Australian Sports Commission Amendment Act 2005

No. 40, 2005

An Act to amend the Australian Sports Commission Act 1989, and for related purposes

Note: An electronic version of this Act is available in SCALEplus (http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm)
Contents

1 Short title........................................................................................................... 1
2 Commencement................................................................................................. 2
3 Schedule(s) ....................................................................................................... 2

Schedule 1—Amendments

Australian Sports Commission Act 1989

3
Australian Sports Commission Amendment Act 2005

No. 40, 2005

An Act to amend the Australian Sports Commission Act 1989, and for related purposes

[Assented to 1 April 2005]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Australian Sports Commission Amendment Act 2005.
2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Australian Sports Commission Act 1989

1 Section 51A

Insert:

*permitted anti-doping purposes* has the meaning given by section 51AA.

2 After section 51A

Insert:

51AA Meaning of permitted anti-doping purposes

(1) In this Part, *permitted anti-doping purposes* of a body, being the Commission or a sporting organisation, means any of the following purposes:

(a) investigating whether an anti-doping policy of the body has been breached;

(b) determining whether to take action under an anti-doping policy of the body;

(c) determining what action to take under an anti-doping policy of the body;

(d) taking action under an anti-doping policy of the body;

(e) taking, or participating in, any proceedings relating to action that has been taken under an anti-doping policy of the body.

(2) For the purposes of subsection (1), taking action under the Commission’s anti-doping policy includes taking action, under an agreement, in relation to a person who is bound by the Commission’s anti-doping policy.

3 Section 51C

Omit all the words after “the purpose of”, substitute “the Executive Director determining if information should be used or disclosed for permitted anti-doping purposes is taken to be a permissible purpose referred to in a paragraph of that subsection.”.
4  **Paragraph 51D(1)(a)**  
   After “section”, insert “51DA or”.

5  **At the end of subsection 51D(1)**  
   Add:
   
   ; or (c) if the disclosure is to a person to whom the information relates, or to someone acting on behalf of such a person.

6  **Section 51E**  
   Repeal the section, substitute:

51DA  **Disclosure for certain permitted anti-doping purposes of the Commission**

   *Executive Director may authorise disclosure*

   (1) The Executive Director may authorise the disclosure of protected information to a person who is not a Commission official if:

   (a) the Executive Director is satisfied that the information should be disclosed to the person in the course of a permitted anti-doping purpose of the Commission that is described in paragraph 51AA(1)(d) or (e); and

   (b) the Executive Director is satisfied that the disclosure of the information would not contravene any terms of the authorisation under which the protected information was disclosed to the Commission.

   *Executive Director may specify other conditions etc.*

   (2) The Executive Director may specify the manner in which, or the conditions under which, the disclosure is to be made (including the form in which the information is to be presented and the mode of transmitting that information).

   *Section does not limit internal use and disclosure of information*

   (3) This section does not limit the internal use of the information by a Commission official, or the internal disclosure of the information by a Commission official to another Commission official.
51E Disclosure for permitted anti-doping purposes of a sporting organisation

Executive Director may authorise disclosure

(1) The Executive Director may authorise the disclosure of protected information to a sporting organisation if:

(a) the Executive Director is satisfied that the information should be disclosed to the organisation for permitted anti-doping purposes of the organisation; and

(b) the organisation has given a written undertaking that:

(i) the organisation will use or disclose the information only for permitted anti-doping purposes of the organisation; and

(ii) the organisation will take reasonable steps to satisfy itself that the information will not be used or disclosed, by a person to whom the organisation has disclosed the information, in a way that would be unfairly prejudicial to the interests of the person to whom the information relates; and

(c) the Executive Director is satisfied that the disclosure of the information would not contravene any terms of the authorisation under which the protected information was disclosed to the Commission; and

(d) the requirements of subsections (2) to (5) are satisfied.

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

Notice to be given to person to whom the information relates

(2) Before authorising the disclosure of the information to the organisation, the Executive Director must:

(a) give written notice of the proposed disclosure to the person to whom the information relates; and

(b) invite the person to make a written submission to the Executive Director about the proposed disclosure within a period (the submission period) that is the specified number of days after the day on which the person receives the notice.

The notice must also advise the person of the effect of subsection (5).
(3) For the purpose of paragraph (2)(b), the specified number of days must be:
   (a) unless paragraph (b) applies—14 days; or
   (b) if the Executive Director considers it appropriate in the circumstances to specify a lesser number of days—that lesser number of days.

(4) The information must not be disclosed unless:
   (a) the submission period has ended; and
   (b) the Executive Director has considered any submission that has been made within the submission period.

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

Executive Director may specify other conditions etc.

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

7 At the end of Part VIIA

Add:

51G Operation of Privacy Act 1988 is not affected

Nothing in this Part limits the operation of the Privacy Act 1988.

8 Application

The amendments made by this Schedule apply in relation to protected information, whether disclosed to the Commission before, on or after the commencement of this item.
[Minister’s second reading speech made in—
Senate on 8 December 2004
House of Representatives on 16 March 2005]