



Australian Sports Anti-Doping Authority Amendment (World Anti-Doping Code and Other Measures) Regulation 2014

Select Legislative Instrument No. 206, 2014

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 11 December 2014

Peter Cosgrove
Governor-General

By His Excellency's Command

Peter Dutton
Minister for Sport

OPC60813 - A

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1 Name

This is the *Australian Sports Anti-Doping Authority Amendment (World Anti-Doping Code and Other Measures) Regulation 2014*.

2 Commencement

This instrument commences on 1 January 2015.

3 Authority

This instrument is made under the *Australian Sports Anti-Doping Authority Act 2006*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

No. 206, 2014

Australian Sports Anti-Doping Authority Amendment (World Anti-Doping Code and Other Measures) Regulation 2014

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Schedule 1—Amendments

Australian Sports Anti-Doping Authority Regulations 2006

1 Regulation 1A

Insert:

ASDMAC review function has the meaning given by subregulation 6(5).

2 Regulations 5, 5A and 5B

Repeal the regulations, substitute:

5 Disclosure of protected information

Disclosures by the CEO

- (1) For subsection 68B(2) of the Act, a circumstance in which the CEO may disclose protected information is that the CEO is satisfied that the protected information will enable or assist a body or person referred to in subsection 68B(3) of the Act to perform or exercise any of its functions, duties or powers.

Bodies and persons to whom protected information may be disclosed

- (2) For paragraph 68B(3)(g) of the Act, sporting administration bodies are prescribed.

3 Part 3 (heading)

Repeal the heading, substitute:

Part 3—ASDMAC functions, meetings and procedures

4 Regulations 6, 7 and 8

Repeal the regulations, substitute:

6 Manner of performing ASDMAC's functions

Functions other than ASDMAC review functions

- (1) A function of the ASDMAC (other than an ASDMAC review function) may only be performed by the ASDMAC at a meeting of ASDMAC members other than ASDMAC review members.

Note: See subsection 65(2) of the Act for when a resolution is taken to have been passed at a meeting of ASDMAC members (other than ASDMAC review members).

- (2) A function of the ASDMAC (other than an ASDMAC review function) may only be performed under a delegation under section 66 of the Act if:
- (a) the delegation was made by the ASDMAC at a meeting of ASDMAC members other than ASDMAC review members; and
 - (b) the delegate complies with any direction given by the ASDMAC at such a meeting (subject to any variation or revocation of the direction by the ASDMAC at such a meeting).

ASDMAC review functions

- (3) An ASDMAC review function may only be performed by the ASDMAC at a meeting of ASDMAC review members.

Note: See subsection 65(2A) of the Act for when a resolution is taken to have been passed at a meeting of ASDMAC review members.

- (4) An ASDMAC review function may only be performed under a delegation under section 66 of the Act if:
- (a) the delegation was made by the ASDMAC at a meeting of ASDMAC review members; and
 - (b) the delegate complies with any direction given by the ASDMAC at such a meeting (subject to any variation or revocation of the direction by the ASDMAC at such a meeting).

- (5) In these Regulations:

ASDMAC review function means:

- (a) a function of the ASDMAC under subclause 5.01(2), (2B), (2C) or (2D) of Schedule 1 (review of decisions relating to therapeutic use exemptions); and
- (b) a function of the ASDMAC under subclause 5.01(7) of Schedule 1 (consultation with CEO) to the extent that the function relates to a function mentioned in paragraph (a) of this definition; and
- (c) a function of the ASDMAC under subclause 5.01(8) of Schedule 1 (ASDMAC participation in review or appeal of ASDMAC decisions) to the extent that the function relates to a decision made by the ASDMAC at a meeting of ASDMAC review members.

6A Convening meetings of ASDMAC

- (1) The ASDMAC Chair must convene as many meetings as are necessary for the efficient performance of the ASDMAC's functions.
- (2) The Minister, the CEO or at least 2 ASDMAC primary members may request the ASDMAC Chair to convene a meeting of the ASDMAC for the purpose of performing a function of the ASDMAC (other than an ASDMAC review function).
- (3) The Minister, the CEO or at least 2 ASDMAC review members may request the ASDMAC Chair to convene a meeting of the ASDMAC for the purpose of performing an ASDMAC review function.
- (4) A request under subregulation (2) or (3) must be in writing, except for a request by the CEO which may be made orally.
- (5) The ASDMAC Chair must comply with a request under subregulation (2) or (3) as soon as practicable.

7 Quorum

- (1) The quorum for a meeting of the ASDMAC for the purpose of performing a function other than an ASDMAC review function is 3 ASDMAC members (other than ASDMAC review members).

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- (2) The quorum for a meeting of the ASDMAC for the purpose of performing an ASDMAC review function is 2 ASDMAC review members.

8 Chairing meetings in absence of the ASDMAC chair

- (1) If the ASDMAC Chair is to be absent from a meeting of ASDMAC members (other than ASDMAC review members), the ASDMAC Chair may nominate an ASDMAC primary member to chair the meeting.
- (2) The ASDMAC Chair may, when convening a meeting of ASDMAC review members, nominate one of those members to chair the meeting.
- (3) If the ASDMAC Chair does not make a nomination under subregulation (1) or (2), the ASDMAC members present at the meeting must elect one of their number to chair the meeting.

5 Subregulation 9(3) (note)

Repeal the note, substitute:

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

6 At the end of regulation 9

Add:

- (4) However, if:
- (a) the question to be decided is whether to affirm or set aside a decision (the *original decision*) under subclause 5.01(2B) of Schedule 1 (review of therapeutic use exemption decisions); and
- (b) the votes on the question are equal;
- the ASDMAC review members present at the meeting are taken to have affirmed the original decision.

7 Subregulation 10(1)

Omit "(1)".

8 Subregulations 10(2) and (3)

Repeal the subregulations.

9 Part 4

Repeal the Part.

10 Subclause 1.02A(1) of Schedule 1

Omit “findings on the register mentioned in subparagraph 13(1)(i) of the Act”, substitute “assertions made by the ADRVP, in accordance with clauses 4.11, 4.17 and 4.20”.

11 Subclause 1.02A(2) of Schedule 1

Omit “findings”, substitute “assertions, when notifying those bodies of assertions in accordance with clause 4.11”.

12 Subclause 1.02A(3) of Schedule 1

Repeal the subclause (including the note), substitute:

- (3) The CEO is also authorised to present:
- (a) assertions; and
 - (b) recommendations by the CEO in relation to assertions; and
 - (c) additional information;
- at hearings of the Court of Arbitration for Sport and other sporting tribunals in accordance with clause 4.13.

Note: See paragraph 13(1)(k) of the Act.

- (4) The CEO is also authorised to give participants warning notices in accordance with clause 2.01K (prohibited association).

Note: See paragraph 13(1)(fa) of the Act.

13 Subclause 1.03A(1) of Schedule 1

Repeal the subclause, substitute:

- (1) For paragraph 41(1)(a) of the Act, the ADRVP’s functions under the NAD Scheme consist of considering whether there have been possible anti-doping rule violations by participants, and making assertions in relation to participants, in accordance with clauses 4.08, 4.09, 4.09A and 4.10.

Note: ADRVP members also perform functions under clauses 3.26B and 3.26D (requirement to attend interview, give information or produce documents or things).

14 Clause 1.04 of Schedule 1

Repeal the clause.

