Australian Sports Drug Agency Regulations 1999

Statutory Rules 1999 No. 159

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations under the Australian Sports Drug Agency Act 1990.


WILLIAM DEANE
Governor-General

By His Excellency's Command,

JACKIE KELLY
Minister for Sport and Tourism
Australian Sports Drug Agency Regulations 1999

Statutory Rules 1999 No. 159

made under the

Australian Sports Drug Agency Act 1990

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Reader’s guide

Aim of the guide

The aim of this guide is to help you to understand the Australian Sports Drug Agency Regulations 1999 (the Regulations). However, the guide is not part of the Regulations and has no legal force.

Definitions

Some of the words and phrases used in the guide and the Regulations are defined in the Australian Sports Drug Agency Act 1990 (the Act) and some are defined in regulations 3 and 4.

Words and expressions used in the Regulations that are defined in the Act have the same meaning in the Regulations as they do in the Act (see Acts Interpretation Act 1901, s 46 (1) (a)). For example, subsection 2 (1) of the Act contains definitions of Agency, Commission, competitor, drug testing scheme, negative test result, positive test result, sample and scheduled drug or doping method.

Background to the Regulations

The Regulations replace the Australian Sports Drug Agency Regulations (as amended) which were made in 1990.

Overview of the drug testing legislative scheme

Part 3 of the Act is about drug testing schemes. Subsection 11 (1) of the Act (which is in Part 3 of the Act) provides that the Regulations may formulate one or more drug testing schemes. There is a comprehensive definition of drug testing scheme in subsection 11 (2) of the Act.

The Regulations set out some of the important details of a drug testing scheme called Scheme A in accordance with Part 3 of the Act. Scheme A applies to all competitors, within the meaning of the Act. However, there is scope in the Act for other drug testing schemes (that may apply to competitors in particular sports, for example) to be formulated in the future.
The Regulations also deal with other matters relating to drug testing in accordance with other parts of the Act. Under the Regulations, the Agency may ask competitors to give bodily samples and, if asked for a sample, a competitor must give the sample requested except in particular circumstances set out in the Regulations. The Regulations also provide that the Agency may arrange for competitors’ samples to be tested for the presence of a scheduled drug or doping method. Under section 17ZC of the Act, the Agency may ask a sporting administration body to arrange for a person to be asked for a sample and to arrange for the sample to be tested. That power will generally be used by the Agency when a competitor is competing overseas and the Agency needs to rely on a foreign sporting administration body to arrange any drug testing required in relation to the competitor.

The Agency will generally enter details of a competitor’s failure to comply with a request for a sample or a positive test result on the Register of Notifiable Events for the relevant drug testing scheme that is maintained by the Agency. Competitors have certain rights in relation to requests for samples and related matters, many of which are set out in Division 2.6 of the Regulations.

Section 17G of the Act provides that a drug testing scheme may empower the Agency to make orders, to be known as *drug testing orders*, for the scheme. Regulation 7 provides that, under Scheme A, the Agency may make orders for Scheme A about any matter for which the scheme may or must provide. The *Australian Sports Drug Agency Drug Testing (Scheme A) Orders 1999* to be made under that regulation, for example, will set out some of the details of the drug testing scheme called *Scheme A*.

To fully understand the Regulations, it may be necessary to refer to the Act and the Orders. Notes have been included in the Regulations and will be included in the Orders to help you to work out how the Act, the Regulations and the Orders fit together. However, the notes have no legal force.
Part 1

Introductory

1 Name of regulations

These regulations are the Australian Sports Drug Agency Regulations 1999.

2 Commencement

These regulations commence on the commencement of the Australian Sports Drug Agency Amendment Act 1999.

3 Definitions

In these regulations:


Agency representative means:
(a) a drug control official; or
(b) a chaperone.

chaperone means:
(a) a drug control official; or
(b) a person appointed by the Agency as a chaperone.

drug control official means a person appointed by the Agency to be a drug control official for these regulations.

government agency has the meaning given by subsection 67C (3) of the Act.

government sports agency means the Agency, the Commission, the Australian Institute of Sport or the Department.

Part A, of a sample given by a competitor, has the meaning given by the Scheme A Orders.

