA's functions; and
 - (d) the use or further disclosure of the information for the purpose of:
 - (i) the ASADA's administration of the NAD scheme; or
 - (ii) the performance by the ASADA of its functions under section 68;is taken to be authorised by law; and
 - (e) the purpose of the ASADA's administration of the NAD scheme is taken to be a permissible purpose referred to in a

paragraph of subsection 16(9) of the *Customs Administration Act 1985*; and

- (f) the purpose of the performance by the ASADA of its functions under section 68 is taken to be a permissible purpose referred to in a paragraph of subsection 16(9) of the *Customs Administration Act 1985*; and
- (g) the disclosure of the information, under section 16 of the *Customs Administration Act 1985*, to the ASADA Chair, or to a person acting on the ASADA's behalf:
 - (i) is taken to be necessary for a permissible purpose mentioned in paragraph (e) or (f); and
 - (ii) is taken to comply with subsection 16(10) of the *Customs Administration Act 1985*.

Protected customs information

- (2) For the purposes of this Act, **protected customs information** is information given to the ASADA Chair, or to a person acting on the ASADA's behalf, under section 16 of the *Customs Administration Act 1985*.
- (3) The ASADA, in administering the NAD scheme, may have regard to protected customs information.
- (4) Subsection (3) does not limit the matters to which the ASADA may have regard.

68 Disclosing protected customs information to sporting administration bodies

ASADA may disclose protected customs information

- (1) The functions of the ASADA include disclosing protected customs information to a sporting administration body if:
 - (a) the ASADA is satisfied that the information should be disclosed to the body for permitted anti-doping purposes of the body; and
 - (b) the body has given a written undertaking that:
 - (i) the body will use or disclose the information only for permitted anti-doping purposes of the body; and

Section 68

- (ii) the body will take reasonable steps to satisfy itself that the information will not be used or disclosed, by a person to whom the body has disclosed the information, in a way that would be unfairly prejudicial to the interests of the person to whom the information relates; and
- (c) the ASADA is satisfied that the disclosure of the information would not contravene any terms of the authorisation under which the information was disclosed to the ASADA Chair, or to a person acting on the ASADA's behalf, under section 16 of the *Customs Administration Act 1985*; and
- (d) the requirements of subsections (2) to (5) are satisfied.

If the information relates to more than one person, the information cannot be disclosed unless the requirements of subsections (2) to (5), as they apply in relation to each of those persons, are satisfied.

Notice to be given to person to whom the information relates

- (2) Before disclosing the information to the body, the ASADA must:
 - (a) give written notice of the proposed disclosure to the person to whom the information relates; and
 - (b) invite the person to make a written submission to the ASADA about the proposed disclosure within a period (the ***submission period***) that is the specified number of days after the day on which the person receives the notice.

The notice must also advise the person of the effect of subsection (5).

- (3) For the purposes of paragraph (2)(b), the specified number of days must be:
 - (a) unless paragraph (b) applies—14 days; or
 - (b) if the ASADA considers it appropriate in the circumstances to specify a lesser number of days—that lesser number of days.
- (4) The information must not be disclosed under this section unless:
 - (a) the submission period has ended; and
 - (b) the ASADA has considered any submission that has been made within the submission period.

- (5) If the ASADA receives a submission from the person before the end of the submission period, the ASADA may, for the purposes of subsection (4), take the submission period to have ended immediately after the receipt of the submission.

ASADA may specify other conditions etc.

- (6) The ASADA may specify the manner in which, or the conditions under which, the disclosure is to be made (including the form in which the information is to be presented and the mode of transmitting the information).

Permitted anti-doping purposes

- (7) For the purposes of this Act, each of the following purposes is a ***permitted anti-doping purpose*** of a sporting administration body:
- (a) investigating possible breaches of a current policy of the body about drugs and/or doping methods;
 - (b) determining whether to take action under such a policy of the body;
 - (c) determining what action to take under such a policy of the body;
 - (d) taking action under such a policy of the body;
 - (e) taking, or participating in, any proceedings relating to action that has been taken under such a policy of the body.

Other disclosures

- (8) This section does not, by implication, limit the disclosures that may be made for the purposes of the administration of the NAD scheme.