15 Clause 1.05 of Schedule 1 (after the heading)

Insert:

Note 1: A number of expressions used in the NAD scheme are defined in the Act, including the following:

- (a) anti-doping rule violation;
- (b) athlete;
- (c) support person.

Note 2: In accordance with the definition of *World Anti-Doping Code* in section 4 of the Act, a reference to the World Anti-Doping Code is a reference to the World Anti-Doping Code as in force from time to time.

16 Clause 1.05 of Schedule 1 (definition of *accredited laboratory*)

Repeal the definition.

17 Clause 1.05 of Schedule 1

Insert:

administration, in relation to a prohibited substance or prohibited method, has the meaning given by subclause 2.01H(2).

18 Clause 1.05 of Schedule 1 (definition of *adverse analytical finding*)

Omit “an accredited laboratory or other WADA-approved entity”, substitute “a recognised laboratory”.

19 Clause 1.05 of Schedule 1 (at the end of the definition of *anti-doping organisation*)

Add:

; and (g) regional anti-doping organisations.

20 Clause 1.05 of Schedule 1 (definition of *anti-doping rules*)

Repeal the definition, substitute:

anti-doping rules means the anti-doping rules contained in Division 2.1.

21 Clause 1.05 of Schedule 1 (definition of *anti-doping rule violation*)

Repeal the definition.

22 Clause 1.05 of Schedule 1

Insert:

assertion means an assertion made by the ADRVP under subclause 4.09(5).

23 Clause 1.05 of Schedule 1 (definition of *athlete*)

Repeal the definition.

24 Clause 1.05 of Schedule 1 (definition of *atypical finding*)

Omit “an accredited laboratory or other WADA approved entity”, substitute “a recognised laboratory”.

25 Clause 1.05 of Schedule 1 (definition of *competition*)

Omit “athletic”, substitute “sport”.

26 Clause 1.05 of Schedule 1 (note at the end of the definition of *competition*)

Omit “athletic”, substitute “sport”.

27 Clause 1.05 of Schedule 1 (definition of *finding*)

Repeal the definition.

28 Clause 1.05 of Schedule 1 (definition of *in-competition*)

Repeal the definition, substitute:

in-competition: something occurs *in-competition* if it occurs during the period commencing 12 hours before a competition in which an athlete is scheduled to participate through to the end of the competition (including the sample collection process related to the competition), unless provided otherwise in the rules of:

- (a) an International Sporting Federation; or
- (b) a national sporting organisation; or
- (c) the ruling body of an event in which the competition is taking place.

29 Clause 1.05 of Schedule 1 (definition of *ineligibility*)

Repeal the definition.

30 Clause 1.05 of Schedule 1 (definition of *international event*)

After “an event”, insert “or competition”.

31 Clause 1.05 of Schedule 1 (definition of *international event*)

After “for the event” (wherever occurring), insert “or competition”.

32 Clause 1.05 of Schedule 1 (definition of *International Standard for Testing*)

Repeal the definition.

33 Clause 1.05 of Schedule 1

Insert:

International Standard for Testing and Investigations means the International Standard for Testing and Investigations adopted by the WADA, as amended from time to time, including technical documents issued under it.

34 Clause 1.05 of Schedule 1 (definition of *international-level athlete*)

Repeal the definition, substitute:

international-level athlete means an athlete who competes in sport at the international level, as determined by the International Sporting Federation for that sport in accordance with the International Standard for Testing and Investigations.

35 Clause 1.05 of Schedule 1 (definition of *marker*)

Omit “parameter”, substitute “variable”.

36 Clause 1.05 of Schedule 1 (definition of *national anti-doping organisation*)

Omit “, including an entity that may be designated by multiple countries to serve as a regional anti-doping organisation for those countries”.

37 Clause 1.05 of Schedule 1 (definition of *national event*)

After “sport event”, insert “or competition”.

38 Clause 1.05 of Schedule 1 (definition of *no advance notice*)

Repeal the definition.

39 Clause 1.05 of Schedule 1 (definition of *non-presence anti-doping rule violation*)

Repeal the definition, substitute:

non-presence anti-doping rule violation means an anti-doping rule violation, other than an anti-doping rule violation provided for by clause 2.01A (which relates to the presence of a prohibited substance or its metabolites or markers in an athlete’s sample).

40 Clause 1.05 of Schedule 1 (definition of *out-of-competition*)

Repeal the definition, substitute:

out-of-competition: something occurs *out-of-competition* if it does not occur in-competition.

41 Clause 1.05 of Schedule 1 (definition of *possession*)

Repeal the definition, substitute:

possession, in relation to a prohibited substance or prohibited method, has the meaning given by subclause 2.01F(3).

42 Clause 1.05 of Schedule 1 (definition of *prohibited substance*)

After “described”, insert “, or a substance in a class of substances so described,”.

43 Clause 1.05 of Schedule 1 (definition of *provisional suspension*)

Repeal the definition.

44 Clause 1.05 of Schedule 1

Insert:

regional anti-doping organisation means a regional entity designated by member countries to coordinate and manage delegated areas of their national anti-doping programs, which may include any or all of the following:

- (a) the adoption and implementation of anti-doping rules;
- (b) the planning and collection of samples;
- (c) the management of results;
- (d) the review of therapeutic use exemptions;
- (e) the conduct of hearings;
- (f) the conduct of educational programs at a regional level.

45 Clause 1.05 of Schedule 1 (definition of *Register of Findings or Register*)

Repeal the definition.

46 Clause 1.05 of Schedule 1 (definition of *registered testing pool*)

Repeal the definition, substitute:

registered testing pool means the pool of highest priority athletes for testing, established separately at the international level by International Sporting Federations, and at the national level by national anti-doping organisations or regional anti-doping organisations, who are subject to focused in-competition and out-of-competition testing as part of the test distribution plan of an International Sporting Federation, or a national anti-doping organisation or regional anti-doping organisation.

Note: Athletes in the CEO's registered testing pool may be asked for whereabouts information (see clause 3.09). A failure to provide such information may involve a possible anti-doping rule violation under clause 2.01D.

47 Clause 1.05 of Schedule 1 (definition of *representative*)

After "Testing", insert "and Investigations".

48 Clause 1.05 of Schedule 1 (definition of *support person*)

Repeal the definition.

49 Clause 1.05 of Schedule 1

Insert:

response period, for a notice given to a participant by the CEO under Part 4 of this Schedule, means:

- (a) the period of 10 days after the participant receives the notice; or
- (b) if the CEO considers that a shorter period is reasonably necessary due to the circumstances (for example, because of a forthcoming international event or national event)—a shorter period specified in the notice; or
- (c) a longer period notified by the CEO in writing to the participant.

50 Clause 1.05 of Schedule 1 (definition of *tampering*)

Repeal the definition, substitute:

tampering has the meaning given by subclause 2.01E(2).

51 Clause 1.05 of Schedule 1

Insert:

therapeutic use exemption means an exemption (however described) granted to an athlete by a TUE committee, in accordance with the World Anti-Doping Code and the International Standard for Therapeutic Use Exemptions, that authorises the athlete to use a prohibited substance or a prohibited method for therapeutic purposes.

52 Clause 1.05 of Schedule 1 (definition of *trafficking*)

Repeal the definition, substitute:

trafficking, in relation to a prohibited substance or prohibited method, has the meaning given by subclause 2.01G(2).