Part B, of a sample given by a competitor, has the meaning given by the Scheme A Orders.

personal interest, in relation to the collection or outcome of the testing of a sample, has the meaning given by regulation 4.
relevant orders, for a competitor, means the orders made for a drug testing scheme that applies to the competitor.

relevant register, for a competitor, means the Register of Notifiable Events maintained by the Agency for the drug testing scheme that applies to the competitor.

relevant scheduled drug or doping method, for a competitor who is asked, under a drug testing scheme, for a sample in relation to the competitor competing in a particular sport, means a drug or doping method that is:

(a) included in the schedule of drugs and doping methods set out in the relevant scheme; and

(b) stated by the scheme to be a drug or doping method applicable to that sport.

relevant scheme, for a competitor, means the drug testing scheme that applies to the competitor.

relevant sporting administration body, for a competitor, means a sporting administration body for the sport in which the competitor is competing.

representative, for a competitor, means:

(a) a person chosen by the competitor to monitor the collection of a sample from the competitor (the collection process); or

(b) an interpreter chosen by a competitor to help the competitor during the collection process.

Scheme A means the drug testing scheme mentioned in regulation 6.

Scheme A Orders means the orders made for Scheme A, as in force from time to time.

sporting administration body representative means a person appointed by a sporting administration body to arrange, at the request of the Agency under paragraph 17ZC (1) (a) of the Act, for a person who competes in a particular sport to be asked to give a sample to determine whether the person has been using any scheduled drug or doping method.

test includes a series of tests.
Regulation 4

**testing**, for a sample given by a competitor under the relevant scheme, means testing of the sample arranged by the Agency, or a sporting administration body, under the scheme, for the presence of any relevant scheduled drug or doping method.

**Note** For the meaning of *Agency, Commission, competitor, drug testing scheme, negative test result, positive test result, sample and scheduled drug or doping method*, see subs 2(1) of the Act.

4 **Meaning of personal interest**

For these regulations, a person is taken to have a **personal interest** in the collection or outcome of the testing of a sample of a competitor if:

(a) the person has a direct or indirect pecuniary interest in the outcome of the testing of the sample; or

(b) the person participates in, or is involved in the administration of, a sport in which the competitor competes; or

(c) the person is a member of, or is involved in the administration of, a sporting organisation of which the competitor is a member; or

(d) the sample is to be collected at, or in relation to, a particular sporting event or sporting venue and the person is involved in the administration (other than under these regulations or the relevant orders) of that event or venue; or

(e) the person is related to, or has some involvement in the affairs of, the competitor.
Part 2

Drug testing schemes

Division 2.1

Introductory

5 What this Part does

This Part sets out some of the details of any drug testing scheme formulated under subsection 11 (1) of the Act.

Note Other details of any drug testing scheme so formulated may be set out in the drug testing orders made for the scheme under this Part (see r 7).

6 Scheme A

(1) There is to be a drug testing scheme called Scheme A.

(2) Scheme A applies to all competitors.

(3) Scheme A consists of the requirements of this Part and any orders made under r 7.

7 Drug testing orders for Scheme A

The Agency may make drug testing orders for Scheme A with respect to any matter for which Scheme A may or must provide.
Division 2.2 Drug testing officials and chaperones

Subdivision 2.2.1 Agency representatives

8 Drug control officials

(1) The Agency may appoint a person to be a drug control official for 1, or more than 1, drug testing scheme.

(2) The Agency must make sure that each drug control official is given an identity card that bears a recent photograph of the official.

9 Chaperones

(1) The Agency may appoint a person to be a chaperone for 1, or more than 1, drug testing scheme.

(2) A drug control official is also a chaperone.

Note Under r 81, the Agency may, by resolution, delegate all or any of its powers under the regulations (including, for example, the power to ask a competitor to give the Agency a sample to detect whether the competitor has used a scheduled drug or doping method) to a drug control official or an employee of the Agency. Under subr 82 (1), a drug control official may delegate to a chaperone all or any of the official's powers under these regulations except the power to delegate under that subregulation.

10 Identity cards

(1) The Agency must make sure that each chaperone is given an identity card.

(2) If a chaperone is a drug control official, the card must bear a recent photograph of the official.

(3) If a chaperone is not a drug control official, the card must bear the signature of an Agency employee.
(4) A person who ceases to be a chaperone must return his or her identity card to the Agency on the day when the person ceases to be a chaperone.