Division 2—Protection of personal information

69 Entrusted persons

For the purposes of this Act, an *entrusted person* is:

- (a) an ASADA member; or
- (b) a member of the ASADA staff; or
- (c) a person engaged by the Commonwealth to perform services for the ASADA or the ASDMAC; or
- (d) a designated associate of:
 - (i) a person; or
 - (ii) a partnership;engaged by the Commonwealth to perform services for the ASADA or the ASDMAC; or
- (e) an individual whose services are made available to the ASADA under section 50; or
- (f) an individual appointed as a chaperone, or as a drug testing official, under the NAD scheme; or
- (g) an ASDMAC member; or
- (h) a member of a committee established under section 48; or
- (i) an individual attending a meeting of:
 - (i) the ASADA; or
 - (ii) a committee established under section 48.

Note: For *person*, see paragraph 22(1)(a) of the *Acts Interpretation Act 1901*.

70 Designated associates

- (1) For the purposes of this Act, each of the following is a *designated associate* of a person:
- (a) if the person is a body corporate—a director, officer or employee of the body corporate;
 - (b) if the person is not a body corporate—an employee of the person.

- (2) For the purposes of this Act, each of the following is a *designated associate* of a partnership:
- (a) if a partner is an individual—the individual;
 - (b) if a partner is a body corporate:
 - (i) the body corporate;
 - (ii) a director or officer of the body corporate;
 - (c) an employee of the partnership.

71 Protection of NAD scheme personal information

- (1) A person commits an offence if:
- (a) the person is or was an entrusted person; and
 - (b) when the person was an entrusted person, the person obtained NAD scheme personal information; and
 - (c) the person discloses the information to someone else.

Penalty: Imprisonment for 2 years.

- (2) Each of the following is an exception to the prohibition in subsection (1):
- (a) a disclosure for the purposes of this Act;
 - (b) a disclosure for the purposes of the NAD scheme;
 - (c) a disclosure with the consent of the individual to whom the NAD scheme personal information relates;
 - (d) a disclosure to the individual to whom the NAD scheme personal information relates;
 - (e) a disclosure to the Australian Federal Police;
 - (f) a disclosure to the Australian Customs Service;
 - (g) a disclosure prescribed by the regulations.

Note 1: A defendant bears an evidential burden in relation to a matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: For prescribing by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

- (3) If a disclosure of NAD scheme personal information is covered by subsection (2), the disclosure is authorised by this section.
- (4) An entrusted person is not to be required to disclose NAD scheme personal information to a court, except:

Section 72

- (a) where it is necessary to do so for the purposes of giving effect to this Act or the NAD scheme; or
- (b) for the purposes of a criminal proceeding (including a proceeding to determine whether a person should be tried for an offence).

For this purpose, *court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

72 Protection of contract services personal information

- (1) A person commits an offence if:
 - (a) the person is or was an entrusted person; and
 - (b) when the person was an entrusted person, the person obtained contract services personal information; and
 - (c) the person discloses the information to someone else.

Penalty: Imprisonment for 2 years.

- (2) Each of the following is an exception to the prohibition in subsection (1):
 - (a) a disclosure for the purposes of this Act;
 - (b) a disclosure for the purposes of the provision of the services to which the contract services personal information relates;
 - (c) a disclosure with the consent of the individual to whom the contract services personal information relates;
 - (d) a disclosure to the individual to whom the contract services personal information relates;
 - (e) a disclosure to the Australian Federal Police;
 - (f) a disclosure to the Australian Customs Service;
 - (g) a disclosure to any of the following:
 - (i) the Commonwealth, a State or a Territory;
 - (ii) the ASC or any sports academy, sports institute, or other similar body, of a State or Territory;that the ASADA believes provides support (whether direct or indirect and whether by way of financial assistance or otherwise) to the individual to whom the contract services personal information relates;

(h) a disclosure prescribed by the regulations.

Note 1: A defendant bears an evidential burden in relation to a matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: For prescribing by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

(3) If a disclosure of contract services personal information is covered by subsection (2), the disclosure is authorised by this section.

(4) An entrusted person is not to be required to disclose contract services personal information to a court, except:

(a) where it is necessary to do so for the purposes of giving effect to:

(i) this Act; or

(ii) a contract for the provision of the services to which the contract services personal information relates; or

(b) for the purposes of a criminal proceeding (including a proceeding to determine whether a person should be tried for an offence).