53 Clause 1.05 of Schedule 1 (definition of *use*)

Repeal the definition (including the notes), substitute:

use, in relation to a prohibited substance or prohibited method, has the meaning given by subclause 2.01B(4).

54 Clause 1.05 of Schedule 1

Insert:

whereabouts information has the meaning given by subclause 3.09(1).

55 Clause 1.05A of Schedule 1

Repeal the clause.

56 Subclause 1.06(1) of Schedule 1

Repeal the subclause, substitute:

- (1) Persons who compete in sport are subject to the NAD scheme if the sport has an anti-doping policy.

Note: A person who competes in sport and who is subject to the NAD scheme is an *athlete* (see section 4 of the Act).

- (1A) The anti-doping rules apply to all athletes.

57 Paragraph 1.06(2)(f) of Schedule 1

Omit “and”.

58 Paragraph 1.06(2)(g) of Schedule 1

Omit “or national anti-doping organisation”, substitute “, or a national anti-doping organisation or regional anti-doping organisation”.

59 At the end of subclause 1.06(2) of Schedule 1

Add:

- ; (h) athletes who are present in Australia at the time of the testing;
(i) athletes serving a period of ineligibility.

60 Subclauses 1.06(3) and (4) of Schedule 1

Repeal the subclauses.

61 Clause 1.07 of Schedule 1

Repeal the clause, substitute:

1.07 Classes of support persons subject to the NAD scheme

- (1) Support persons involved in a sport with an anti-doping policy are subject to the NAD scheme.

- (2) The anti-doping rules apply to all support persons subject to the NAD scheme.

62 Division 2.1 of Schedule 1

Repeal the Division, substitute:

Division 2.1—Anti-doping rules

2.01 Anti-doping rules—general

- (1) This Division contains the anti-doping rules. An *anti-doping rule* is a provision that provides that a particular circumstance, or particular conduct, constitutes a violation of an anti-doping rule. The ADRVP makes assertions about possible anti-doping rule violations.
- (2) Athletes and support persons are responsible for knowing what constitutes an anti-doping rule violation and the substances and methods that have been included on the prohibited list.

2.01A Presence in athlete's sample of prohibited substance, or metabolites or markers

- (1) Presence of a prohibited substance or its metabolites or markers in an athlete's sample constitutes a violation of an anti-doping rule.
- (2) It is each athlete's personal duty to ensure that no prohibited substance enters his or her body. Athletes are responsible for a prohibited substance or its metabolites or markers found to be present in their samples. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the athlete's part be demonstrated in order to establish an anti-doping rule violation under this clause.
- (3) Sufficient proof of an anti-doping rule violation under this clause is established:
 - (a) by the presence of a prohibited substance or its metabolites or markers in the athlete's A sample if the athlete waives analysis of the B sample and the B sample is not analysed; or
 - (b) if the athlete's B sample is analysed and the analysis of the athlete's B sample confirms the presence of the prohibited

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- substance or its metabolites or markers found in the athlete's A sample; or
- (c) if the athlete's B sample is split into 2 parts and the analysis of the second part confirms the presence of the prohibited substance or its metabolites or markers found in the first part.
- (4) Excepting those substances for which a quantitative threshold is specifically identified in the prohibited list, the presence of any quantity of a prohibited substance or its metabolites or markers in an athlete's sample constitutes a violation of an anti-doping rule.
- (5) As an exception to the general rule established by this clause, the prohibited list or International Standards may establish special criteria for the evaluation of prohibited substances that can also be produced endogenously.

2.01B Use or attempted use by an athlete of a prohibited substance or a prohibited method

- (1) Use or attempted use by an athlete of a prohibited substance or a prohibited method constitutes a violation of an anti-doping rule.
- (2) It is each athlete's personal duty to ensure that no prohibited substance enters his or her body and that no prohibited method is used. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the athlete's part be demonstrated in order to establish an anti-doping rule violation under this clause.
- (3) The success or failure of the use or attempted use of a prohibited substance or prohibited method is not material. It is sufficient that the prohibited substance or prohibited method was used or attempted to be used for an anti-doping rule violation to be committed.
- (4) In the NAD scheme:
- use*, in relation to a prohibited substance or prohibited method, means the utilisation, application, ingestion, injection or consumption by any means of the prohibited substance or prohibited method.

2.01C Evading, refusing or failing to submit to sample collection

Evading sample collection or, without compelling justification, refusing or failing to submit to sample collection after notification as authorised in applicable anti-doping rules, constitutes a violation of an anti-doping rule.

2.01D Whereabouts failures

Any combination of 3 missed tests or filing failures (or both), as defined in the International Standard for Testing and Investigations, within a 12 month period by an athlete in a registered testing pool, constitutes a violation of an anti-doping rule.

2.01E Tampering or attempted tampering with any part of doping control

- (1) Tampering or attempted tampering with any part of doping control, being conduct that subverts the doping control process, but that would not otherwise constitute a prohibited method, constitutes a violation of an anti-doping rule. This includes, without limitation, any or all of the following:
 - (a) intentionally interfering or attempting to interfere with a doping control official;
 - (b) providing fraudulent information to an anti-doping organisation;
 - (c) intimidating or attempting to intimidate a potential witness.
- (2) In the NAD scheme:

tampering means any or all of the following:

- (a) altering for an improper purpose or in an improper way;
- (b) bringing improper influence to bear;
- (c) interfering improperly;
- (d) obstructing, misleading or engaging in any fraudulent conduct, to alter results or prevent normal procedures from occurring.

2.01F Possession of prohibited substances and prohibited methods

- (1) Possession by an athlete in-competition of a prohibited method or a prohibited substance, or possession by an athlete out-of-competition of a prohibited method or a prohibited substance that is prohibited out-of-competition, constitutes a violation of an anti-doping rule, unless the athlete establishes that the possession is authorised by a therapeutic use exemption or other acceptable justification.
- (2) Possession by a support person in-competition of a prohibited method or a prohibited substance, or possession by a support person out-of-competition of a prohibited method or a prohibited substance that is prohibited out-of-competition in connection with an athlete, competition or training, constitutes a violation of an anti-doping rule, unless the support person establishes that the possession is authorised by a therapeutic use exemption granted to an athlete or other acceptable justification.
- (3) In the NAD scheme:
possession by a person of a prohibited substance or prohibited method means (subject to subclauses (4), (5) and (6)):
 - (a) actual physical possession; or
 - (b) constructive possession (which can be found only if the person has exclusive control, or intends to exercise control, over the prohibited substance or prohibited method, or the premises in which the prohibited substance or prohibited method exists).
- (4) Despite paragraph (b) of the definition of *possession* in subclause (3), if a person does not have exclusive control over a prohibited substance or prohibited method, or premises in which a prohibited substance or prohibited method exists, constructive possession can only be found if the person knew about the presence of the prohibited substance or prohibited method and intended to exercise control over it.
- (5) Despite the definition of *possession* in subclause (3), a person is taken not to have possession of a prohibited substance or prohibited method if, before receiving notification of any kind that the person has committed an anti-doping rule violation, the person:

- (a) has taken concrete action demonstrating that the person never intended to have possession of the prohibited substance or prohibited method; and
 - (b) has renounced possession of the prohibited substance or prohibited method by explicitly declaring it to an anti-doping organisation.
- (6) The purchase (including by any electronic or other means) of a prohibited substance or prohibited method constitutes *possession* by the person who makes the purchase.

