



Australian Sports Drug Agency Act 1990

Act No. 18 of 1991 as amended

This compilation was prepared on 5 November 2001
taking into account amendments up to Act No. 159 of 2001

The text of any of those amendments not in force
on that date is appended in the Notes section

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

Part 1—Preliminary

1 Short title [*see* Note 1]

This Act may be cited as the *Australian Sports Drug Agency Act 1990*.

2 Interpretation

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

accredited laboratory has the meaning given by section 66.

Agency means the Australian Sports Drug Agency established by section 6.

analytical investigative body means a body recognised by an International Sporting Federation as a body that is qualified to investigate samples.

anti-doping arrangement means an international arrangement specified in regulations made for the purposes of section 66A.

ASDMAC means the Australian Sports Drug Medical Advisory Committee established by section 65B.

ASDMAC Chairman means the Chairman 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 Chairman.

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

Australia includes the external Territories.

Chairperson means the Chairperson of the Agency.

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Chief Executive means the Chief Executive of the Agency.

Commission means the Australian Sports Commission established by the *Australian Sports Commission Act 1989*.

competitor has the meaning given by section 2A.

contract includes any arrangement, whether formal or informal.

Deputy Chairperson means the Deputy Chairperson of the Agency.

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 person concerned; and
- (b) the use of a substance in a manner that is capable of concealing the use of a drug by the person concerned.

drug includes any substance (whether naturally occurring or otherwise).

drug testing scheme means a scheme in force under section 11.

drug testing service means a service for testing one or more persons for the use of drugs, where:

- (a) each person is a participant in a sporting activity; and
- (b) the testing is by means of testing a sample provided by the person.

foreign anti-doping body means:

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

foreign government sports agency means:

- (a) a Department of State of a foreign country; or
 - (b) a government agency in a foreign country;
- that oversees sport in that country.

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

foreign sporting organisation means a foreign government sports agency, a foreign national sporting organisation or a foreign anti-doping body.

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.

member means a member of the Agency, and includes:

- (a) the Chairperson; and
- (b) the Deputy Chairperson; and
- (c) the Chief Executive;

of the Agency.

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

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

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

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

operational plan means an operational plan of the Agency developed and prepared by the Agency under section 50.

organisation includes an academy, institute or other similar body.

permanent resident means a person who has been granted, or who is included in, an entry permit under the *Migration Act 1958* that is in force, other than a temporary entry permit within the meaning of that Act.

Register means a Register of Notifiable Events established under a drug testing scheme.

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

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

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

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

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

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

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

research includes statistical research.

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

sample means any of the following:

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

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

sporting administration body means:

- (a) the International Olympic Committee; or
- (b) a foreign sporting organisation; or
- (c) a national sporting organisation; or
- (d) a sporting organisation; or
- (e) a tribunal, committee or other investigative body that is associated with a body referred to in paragraph (a), (b), (c) or (d); or
- (f) the Commission.

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

sporting event includes any sporting activity.

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

- (a) has control in a particular country, or part of a country, or internationally, of one or more sports or sporting events; or
- (b) organises or administers one or more sports or sporting events; or
- (c) accredits people to take part in sporting competition; or
- (d) provides teams to compete in sporting competition; or
- (e) trains, or provides finance for, people to take part in sporting competition.

strategic plan means a strategic plan of the Agency developed and prepared by the Agency under subsection 47(1).

support has the meaning given by section 3.

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

Territory means the Australian Capital Territory, the Northern Territory or Norfolk Island.

therapeutic approval body means a body recognised by an International Sporting Federation as a body that is qualified to grant approval for the use of drugs for therapeutic purposes.

- (2) A reference in this Act to the use of drugs includes a reference to the use of doping methods.

2A Competitors

- (1) The following people, and no others, are competitors for the purposes of this Act:
 - (a) an Australian citizen, or a permanent resident, who competes, or has been selected to compete, as a representative of Australia in international sporting competition;

- (b) an Australian citizen, or a permanent resident, who has been assessed by an Australian national sporting organisation as having the potential to represent Australia in international sporting competition;
- (c) a person who competes as a member of a team in sporting competition (whether held, or to be held, in or outside Australia) at a level at which:
 - (i) teams that represent Australia; or
 - (ii) teams that represent organisations in Australia and contain members who have been assessed by an Australian national sporting organisation as having the potential to represent Australia;in international sporting competition take part;
- (d) a person who competes in sporting competition and:
 - (i) is receiving support from the Commonwealth or the Commission; or
 - (ii) is a party to an arrangement with the Commonwealth or the Commission under which the person will receive support from the Commonwealth or the Commission;
- (e) a person who competes in international sporting competition held, or to be held, in Australia;
- (f) a person who competes in sporting competition at a level that has been assessed by an Australian national sporting organisation as being a level at which people representing Australia could be expected to compete;
- (g) a person:
 - (i) who has been assessed by a foreign sporting organisation as having reached such a standard of performance in the field of sporting activity in which he or she competes as to be capable of representing in international sporting competition the country of which he or she is a citizen or in which he or she is ordinarily resident; and
 - (ii) in respect of whom the Agency has been requested by a foreign sporting organisation, or is required under a contract with a foreign sporting organisation, to obtain a sample for testing;

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- (h) a non-Australian in respect of whom the Agency has been requested by, or is required or permitted under a contract with:
 - (i) a foreign sporting organisation in the country of which the person is a citizen or in which the person is ordinarily resident; or
 - (ii) a relevant International Sporting Federation; to obtain a sample for testing;
 - (i) a person in respect of whom the Agency, under an anti-doping arrangement, is required or permitted to obtain a sample for testing;
 - (j) a person whose name is entered on a Register and who, as a direct or indirect result of having his or her name so entered, is ineligible to take part in sporting competition.
- (2) Subject to subsection (3), if a person:
- (a) is training, or has at any time within the last 12 months trained, to compete in sporting competition or international sporting competition, or in sporting competition or international sporting competition at a particular level; or
 - (b) has, at any time within the last 12 months competed in sporting competition or international sporting competition, or in sporting competition or international sporting competition at a particular level;
- the person is taken for the purposes of subsection (1) to be a person who competes in sporting competition or international sporting competition, or in sporting competition or international sporting competition at that level, as the case may be.
- (3) A person is taken not to have been a competitor for the purposes of this Act at a particular time if the person:
- (a) notified the relevant national sporting organisation before that time that he or she had retired from taking part in sporting competition; and
 - (b) has not, since the notification was given, taken part in sporting competition.

3 People receiving support

- (1) A person is taken for the purposes of this Act to be receiving support from a government or a government agency if the person, for the purpose of taking part in sporting activities, or for the purpose of training to take part in sporting activities:
- (a) receives funding from the government or agency; or
 - (b) uses facilities that are provided (wholly or partly) by the government or agency, or are operated or maintained (wholly or partly) with funding received from the government or agency; or
 - (c) is a member of, or is in any way associated with, a sporting organisation that:
 - (i) receives funding from the government or agency; or
 - (ii) uses facilities that are provided (wholly or partly) by the government or agency, or are operated or maintained (wholly or partly) with funding received from the government or agency; or
 - (iii) receives advice or other services from the government or agency.

- (2) In this section:

government means the Commonwealth, a State or a Territory.

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

4 Request to provide a sample

- (1) The following are examples of situations in which the Agency may request a person to provide a sample:
- (a) the request is made under a drug testing scheme (see paragraph 9(1)(a) and Part 3);
 - (b) the request is made under a contract entered into by the Agency for the provision of drug testing services (see paragraph 9(1)(b));

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- (c) the request is made under a contract entered into by the Agency for the provision of safety checking services (see paragraph 9(1)(ea));
 - (d) the request is made at the instance of a foreign sporting organisation or under an anti-doping arrangement (see Part 3A).
- (2) Nothing in this Act is taken to imply that a person becomes subject to any criminal or civil liability merely because the person has failed to comply with a request to provide a sample.

5 Extension to external Territories

This Act extends to all the external Territories.

Part 2—Establishment, objects, functions and powers of the Agency

6 Establishment

The Australian Sports Drug Agency is established.

7 Agency is body corporate etc.

- (1) The Agency:
 - (a) is a body corporate with perpetual succession; and
 - (b) is to have a common seal; and
 - (c) may sue and be sued in its corporate name.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Agency. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (2) The common seal of the Agency is to be kept in such custody as the Agency directs, and is not to be used except as authorised by the Agency.
- (3) All courts, judges and persons acting judicially must:
 - (a) take judicial notice of the imprint of the common seal of the Agency appearing on a document; and
 - (b) presume the imprint was duly affixed.

8 Objects

The objects of the establishment of the Agency are:

- (a) to deter the use of drugs or doping methods in sport; and
- (aa) to facilitate the safety of participants in sporting competitions; and
- (b) to encourage the development of programs to educate the sporting community about matters relating to the use of drugs in sport; and
- (c) to advocate the international adoption of consistent and effective anti-doping programs; and

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

9 Functions

- (1) The Agency has the following functions:
 - (a) such functions as are conferred on the Agency by a drug testing scheme;
 - (b) to provide drug testing services;
 - (d) to advocate the international development and implementation of consistent and effective anti-doping programs;
 - (e) to encourage Australian national sporting organisations, State and Territory sporting organisations and professional sporting organisations:
 - (i) to develop and implement comprehensive and consistent anti-doping initiatives (including initiatives relating to testing for the use of drugs and education about matters relating to the use of drugs in sport); and
 - (ii) to use the services of the Agency and accredited laboratories;
 - (ea) to provide safety checking services;
 - (f) to develop and implement initiatives that increase the skills and knowledge of people involved in sporting activities about matters relating to the use of drugs in sport;
 - (fa) to collect, analyse, interpret and disseminate information about matters relating to the use of drugs in sport and the safety of participants in sporting competitions;
 - (fb) to carry out research relating to the use of drugs in sport and the safety of participants in sporting competitions;
 - (g) to advocate and support research in and outside Australia relating to the use of drugs in sport and the safety of participants in sporting competitions;
 - (h) to implement anti-doping arrangements;
 - (i) to encourage the establishment of means for the carrying out by government Departments and authorities of the States and Territories of initiatives relating to the use of drugs in sport;