11 Production of identity cards
If a competitor asks an Agency representative to produce his or her identity card:
(a) the Agency representative must do so; and
(b) the competitor is not required to comply with a request made by the representative until the representative produces his or her identity card.

12 Conflict of interest — Agency representatives
(1) The Agency must make sure that the conditions of service applicable to Agency representatives require the representatives to report to the Agency any personal interest in the collection or outcome of the testing of a sample of a competitor.

(2) If an Agency representative reports a personal interest in the collection or outcome of the testing of a sample of a competitor, the Agency may direct another Agency representative to carry out the duties of the Agency representative in relation to the collection or testing of a sample of the competitor.

Note For the meaning of personal interest, see r 4.

Subdivision 2.2.2 Sporting administration body representatives

13 Conflict of interest — sporting administration body representatives
(1) This regulation applies if, under paragraph 17ZC (1) (a) of the Act, the Agency asks a sporting administration body to arrange for a person who competes in a particular sport to be asked to provide a sample to determine whether the person has been using a relevant scheduled drug or doping method.
(2) The Agency must make sure that the conditions of service applicable to persons appointed by the sporting administration body to be sporting administration body representatives require the representatives to report to the sporting administration body any personal interest in the collection or outcome of the testing of a sample of a competitor that is arranged by the Agency under paragraph 17ZC (1) (a).

(3) The Agency must also make sure that, if a sporting administration body representative reports a personal interest in the collection or outcome of the testing of a sample of a competitor, the sporting administration body may direct another sporting administration body representative to carry out the duties of the representative in relation to the collection or testing of a sample of the competitor.

Note  For the meaning of personal interest, see r 4.
Division 2.3 Requests for samples

14 Schedule of drugs and doping methods

(1) The orders for a drug testing scheme must include a schedule of drugs and doping methods for the scheme.

(2) The schedule of drugs and doping methods for each scheme must state the drugs and doping methods and the permitted levels (if any) of those scheduled drugs or doping methods that are applicable to each sport within the ambit of the scheme.

15 Agency may ask competitors for samples

(1) The Agency may ask a competitor to give the Agency a sample to detect whether the competitor has used a relevant scheduled drug or doping method.

(2) Subregulation (3) applies if, in the course of an investigation conducted by the ASDMAC or an analytical investigative body, in relation to a sample provided by a competitor, the ASDMAC or the analytical investigative body asks the Agency to ask the competitor for 1, or more than 1, additional sample for the investigation.

(3) The Agency may ask the competitor for the additional sample or samples.

*Note* Under subs 17ZC (1) of the Act, the Agency may ask a sporting administration body to arrange for a person who competes in a particular sport to be asked to give a sample to determine whether the person has been using relevant scheduled drugs or doping methods and to arrange the testing of any sample given.

16 ASDMAC etc may ask Agency to ask competitors for additional samples

In the course of an investigation conducted by the ASDMAC or an analytical investigative body, in relation to a sample provided by a competitor, the ASDMAC or the analytical investigative body may ask the Agency to ask the competitor for 1, or more than 1, additional sample for the investigation.
Regulation 17

17 Request to give sample

(1) The Agency may ask a competitor for a sample orally or by written notice.

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

(2) A request for a sample must state:
   
   (a) the place where the competitor is to give the sample; and
   
   (b) when the competitor must go to the place for that purpose.

(3) If the Agency asks an intellectually disabled competitor for a sample, the Agency must give at least 1 of the following persons oral or written notice that the request has been made:
   
   (a) the competitor’s spouse;
   
   (b) the competitor’s parent or guardian;
   
   (c) the competitor’s coach;
   
   (d) a representative of a relevant sporting administration body.

(4) If it would be unreasonable to require the competitor to go to the stated place at the stated time, the Agency may agree with the competitor to collect the sample at a different time or place.

(5) When asking a competitor for a sample, the Agency must comply with regulation 37.

(6) If the Agency has made reasonable attempts to locate a competitor, the Agency may ask a person who knows, or is related to, the competitor for help in locating the competitor.

18 Agency to engage an interpreter

(1) This regulation applies if the Agency asks a competitor for a sample under regulation 17.