2.01G Trafficking or attempted trafficking in a prohibited substance or prohibited method

- (1) Trafficking or attempted trafficking in a prohibited substance or prohibited method constitutes a violation of an anti-doping rule.
- (2) In the NAD scheme:

trafficking, in relation to a prohibited substance or prohibited method:

- (a) means selling, giving, transporting, sending, delivering or distributing (or possessing for any such purpose) a prohibited substance or prohibited method (either physically or by any electronic or other means) by a participant to any third party; but
- (b) does not include:
 - (i) the actions of bona fide medical personnel involving a prohibited substance that is used for genuine and legal therapeutic purposes, or with another acceptable justification; or
 - (ii) actions involving prohibited substances that are not prohibited in out-of-competition testing unless the circumstances as a whole demonstrate such prohibited substances are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

2.01H Administration or attempted administration of a prohibited substance or prohibited method

(1) Administration or attempted administration to an athlete in-competition of a prohibited substance or prohibited method, or administration or attempted administration to an athlete out-of-competition of a prohibited substance or prohibited method that is prohibited out-of-competition, constitutes a violation of an anti-doping rule.

(2) In the NAD scheme:

administration, in relation to a prohibited substance or prohibited method:

- (a) means providing, supplying, supervising, facilitating, or otherwise participating in, the use or attempted use by another person of a prohibited substance or prohibited method; but
- (b) does not include:
 - (i) the actions of bona fide medical personnel involving a prohibited substance that is used for genuine and legal therapeutic purposes, or with another acceptable justification; or
 - (ii) actions involving prohibited substances that are not prohibited in out-of-competition testing unless the circumstances as a whole demonstrate such prohibited substances are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

2.01J Complicity

Assisting, encouraging, aiding, abetting, conspiring, covering-up or any other type of intentional complicity involving an anti-doping rule violation, or a violation of Article 10.12.1 of the World Anti-Doping Code, by another person constitutes a violation of an anti-doping rule.

2.01K Prohibited association

(1) Association by a participant in a professional or sport-related capacity with a support person (a **disqualified support person**)

described in Article 2.10.1, 2.10.2 or 2.10.3 of the World Anti-Doping Code constitutes a violation of an anti-doping rule if:

- (a) the participant has been given a warning notice under subclause (3) in relation to the disqualified support person; and
 - (b) the notice is in force at the time of the association.
- (2) The burden is on the participant to establish that any association with a disqualified support person is not in a professional or sport-related capacity.

Giving warning notices

- (3) The CEO may give a participant a warning notice under this subclause if:
- (a) the CEO is satisfied:
 - (i) that the participant has associated in a professional or sport-related capacity with a person; and
 - (ii) that the person with whom the participant has associated is a disqualified support person; and
 - (iii) that the participant can reasonably avoid such an association in the future; and
 - (b) the CEO has complied with subclauses (5) and (6) (submissions).
- (4) A warning notice under subclause (3) must:
- (a) be in writing; and
 - (b) state the following:
 - (i) the name of the disqualified support person;
 - (ii) that the CEO is satisfied of the matters mentioned in paragraph (3)(a) and the CEO's reasons for being satisfied of those matters;
 - (iii) the effect of subclause (1).

Submissions about warning notice

- (5) Before the CEO gives a participant a warning notice under subclause (3), the CEO must:
- (a) give the participant a written notice:

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- (i) stating the matters mentioned in subparagraphs (4)(b)(i) and (ii) and the effect of subclause (1) if the warning notice is given; and
 - (ii) inviting the participant to give the CEO a written submission, within the period of 15 days after the date of the notice (the **submission period**), as to whether the warning notice should be given; and
 - (b) take reasonable steps to give the disqualified support person a written notice:
 - (i) stating that the CEO is satisfied that the person is a disqualified support person; and
 - (ii) inviting the person to give the CEO a written submission, within the period of 15 days after the date of the notice (the **submission period**), as to why the person is not a disqualified support person.
- (6) The CEO must not give a participant a warning notice under subclause (3) unless:
- (a) the submission period for the notice given under paragraph (5)(a) or (b) has ended without any submission under either of those paragraphs being made; or
 - (b) the CEO has considered any such submission made before the end of the submission period.
- (7) If the CEO:
- (a) gives a participant a notice under paragraph (5)(a); and
 - (b) decides not to give the participant a warning notice under subclause (3);
- the CEO must:
- (c) give the participant written notice of the CEO's decision; and
 - (d) take reasonable steps to give the disqualified person written notice of the CEO's decision.

When a warning notice is in force

- (8) A warning notice given under subclause (3):
- (a) comes into force on the day it is given to the participant; and
 - (b) ceases to be in force on the earlier of:
 - (i) the day after the disqualified support person ceases to be a disqualified support person; and

- (ii) the day after the notice is withdrawn under subclause (9).

Withdrawing warning notices

- (9) If the CEO at any time is no longer satisfied of a matter mentioned in paragraph (3)(a) in relation to a warning notice given to a participant, the CEO must withdraw the warning notice by written notice given to the participant.

Freedom of association

- (10) Subclause (1) does not apply to the extent (if any) that it would be inconsistent with Article 22 of the International Covenant on Civil and Political Rights, done at New York on 16 December 1966.

Note: The Covenant is in Australian Treaty Series 1980 No. 23 ([1980] ATS 23) and could in 2014 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

63 Paragraph 2.04(m) of Schedule 1

Omit “findings” (wherever occurring), substitute “assertions”.

64 Subclause 3.04(1) of Schedule 1

After “Testing”, insert “and Investigations”.

65 Clause 3.05 of Schedule 1

Repeal the clause, substitute:

3.05 Protection from civil actions—drug testing officials

For paragraph 78(1)(d) of the Act, each of the following is appointed as a drug testing official:

- (a) a doping control officer;
- (b) an investigator;
- (c) a blood collection official.

66 Division 3.2 of Schedule 1

Repeal the Division, substitute:

Division 3.2—Locating athletes**3.09 Whereabouts information for athlete**

- (1) The CEO may, by written notice, request an athlete in the CEO's registered testing pool to give the CEO information (*whereabouts information*), for the purpose of contacting or locating the athlete, in accordance with the International Standard for Testing and Investigations.

Note: A failure by an athlete to give the CEO whereabouts information may constitute a possible anti-doping rule violation under clause 2.01D.

- (2) If the CEO requests an athlete with an intellectual disability to give whereabouts information, the CEO must give at least one of the following persons oral or written notice of the request:
- (a) the athlete's spouse;
 - (b) the athlete's parent or guardian;
 - (c) the athlete's coach;
 - (d) a representative of a relevant sporting administration body for the athlete.
- (3) The CEO may request whereabouts information from an athlete by giving the athlete's relevant sporting administration body a written notice that:
- (a) includes the request for information from the athlete; and
 - (b) asks the body to forward the request in a sealed envelope to the athlete.
- (4) Subclause (3) does not limit the manner in which a request for whereabouts information may be given.

67 Paragraph 3.12(1)(f) of Schedule 1

After "national anti-doping organisation", insert ", a regional anti-doping organisation".

68 Clause 3.13 of Schedule 1

After "Testing", insert "and Investigations".

69 Subclause 3.16(5) of Schedule 1

Repeal the subclause, substitute:

- (5) The request may be made without giving the athlete any advance notice of the request.