- (j) to co-operate with those Departments and authorities and with non-government sporting organisations to implement those initiatives;
 - (k) any other functions conferred on the Agency under this Act;
 - (l) to advise the Minister on matters falling within any of the abovementioned functions and related matters;
 - (m) to do anything incidental to, or conducive to, the performance of any of the above functions.
- (2) In the performance of its functions, the Agency must not collect samples from persons for any purpose other than:
- (a) enabling the testing of the samples to determine whether persons have been using drugs; or
 - (b) enabling the testing of the samples to determine whether persons' physiological or psychological states make it unsafe for them to participate in sporting competitions.
- (2A) If the Agency collects samples for a purpose referred to in paragraph (2)(a) or (b), the Agency may use the samples, or the results of the testing of the samples, for the purposes of carrying out, or supporting, research relating to the use of drugs in sport or the safety of participants in sporting competitions.
- (3) In the performance of its functions, the Agency may prepare and keep a list of all people whom it knows to be competitors.
- (3A) A list kept under subsection (3) may contain, in relation to each person whose name is included in the list, any of the following particulars:
- (a) addresses of usual places of residence and employment;
 - (b) date of birth;
 - (c) telephone numbers of usual places of residence and employment;
 - (d) if the person is under 18 years of age or has an intellectual disability—the name, and the addresses and telephone numbers, of the usual places of residence and employment of a person who has long-term parental responsibility for, or is the guardian of, the first-mentioned person;
 - (e) sporting activities engaged in;
 - (f) membership of sporting organisations;

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- (g) whether the holder of a scholarship granted by a government, a governmental authority or a sporting organisation;
 - (h) times and places of training;
 - (i) membership of a national team;
 - (j) if the person is competing or training outside Australia—the date on which the person is expected to return to Australia;
 - (k) the capacity in which the person takes part in sporting competition (for example, whether as an amateur, as a professional, as a representative of a country);
 - (l) how the person may be contacted if he or she is competing or training outside Australia;
 - (m) any other particulars necessary to enable the Agency to perform its functions.
- (4) The Agency's functions may be performed within or outside Australia.
- (5) The Agency may perform any of its functions in co-operation with a State or Territory or any person, body, association or organisation.
- (6) The Agency may perform the functions conferred on it by this Act to the extent only that they are not in excess of the functions that may be conferred on it by virtue of any of the legislative powers of the Parliament, and, in particular, may perform its functions:
- (a) for purposes related to money appropriated for the purposes of the Commonwealth; and
 - (b) for purposes related to the granting of financial assistance to a State on such terms and conditions as the Parliament thinks fit; and
 - (c) for purposes related to the executive power of the Commonwealth; and
 - (d) for purposes related to the collection of statistics; and
 - (e) for purposes related to external affairs; and
 - (f) for purposes in relation to a Territory; and
 - (g) 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; and

- (h) by way of the provision of a service, if the provision of the service:
 - (i) utilises the Agency's spare capacity; or
 - (ii) maintains or improves the specialised technical skills of the Agency's staff in relation to the testing of competitors;and does not impede the Agency's capacity to perform its other functions.

- (7) In subsection (6):

this Act includes a drug testing scheme.

9A States may confer powers and functions on Agency etc.

- (1) If a law of a State or Territory confers a power or function on the Agency, the Agency may, with the written approval of the Minister, exercise that power or perform that function, as the case may be.
- (1A) This Act does not prevent the Minister from giving an approval under subsection (1) in relation to a law of a State or Territory that requires or authorises the Agency to:
 - (a) make an entry on a Register; or
 - (b) in a case where an entry on a Register was made in accordance with such a law—remove that entry.
- (2) If the Agency is authorised to exercise a power, or perform a function, under a law of a State or Territory, and that law confers a power or function on:
 - (a) the Administrative Appeals Tribunal; or
 - (b) a member or officer of that Tribunal; or
 - (c) a member or officer of the Federal Court of Australia;then, subject to the regulations, that Tribunal, member or officer may exercise the power, or perform the function, conferred by that law.
- (3) If the Agency is authorised to exercise a power, or perform a function, under a law of a Territory, and that law confers jurisdiction on the Federal Court of Australia, then, subject to the regulations, that Court may exercise that jurisdiction.

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10 Powers

- (1) The Agency has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, may:
 - (a) enter into contracts; and
 - (b) acquire, hold and dispose of real or personal property; and
 - (ba) despite subsection 61(2), obtain goods or services on credit from any person by the use of a credit card; and
 - (bb) form, or participate in the formation of, companies; and
 - (c) occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Agency; and
 - (d) appoint agents and attorneys, and act as an agent for other persons; and
 - (e) engage persons to perform services for the Agency; and
 - (f) accept gifts, grants, bequests and devises made to the Agency (whether on trust or otherwise) and act as trustee of money or other property vested in the Agency on trust; and
 - (g) develop, maintain, distribute and publish information on procedures for, and developments concerning, the collection and testing of samples; and
 - (h) do anything incidental to any of its powers.
- (2) The Agency may charge fees for providing services, information or advice.
- (3) The amount of a fee must not be such as to amount to taxation.
- (4) The Agency's powers may be exercised within or outside Australia.

10A Limitations on formation etc. of companies

- (1) The Agency must not form, or participate in the formation of, a company except with the written approval of the Minister.
- (2) A person must not be appointed as a director of a company owned by the Agency except with the written approval of the Minister.

Section 10B

- (3) A company owned by the Agency must not change its constitution except with the written approval of the Minister. For this purpose, **constitution** has the same meaning as in the *Corporations Act 2001*.
- (4) Before giving an approval under subsection (2) or (3), the Minister must consult the Minister for Finance and Administration.
- (5) The Minister is not taken, for the purposes of the *Corporations Act 2001*, to be a director of a company owned by the Agency because of the powers that are conferred on the Minister by subsections (2) and (3).
- (6) The Minister for Finance and Administration is not taken, for the purposes of the *Corporations Act 2001*, to be a director of a company owned by the Agency because of the right conferred on the Minister for Finance and Administration by subsection (4).
- (7) For the purposes of this section, a company is **owned by the Agency** if, and only if:
 - (a) in the case of a company limited by shares—all the shares in the company are beneficially owned by the Agency; or
 - (b) in the case of a company limited by guarantee—all the interests and rights of the members in or in relation to the company are beneficially owned by the Agency.

10B Formation of Foundation

- (1) The Minister may arrange for the formation of a company limited by guarantee, where:
 - (a) all the interests and rights of the members in or in relation to the company are beneficially owned by the Commonwealth; and
 - (b) the purpose of the company is to raise money to support:
 - (i) research relating to the use of drugs in sport; and
 - (ii) initiatives that increase the skills and knowledge of people about matters relating to the use of drugs in sport.

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- (2) Subsection 9(6) applies to the activities of the company in a corresponding way to the way in which that subsection applies to the functions of the Agency.
- (3) Subsection (1) does not, by implication, limit the Agency's powers.

Part 3—Drug testing schemes

11 Drug testing schemes

- (1) The regulations may formulate one or more drug testing schemes.
- (2) A *drug testing scheme* is a scheme that:
 - (a) is expressed to apply to:
 - (i) all competitors; or
 - (ii) a specified class of competitors; and
 - (b) sets out a schedule of drugs and doping methods for the scheme and permitted levels (if any) in relation to each such scheduled drug or method; and
 - (c) authorises the Agency to request a competitor to provide a sample for the purpose of detecting whether or not the competitor has used such a scheduled drug or method; and
 - (d) requires the Agency to establish and maintain a Register of Notifiable Events for the scheme; and
 - (e) requires the Agency to enter the name of a competitor on that Register if the competitor fails, without reasonable cause, to comply with a request by the Agency to provide such a sample; and
 - (f) requires the Agency to enter the name of a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the circumstance that the competitor has returned a positive test result in relation to such a sample; and
 - (g) requires the Agency to enter, on that Register, specified particulars relating to a competitor referred to in paragraph (e) or (f); and
 - (h) requires the Agency to give written notice of the making, and of particulars, of an entry in that Register to:
 - (i) each relevant national sporting organisation in relation to the competitor concerned; and
 - (ii) each relevant sporting organisation (if any) in relation to the competitor concerned; and

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- (i) complies with the statement of competitors' rights set out in section 15.

Note 1: For examples of circumstances that may be specified for the purposes of paragraph (2)(f), see section 13.

Note 2: For *positive test result*, see section 14.

Specification of different circumstances

- (3) Circumstances specified for the purposes of paragraph (2)(f) may differ according to:
 - (a) the fields of sporting activities in which competitors compete; and
 - (b) the drugs or doping methods revealed by positive test results.

Subsection 33(3A) of the Acts Interpretation Act 1901 not limited

- (4) Subsection (3) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

Schedule may apply, adopt or incorporate matters contained in other instruments

- (5) The schedule referred to in paragraph (2)(b) may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing made by a sporting administration body:
 - (a) as in force or existing at a particular time; or
 - (b) as in force or existing from time to time.

12 Failure to comply with a request

For the purposes of this Part, a competitor *fails to comply with a request* by the Agency to provide a sample if, and only if:

- (a) the competitor fails to provide a sample as required by the scheme; or
- (b) the competitor fails to complete or sign any form required by the scheme to be completed or signed by the competitor; or

- (c) after providing the sample, the competitor:
 - (i) fails to do anything in relation to the sample that is required by the scheme to be done by the competitor; or
 - (ii) does something in relation to the sample that the scheme requires the competitor not to do.

13 Investigations and therapeutic use

- (1) The following are examples of circumstances that may be specified for the purposes of paragraph 11(2)(f):
 - (a) a competitor has returned a positive test result in relation to a sample and investigations conducted by the ASDMAC or an analytical investigative body have revealed that the positive test result is not attributable to naturally occurring levels of the substance concerned;
 - (b) a competitor has returned a positive test result in relation to a sample and the competitor had approval from the ASDMAC or a therapeutic approval body for the use of the drug concerned for therapeutic purposes but the relevant conditions applicable to that use were not complied with by the competitor.

Note: For *positive test result*, see section 14.

- (2) A drug testing scheme may provide that, in the course of an investigation conducted by the ASDMAC, or an analytical investigative body, in respect of a sample provided by a competitor, the ASDMAC or the analytical investigative body, as the case may be, may ask the Agency to make to the competitor one or more further requests of the kind mentioned in paragraph 11(2)(c).

14 Positive test result

For the purposes of the application of this Part to a particular drug testing scheme, a *positive test result*, in relation to a competitor who competes in a particular field of sporting activity, is a finding, made:

- (a) by an accredited laboratory; or

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- (b) using specified analytical techniques and equipment; by means of testing of a sample provided by the competitor, to the effect that:
- (c) the testing reveals the presence of a drug in the sample or the use of a doping method by the competitor, being a drug or doping method:
 - (i) that is included in the schedule of drugs and doping methods set out in the scheme; and
 - (ii) that is specified by the scheme to be a drug or doping method applicable to that field of sporting activity; and
- (d) if that schedule sets out a permitted level in relation to that drug or doping method and in relation to that field of sporting activity—the testing reveals that the permitted level has been exceeded.

