



# **Sport Integrity Australia Amendment (Enhancing Australia's Anti-Doping Capability) Regulations 2020**

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 23 July 2020

David Hurley  
Governor-General

By His Excellency's Command

Richard Colbeck  
Minister for Youth and Sport

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## 1 Name

This instrument is the *Sport Integrity Australia Amendment (Enhancing Australia's Anti-Doping Capability) Regulations 2020*.

## 2 Commencement

- (1) Each provision of this instrument 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
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as Part 1 of Schedule 1 to the <i>Australian Sports Anti-Doping Authority Amendment (Enhancing Australia's Anti-Doping Capability) Act 2020</i> commences.	10 August 2020

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Sport Integrity Australia Act 2020*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Sport Integrity Australia Regulations 2020*

**1 Subclause 1.02A(1) of Schedule 1**

Omit “ADRVP”, substitute “CEO”.

**2 Subclause 1.02A(1) of Schedule 1**

Omit “4.11”, substitute “4.08”.

**3 Subclause 1.02A(2) of Schedule 1**

Omit “4.11”, substitute “4.17”.

**4 Clause 1.03A of Schedule 1**

Repeal the clause.

**5 Clause 1.03B of Schedule 1 (heading)**

Omit “and ADRVP”.

**6 Clause 1.03B of Schedule 1**

Omit “and the ADRVP”.

**7 Clause 1.05 of Schedule 1 (definition of *assertion*)**

Omit “ADRVP under subclause 4.09(5)”, substitute “CEO under subclause 4.08(2)”.

**8 Subclause 2.01(1) of Schedule 1**

Omit “ADRVP”, substitute “CEO”.

**9 Paragraph 2.04(m) of Schedule 1**

Omit “ADRVP” (wherever occurring), substitute “CEO”.

**10 Paragraph 3.26B(2)(b) of Schedule 1**

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

**11 Paragraph 3.26B(2)(c) of Schedule 1**

Repeal the paragraph.

**12 Paragraph 3.26B(4)(a) of Schedule 1**

Repeal the paragraph.

**13 Paragraph 3.26B(6)(f) of Schedule 1**

Repeal the paragraph, substitute:

- (f) a statement that the recipient is not excused from answering a question on the ground that the answer to the question might tend to incriminate the recipient or expose the recipient to a penalty;
- (fa) a statement that if the recipient is an individual:
  - (i) the answer given; and

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- (ii) answering the question; and
  - (iii) any information, document or thing obtained as a direct or indirect consequence of the answering of the question;
- are not admissible in evidence against the recipient in any proceedings, other than:
- (iv) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to the Act; or
  - (v) proceedings in connection with the Act or regulations made under the Act;

**14 Subclause 3.26B(6) of Schedule 1 (note 1)**

Repeal the note.

**15 Subclause 3.26B(6) of Schedule 1 (note 2)**

Omit “Note 2”, substitute “Note”.

**16 Subclause 3.26B(6) of Schedule 1 (note 3)**

Repeal the note.

**17 Paragraph 3.26B(7)(b) of Schedule 1**

Repeal the paragraph.

**18 Subparagraph 3.26B(7)(c)(ii) of Schedule 1**

Omit “and (f)”, substitute “, (f) and (fa)”.

**19 Paragraph 3.26B(8)(b) of Schedule 1**

Repeal the paragraph, substitute:

- (b) a statement that the recipient is not excused from giving information specified in the notice on the ground that the information might tend to incriminate the recipient or expose the recipient to a penalty;
- (ba) a statement that if the recipient is an individual:
  - (i) the information given; and
  - (ii) giving the information; and
  - (iii) any information, document or thing obtained as a direct or indirect consequence of giving the information;are not admissible in evidence against the recipient in any proceedings, other than:
  - (iv) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to the Act; or
  - (v) proceedings in connection with the Act or regulations made under the Act;

**20 Subclause 3.26B(8) of Schedule 1 (note)**

Repeal the note.