70 Subclause 3.23(2) of Schedule 1

Omit “an accredited”, substitute “a recognised”.

71 Clause 3.25 of Schedule 1 (heading)

Repeal the heading, substitute:

3.25 Retention and further analysis of samples

72 Paragraph 3.25(1)(a) of Schedule 1

Omit “an accredited”, substitute “a recognised”.

73 Subclauses 3.25(2) and (3) of Schedule 1

Omit “accredited”, substitute “recognised”.

74 Subclause 3.25(5) of Schedule 1

Omit “an accredited”, substitute “a recognised”.

75 Subclause 3.25(5) of Schedule 1 (note)

Repeal the note, substitute:

Note: There is a 10 year time limit on taking action in relation to a matter: see clause 4.23.

76 Subclause 3.27(1) of Schedule 1

Omit “possible anti-doping rule violations that may have been committed by athletes or support persons”, substitute “possible violations of the anti-doping rules”.

77 Paragraph 3.27(2)(b) of Schedule 1

Omit “Standards; and”, substitute “Standards.”.

78 Paragraph 3.27(2)(c) of Schedule 1

Repeal the paragraph.

79 Clause 4.01 of Schedule 1 (heading)

Repeal the heading, substitute:

4.01 Review by CEO**80 Subclause 4.01(1) of Schedule 1**

Repeal the subclause.

81 Subclause 4.01(2) of Schedule 1

Omit “On receipt of an atypical finding or an adverse analytical finding”, substitute “If the CEO receives notice from a recognised laboratory of an atypical finding or an adverse analytical finding in relation to an A sample provided by an athlete”.

82 Clause 4.02 of Schedule 1

Repeal the clause, substitute:

4.02 Therapeutic use exemptions

- (1) If the CEO does not declare the result of testing void under clause 4.01 in relation to an adverse analytical finding or an atypical finding for an athlete, the CEO must determine in accordance with this clause whether a therapeutic use exemption covers the athlete in relation to the finding.
- (2) The CEO may determine that a therapeutic use exemption covers the athlete in relation to the finding if the CEO is satisfied that:
 - (a) the use for therapeutic purposes of each prohibited substance or prohibited method revealed in the finding is authorised by a therapeutic use exemption granted to the athlete; and
 - (b) any conditions to which the therapeutic use exemption is subject have been complied with.
- (3) If the CEO is not satisfied as mentioned in subclause (2), the CEO must determine that the athlete is not covered by a therapeutic use exemption in relation to the finding.
- (4) The CEO must not make a determination under subclause (2) or (3) unless the CEO is satisfied:
 - (a) that a therapeutic use exemption that relates to the prohibited substance or prohibited method revealed in the finding has been granted to the athlete (whether before or after the sample was given); or

- (b) that no such exemption was granted before the sample was given and:
 - (i) that the person is not likely to be granted a therapeutic use exemption that would authorise the use for therapeutic purposes, before the sample was given, of the prohibited substance or prohibited method revealed in the finding; or
 - (ii) that sufficient time has passed for the athlete to apply for and be granted an exemption mentioned in subparagraph (i), and for any reviews or appeals in relation to the granting of such an exemption to be completed.

83 Clause 4.03 of Schedule 1 (heading)

Repeal the heading, substitute:

4.03 Investigation of atypical findings

84 Subclause 4.03(1) of Schedule 1

Repeal the subclause, substitute:

- (1) If the CEO determines under clause 4.02 that the athlete is not covered by a therapeutic use exemption in relation to an atypical finding, the CEO may conduct an investigation in order to determine whether or not the atypical finding amounts to an adverse analytical finding.

85 Subclause 4.03(2) of Schedule 1

Omit the first sentence.

86 Subclause 4.03(2) of Schedule 1

Omit “this investigation”, substitute “the investigation”.

87 Paragraph 4.03(2)(b) of Schedule 1

Omit “an accredited”, substitute “a recognised”.

88 Subclause 4.03(3) of Schedule 1

Omit “follow-up”.

89 Clause 4.04 of Schedule 1 (heading)

Repeal the heading, substitute:

4.04 Notification after review by CEO**90 Subclause 4.04(1) of Schedule 1**

Repeal the subclause, substitute:

- (1) This clause applies if the CEO:
 - (a) determines under clause 4.02 that an athlete is not covered by a therapeutic use exemption in relation to an adverse analytical finding or an atypical finding relating to an A sample provided by the athlete; and
 - (b) for an atypical finding—determines under clause 4.03 that the atypical finding amounts to an adverse analytical finding.

91 After paragraph 4.04(2)(b) of Schedule 1

Insert:

- (ba) that the adverse analytical finding is not covered by a therapeutic use exemption; and

92 Subclause 4.04(3) of Schedule 1

Omit all the words after “relevant details”.

93 Subclause 4.05(5) of Schedule 1

Repeal the subclause.

94 Paragraph 4.06(2)(b) of Schedule 1

Repeal the paragraph, substitute:

- (b) that the athlete (or a person on the athlete’s behalf) may, within the response period for the notice, give the CEO:
 - (i) a written submission setting out information or evidence that may affect the validity of the results of the testing; or
 - (ii) notice waiving this right to make a submission; and

95 Paragraph 4.06(2)(d) of Schedule 1

Omit “make an entry on the Register relating to the adverse analytical finding”, substitute “make an assertion relating to the adverse analytical finding and notify the CEO of that assertion”.

96 Paragraphs 4.06(2)(e) and (f) of Schedule 1

Omit “the entry on the Register”, substitute “such an assertion”.

97 Subclause 4.06(3) of Schedule 1

Repeal the subclause.

98 Paragraph 4.07A(1)(b) of Schedule 1

Omit “is a possible”, substitute “has been a possible”.

99 Paragraphs 4.07A(3)(a) and (b) of Schedule 1

Repeal the paragraphs, substitute:

- (a) a summary of the evidence or information upon which the CEO relied in forming the view that there has been a possible non-presence anti-doping rule violation; and
- (b) a statement that the participant (or a person on the participant’s behalf) may, within the response period for the notice, give the CEO:
 - (i) a written submission setting out information or evidence relating to the possible non-presence anti-doping rule violation; or
 - (ii) notice waiving this right to make a submission; and

100 Paragraph 4.07A(3)(d) of Schedule 1

Omit “make an entry on the Register relating to the possible non-presence anti-doping rule violation”, substitute “make an assertion relating to the possible non-presence anti-doping rule violation and notify the CEO of that assertion”.

101 Paragraphs 4.07A(3)(f) and (g) of Schedule 1

Omit “the entry on the Register”, substitute “such an assertion”.

102 Subclause 4.07A(4) of Schedule 1

Repeal the subclause, substitute:

-
- (4) The CEO may withhold details from the summary mentioned in paragraph (3)(a) if the CEO is satisfied that the disclosure of those details is reasonably likely to prejudice:
 - (a) the effectiveness of the operational methods, or investigative practices or techniques, of a law enforcement body; or
 - (b) a current investigation into a possible anti-doping rule violation by another participant.
 - (5) The CEO is taken to have notified the participant of a possible non-presence anti-doping rule violation in accordance with this clause if the details and statements mentioned in subclause (3) are included in a notice given to the participant under clause 4.06.