15 Statement of competitors' rights

- (1) Subsections (2), (3), (4) and (5) set out the statement of competitors' rights that is to be complied with by a drug testing scheme.
- (2) A competitor has a right to be notified orally or in writing of the possible consequences of a failure to comply with a request by the Agency to provide a sample.
- (3) A competitor has a right to be notified in writing of the making of an entry on the Register of Notifiable Events for the scheme.
- (4) A competitor has a right to apply to the Administrative Appeals Tribunal for review of a decision of the Agency to enter the competitor's name and particulars on the Register of Notifiable Events for the scheme.
- (5) A competitor has a right to be notified orally or in writing of the rights that are conferred on the competitor by the scheme (other than a right of notification conferred in accordance with this subsection).
- (6) A drug testing scheme may confer other rights on competitors.
- (7) A drug testing scheme may allow competitors to waive any of their rights under the scheme.

16 Action by Agency following decision or order on review

- (1) For the purposes of this section, a *reviewable decision* is a decision of the kind mentioned in subsection 15(4).
- (2) If the Administrative Appeals Tribunal sets aside a reviewable decision, the Agency must, as soon as practicable, remove from the relevant Register any entry that was made as a result of the Agency's decision.
- (3) If, after the making of an entry on the relevant Register in relation to a decision of the Agency:
 - (a) the entry is removed from the Register under subsection (2);
or
 - (b) an order is made under section 41 of the *Administrative Appeals Tribunal Act 1975* staying or otherwise affecting the operation or implementation of the decision, or an order so made is afterwards revoked;the Agency must, as soon as practicable, give written notice of that fact to each person to whom, and each organisation or body to which, notice of the making of the entry was given.

17 Request to provide sample etc.*Manner of making request*

- (1) A drug testing scheme may make provision as to the manner in which a request of the kind mentioned in paragraph 11(2)(c) is to be made.
- (2) A drug testing scheme may provide that strict compliance with those provisions is not required and substantial compliance is sufficient.
- (3) A drug testing scheme may provide that, if the Agency has made reasonable efforts to give a competitor an oral request of the kind referred to in paragraph 11(2)(c), but those efforts have not been successful, the Agency may give such a request by way of written notice to the competitor.

Note: Section 67A deals with the giving of written notices.

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Competitor appears likely to fail to comply

- (4) A drug testing scheme may provide that, if:
- (a) the Agency has made a request of the kind mentioned in paragraph 11(2)(c) to a competitor; and
 - (b) it appears to the Agency that the competitor is likely to fail to comply with the request; and
 - (c) the Agency thinks that a sporting administration body should be given an opportunity to try to persuade the competitor to comply with the request;
- the Agency may tell the organisation of the competitor's likely failure to comply with the request.

Retired competitors

- (5) A drug testing scheme may provide that, if:
- (a) the Agency has made a request of the kind mentioned in paragraph 11(2)(c) to a competitor; and
 - (b) the competitor claims to have retired from taking part in sporting competition;
- the Agency may request a sporting administration body to tell the Agency whether the competitor has notified the organisation that he or she has retired from taking part in sporting competition, and, if so, the date of notification.

17A Procedures for dealing with a sample

- (1) A drug testing scheme may set out procedures for dealing with a sample.
- (2) A drug testing scheme may provide that strict compliance with those procedures is not required and substantial compliance is sufficient.
- (3) Subsection (2) does not apply to procedures relating to the following matters:
 - (a) if samples are tested by accredited laboratories—the accredited laboratories;
 - (b) if samples are tested using particular analytical techniques and equipment—the analytical techniques and equipment;

- (c) ensuring that a sample is not tampered with;
 - (d) ensuring that a sample is securely contained and identified.
- (4) The provisions of a drug testing scheme setting out procedures for dealing with a sample may be of general or specially limited application or may differ according to differences in time, locality, place or circumstance.
- (5) Subsection (4) does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

17B Disclosure of information to sporting administration bodies

- (1) A drug testing scheme may require or permit the Agency or the ASDMAC to disclose to one or more specified sporting administration bodies information arising out of the entry of a competitor's name on the Register of Notifiable Events for the scheme, including information concerning:
- (a) a failure by the competitor to provide a sample; or
 - (b) a failure by the competitor to complete or sign any form required by that scheme to be completed or signed by the competitor or to do anything in relation to the sample that is required by that scheme to be done; or
 - (c) any provision of a sample by a person who was not the competitor and represented, by pretending to be the competitor, that the sample was provided by the competitor; or
 - (d) any other interference with the provision, collection or testing of the sample; or
 - (e) the results of the testing.
- (2) A drug testing scheme may permit the Agency to disclose to one or more specified sporting administration bodies information relating to a positive test result returned by a competitor, or a failure by a competitor to comply with request by the Agency to provide a sample, if, at the time of the disclosure:
- (a) the positive test result or the failure to comply, as the case may be, has not led to the competitor's name being entered on the Register of Notifiable Events for the scheme; and

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- (b) the information would not enable the identification of the competitor.
- (3) Sporting administration bodies specified for the purposes of subsection (1) or (2) may differ according to the fields of sporting activities in which competitors compete.
- (4) Subsection (3) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.
- (5) This section does not limit paragraph 11(2)(h) and that paragraph does not limit this section.

17C Conferral of power on the Agency, the ASDMAC etc.

- (1) A drug testing scheme may make provision for or in relation to a matter by conferring a power on:
 - (a) the Agency; or
 - (b) the ASDMAC; or
 - (c) an analytical investigative body; or
 - (d) a therapeutic approval body;to make a decision of an administrative character.
- (2) To avoid doubt, a particular circumstance specified for the purposes of paragraph 11(2)(f) may consist of a decision of a kind referred to in subsection (1) of this section.

17D Removal of name from Register

A drug testing scheme may require or permit the Agency to remove a competitor's name and particulars from the Register of Notifiable Events for the scheme in specified circumstances.

17E Ancillary or incidental provisions

A drug testing scheme may contain ancillary or incidental provisions.

17F Scheme-making power not limited

Section 13, subsections 15(6) and (7) and sections 17 to 17E (inclusive) do not limit subsection 11(1). However, this rule does not affect the operation of subsection 17A(3).

17G Drug testing orders

- (1) A drug testing scheme may empower the Agency to make orders, to be known as ***drug testing orders*** for the scheme, with respect to any matter for or in relation to which provision may be made, or is required to be made, by the scheme.
- (2) The following are examples of matters for which provision may be made by drug testing orders for a particular drug testing scheme:
 - (a) the schedule of drugs and doping methods for the scheme;
 - (b) procedures for dealing with a sample.
- (3) An order referred to in subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (4) An order referred to in subsection (1) may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification, any of the provisions of any other order referred to in that subsection:
 - (a) as in force at a particular time; or
 - (b) as in force from time to time.
- (5) Section 49A of the *Acts Interpretation Act 1901* applies in relation to regulations as if the reference in paragraph (1)(a) of that section to regulations included a reference to an order referred to in subsection (1) of this section.
- (6) An order referred to in subsection (1) is taken to be an enactment for the purposes of the *Administrative Appeals Tribunal Act 1975*.
- (7) The provisions of this Act (other than this section) apply to an order referred to in subsection (1) in a corresponding way to the way in which they apply to a drug testing scheme. In particular, this Act (other than this section) has effect as if anything set out in

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drug testing orders for a drug testing scheme were set out in the drug testing scheme.

- (8) To avoid doubt, subsection (4) does not limit the application of subsection 11(5) to drug testing orders.

17H Multiple-purpose testing of samples

If a competitor provides a sample when requested to do so by the Agency under a drug testing scheme, then, in addition to any testing under the scheme or for research purposes, the sample may be tested for the purposes of:

- (a) a contract entered into by the Agency for the provision of drug testing services; or
 - (b) a contract entered into by the Agency for the provision of safety checking services;
- or both.

17J This Part does not limit other powers

This Part does not limit:

- (a) the Agency's power to enter into contracts for the provision of drug testing services or safety checking services; or
- (b) the powers conferred by Part 3A or 3B.

Part 3A—Testing on behalf of a foreign sporting organisation or under an anti-doping arrangement

17Y Request at instance of foreign sporting organisation or under anti-doping arrangement

If the Agency:

- (a) has been asked by a foreign sporting organisation to request a competitor to provide a sample for testing; or
- (b) is required or permitted under an anti-doping arrangement to request a competitor to provide a sample for testing;

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

17Z Procedures to be followed

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

- (a) if paragraph 17Y(a) applies—the procedures agreed to between the Agency and the foreign sporting organisation; or
- (b) if paragraph 17Y(b) applies—the procedures agreed to between the Agency and the organisation that asked the Agency to make the request.

17ZA Notifying matters arising out of testing

- (1) The Agency may notify a sporting administration body of any matter arising out of the making of a request under section 17Y to a competitor, including:
 - (a) a failure by the competitor to provide a sample; or
 - (b) a failure by the competitor to complete or sign any form required by the Agency to be completed or signed by the competitor or to do anything in relation to the sample that is required by the Agency to be done; or

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- (c) any provision of a sample by a person who was not the competitor and represented, by pretending to be the competitor, that the sample was provided by the competitor; or
- (d) any other interference with the provision, collection or testing of the sample; or
- (e) the results of the testing.

17ZB This Part does not limit other powers

This Part does not limit:

- (a) the Agency's power to enter into contracts for the provision of drug testing services or safety checking services; or
- (b) the powers conferred by Part 3; or
- (c) the powers conferred on the Agency by a drug testing scheme.

Part 3B—Testing by other sporting administration bodies

17ZC Testing by other sporting administration bodies

- (1) The Agency may ask a sporting administration body to arrange for:
 - (a) a person who competes in a particular field of sporting activity to be requested to provide a sample in order to determine whether the person has been using scheduled drugs or doping methods; and
 - (b) the testing of the sample for that purpose; and
 - (c) the Agency to be given information arising out of the making of such a request, including information concerning:
 - (i) an evasion, or an attempted evasion, by the person, of a request to provide a sample; or
 - (ii) the aiding, abetting, counselling or procuring of such an evasion, or attempted evasion, by the person; or
 - (iii) any failure by the person to provide such a sample; or
 - (iv) any interference with the provision, collection or testing of the sample; or
 - (v) the results of the testing.
- (2) A drug testing scheme may:
 - (a) authorise the Agency to enter the name of, and particulars relating to, a competitor on the Register of Notifiable Events for that scheme if the competitor fails, without reasonable cause, to comply with a request referred to in paragraph (1)(a); and
 - (b) authorise the Agency to enter the name of, and particulars relating to, a competitor on that Register in specified circumstances, being circumstances that consist of, or include, the circumstance that the competitor has returned a positive test result in relation to such a sample.
- (3) Subsection (2) does not limit subsection 11(1).