**21 Paragraph 3.26B(9)(b) of Schedule 1**

Repeal the paragraph, substitute:

- (b) a statement that the recipient is not excused from producing a document or thing specified in the notice on the ground that the production of the document or thing might tend to incriminate the recipient or expose the recipient to a penalty;

## **22 Paragraph 3.26B(9)(d) of Schedule 1**

Repeal the paragraph, substitute:

- (d) a statement that if the recipient is an individual:
  - (i) the document or thing produced; and
  - (ii) producing the document or thing; and
  - (iii) any information, document or thing obtained as a direct or indirect consequence of producing the document or thing;are not admissible in evidence against the recipient in any proceedings, other than:
  - (iv) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to the Act; or
  - (v) proceedings in connection with the Act or regulations made under the Act;

## **23 Subclause 3.26B(9) of Schedule 1 (note)**

Repeal the note.

## **24 Clause 3.26D of Schedule 1**

Repeal the clause.

## **25 Clause 3.26E of Schedule 1 (note 1)**

Omit “at the times that the person would ordinarily be able to do so”, substitute “at such times and places as the CEO thinks appropriate”.

## **26 Paragraph 4.06(2)(d) of Schedule 1**

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

## **27 Paragraph 4.06(2)(e) of Schedule 1**

Omit “other”, substitute “the”.

## **28 Paragraph 4.07A(3)(d) of Schedule 1**

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

## **29 Paragraph 4.07A(3)(f) of Schedule 1**

Omit “other”, substitute “the”.

## **30 Clauses 4.08 to 4.12 of Schedule 1**

Repeal the clauses, substitute:



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#### **4.08 Assertions about possible anti-doping rule violations**

- (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 consider whether the CEO is satisfied that there has been a possible anti-doping rule violation by the participant.

Note: Clause 4.09 sets out the material to which the CEO must have regard.

##### *CEO makes assertion*

- (2) If the CEO is satisfied that there has been a possible anti-doping rule violation by the participant, the CEO must make an assertion that there has been a possible anti-doping rule violation by the participant.
- (3) An assertion made in relation to a participant under subclause (2) 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 CEO considers appropriate.
- (4) The CEO must give written notice to the participant of the CEO's decision to make the assertion. The notice:
  - (a) must be accompanied by a copy of the assertion; and
  - (b) must state the persons or organisations to whom the CEO must or may give written notification of the assertion; and
  - (c) 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; and
  - (d) may include any other details that the CEO considers relevant.

##### *CEO does not make assertion*

- (5) If the CEO is not satisfied that there has been a possible anti-doping rule violation by the participant, the CEO must decide not to make an assertion in relation to the participant. The CEO must give written notice to the participant of the CEO's decision.

#### **4.09 General provisions about CEO's consideration of possible anti-doping rule violations**

##### *Material to which CEO must have regard*

- (1) In considering whether there has been a possible anti-doping rule violation by a participant, the CEO must have regard only to the following material:

- (a) the notice given to the participant under clause 4.06 or 4.07A;
  - (b) 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) However, the CEO 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).

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

- (3) The CEO 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 clauses 4.06 and 4.07A in relation to those possible anti-doping rule violations.

### **31 Subclause 4.17(1) of Schedule 1**

Omit “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”, substitute “The CEO must give written notice about an assertion under subclause 4.08(2) to”.

### **32 Paragraph 4.17(3)(c) of Schedule 1**

Repeal the paragraph.

### **33 Subclause 4.22(1A) of Schedule 1**

Repeal the subclause, substitute:

- (1A) The CEO may, subject to subclause (1B), publish information under paragraph (1)(a) or (b) only if one or more of the following apply:
- (a) 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;
  - (b) the athlete or support person has waived the athlete’s or support person’s right to a hearing;
  - (c) 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;
  - (d) no sporting tribunal has jurisdiction to conduct a hearing process in relation to the assertion to which the information relates.