103 Division 4.3 of Schedule 1 (heading)

Repeal the heading, substitute:

Division 4.3—Assertions about possible anti-doping rule violations

104 Clauses 4.08 to 4.12 of Schedule 1

Repeal the clauses, substitute:

4.08 Initial consideration by ADRVP

Giving information to the ADRVP

- (1) As soon as practicable after the end of the response period for a notice given to a participant under clause 4.06 or 4.07A, the CEO must give the ADRVP the following material:
 - (a) a copy of the notice;
 - (b) a copy of the evidence or information relied on by the CEO in giving the notice;
 - (c) any submission given to the CEO by or on behalf of the participant before the end of the response period for the notice.
- (2) The CEO may also give the ADRVP a submission by the CEO in relation to the possible anti-doping rule violation.

- (3) If the ADRVP requests further information from the CEO relating to the possible anti-doping rule violation, the CEO may comply with the request.

ADRVP to consider possible anti-doping rule violation

- (4) The ADRVP must, as soon as practicable, consider whether there has been a possible anti-doping rule violation by the participant.
- (5) If the ADRVP is satisfied that there has been a possible anti-doping rule violation by the participant, the ADRVP must request the CEO to give the participant a notice under subclause 4.09(1).
- (6) If the ADRVP is not satisfied that there has been a possible anti-doping rule violation by the participant, the ADRVP must decide not to make an assertion in relation to the participant.

4.09 Further submissions before ADRVP makes assertion

CEO to invite further submission from athlete

- (1) The CEO must, as soon as practicable after receiving a request under subclause 4.08(5), give the participant a written notice containing the following information:
- (a) a statement that the ADRVP is satisfied that there has been a possible anti-doping rule violation by the participant;
 - (b) a copy of any submission by the CEO in relation to the possible anti-doping rule violation given to the ADRVP under subclause 4.08(2);
 - (c) a summary of any information given to the ADRVP under subclause 4.08(3);
 - (d) a statement that the participant (or a person on the participant's behalf) may, within the response period for the notice, give the CEO:
 - (i) a written submission setting out evidence or information mentioned in subclause (2); or
 - (ii) notice waiving this right to make a submission;
 - (e) a statement that if the participant (or a person on the participant's behalf) does not give the CEO a written submission within the response period, the participant is

taken to have waived the participant's right to make a submission.

- (2) For paragraph (1)(d), the evidence or information that may be included in a submission is as follows:
 - (a) evidence or information addressing a submission by the CEO mentioned in paragraph (1)(b) or a summary mentioned in paragraph (1)(c);
 - (b) if a submission was made by, or on behalf of, the participant under clause 4.06 or 4.07A—evidence or information of a kind that could have been, but was not, set out in the submission under that clause;
 - (c) if no such submission was made—evidence or information of a kind that could have been set out in such a submission.
- (3) The CEO must give the ADRVP any submission under paragraph (1)(d) that is given to the CEO before the end of the response period for the notice under subclause (1).

Making assertions

- (4) The ADRVP must, as soon as practicable after the end of the response period for the notice under subclause (1), consider whether it remains satisfied that there has been a possible anti-doping rule violation by the participant.
- (5) If the ADRVP is still satisfied that there has been a possible anti-doping rule violation by the participant, the ADRVP must make an assertion that there has been a possible anti-doping rule violation by the participant.
- (6) An assertion made in relation to a participant under subclause (5) must be in writing and contain the following information:
 - (a) the name of the participant;
 - (b) if the participant is an athlete:
 - (i) the athlete's date of birth; and
 - (ii) the athlete's sport;
 - (c) the nature of the assertion;
 - (d) the date of the possible anti-doping rule violation;
 - (e) any other details relevant to the possible anti-doping rule violation that the ADRVP considers appropriate.

- (7) If the ADRVP is no longer satisfied that there has been a possible anti-doping rule violation by the participant, the ADRVP must decide not to make an assertion in relation to the participant.

4.09A General provisions about ADRVP's consideration of possible anti-doping rule violations

Material to which ADRVP must have regard

- (1) In considering whether there has been a possible anti-doping rule violation by a participant, the ADRVP must have regard only to the following material:
- (a) the material given to the ADRVP under subclause 4.08(1);
 - (b) any submission by the CEO given to the ADRVP under subclause 4.08(2);
 - (c) any additional information given to the ADRVP under subclause 4.08(3);
 - (d) any submission given by or on behalf of the participant under paragraph 4.09(1)(d).
- (2) However, the ADRVP must only have regard to a submission made by the participant to the following extent:
- (a) if the submission was given in response to a notice under clause 4.06—to the extent that the submission deals with a matter mentioned in paragraph 4.06(2)(b);
 - (b) if the submission was given in response to a notice under clause 4.07A—to the extent that the submission deals with a matter mentioned in paragraph 4.07A(3)(b);
 - (c) if the submission was given in response to a notice under subclause 4.09(1)—to the extent that the submission complies with subclause 4.09(2).

ADRVP to consider possible anti-doping rule violations regardless of action taken by sporting tribunal

- (3) The ADRVP must consider under clause 4.08 or 4.09 whether there has been a possible anti-doping rule violation by a participant, and decide whether to make an assertion in relation to the participant:
- (a) regardless of whether a sporting tribunal has already:

-
- (i) heard an allegation relating to the possible anti-doping rule violation; or
 - (ii) determined whether the possible anti-doping rule violation occurred; and
- (b) regardless of whether the participant has waived his or her right to a hearing by a sporting tribunal in relation to the possible anti-doping rule violation.

ADRVP may consider more than one possible anti-doping rule violation by an athlete at the same time

- (4) The ADRVP may consider at the same time more than one possible anti-doping rule violation by a participant, including if notices have been given to the participant under both of clauses 4.06 and 4.07A in relation to those possible anti-doping rule violations.

4.10 Notifying the CEO of ADRVP decisions

- (1) The ADRVP must, as soon as practicable, give the CEO written notice of a decision:
- (a) to make an assertion in relation to a participant under subclause 4.09(5); or
 - (b) to decide, under subclause 4.08(6) or 4.09(7), not to make an assertion in relation to a participant.
- (2) A notice under subclause (1) of a decision to make an assertion must be accompanied by a copy of the assertion.

4.11 Notifying participants of ADRVP decisions

- (1) As soon as practicable after the CEO receives notice of a decision by ADRVP under subclause 4.10(1), the CEO must give written notice of the decision to the participant.
- (2) A notice under subclause (1) of a decision to make an assertion in relation to a participant must:
- (a) include the information mentioned in subclause 4.09(6); and
 - (b) state that the participant has the right to have the decision reviewed by the Administrative Appeals Tribunal by application made within 28 days of receipt of the notice; and

- (c) state the persons or organisations to whom the CEO must or may give written notification of the assertion.
- (3) A notice under subclause (1) of a decision to make an assertion in relation to a participant may also state details of any recommendation that the CEO has made, or proposes to make, to relevant sporting administration bodies as to the consequences of the assertion.
- (4) A notice under subclause (1) may include any other details that the CEO considers relevant.

4.12 Review by Administrative Appeals Tribunal

The participant to whom an assertion relates may, within 28 days of receiving notice of the assertion from the CEO, apply to the Administrative Appeals Tribunal for review of the ADRVP's decision to make the assertion.

105 Subclause 4.13(1) of Schedule 1

Repeal the subclause, substitute:

- (1) For paragraph 13(1)(k) of the Act, the CEO may present the following at a hearing of the Court of Arbitration for Sport or another sporting tribunal:
 - (a) an assertion;
 - (b) a recommendation by the CEO in relation to an assertion;
 - (c) any other additional information.
- (1A) The CEO may do so at the request of a sporting administration body or on the CEO's own initiative.