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- (4) To avoid doubt, a particular circumstance specified for the purposes of paragraph (2)(b) may consist of a decision of a kind referred to in subsection 17C(1).
- (5) To avoid doubt, subsections 15(3) and (4) apply in relation to the making of an entry referred to in subsection (2) of this section. This subsection does not, by implication, limit the application of other relevant provisions of Part 3.
- (6) Circumstances specified for the purposes of paragraph (2)(b) may differ according to:
 - (a) the fields of sporting activities in which competitors compete; and
 - (b) the drugs or doping methods revealed by positive test results.
- (7) Subsection (6) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.
- (8) To avoid doubt, this section applies both within and outside Australia.
- (9) In this section:
positive test result has the same meaning as in section 14.

17ZD This Part does not limit other powers

This Part does not limit:

- (a) the Agency's power to enter into contracts for the provision of drug testing services or safety checking services; or
- (b) the powers conferred by Part 3; or
- (c) the powers conferred on the Agency by a drug testing scheme.

Part 3C—Minister may request notification

18 Minister may request notification

- (1) The Minister may, in writing, request the Agency to give to the Minister a written notice stating, in respect of each competitor specified in the request, whether the competitor's name has been entered on a Register.
- (2) The Minister may include in the request a further request that the Agency set out in the notice, in respect of each specified competitor whose name has been entered on a Register, the contents of the entry.
- (2A) The Minister may, in writing, request the Agency to give to the Minister a written notice stating, in respect of each competitor specified in the request, whether the competitor has returned a negative test result under a drug testing scheme.
- (2AA) For the purposes of the application of subsection (2A) to a particular drug testing scheme, a ***negative test result***, in relation to a competitor, is a finding, made:
 - (a) by an accredited laboratory; or
 - (b) using analytical techniques and equipment specified in the scheme;by means of testing a sample provided by the competitor, that is not a positive test result (within the meaning of section 14).
- (2B) The Minister may, in writing, request the Agency to give to the Minister a written notice stating, in respect of each competitor named in the Minister's request:
 - (a) who is not an Australian citizen, a permanent resident or a temporarily resident non-Australian and has, pursuant to a request by the Agency under a drug testing scheme, provided a sample for testing; or

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- (b) who, pursuant to a request by the Agency under Part 3A, has provided a sample for testing;
any information that is stated in the Minister's request in relation to the outcome of the Agency's request to the competitor to provide a sample.
- (3) The Agency must comply with any request under subsection (1), (2A) or (2B), and any further request under subsection (2).

Part 4—Constitution and meetings of the Agency etc.

Division 1—Constitution of the Agency

19 Constitution

- (1) The Agency consists of:
 - (a) the Chairperson; and
 - (b) the Deputy Chairperson; and
 - (c) the Chief Executive; and
 - (d) not fewer than 1 nor more than 3 other members.
- (2) The performance of the functions and the exercise of the powers of the Agency are not affected merely because of vacancies in the Agency's membership.

20 Appointment of members

- (1) The members of the Agency are to be appointed by the Minister.
- (2) The Minister must not appoint a person as a member unless the Minister is satisfied that the person has qualifications relevant to, or special experience or interest in, a field related to the Agency's functions.
- (4) The appointment of a member is not invalid because of a defect or irregularity in connection with the member's appointment.

Division 2—Meetings of the Agency

21 Convening of meetings

- (1) The Agency is to hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chairperson:
 - (a) may, at any time, convene a meeting of the Agency; and
 - (b) must, on receipt of a written request from the Minister or from not less than 2 other members, convene a meeting of the Agency.

22 Presiding at meetings

- (1) The Chairperson is to preside at all meetings at which he or she is present.
- (2) Where the Chairperson is not present at a meeting, the Deputy Chairperson is to preside.
- (3) Where the Chairperson and Deputy Chairperson are not present at a meeting, the members present are to elect one of their number to preside at the meeting.

23 Quorum

At a meeting, 3 members constitute a quorum.

24 Voting at meetings

At a meeting:

- (a) all questions are to be decided by a majority of votes of the members present and voting; and
- (b) the person presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

25 Conduct of meetings

- (1) The Agency may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.
- (2) Without limiting subsection (1), the Agency may permit a member to participate in a meeting by telephone, closed circuit television or any other means of communication.
- (3) A member who is permitted to participate in a meeting under subsection (2) is to be regarded as being present at that meeting.

26 Resolutions without meetings

- (1) Where a majority of the members (being a majority that includes the Chairperson) sign a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms is to be taken to have been passed at a duly constituted meeting of the Agency held on the day the document was signed, or, if the members sign the document on different days, on the last of those days.
- (2) For the purposes of subsection (1), 2 or more separate documents containing statements in identical terms each of which is signed by one or more members are together to be taken to constitute one document containing a statement in those terms signed by those members on the respective days on which they signed the separate documents.
- (3) A member must not sign a document containing a statement in favour of a resolution if the resolution is in respect of a matter in which the member would, for the purposes of section 28, be taken to have an interest.

27 Records relating to meetings

The Agency is to keep minutes of its meetings and records of resolutions taken to have been passed in accordance with section 26.

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28 Disclosure of interests

- (1) A member who has an interest in a matter being considered, or about to be considered, by the Agency must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Agency.
- (2) The disclosure is to be recorded in the minutes of the meeting and, unless the Minister or the Agency otherwise determines, the member must not:
 - (a) be present during any deliberation of the Agency in relation to the matter; or
 - (b) take part in any decision of the Agency in relation to the matter.
- (3) For the purposes of the making of a determination by the Agency under subsection (2) in relation to a member who has made a disclosure under subsection (1), a member who has an interest in the matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Agency for the purposes of making the determination; or
 - (b) take part in the making by the Agency of the determination.
- (4) For the purposes of this section, a member is to be taken to *have an interest in a matter* if, and only 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 organisation and the member is a member of, or is involved in any way in the administration of, that organisation; 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 a particular competitor and the member is related to, or has some involvement in the affairs of, that competitor.

- (5) For the purposes of subsection (4), if:
- (a) the Agency has entered into:
 - (i) a contract for the provision of drug testing services; or
 - (ii) a contract for the provision of safety checking services;
and
 - (b) under the contract, the Agency has given, or could give, a request to a person to provide a sample;
the person is taken to be a competitor.

29 Persons may be invited to attend meeting

The Agency may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

Division 3—Provisions relating to members

30 Terms of office

- (1) The Chairperson and the Deputy Chairperson:
 - (a) are to be appointed on a part-time basis; and
 - (b) hold office for such periods (not exceeding 5 years) as are specified in their instruments of appointment, but are eligible for re-appointment.
- (2) The Chief Executive:
 - (a) is to be appointed on a full-time basis; and
 - (b) holds office for such period (not exceeding 5 years) as is specified in the instrument of appointment, but is eligible for re-appointment.
- (3) A member referred to in paragraph 19(1)(d):
 - (a) is to be appointed on a part-time basis; and
 - (b) holds office for such period (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible for re-appointment.

31 Terms and conditions of appointment not provided for by Act

A member holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

32 Remuneration and allowances

- (1) The Chairperson, the Deputy Chairperson, the Chief Executive and the other members are to be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, are to be paid such remuneration as is prescribed.
- (2) A member is to be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

33 Leave of absence

- (1) The Minister may grant leave of absence to the Chairperson on such terms and conditions as to remuneration or otherwise as the Minister considers appropriate.
- (2) The Chairperson may grant leave of absence to another part-time member on such terms and conditions as to remuneration or otherwise as the Chairperson considers appropriate.
- (3) The Chief Executive has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (4) The Chairperson may grant the Chief Executive leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Chairperson determines.
- (5) The Chairperson must notify the Minister if the Chief Executive is to be absent on leave for a continuous period of more than 4 weeks.

34 Resignation

A member may resign by writing signed by the member and delivered to the Minister.

35 Outside employment

- (1) The Chief Executive must not, except with the Minister's approval, engage in paid employment outside the duties of the Chief Executive's office.
- (2) A member (other than the Chief Executive) must not engage in any paid employment that, in the Minister's opinion, conflicts with the proper performance of the member's functions.

36 Termination of appointment

- (1A) The Minister may terminate a member's appointment if the Minister is of the opinion that the member's performance has been unsatisfactory.

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- (1B) The Minister may terminate the appointments of all of the members if the Minister is of the opinion that the Agency's performance has been unsatisfactory.
- (1) The Minister may terminate a member's appointment for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate a member's appointment if the member:
- (a) fails, without reasonable excuse, to comply with an obligation imposed by subsection 26(3) or section 28; or
 - (b) commits an offence against section 67; or
 - (c) is absent, except on leave of absence granted under section 33, from 3 consecutive meetings of the Agency; or
 - (d) being the Chief Executive, engages, without the Minister's approval, in any paid employment outside the duties of the Chief Executive's office; or
 - (e) being a member other than the Chief Executive, engages in any paid employment that, in the Minister's opinion, conflicts with the proper performance of the member's functions.

37 Acting appointments

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

- (b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from Australia or is, for any reason (including the reason that the Deputy Chairperson is acting as the Chairperson), unable to perform the duties of the office.
- (3) The Minister may appoint a person, whether or not the person is a member, to act as the Chief Executive:
 - (a) during a vacancy in the office of the Chief Executive, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chief Executive is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office.
- (4) The Minister may appoint a person to act as a member (other than the Chairperson, Deputy Chairperson or Chief Executive):
 - (a) during a vacancy in the office of the member, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the member is absent from duty or from Australia or is, for any reason (including the reason that the member is acting as the Chairperson, Deputy Chairperson or Chief Executive), unable to perform the duties of the office.
- (5) A person appointed to act during a vacancy under paragraph (1)(a), (2)(a), (3)(a) or (4)(a) must not continue so to act for more than 12 months.
- (6) In its application in relation to a person appointed to act under this section, section 33A of the *Acts Interpretation Act 1901* is modified by inserting at the end of subparagraph (b)(i) “, being terms and conditions that are, as far as practicable, equivalent to the terms and conditions that are applicable to that particular office”.
- (7) Anything done by or in relation to a person purporting to act under this section 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

Part 4 Constitution and meetings of the Agency etc.