For this purpose, *court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

73 Operation of *Privacy Act 1988* is not affected

Nothing in this Act or the NAD scheme limits the operation of the *Privacy Act 1988*.

Part 9—Other matters

74 Annual report

- (1) The ASADA must, as soon as practicable after the end of each financial year, prepare and give to the Minister a report of the ASADA's operations during the financial year.

Note: See also section 34C of the *Acts Interpretation Act 1901*.

- (2) The Minister must cause a copy of each report under this section to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

75 Minister may require ASADA to prepare reports or give information

Reports

- (1) The Minister may, by written notice given to the ASADA, require the ASADA:
 - (a) to prepare a report about one or more specified matters relating to the performance of the ASADA's functions; and
 - (b) give a copy of the report to the Minister within the period specified in the notice.

Information

- (2) The Minister may, by written notice given to the ASADA, require the ASADA to:
 - (a) prepare a document setting out specified information relating to the performance of the ASADA's functions; and
 - (b) give a copy of the document to the Minister within the period specified in the notice.

Compliance

- (3) The ASADA must comply with a requirement under subsection (1) or (2).

Publication of reports and documents

- (4) The Minister may cause to be published:
- (a) a report under subsection (1); or
 - (b) a document under subsection (2).

Application of Legislative Instruments Act 2003

- (5) A report under subsection (1) is not a legislative instrument.
- (6) A document under subsection (2) is not a legislative instrument.
- (7) A notice under subsection (1) or (2) is not a legislative instrument.

76 Exemption from taxation*Income tax*

- (1) To avoid doubt, for the purposes of section 50-25 of the *Income Tax Assessment Act 1997*, the ASADA is taken to be a public authority constituted under an Australian law.

Note: This means that the ASADA is exempt from income tax.

State/Territory taxes

- (2) To avoid doubt, the ASADA is not subject to taxation under a law of a State or Territory, if the Commonwealth is not subject to the taxation.

77 ASADA Chair not subject to direction by ASADA on certain matters

The ASADA Chair is not subject to direction by the ASADA in relation to the ASADA Chair's performance of functions, or exercise of powers, under the *Financial Management and Accountability Act 1997* or the *Public Service Act 1999*.

Section 78

78 Protection from civil actions

- (1) Each of the following:
 - (a) an ASADA member;
 - (b) a member of the ASADA staff;
 - (c) an individual whose services are made available to the ASADA under section 50;
 - (d) an individual appointed as a chaperone, or as a drug testing official, under the NAD scheme;is not liable to an action or other proceeding for damages for or in relation to an act done or omitted to be done in good faith:
 - (e) in the performance or purported performance of any function of the ASADA; or
 - (f) in the exercise or purported exercise of any power of the ASADA.
- (2) An ASDMAC member is not liable to an action or other proceeding for damages for or in relation to an act done or omitted to be done in good faith:
 - (a) in the performance or purported performance of any function of the ASDMAC; or
 - (b) in the exercise or purported exercise of any power of the ASDMAC.
- (3) Civil proceedings do not lie against the ASADA or the Commonwealth in respect of loss, damage or injury of any kind suffered by another person because of a publication or disclosure in good faith:
 - (a) in the performance or purported performance of any function of the ASADA; or
 - (b) in the exercise or purported exercise of any power of the ASADA.
- (4) Civil proceedings do not lie against a person in respect of loss, damage or injury of any kind suffered by another person because of any of the following acts done in good faith:
 - (a) the making of a statement to, or the giving of a document or information to, the ASADA or the ASDMAC alleging a possible violation of an anti-doping rule;

- (b) the making of a statement to, or the giving of a document or information to, the ASADA or the ASDMAC in connection with an investigation under the NAD scheme;
- (c) the making of a statement to, or the giving of a document or information to, the ASADA or the ASDMAC that may be capable of supporting an allegation of a possible violation of an anti-doping rule;
- (d) the making of a statement to, or the giving of a document or information to, the ASADA in connection with the performance by the ASADA of any of its functions under the NAD scheme;
- (e) the making of a statement to, or the giving of a document or information to, the ASDMAC in connection with the performance by the ASDMAC of any of its functions under the NAD scheme.

79 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
House of Representatives on 7 December 2005
Senate on 9 February 2006]*

(194/05)