106 Subclause 4.13(2) of Schedule 1

Omit "a finding on the Register", substitute "an assertion".

107 Clauses 4.14 to 4.16 of Schedule 1

Repeal the clauses.

108 Clauses 4.17 to 4.19 of Schedule 1

Repeal the clauses, substitute:

4.17 Notifying sporting administration bodies etc. about assertions

- (1) Within a reasonable time after receiving notice from the ADRVP of an assertion in relation to a participant, the CEO must give written notice about the assertion to:
 - (a) each relevant sporting administration body for the participant; and
 - (b) each relevant government sports agency for the participant; and
 - (c) WADA.
- (2) The CEO may give written notice about the assertion to any other sporting administration body if the CEO considers it appropriate to do so.
- (3) A notice given by the CEO under subclause (1) or (2) about an assertion:
 - (a) must include details of the assertion; and
 - (b) may include details of any recommendation that the CEO has made, or proposes to make, as to the consequences of the assertion; and
 - (c) must state that the participant has the right to have the ADRVP's decision to make the assertion reviewed by the Administrative Appeals Tribunal; and
 - (d) may include any other information that the CEO considers relevant.
- (4) This clause applies in addition to any other provision of the Act or the NAD scheme under which the CEO is required or authorised to disclose information.

109 Subclause 4.20(1) of Schedule 1

Omit “If a notice or information provided by the CEO under clause 4.17, 4.18 or 4.19 contains information that is not in the public domain (non-public information)”, substitute “If a notice given by the CEO under clause 4.17 contains information that is not in the public domain (*non-public information*)”.

110 Clause 4.21 of Schedule 1 (heading)

Repeal the heading, substitute:

4.21 Disclosing information etc. obtained in relation to administration of the NAD scheme

111 Subclause 4.21(1) of Schedule 1

Repeal the subclause.

112 Subclause 4.21(2) of Schedule 1

Omit “the information”, substitute “information, documents or things obtained in relation to the administration of the NAD scheme (including information obtained during investigations of possible violations of the anti-doping rules)”.

113 After subclause 4.21(2) of Schedule 1

Insert:

- (2A) Information, a document or a thing may only be disclosed under subclause (2) for the purposes of, or in connection with, the administration of the NAD scheme.

114 Subclause 4.21(3) of Schedule 1

Repeal the subclause, substitute:

- (3) This clause applies in addition to any other provision of the Act or the NAD scheme under which the CEO is required or authorised to disclose information.

115 Subclause 4.21(4) of Schedule 1

Omit “the Information Privacy Principles or the National Privacy Principles” (wherever occurring), substitute “the Australian Privacy Principles”.

116 Subclause 4.21(4) of Schedule 1

After “personal information” (first occurring), insert “within the meaning of that Act”.

117 Subclause 4.21(4) of Schedule 1

Omit “personal information” (second occurring), substitute “such information”.

118 Clause 4.22 of Schedule 1 (heading)

Repeal the heading, substitute:

4.22 Publishing information relating to assertions**119 Subclause 4.22(1) of Schedule 1**

Repeal the subclause, substitute:

- (1) For paragraph 13(1)(m) of the Act, the CEO may publish information relating to assertions if:
- (a) the CEO considers the publication to be in the public interest; or
 - (b) the publication is required or permitted by the World Anti-doping Code; or
 - (c) the athlete or support person to whom the information relates has consented to the publication.
- (1A) The CEO may, subject to subclause (1B), publish information under paragraph (1)(a) or (b) only if:
- (a) one or more of the following apply:
 - (i) a decision has been handed down by a sporting tribunal, for a hearing process conducted in accordance with Article 8 of the World Anti-Doping Code, in relation to the assertion to which the information relates;
 - (ii) the athlete or support person has waived his or her right to a hearing;
 - (iii) the athlete or support person has refused to recognise the jurisdiction of a sporting tribunal to conduct a hearing process in relation to the assertion to which the information relates;
 - (iv) no sporting tribunal has jurisdiction to conduct a hearing process in relation to the assertion to which the information relates; and
 - (b) if the athlete or support person applied to have the decision to make the assertion reviewed by the Administrative Appeals Tribunal:
 - (i) for information for which the Administrative Appeals Tribunal has granted an order under subsection 35(2) of the *Administrative Appeals Tribunal Act 1975*—the review process has been finally determined; or

- (ii) the Administrative Appeals Tribunal has not granted an order under subsection 35(2) of the *Administrative Appeals Tribunal Act 1975*; or
 - (iii) the athlete or support person has not applied to the Administrative Appeals Tribunal for review of the decision within the applicable timeframe.
- (1B) Subclause (1A) does not apply if the information could be disclosed under any of the following provisions of the Act (assuming it were protected information):
- (a) section 68C (disclosure to reduce threat to life or health);
 - (b) section 68D (disclosure of publicly available information);
 - (c) section 68E (disclosure to respond to public comments).

120 Paragraphs 4.22(2)(a) and (b) of Schedule 1

Omit “made publicly available”, substitute “published”.

121 At the end of clause 4.22 of Schedule 1

Add:

- (3) This clause applies in addition to any other provision of the Act or the NAD scheme under which the CEO is required or authorised to disclose or publish information.

122 Clause 4.23 of Schedule 1

Repeal the clause, substitute:

4.23 Limitations provision for commencing action

- (1) For subsection 13(3) of the Act, an action may be commenced against an athlete or support person in relation to a possible violation of the anti-doping rules within 10 years after the violation is alleged to have occurred.
- (2) For subclause (1), an action is commenced against an athlete or support person in relation to a possible violation of the anti-doping rules when the athlete or support person is given a notice under clause 4.04 or 4.07A in relation to the possible violation.

123 At the end of Part 4 of Schedule 1

Add:

Division 4.6—Violations List**4.24 Correcting entries in the Violations List**

For paragraph 19A(7)(a) of the Act, the CEO must correct an error in an entry in the Violations List as soon as practicable after becoming aware of it.

124 Subclauses 5.01(1), (2) and (3) of Schedule 1

Repeal the subclauses, substitute:

Granting therapeutic use exemptions

- (1) The ASDMAC may, on application by or on behalf of an athlete, grant the athlete a therapeutic use exemption, in accordance with the World Anti-Doping Code and the International Standard for Therapeutic Use Exemptions, that authorises the athlete to use a prohibited substance or a prohibited method for therapeutic purposes.
 - (1A) A therapeutic use exemption granted under subclause (1):
 - (a) must be in writing; and
 - (b) may authorise the use of a prohibited substance or a prohibited method, for therapeutic purposes, at a time before the exemption is granted; and
 - (c) may authorise the use of the prohibited substance or prohibited method, for therapeutic purposes, subject to specified conditions.
 - (1B) The ASDMAC must give the athlete written notice of a refusal to grant the athlete any therapeutic use exemption.
 - (1C) The ASDMAC may develop and implement its own procedures for the making of applications for, and the granting of, therapeutic use exemptions under subclause (1).