Division 3 Provisions relating to members

Section 37

- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Division 4—Committees of the Agency

38 Establishment of committees

The Agency may establish committees to assist it in the performance of its functions and the exercise of its powers.

39 Constitution of committees

- (1) A committee is to be constituted wholly by members of the Agency or partly by members of the Agency and partly by other persons.
- (2) In all cases, the Chairperson of the committee must be a member of the Agency.

40 Reimbursement of expenses

Where:

- (a) a member of a committee who is not a member or an employee of the Agency has incurred reasonable expenses in performing his or her duties as a member of the committee; and
 - (b) the Chairperson of the committee has approved the reimbursement of such expenses;
- the Agency must reimburse such expenses.

41 Quorum

The number of members of a committee required to constitute a quorum at a meeting of the committee is:

- (a) if the number of committee members is an odd number—the number of committee members that constitute a majority of the committee's membership; or
- (b) if the number of committee members is an even number—the number of committee members equal to one more than half the committee's membership.

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42 Voting at meetings

At a meeting of a committee:

- (a) all questions are to be decided by a majority of votes of the members of the committee present and voting; and
- (b) the person presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

43 Persons may be invited to attend meeting

A committee may invite a person to attend a meeting of the committee for the purpose of advising or informing it of any matter.

44 Report to the Agency

The Chairperson of a committee must report to the Agency, at meetings of the Agency, on the committee's activities carried on since the last time (if any) a report was given, concerning those activities, at a meeting of the Agency.

45 Minutes

A committee is to keep minutes of its meetings.

46 Applied provisions

Section 28 applies to a member of a committee as if references in that section:

- (a) to a member were references to the member of the committee; and
- (b) to a meeting were references to a meeting of the committee; and
- (c) to the Agency were references to the committee; and
- (d) to the Minister were references to the Agency.

Part 5—Strategic plans and annual operational plans

Division 1—Strategic plans

47 Strategic plans

- (1) The Agency must develop, and prepare in writing, for each successive period referred to in subsections (2) and (3), a strategic plan setting out:
 - (a) the Agency's broad objectives in performing its functions during the period; and
 - (b) the manner in which it proposes to perform its functions during that period.
- (2) The first strategic plan prepared after the commencement of this subsection is to be expressed to relate to the period that began at the end of the last preceding strategic plan and ends on 30 June 2000, 30 June 2001 or 30 June 2002, as the Minister determines.
- (3) Each strategic plan after the strategic plan to which subsection (2) applies is to relate to a period determined by the Minister (being a period of 3, 4 or 5 years) beginning at the end of the period to which the immediately preceding strategic plan relates.

48 Approval and commencement of strategic plans

- (1) A strategic plan must be submitted to the Minister for approval not less than 3 months, or such shorter period as the Minister, in special circumstances, allows, before the day of commencement of the period to which the strategic plan relates.
- (2) A strategic plan does not come into operation until:
 - (a) the day on which it is approved by the Minister; or
 - (b) the day of commencement of the period to which it relates;whichever is the later.

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49 Variation of strategic plans

- (1) The Agency must, from time to time, during the period in respect of which a strategic plan is in force, consider whether a variation of the plan is necessary.
- (2) Where the Agency considers that a variation of the strategic plan is necessary, the Agency may, with the approval of the Minister, vary the plan.
- (3) Where a variation of the strategic plan is approved by the Minister the plan as so varied continues in force on and after the day on which the variation is so approved as if the plan had originally been approved by the Minister as so varied.

Division 2—Annual operational plans

50 Annual operational plans

- (1) The Agency must develop, and prepare in writing, in respect of each financial year ending after the commencement of this Act, an operational plan, setting out particulars of:
 - (a) the programs the Agency proposes to carry out; and
 - (b) the resources the Agency proposes to allocate to each such program; and
 - (c) the mechanisms by which the Agency's performance in carrying out these programs is to be regularly monitored and evaluated;

during that year in giving effect to the strategic plan that relates, or the intended strategic plan that will relate, to a period that includes that year or a part of that year.

51 Revision of annual operational plans

- (1) If the Minister is of the opinion that an operational plan in relation to a financial year is inconsistent with the strategic plan relating to the period that includes that year or a part of that year, the Minister may, in writing, request the Agency to revise the operational plan.
- (2) The Agency may, at any time, revise an operational plan, and must revise the plan if the Minister requests it under subsection (1) to do so and gives written reasons for the request.

52 Approval and commencement of annual operational plans

- (1) An operational plan, or a revision of an operational plan:
 - (a) must be submitted to the Minister as soon as practicable; and
 - (b) comes into force when it is approved, in writing, by the Minister.
- (2) The Minister must approve an operational plan, or a revision of an operational plan, unless the Minister is of the opinion that the plan, or the plan as proposed to be revised (as the case may be), is inconsistent with the strategic plan.

Division 3—Compliance with plans

53 Compliance with plans

To the extent that it is practicable to do so and subject to this Act, the Agency must perform its functions and exercise its powers in a manner that is consistent with, and is designed to give effect to, any strategic plan and any operational plan that are in force.

54 Reporting requirements

The Agency must, in each annual report, include particulars of the extent to which:

- (a) the Agency has complied with any strategic plan, and the operational plan, in force during the financial year to which the report relates; and
- (b) its operations during the financial year to which the report relates have:
 - (i) achieved its objectives as stated in any relevant strategic plan; and
 - (ii) implemented the operational plan in force during that financial year.

Part 6—Chief Executive, staff and consultants

55 Duties of the Chief Executive

- (1) The Chief Executive is to manage the affairs of the Agency subject to the directions of, and in accordance with policies determined by, the Agency.
- (2) All acts and things done in the name of, or on behalf of, the Agency by the Chief Executive, for the purposes of this Act, are to be taken to have been done by the Agency.

56 Employees

- (1) The Chief Executive may, on behalf of the Agency, employ such persons as the Agency considers necessary for the performance of its functions and the exercise of its powers.
- (2) An employee is to be employed on such terms and conditions as are determined by the Agency.
- (3) The Chief Executive may arrange with an Agency Head (within the meaning of the *Public Service Act 1999*), or with a body established by an Act, for the services of officers or employees of that Agency or of that body to be made available to the Agency.

57 Consultants

- (1) The Agency may engage persons having suitable qualifications and experience as consultants to the Agency or to the ASDMAC.
- (2) The terms and conditions of engagement are to be determined by the Agency.

Part 7—Finance

58 Appropriation of money

- (1) There is payable to the Agency such money as is appropriated by the Parliament for the purposes of the Agency.
- (2) The Minister for Finance may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Agency.

60 Application of money

- (1) The Agency's money is to be applied only:
 - (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Agency in the performance of its functions and the exercise of its powers; and
 - (b) in payment of remuneration and allowances payable under this Act (including remuneration and allowances payable to ASDMAC members).
- (2) Subsection (1) does not prevent investment of surplus money of the Agency under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

61 Borrowing from the Commonwealth

- (1) The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the Agency at such rates of interest and on such other terms and conditions as that Minister determines.
- (2) The Agency must not borrow money except in accordance with subsection (1).
- (3) The Agency may give security over the whole or part of its assets for the repayment of amounts borrowed under subsection (1) and the payment of interest on amounts so borrowed.

62 Contracts

- (1) The Agency must not, except with the Minister's written approval:
 - (a) enter into a contract involving the payment by the Agency of an amount exceeding \$200,000 or, if a higher amount is specified in the regulations, that higher amount; or
 - (b) enter into a lease of land for a period of 10 years or more.
- (2) Paragraph (1)(a) does not apply to the investment of money by the Agency in accordance with section 18 of the *Commonwealth Authorities and Companies Act 1997*.

63 Extra matters to be included in annual report

- (2) In each report on the Agency under section 9 of the *Commonwealth Authorities and Companies Act 1997*, the members must:
 - (a) include the particulars (if any) that the Agency is required to include under regulations made for the purposes of subsection (3) of this section; and
 - (c) include particulars of each direction given to the Agency by the Minister under subsection 68(1) that is applicable in relation to the financial year to which the report relates; and
 - (d) include the particulars that the Agency is required to include under section 54; and
 - (e) include particulars of:
 - (i) significant capital works programs (if any) undertaken by the Agency during the financial year to which the report relates; and
 - (ii) significant acquisitions and dispositions of real property by the Agency during the financial year; and
 - (iii) variations to the strategic plan and to the operational plan agreed to by the Minister during that financial year.
- (3) The regulations may provide for further particulars to be included in each such report, being particulars relating to one or more of the following:
 - (a) the provision of samples by competitors;
 - (b) the testing of samples so provided;

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- (c) the extent of the participation by sporting organisations in testing programs operated or supported by the Agency;
- (d) the results of research undertaken by, or supported by, the Agency.

65 Trust money

- (1) The Agency must ensure that any money received or held by the Agency on trust is paid into an account, or more than one account, maintained under subsection 18(2) of the *Commonwealth Authorities and Companies Act 1997* that does not contain any money of the Agency not held on trust.
- (2) Despite section 60:
 - (a) money or other property held by the Agency on trust is to be applied or dealt with only in accordance with the powers and duties of the Agency as trustee; and
 - (b) money held by the Agency on trust may be invested:
 - (i) in any manner in which the Agency is authorised to invest that money by the terms of the trust; or
 - (ii) in any manner in which trust money may, for the time being, be invested under law;but not otherwise.

65A Agency exempt from taxation

- (1) Subject to subsection (3), the Agency is not subject to taxation under any law of the Commonwealth or of a State or Territory.
- (2) Subject to subsection (3), sales tax is not payable by the Agency, or by any other person, on goods that are for use by the Agency.
- (3) The regulations may provide that subsection (1) or (2) does not apply in relation to taxation under a specified law.

Part 7A—Australian Sports Drug Medical Advisory Committee (ASDMAC)

65B Establishment of ASDMAC

- (1) There is to be an Australian Sports Drug Medical Advisory Committee, which is to consist of the following members:
 - (a) a Chairman;
 - (b) not more than 6, but not fewer than 3, other members.
- (2) A person is not to be appointed as an ASDMAC member unless:
 - (a) the person is a registered medical practitioner; and
 - (b) it appears to the Minister 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 prescribed field.