(2) If the competitor is unable to receive or understand the request for a sample (for example, because the competitor is deaf), the Agency may communicate with the competitor through an interpreter.
(3) If the Agency needs to give notice of the request for a sample to a person mentioned in paragraph 17 (3) (a), (b), (c) or (d) and that person is unable to understand English, or otherwise has difficulty communicating in English, the Agency may communicate with the person through an interpreter.

19 **Agency to pay competitors’ expenses**

(1) This section applies if a place stated under paragraph 17 (2) (a) is more than 50 kilometres from the place where the request is received.

(2) The Agency must offer to pay the reasonable expenses of the competitor incurred in travelling from the place where the request was received to the stated place.

(3) The Agency may also offer to pay the reasonable expenses of the competitor incurred in travelling from the place where the request was received to the stated place if it is otherwise reasonable to do so.

20 **Procedures for collecting and dealing with samples**

The orders for a drug testing scheme may state the procedures for collecting and dealing with samples given in response to a request under the scheme.

21 **Competitor appears likely to fail to comply**

(1) Subregulation (2) applies if:

(a) the Agency has asked a competitor for a sample under regulation 17; and

(b) it appears to the Agency that the competitor is likely to fail to comply with the request; and

(c) it appears to the Agency that a sporting administration body should be given the opportunity to try to persuade the competitor to comply with the request.

(2) The Agency may tell the sporting administration body that the competitor appears to be likely to fail to comply with the request.
22 Retired competitors

(1) Subregulation (2) applies if:
   (a) the Agency has asked a competitor for a sample under regulation 17; and
   (b) the competitor claims to have retired from taking part in sporting competition.

(2) The Agency may ask a sporting administration body to tell the Agency whether the competitor has notified the body that he or she has retired from taking part in sporting competition and, if so, the date of notification.

(3) The competitor is not required to give the sample if:
   (a) the Agency asks a sporting administration body whether the competitor has retired from taking part in sporting competition; and
   (b) the sporting administration body tells the Agency, in writing, that the competitor has retired from taking part in sporting competition.
Division 2.4 Testing samples

23 Agency may conduct screening tests on samples

(1) This regulation applies if:
(a) the Agency asks a competitor for a sample under regulation 17; and
(b) the competitor gives the sample in response to the Agency's request.

(2) The Agency may use analytical techniques and equipment to test the sample for the presence of any relevant scheduled drug or doping method.

24 Agency may ask accredited laboratories to test samples

(1) This regulation applies:
(a) if the Agency asks a competitor for a sample under regulation 17; and
(b) if the competitor gives the sample in response to the Agency's request; and
(c) whether or not the Agency has used analytical techniques and equipment to test the sample for the presence of any relevant scheduled drug or doping method.

(2) The Agency may ask an accredited laboratory to test the sample for the presence of any relevant scheduled drug or doping method.

Note 1 For the meaning of accredited laboratory, see s 66 of the Act and r 84.

Note 2 Section 14 of the Act provides that for the application of Pt 3 of the Act to a particular drug testing scheme, a positive test result in relation to a competitor is, among other things, a finding made:
(a) by an accredited laboratory; or
(b) using specified analytical techniques and equipment.
Regulation 25

Note 3 Under subs 17ZC (1) of the Act, the Agency may ask a sporting administration body to arrange for a person who competes in a particular sport to be asked to provide a sample to determine whether the person has been using relevant scheduled drugs or doping methods and to arrange the testing of any sample given for that purpose.

25 Investigations by analytical investigative bodies

An analytical investigative body may investigate a positive test result for a sample given by a competitor to find out whether the result was caused by naturally occurring levels of the substance concerned.

Note The ASDMAC also has the power to investigate a positive test result for a sample given by a competitor to find out whether the result was caused by naturally occurring levels of the substance concerned (see subr 64 (1)).
Division 2.5  Registers of Notifiable Events

26  Registers of Notifiable Events

The Agency must establish and maintain a Register of Notifiable Events for each drug testing scheme.

*Note* The Agency must make sure that personal information to be entered on a Register of Notifiable Events is collected and stored in accordance with the Information Privacy Principles stated in s 14 of the Privacy Act 1988 (see s 13 of that Act).

27  Entries about failure to comply with request for sample from Agency

(1) Subregulation (2) applies if:

(a) a competitor fails to comply with a request for a sample under regulation 17; and

(b) the submission period mentioned in subregulation 41 (1) has ended; and

(c) the Agency decides that the competitor did not have reasonable cause for failing to comply with the request.