Review of therapeutic use exemption decisions

- (2) The ASDMAC must, on application by an athlete, review:
 - (a) a decision by the ASDMAC under subclause (1) to refuse to grant the athlete a therapeutic use exemption; or

- (b) a decision by the ASDMAC under subclause (1) to grant the athlete a therapeutic use exemption that does not authorise the use of a prohibited substance or a prohibited method, for therapeutic purposes, at a time before the exemption is granted; or
 - (c) a decision by the ASDMAC under subclause (1) to grant the athlete a therapeutic use exemption subject to conditions.
- (2A) The application must be made within 14 days after:
- (a) for a decision mentioned in paragraph (2)(a)—the athlete is given notice under subclause (1B) of the decision; or
 - (b) for a decision mentioned in paragraph (2)(b) or (c)—the ASDMAC grants the therapeutic use exemption.
- (2B) After reviewing the decision, the ASDMAC must either:
- (a) affirm the decision; or
 - (b) set aside the decision and make a new decision in substitution for the decision set aside.
- (2C) The ASDMAC may develop and implement its own procedures for the making of applications under subclause (2) for the review of a decision, and the conduct of such a review.
- (2D) However, the ASDMAC must not, in reviewing a decision under subclause (2), consider any evidence or other information that was not considered by the ASDMAC when making the decision.

Other functions

- (3) The ASDMAC may investigate the sample analysis result for a sample given by an athlete who has been granted a therapeutic use exemption to find out whether the athlete has complied with any conditions of the exemption.

125 Subclause 5.01(5) of Schedule 1

Omit “approving”, substitute “authorising”.

126 Subclauses 5.01(7) and (8) of Schedule 1

Repeal the subclauses, substitute:

-
- (7) If the CEO consults with the ASDMAC about any of the following matters, the ASDMAC may investigate the matter and give its opinion to the CEO:
- (a) whether an application in relation to a therapeutic use exemption has been made to the ASDMAC;
 - (b) whether a therapeutic use exemption has been granted:
 - (i) by the ASDMAC or a TUE committee; or
 - (ii) because of a decision by WADA following a review or an appeal.
- (8) The ASDMAC may participate in a review or an appeal that is related directly or indirectly to a decision by the ASDMAC to grant, or refuse to grant, a therapeutic use exemption.

127 Clause 5.02 of Schedule 1

Repeal the clause.

128 After Part 5 of Schedule 1

Insert:

Part 5A—Retired athletes**5A.01 Application of NAD scheme to retired athletes returning to competition**

- (1) This clause applies in relation to a person if:
- (a) the person was an international level athlete or a national level athlete in a registered testing pool; and
 - (b) the person retired from competing in sport; and
 - (c) ASADA is given notice, in accordance with a sporting administration body's anti-doping policies and procedures, of the person's intention to return to active participation in a sport that has an anti-doping policy.
- (2) The NAD scheme applies in relation to the person, as if the person were an athlete competing in that sport, during the period:
- (a) starting on the day the notice is given to ASADA; and

- (b) ending when the person begins to compete in the sport, in accordance with the sporting administration body's anti-doping policies and procedures.

Note: Once the person begins to compete in the sport, the person will be an athlete and will be subject to the NAD scheme.

129 At the end of Schedule 1

Add:

Part 7—Application and transitional provisions

Division 1—Amendments made by the Australian Sports Anti-Doping Authority Amendment (World Anti-Doping Code and Other Measures) Regulation 2014

7.01 Definitions

In this Division:

amending regulation means the *Australian Sports Anti-Doping Authority Amendment (World Anti-Doping Code and Other Measures) Regulation 2014*.

7.02 Anti-doping rule violations occurring before commencement of amending regulation

- (1) The NAD scheme, as in force after the commencement of the amending regulation, applies in relation to an anti-doping rule violation, whether the violation occurred before or after that commencement.
- (2) A reference in subclause (1) to an anti-doping rule violation includes a reference to an anti-doping rule violation arising because of subclause 1.04(1) of this Schedule, as in force immediately before the commencement of the amending regulation.

7.03 Prohibited association anti-doping rule violations

Clause 2.01K of this Schedule, as inserted by the amending regulation, applies in relation to association by a participant in a professional or sport-related capacity with a support person only if one of the following applies in relation to the support person:

- (a) the support person is described in article 2.10.1 of the World Anti-Doping Code and the conduct constituting the anti-doping rule violation by reason of which the person is serving a period of ineligibility was engaged in on or after 1 January 2015;
- (b) the support person is described in article 2.10.2 of the World Anti-Doping Code and the conduct that would have constituted a violation of anti-doping rules (as mentioned in that article) was engaged in on or after 1 January 2015;
- (c) the support person is described in article 2.10.3 of the World Anti-Doping Code and is serving as a front or intermediary for a support person covered by paragraph (a) or (b) of this clause.

7.04 Limitations provision for commencing action under NAD scheme

Clause 4.23 of this Schedule, as inserted by the amending regulation, applies in relation to violations alleged to have occurred on or after 1 January 2007.

7.05 Results management provisions

- (1) Clauses 4.01 to 4.05, as in force immediately before the commencement of the amending regulation, continue to apply in relation to a notice received by the CEO before that commencement from an accredited laboratory of an atypical finding or an adverse analytical finding in relation to an A sample provided by an athlete.
- (2) Clause 4.06, as in force after the commencement of the amending regulation, applies in relation to an athlete if:
 - (a) the athlete's B sample is analysed, as mentioned in clause 4.05, on or after that commencement; or
 - (b) on or after that commencement, the athlete waives the right to have the athlete's B sample analysed.

- (3) Clause 4.07A, as in force after the commencement of the amending regulation, applies in relation to a participant if the CEO determines, after that commencement, that there is a possible non-presence anti-doping rule violation by the participant that warrants action by the CEO.

7.06 Application of amendments relating to assertions

- (1) Divisions 4.3 and 4.4, as in force after the commencement of the amending regulation, apply in relation to a participant if:
 - (a) the participant is given a notice under clause 4.06 or 4.07A after that commencement; or
 - (b) both of the following apply:
 - (i) the participant was given a notice under clause 4.06 or 4.07A before that commencement;
 - (ii) the ADRVP had not, before that commencement, made a decision about whether to make an entry on the Register in relation to the participant.
- (2) As soon as practicable after the commencement of the amending regulation, the CEO must give the ADRVP information under subclause 4.08(1) in relation to a participant if:
 - (a) paragraph (1)(b) of this clause applies in relation to the participant; and
 - (b) the response period for the notice given to the participant under clause 4.06 or 4.07A had ended before that commencement.

7.07 Continuation of provisions relating to findings

- (1) Despite the repeal of clause 4.08 by the amending regulation, the Register of Findings continues in existence for the purposes of this clause.
- (2) Subclause 4.09(3), as in force immediately before the commencement of the amending regulation, continues to apply after that commencement in relation to a decision made by the ADRVP before that commencement to not make an entry on the Register in relation to a participant.
- (3) Clauses 4.11 to 4.18, and clauses 4.20 and 4.22, as in force immediately before the commencement of the amending

regulation, continue to apply after that commencement in relation to a finding included on the Register before that commencement.

- (4) This clause applies in addition to any other provision of the Act or the NAD scheme under which the CEO is required or authorised to disclose or publish information.

7.08 Application of review provisions for ASDMAC decisions

Subclause 5.01(2), as in force after the commencement of the amending regulation, applies in relation to a decision made by the ASDMAC after that commencement.

7.09 Repeal

Clauses 7.04 to 7.08, and this clause, are repealed on 1 January 2017.