65C Functions of ASDMAC

- (1) The functions of the ASDMAC are as follows:
 - (a) such functions as are conferred on the ASDMAC under a drug testing scheme;
 - (b) to give advice and information to the Agency and the Commission about:
 - (i) the performance of the ASDMAC's functions; and
 - (ii) other matters relating to the use of drugs in sport or the safety of participants in sporting competitions;
 - (c) to give advice and information to sporting administration bodies about individual cases that involve:
 - (i) the use of drugs in sport; or
 - (ii) any other matter arising out of the provision of drug testing services; or
 - (iii) any matter arising out of the provision of safety checking services;

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- (d) if:
- (i) the Agency enters into a contract for the provision of services, information or advice; and
 - (ii) the contract specifies that some or all of those services, some or all of that information, or some or all of that advice, as the case may be, is to be provided by the ASDMAC on behalf of the Agency;
- to provide the services, information or advice concerned.

Note: For disclosure of information about a person to the person, see subsection 67(4C).

- (2) The following are examples of functions that may be conferred on the ASDMAC under a drug testing scheme:
- (a) conducting investigations relating to positive test results (see paragraph 13(1)(a));
 - (b) approving the use of scheduled drugs for therapeutic purposes (see paragraph 13(1)(b));
 - (c) disclosing, to sporting administration bodies, information arising out of the entry of competitors' names on the Register of Notifiable Events for the scheme (see section 17B).
- (3) Subsection 9(6) applies to the functions of the ASDMAC in a corresponding way to the way in which it applies to the functions of the Agency.

65D Appointment of ASDMAC members

- (1) The ASDMAC members are to be appointed by the Minister by written instrument.
- (2) An ASDMAC member is to be appointed for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (3) An ASDMAC member holds office on a part-time basis.
- (4) The performance of the functions of the ASDMAC is not affected only because of there being a vacancy or vacancies in the membership of the ASDMAC.

65E Procedures

- (1) The regulations may prescribe:
 - (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 Chairman; and
 - (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 (3); 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) Subsection (2) applies only if the ASDMAC:
 - (a) determines that it applies; and
 - (b) determines the method by which ASDMAC members are to indicate agreement with resolutions.

65F Disclosure of interests

- (1) An ASDMAC member who has an interest in a matter being considered by the ASDMAC must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the ASDMAC.

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- (2) The disclosure is to be recorded in the minutes of the meeting and unless the Minister or the ASDMAC otherwise determines, the ASDMAC member must not:
- (a) be present during any deliberation by the ASDMAC about that matter; or
 - (b) take part in any decision of the ASDMAC relating to that matter.
- (3) For the purposes of the making of a determination by the ASDMAC under subsection (2) in relation to an ASDMAC member who has made a disclosure under subsection (1), an ASDMAC member who has an interest in the matter to which the disclosure relates must not:
- (a) be present during any deliberation of the ASDMAC for the purposes of making the determination; or
 - (b) take part in the making by the ASDMAC of the determination.
- (4) For the purposes of this section, an ASDMAC member is taken to *have an interest in a matter* if, and only 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 organisation and the member is a member of, or is involved in any way in the administration of, that organisation; 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 a particular competitor and the member is related to, or has some involvement in the affairs of, that competitor.
- (5) For the purposes of subsection (4), if:
- (a) the Agency has entered into:
 - (i) a contract for the provision of drug testing services; or
 - (ii) a contract for the provision of safety checking services;and

- (b) under the contract, the Agency has given, or could give, a request to a person to provide a sample;
the person is taken to be a competitor.

65G ASDMAC member to remain at arm's length from decisions of sporting administration bodies

An ASDMAC member must not take part in any decision of a sporting administration body relating to a matter if the member has:

- (a) been present during any deliberation of the ASDMAC in relation to the matter; or
- (b) taken part in any decision of the ASDMAC in relation to the matter.

65H Remuneration and allowances

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

65J Leave of absence

The Minister or the ASDMAC Chairman may grant leave to an ASDMAC member to be absent from a meeting or meetings of the ASDMAC.

65K Resignation

An ASDMAC member may resign by writing signed by the member and sent to the Minister.

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65L Termination of appointment

- (1) The Minister must terminate the appointment of an ASDMAC member if the member ceases to be a registered medical practitioner.
- (2) The Minister may terminate an ASDMAC member's appointment if the Minister is of the opinion that the member's performance has been unsatisfactory.
- (3) 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.
- (4) The Minister may terminate the appointment of an ASDMAC member because of misbehaviour or physical or mental incapacity.
- (5) If:
 - (a) an ASDMAC member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) an ASDMAC member is absent, except on leave of absence, from 3 consecutive meetings of the ASDMAC; or
 - (c) an ASDMAC member fails, without reasonable excuse, to comply with section 65F; or
 - (d) an ASDMAC member fails to comply with section 65G; or
 - (e) an ASDMAC member commits an offence against section 67;the Minister may terminate the appointment of the member.

65M Other terms and conditions

An ASDMAC member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

65N Agency assistance to ASDMAC

The Agency may make available to the ASDMAC resources and facilities (including secretariat services and clerical assistance) for the purposes of enabling the ASDMAC to perform its functions.

65P Delegation by ASDMAC

- (1) The ASDMAC may, by resolution, delegate to an ASDMAC member all or any of its powers under this Act.
- (2) A delegation of a power under this section:
 - (a) may be revoked by resolution of the ASDMAC (whether or not constituted by the persons constituting the ASDMAC at the time when the power was delegated); and
 - (b) continues in force notwithstanding a change in the membership of the ASDMAC.
- (3) Section 34A of the *Acts Interpretation Act 1901* applies in relation to a delegation under this section as if the ASDMAC were a person.
- (4) A certificate signed by the ASDMAC Chairman stating any matter with respect to a delegation of a power under this section is prima facie evidence of that matter.
- (5) A document purporting to be a certificate mentioned in subsection (4) is, unless the contrary is established, taken to be such a certificate and to have been duly given.
- (6) A delegate under this section is, in the exercise of a power delegated under this section, subject to any directions given by the ASDMAC.
- (7) In this section:

this Act includes a drug testing scheme.

Part 8—Miscellaneous

66 Accredited laboratories

- (1) A reference in this Act to an *accredited laboratory* is a reference to:
 - (a) a laboratory that the International Olympic Committee recognises as an accredited laboratory for the purpose of testing for the use of drugs in sport; or
 - (b) a laboratory that is recognised by a prescribed organisation as complying with:
 - (i) the International Standards Organisation's general requirements for the competence of calibration and testing laboratories; or
 - (ii) the requirements set out in a prescribed document.
- (2) An accredited laboratory may be situated either within or outside Australia.

66A Anti-doping arrangements

- (1) The regulations may specify that an international arrangement entered into by the Commonwealth is an anti-doping arrangement for the purposes of this Act.
- (2) The Agency is to prepare and maintain a list of anti-doping arrangements that are in force.

67 Disclosure of confidential information

- (1) This section applies to a person who is or has been:
 - (a) a member of the Agency; or
 - (b) a member of a committee of the Agency; or
 - (c) an employee of, or consultant to, the Agency; or
 - (d) a person attending a meeting of the Agency or a committee of the Agency; or
 - (da) an ASDMAC member; or
 - (db) an ASDMAC consultant; or
-

- (e) a member of the Commission; or
 - (f) a member of a committee of the Commission; or
 - (g) an employee of, or consultant to, the Commission; or
 - (h) a person attending a meeting of the Commission or a committee of the Commission; or
 - (j) an employee of an accredited laboratory.
- (2) This section applies to information if the information concerns a person and is obtained by a person to whom this section applies:
- (a) in the course of that person performing functions or duties or exercising powers under this Act; or
 - (b) as a result of another person performing functions or duties or exercising powers under this Act.
- (3) A person to whom this section applies must not disclose or communicate (whether directly or indirectly) to any person any information to which this section applies unless the information is disclosed or communicated:
- (a) for the purposes of this Act; or
 - (b) for the purposes of, or in connection with, the performance of a function or duty or the exercise of a power under this Act; or
 - (c) where the person is a person of a kind referred to in paragraph (1)(e), (f), (g) or (h)—for the purposes:
 - (i) of the *Australian Sports Commission Act 1989*; or
 - (ii) of, or in connection with, the performance of a function or duty or the exercise of a power under that Act.

Penalty: Imprisonment for 2 years.

- (3A) The following is an example of a disclosure or communication that would be covered by paragraph (3)(b):
- (a) the Agency enters into a contract with a sporting administration body for the provision of drug testing services; and
 - (b) the contract makes provision for:
 - (i) the Agency to request samples from the members of a particular team; and
 - (ii) the testing of the samples; and

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- (iii) the notification of the results of the testing; and
 - (c) in accordance with the contract, an employee of the Agency notifies the results of the testing to the sporting administration body.
- (4) A person to whom this section applies must not be required:
 - (a) to produce in a court any document containing information to which this section applies; or
 - (b) to divulge or communicate to any court any information to which this section applies;except:
 - (c) where it is necessary to do so for the purposes of carrying into effect the provisions of this Act; or
 - (d) for the purposes of a criminal proceeding.
- (4A) Despite subsection (3):
 - (a) the Agency or an accredited laboratory may disclose or communicate to the International Olympic Committee or to an International Sporting Federation any statistics of test results in respect of samples provided by people competing, or training to compete, in sporting competition relevant to the Committee or Federation, as the case may be, provided that the identity of a person whose sample has been tested is not revealed; or
 - (b) if the Agency has carried out a test of a sample at the request of, or under a contract with, a foreign anti-doping body—the Australian Sports Drug Testing Laboratory may notify that body and the Agency of the results of the test; or
 - (c) if the Agency has carried out a test of a sample under an anti-doping arrangement—the Australian Sports Drug Testing Laboratory may notify the foreign anti-doping body referred to in the arrangement.
- (4B) Despite subsection (3), the Agency may disclose or communicate to a sporting administration body information about either of the following matters:
 - (a) an evasion, or an attempted evasion, of a request by the Agency to provide a sample;

- (b) the aiding, abetting, counselling or procuring of such an evasion or attempted evasion.

Note: For examples of situations in which the Agency may request a person to provide a sample, see subsection 4(1).

- (4C) Despite subsection (3), the Agency, an ASDMAC member or an ASDMAC consultant may:

- (a) disclose or communicate to a person information relating to the person; or
- (b) with the consent of a person (the *first person*), disclose or communicate to another person information relating to the first person.

Note: For examples of situations in which the Agency may request a person to provide a sample, see subsection 4(1).

- (4D) Despite subsection (3), the Agency may disclose or communicate to a sporting administration body information that:

- (a) was given to the Agency by another sporting administration body; and
- (b) is relevant to the use of drugs in sport or the safety of participants in sporting competitions.