### **34 In the appropriate location in Part 7 of Schedule 1**

Insert:

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## Division 3—Amendments made by the Sport Integrity Australia Amendment (Enhancing Australia’s Anti-Doping Capability) Regulations 2020

### 7.10 Anti-Doping Rule Violation Panel

#### *Notice of adverse analytical finding*

- (1) If:
- (a) a notice was given to a participant under subclause 4.06(2) before the commencement of this clause; and
  - (b) the response period for the notice had not ended immediately before that commencement; and
  - (c) the notice included the matter referred to in paragraph 4.06(2)(d), as in force at the time the notice was given;
- then the notice is taken to have included the matter referred to in that paragraph, as amended by the *Sport Integrity Australia Amendment (Enhancing Australia’s Anti-Doping Capability) Regulations 2020*.

#### *Notice of possible anti-doping rule violation*

- (2) If:
- (a) a notice was given to a participant under subclause 4.07A(2) before the commencement of this clause; and
  - (b) the response period for the notice had not ended immediately before that commencement; and
  - (c) the notice included a statement referred to in paragraph 4.07A(3)(d), as in force at the time the notice was given;
- then the notice is taken to have included the statement referred to in that paragraph, as amended by the *Sport Integrity Australia Amendment (Enhancing Australia’s Anti-Doping Capability) Regulations 2020*.

#### *No final decision by ADRVP*

- (3) If:
- (a) a notice was given to a participant under subclause 4.06(2) or 4.07A(2) before the commencement of this clause; and
  - (b) immediately before that commencement, the ADRVP had not made a decision of a kind referred to in subclause 4.10(1), as in force immediately before that commencement;
- then clause 4.08, as substituted by the *Sport Integrity Australia Amendment (Enhancing Australia’s Anti-Doping Capability) Regulations 2020*, applies in relation to that notice.

#### *Notice—ADRVP not satisfied of possible anti-doping rule violation*

- (4) If:
- (a) a notice was given to a participant under subclause 4.06(2) or 4.07A(2) before the commencement of this clause; and
  - (b) the ADRVP had made a decision under subclause 4.08(6) or 4.09(7) before that commencement not to make an assertion in relation to the participant;

then:

- (c) on and after that commencement, the CEO is taken to have made that decision; and
- (d) if notice had not been given under clause 4.11 in relation to that decision before that commencement—the CEO must give notice of that decision in accordance with subclause 4.08(5), as substituted by the *Sport Integrity Australia Amendment (Enhancing Australia's Anti-Doping Capability) Regulations 2020*.

*Notice—ADRVP assertion of possible anti-doping rule violation*

(5) If:

- (a) a notice was given to a participant under subclause 4.06(2) or 4.07A(2) before the commencement of this clause; and
- (b) the ADRVP had made an assertion under subclause 4.09(5) before that commencement in relation to the participant;

then:

- (c) on and after that commencement, the CEO is taken to have made that assertion under subclause 4.08(2), as substituted by the *Sport Integrity Australia Amendment (Enhancing Australia's Anti-Doping Capability) Regulations 2020*; and
- (d) if notice had not been given under clause 4.11 in relation to that assertion before that commencement—the CEO must give notice of that assertion in accordance with subclause 4.08(4), as substituted by the *Sport Integrity Australia Amendment (Enhancing Australia's Anti-Doping Capability) Regulations 2020*; and
- (e) if notice had not been given under subclause 4.17(1) in relation to that assertion before that commencement—the CEO must give notice of that assertion in accordance with subclause 4.17(1), as amended by the *Sport Integrity Australia Amendment (Enhancing Australia's Anti-Doping Capability) Regulations 2020*.

*Review by Administrative Appeals Tribunal*

- (6) Clause 4.12, as in force immediately before the commencement of this clause, continues to apply on and after that commencement in relation to a notice given under clause 4.11 before that commencement.

*Legal proceedings*

- (7) If, immediately before the commencement of this clause, the ADRVP was a party to proceedings pending in any court or tribunal, the CEO is substituted for the ADRVP as a party to the proceedings on and after that commencement.