- (4E) Despite subsection (3):

- (a) the Agency may disclose or communicate to an ASDMAC member or an ASDMAC consultant information that is relevant to the use of drugs in sport or the safety of participants in sporting competitions; or
- (b) an ASDMAC member or an ASDMAC consultant may disclose or communicate to the Agency information that is relevant to the use of drugs in sport or the safety of participants in sporting competitions.

- (4F) Despite subsection (3):

- (a) the Agency may disclose or communicate to an accredited laboratory information that is relevant to the carrying on by the laboratory of research relating to the use of drugs in sport or the safety of participants in sporting competitions; or

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- (b) an employee of an accredited laboratory may disclose or communicate to the Agency information that is relevant to the carrying on by the laboratory of research relating to the use of drugs in sport or the safety of participants in sporting competitions.
- (4G) Despite subsection (3), the Agency may disclose to a sporting administration body information that consists of the results of research undertaken by, or supported by, the Agency, so long as the identity of a person whose sample has been tested is not revealed.
- (5) In this section:

ASDMAC consultant means a consultant to the ASDMAC.

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

criminal proceeding includes a proceeding to determine whether a person should be tried for an offence.

produce includes permit access to.

this Act includes a drug testing scheme.

67AA Access to, and use of, customs information

- (1) For the purposes of section 16 of the *Customs Administration Act 1985*:
- (a) if information held by the Australian Customs Service relates to the importation into Australia, or the attempted importation into Australia, of a scheduled drug, 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 a competitor is responsible for the importation or attempted importation;

- (iii) there are reasonable grounds to suspect that the drug is for use by one or more competitors;
the information is taken to be information that will be used by the Agency for the purposes of the Agency's functions;
and
 - (b) the purpose of the Agency deciding who to request to provide a sample is taken to be a permissible purpose referred to in a paragraph of subsection (9) of that section;
and
 - (c) the disclosure of the information, under that section, to the Chairperson, or to a person acting on the Agency's behalf:
 - (i) is taken to be necessary for that permissible purpose;
and
 - (ii) is taken to comply with subsection (10) of that section.
- (2) The Agency, in deciding who to request to provide a sample, may have regard to any information given to the Chairperson, or to a person acting on the Agency's behalf, under section 16 of the *Customs Administration Act 1985*.
- Note: For examples of situations in which the Agency may request a person to provide a sample, see subsection 4(1).
- (3) Subsection (2) does not limit the matters to which the Agency may have regard.
- (4) In this section:

information includes a class of information.

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

67A Provisions relating to giving of notices

A written notice by the Agency or the ASDMAC to a person or to a sporting administration body for the purposes of this Act, the regulations or an order referred to in subsection 17G(1) may be given:

- (a) in respect of a notice to a person:
 - (i) by delivering it personally to the person; or

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- (ii) by sending it by post, or by means of a prescribed courier service, to the person at the address of the person's place of residence last known to the Agency; or
 - (iii) if the person has notified the Agency of a number to which notices may be sent to the person by facsimile transmission—by sending it to the person by facsimile transmission to that number; or
 - (iv) if the notice is to be given to a competitor but cannot be given as mentioned in subparagraph (i), (ii) or (iii)—by sending by post, or by means of a prescribed courier service, to the relevant sporting organisation, at its address last known to the Agency, a written notice (to which the notice to the competitor is attached in a sealed envelope addressed to the competitor) requesting the organisation to send the envelope to the competitor; or
- (b) in respect of a notice to a sporting administration body:
- (i) by sending it by post, or by means of a prescribed courier service, to the sporting administration body at its address last known to the Agency; or
 - (ii) if the sporting administration body has notified the Agency of a number to which notices may be sent to the sporting administration body by facsimile transmission—by sending it to the sporting administration body by facsimile transmission to that number; or
- (c) in any case—in any other manner prescribed by the regulations.

67B Person interfering with collection of sample

If:

- (a) a person is requested by the Agency to provide a sample; and
- (b) the Agency believes that another person:
 - (i) has provided a sample and represented, by pretending to be the first-mentioned person, that the sample was provided by the first-mentioned person; or

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

the Agency may notify a sporting administration body, being a body that is connected with a field of sporting activity in which the first-mentioned person participates, of the circumstances of the other person's actions as understood by the Agency.

Note: For examples of situations in which the Agency may request a person to provide a sample, see subsection 4(1).

67C Disclosure to government or government agency providing support

Entry on Register

- (1) If:

- (a) to the knowledge of the Agency, a competitor receives support from a government or a government agency; and
- (b) the competitor's name and particulars are entered on a Register;

the Agency:

- (c) must give written notice of the entry to the government or government agency; and
- (d) may disclose to the government or government agency information arising out of the entry, including information concerning:
 - (i) any failure by the competitor to provide a sample; or
 - (ii) any interference with the provision, collection or testing of the sample; or
 - (iii) the results of the testing of the sample.

Testing under contract

- (2) If:

- (a) to the knowledge of the Agency, a person receives support from a government or a government agency; and
- (b) the Agency requests the person to provide a sample under:
 - (i) a contract entered into by the Agency for the provision of drug testing services; or

Section 68

- (ii) a contract entered into by the Agency for the provision of safety checking services;

the Agency may disclose to the government or government agency information arising out of the request, including information concerning:

- (c) any failure by the person to provide such a sample; or
- (d) any interference with the provision, collection or testing of the sample; or
- (e) the results of the testing of the sample.

Definitions

- (3) In this section:

government means the Commonwealth, a State or a Territory.

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

68 Minister may give directions

- (1) The Minister may give to the Agency written directions as to the performance of its functions and the exercise of its powers.
- (2) The Minister must, before giving a direction:
 - (a) inform the Agency, in writing, that the Minister is considering giving the direction; and
 - (b) give the Chairperson a reasonable opportunity to discuss the proposed direction with the Minister.
- (3) The Agency must comply with the directions.
- (4) The Minister must cause a copy of each direction given under subsection (1):
 - (a) to be published in the *Gazette* as soon as practicable after giving the direction; and
 - (b) to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction.

70 Delegation by the Agency

- (1) The Agency may, by resolution, delegate to:
 - (a) the Chairperson; or
 - (b) the Chief Executive; or
 - (c) any employee of the Agency;all or any of the Agency's powers under this Act, other than the Agency's powers under sections 38, 47, 49, 50 and 51 and subsection 55(1).
- (2) The delegate is, in the exercise of a power so delegated, subject to any directions given by the Agency.
- (3) In this section:

this Act includes a drug testing scheme, but does not include a provision of a drug testing scheme that empowers the Agency to make orders referred to in subsection 17G(1).

71 Delegation by the Chief Executive

- (1) The Chief Executive may, by instrument in writing, delegate to an employee of the Agency all or any of the Chief Executive's powers under this Act.
- (2) The Chief Executive must not delegate powers under subsection (1) to an employee of the Agency unless the Agency has, by resolution, determined that it is desirable, for the efficient running of the Agency, that powers of the Chief Executive be delegated under this section to the person holding the office or position in the Agency that the employee holds.
- (3) The delegate is, in the exercise of a power so delegated, subject to any directions given by the Chief Executive.

72 Protection from civil actions

- (1) A member or an employee of the Agency 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 in the performance or purported performance of any function, or in the exercise or purported exercise of any power, of the Agency.

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- (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 in the performance or purported performance of any function, or in the exercise or purported exercise of any power, of the ASDMAC.

73 Regulations

The Governor-General may make regulations, not inconsistent with this Act, 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.

Table of Acts**Notes to the *Australian Sports Drug Agency Act 1990*****Note 1**

The *Australian Sports Drug Agency Act 1990* as shown in this compilation comprises Act No. 18, 1991 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

For all other relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|------------------------|--|
| <i>Australian Sports Drug Agency Act 1990</i> | 18, 1991 | 21 Jan 1991 | 17 Feb 1991 | |
| <i>Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act 1991</i> | 33, 1991 | 21 Mar 1991 | S. 3: Royal Assent (a) | — |
| <i>Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act (No. 2) 1991</i> | 179, 1991 | 25 Nov 1991 | 25 Nov 1991 | S. 3(2) |
| <i>Arts, Sport, Environment and Territories Legislation Amendment Act 1992</i> | 21, 1992 | 10 Apr 1992 | 8 May 1992 | — |
| <i>Australian Sports Drug Agency Amendment Act 1992</i> | 108, 1992 | 9 July 1992 | 9 July 1992 | — |
| <i>Sales Tax Amendment (Transitional) Act 1992</i> | 118, 1992 | 30 Sept 1992 | 28 Oct 1992 | — |
| <i>Australian Sports Drug Agency Amendment Act 1994</i> | 42, 1994 | 15 Mar 1994 | 15 Mar 1994 | — |
| <i>Environment, Sport and Territories Legislation Amendment Act 1995</i> | 25, 1995 | 6 Apr 1995 | 6 Apr 1995 | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|----------------|--|--|
| <i>Australian Sports Drug Agency Amendment Act 1996</i> | 20, 1996 | 28 June 1996 | Ss. 1 and 2: Royal Assent Remainder: 24 July 1996 (see <i>Gazette</i> 1996, No. GN29) | Sch. 1 (item 24) |
| <i>Environment, Sport and Territories Legislation Amendment Act 1997</i> | 118, 1997 | 7 July 1997 | Schedule 1 (items 5, 6): Royal Assent (b) | — |
| <i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i> | 152, 1997 | 24 Oct 1997 | Schedule 2 (items 513-524): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (c) | — |
| <i>Australian Sports Drug Agency Amendment Act 1999</i> | 5, 1999 | 31 Mar 1999 | 1 Aug 1999 (see <i>Gazette</i> 1999, No. S349) | Sch. 1 (items 101, 102) |
| <i>Public Employment (Consequential and Transitional) Amendment Act 1999</i> | 146, 1999 | 11 Nov 1999 | Schedule 1 (items 264-266): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (d) | — |
| <i>Jurisdiction of Courts Legislation Amendment Act 2000</i> | 57, 2000 | 30 May 2000 | Schedule 1 (item 31): 1 July 2000 (see <i>Gazette</i> 2000, No. GN25) (e) | — |
| <i>Corporations (Repeals, Consequential and Transitionals) Act 2001</i> | 55, 2001 | 28 June 2001 | Ss. 4-14 and Schedule 3 (item 68): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (f) | Ss. 4-14 |
| <i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i> | 159, 2001 | 1 Oct 2001 | 29 Oct 2001 | Sch. 1 (item 97) |

Act Notes

- (a) The *Australian Sports Drug Agency Act 1990* was amended by section 3 only of the *Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act 1991*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (b) The *Australian Sports Drug Agency Act 1990* was amended by Schedule 1 (items 5 and 6) only of the *Environment, Sport and Territories Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2), (3) and (4), this Act commences on the day on which it receives the Royal Assent.
- (c) The *Australian Sports Drug Agency Act 1990* was amended by Schedule 2 (items 513-524) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (d) The *Australian Sports Drug Agency Act 1990* was amended by Schedule 1 (items 264-266) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (e) The *Australian Sports Drug Agency Act 1990* was amended by Schedule 1 (item 31) only of the *Jurisdiction of Courts Legislation Amendment Act 2000*, subsection 2(2) of which provides as follows:
- (2) The items in Schedule 1, other than items 77 to 90, commence on a day or days to be fixed by Proclamation.
- (f) The *Australian Sports Drug Agency Act 1990* was amended by Schedule 3 (item 68) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--|---|
| S. 2 | am. Nos. 21 and 108, 1992; No. 20, 1996; No. 5, 1999 |
| S. 2A | ad. No. 20, 1996 am. No. 5, 1999 |
| S. 3 | rs. No. 20, 1996 am. No. 5, 1999 |
| S. 4 | am. No. 108, 1992; No. 5, 1999 |
| Note to s. 7(1) | ad. No. 152, 1997 |
| S. 8 | rs. No. 20, 1996 am. No. 5, 1999 |
| S. 9 | am. No. 108, 1992; No. 20, 1996; No. 5, 1999 |
| S. 9A | ad. No. 108, 1992 am. No. 42, 1994; No. 5, 1999; No. 57, 2000 |
| S. 10 | am. No. 25, 1995; No. 118, 1997; No. 5, 1999 |
| S. 10A | ad. No. 20, 1996 rs. No. 5, 1999 am. No. 55, 2001 |
| S. 10B | ad. No. 5, 1999 |
| Heading to Part 3 | rs. No. 108, 1992; No. 20, 1996 rep. No. 5, 1999 |
| Part 3 | rep. No. 5, 1999 |
| (ss. 10A, 11-17, 17A-17H, 17J-17N, 17P-17W) | |
| Part 3 | ad. No. 5, 1999 |
| (ss. 11-17, 17A-17H, 17J) | |
| Div. 1 of Part 3 | ad. No. 20, 1996 |
| (s. 10A) | rep. No. 5, 1999 |
| Heading to Div. 2 of Part 3 | ad. No. 20, 1996 rep. No. 5, 1999 |
| S. 11 | am. No. 108, 1992; No. 42, 1994 rs. No. 5, 1999 |
| Heading to Div. 3 of Part 3 | ad. No. 20, 1996 rep. No. 5, 1999 |
| S. 12 | am. Nos. 21 and 108, 1992 rs. No. 20, 1996; No. 5, 1999 |
| Ss. 13, 14 | rs. No. 20, 1996; No. 5, 1999 |
| Heading to Div. 4 of Part 3 | ad. No. 20, 1996 rep. No. 5, 1999 |
| Heading to Subdiv. A | ad. No. 20, 1996 |
| of Div. 4 of Part 3 | rep. No. 5, 1999 |
| S. 15 | am. No. 33, 1991; No. 108, 1992 rs. No. 20, 1996 am. No. 118, 1997 rs. No. 5, 1999 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---|--|
| Heading to Subdiv. B of Div. 4 of Part 3 | ad. No. 20, 1996 rep. No. 5, 1999 |
| S. 16 | rs. No. 108, 1992; No. 20, 1996; No. 5, 1999 |
| Ss. 16A-16D | ad. No. 108, 1992 rep. No. 20, 1996 |
| S. 17 | am. No. 21, 1992 rs. No. 20, 1996; No. 5, 1999 |
| S. 17A | ad. No. 21, 1992 rs. No. 20, 1996; No. 5, 1999 |
| S. 17B | ad. No. 108, 1992 rs. No. 20, 1996; No. 5, 1999 |
| Heading to Subdiv. C of Div. 4 of Part 3 | ad. No. 20, 1996 rep. No. 5, 1999 |
| S. 17C | ad. No. 108, 1992 rs. No. 20, 1996; No. 5, 1999 |
| S. 17D | ad. No. 20, 1996 rs. No. 5, 1999 |
| Div. 5 of Part 3 (ss. 17E-17G) | ad. No. 20, 1996 rep. No. 5, 1999 |
| Ss. 17E-17G | ad. No. 20, 1996 rs. No. 5, 1999 |
| Div. 6 of Part 3 (s. 17H) | ad. No. 20, 1996 rep. No. 5, 1999 |
| S. 17H | ad. No. 20, 1996 rs. No. 5, 1999 |
| Div. 7 of Part 3 (ss. 17J-17N) | ad. No. 20, 1996 rep. No. 5, 1999 |
| S. 17J | ad. No. 20, 1996 rs. No. 5, 1999 |
| Ss. 17K-17N | ad. No. 20, 1996 rep. No. 5, 1999 |
| Div. 8 of Part 3 (ss. 17P, 17Q) | ad. No. 20, 1996 rep. No. 5, 1999 |
| Ss. 17P, 17Q | ad. No. 20, 1996 rep. No. 5, 1999 |
| Div. 9 of Part 3 (ss. 17R-17U) | ad. No. 20, 1996 rep. No. 5, 1999 |
| Ss. 17R-17U | ad. No. 20, 1996 rep. No. 5, 1999 |
| Div. 10 of Part 3 (ss. 17V, 17W) | ad. No. 20, 1996 rep. No. 5, 1999 |
| Ss. 17V, 17W | ad. No. 20, 1996 rep. No. 5, 1999 |
| Heading to Part 3A | rs. No. 5, 1999 |
| Part 3A (ss. 17X-17Z, 17ZA, 17ZB) | ad. No. 20, 1996 |
| Heading to Div. 1 of Part 3A | rep. No. 5, 1999 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|------------------------------------|---|
| S. 17X | ad. No. 20, 1996 rep. No. 5, 1999 |
| S. 17Y | ad. No. 20, 1996 rs. No. 5, 1999 |
| S. 17Z | ad. No. 20, 1996 am. No. 5, 1999 |
| S. 17ZA | ad. No. 20, 1996 am. No. 5, 1999 |
| Heading to Div. 2 of Part 3A | rep. No. 5, 1999 |
| S. 17ZB | ad. No. 20, 1996 rs. No. 5, 1999 |
| Part 3B | ad. No. 5, 1999 |
| (ss. 17ZC, 17ZD) | |
| Ss. 17ZC, 17ZD | ad. No. 5, 1999 |
| Heading to Part 3C | ad. No. 5, 1999 |
| S. 18 | am. No. 21, 1992; No. 20, 1996; No. 5, 1999 |
| S. 20 | am. No. 179, 1991; No. 159, 2001 |
| S. 28 | am. No. 5, 1999 |
| S. 33 | am. No. 179, 1991; No. 146, 1999 |
| S. 36 | am. No. 5, 1999 |
| S. 47 | am. No. 20, 1996; No. 5, 1999 |
| S. 50 | am. No. 5, 1999 |
| S. 56 | am. No. 20, 1996; No. 146, 1999 |
| S. 57 | am. No. 5, 1999 |
| S. 59 | rep. No. 152, 1997 |
| S. 60 | am. No. 152, 1997; No. 5, 1999 |
| S. 62 | am. No. 152, 1997; No. 5, 1999 |
| Heading to s. 63 | rs. No. 152, 1997 |
| S. 63 | am. No. 152, 1997; No. 5, 1999 |
| S. 64 | rs. No. 20, 1996 rep. No. 152, 1997 |
| S. 65 | am. No. 152, 1997 |
| S. 65A | ad. No. 21, 1992 am. No. 118, 1992 |
| Part 7A | ad. No. 5, 1999 |
| (ss. 65B-65H, 65J-65N, 65P) | |
| Ss. 65B-65H, 65J-65N, 65P | ad. No. 5, 1999 |
| S. 66 | rs. No. 5, 1999 |
| S. 66A | ad. No. 21, 1992 |
| S. 66B | ad. No. 108, 1992 rep. No. 20, 1996 |
| Ss. 66C, 66D | ad. No. 108, 1992 am. No. 20, 1996 rep. No. 5, 1999 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|----------------------|-------------------------------------|
| S. 67 | am. No. 20, 1996; No. 5, 1999 |
| S. 67AA | ad. No. 5, 1999 |
| Ss. 67A, 67B | ad. No. 20, 1996 am. No. 5, 1999 |
| Note to s. 67B | ad. No. 5, 1999 |
| S. 67C | ad. No. 5, 1999 |
| S. 69..... | rep. No. 152, 1997 |
| S. 70 | am. No. 21, 1992; No. 5, 1999 |
| S. 72 | am. No. 5, 1999 |

Table A

Table A

Application, saving or transitional provisions

Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act (No. 2) 1991 (No. 179, 1991)

- (2) A person who:
- (a) immediately before the commencement of this Act, was the holder of a public office within the meaning of the *Remuneration Tribunal Act 1973*; and
 - (b) upon that commencement, has in respect of that office such recreation leave entitlements as are determined by the Remuneration Tribunal; retains, in respect of that office, such rights (if any) in relation to leave of absence for recreation as had accrued to the person immediately before that commencement.

Australian Sports Drug Agency Amendment Act 1996 (No. 20, 1996)

Schedule 1

Definitions

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

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

the Agency means the Australian Sports Drug Agency.

Continued application of Principal Act

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

Table A

Existing list of competitors

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

Existing contracts with foreign sporting organisations

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

Existing approvals of foreign anti-doping bodies

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

Existing regulations to continue in force

- (6) The regulations in force immediately before the commencement of this Schedule under the Principal Act continue in force as if made under that Act as amended by this Schedule except to the extent to which they are amended by regulations coming into force on or after that commencement.
-

Table A

Australian Sports Drug Agency Amendment Act 1999 (No. 5, 1999)

Schedule 1

101 Transitional—pre-commencement requests

Despite the amendments and repeals of the *Australian Sports Drug Agency Act 1990* made by this Schedule, paragraph 2A(1)(j), Part 3 and section 18 of that Act continue to apply, after the commencement of this item, in relation to:

- (a) a request to provide a sample that was made before the commencement of this item; or
- (b) any matter arising out of, or connected with, such a request (including the entry of a person's name on the Register);

as if those amendments and repeals had not happened.

102 Application of amendments—sections 47 and 50 of the *Australian Sports Drug Agency Act 1990*

The amendments of sections 47 and 50 of the *Australian Sports Drug Agency Act 1990* made by this Schedule apply in relation to plans approved by the Minister after the commencement of this item.

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001
(No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.