(2) As soon as practicable, the Agency must enter on the relevant register:

(a) the name of the competitor; and

(b) details of the failure to comply with the request; and

(c) any information about the competitor that the relevant orders require the Agency to enter in the circumstances.

*Note 1* For the meaning of *fail to comply with a request*, see s 12 of the Act.

*Note 2* Under r 60, the Agency must give a competitor whose name and details have been entered on the relevant register written notice that the entry has been made.

*Note 3* Under r 61, a competitor has a right to apply to the Administrative Appeals Tribunal for a review of a decision of the Agency to enter the competitor's name and details on the relevant register. For other competitors' rights in relation to entries on a register, see Div 2.6.
28 Entries about failure to comply with request for sample from sporting administration body

(1) Subregulation (2) applies if:
   (a) the Agency asks a sporting administration body, under paragraph 17ZC (1) (a) of the Act, to arrange for a competitor who competes in a particular sport to be asked to give a sample to determine whether the competitor has been using a relevant scheduled drug or doping method; and
   (b) the sporting administration body asks the competitor to give the sample; and
   (c) the competitor fails to comply with the request; and
   (d) the submission period mentioned in subregulation 51 (1) has ended; and
   (e) the Agency decides that the competitor did not have reasonable cause for failing to comply with the request.

(2) The Agency must enter on the relevant register:
   (a) the name of the competitor; and
   (b) details of the failure to comply with the request; and
   (c) any information about the competitor that the relevant orders require the Agency to enter in the circumstances.

Note 1 For the meaning of fail to comply with a request, see s 12 of the Act.

Note 2 Under r 60, the Agency must give a competitor whose name and details have been entered on the relevant register written notice that the entry has been made.

Note 3 Under r 61, a competitor has a right to apply to the Administrative Appeals Tribunal for a review of a decision of the Agency to enter the competitor’s name and details on the relevant register. For other competitors’ rights in relation to entries on a register, see Div 2.6.

29 Entries about results from tests arranged by Agency

(1) This regulation applies if:
   (a) the Agency asks a competitor for a sample under regulation 17; and
   (b) the competitor gives the sample in response to the Agency’s request; and
(c) the result of the relevant test of the sample is positive; and
(d) the relevant submission period has ended; and
(e) the Agency has considered any submission that the competitor has given to the Agency under paragraph 45 (2) (a) or 48 (1) (a); and
(f) the Agency is satisfied that the procedures for collecting and dealing with the sample mentioned in regulation 20 that the relevant orders require the Agency to comply with strictly have been strictly complied with; and
(g) the Agency has considered any other relevant circumstances; and
(h) the Agency has decided that the test result is valid and must be entered on the relevant register.

(2) As soon as practicable, the Agency must enter on the relevant register:
(a) the name of the competitor; and
(b) the details of the test result; and
(c) any information about the competitor that the relevant orders require the Agency to enter in the circumstances.

(3) The Agency must also enter that information on the relevant register in the circumstances (if any) stated in the relevant orders.

(4) In this regulation:

relevant circumstances includes the following circumstances:

(a) an investigation conducted by the ASDMAC under subregulation 64 (1), or an analytical investigative body under regulation 25, in relation to the sample, has revealed that the positive test result is not attributable to naturally occurring levels of the substance concerned;

(b) the competitor had approval from the ASDMAC or a therapeutic approval body for the use of the drug concerned for therapeutic purposes;

(c) any circumstances stated in the relevant orders for this subregulation.
relevant submission period means:

(a) if only Part A of the competitor’s sample has been tested under the relevant scheme — the submission period mentioned in subregulation 45 (2); and

(b) if both Part A and Part B of the competitor’s sample have been tested under the relevant scheme — the submission period mentioned in subregulation 48 (1).

relevant test means:

(a) if only Part A of the competitor’s sample has been tested under the relevant scheme — the testing of Part A of the sample; and

(b) if both Part A and Part B of the competitor’s sample have been tested under the relevant scheme and the testing of Part B of the sample confirms the result of the testing of Part A of the sample — the testing of Part A and Part B of the sample.

Note 1 For the meaning of positive test result, see s 14 of the Act.

Note 2 Under r 60, the Agency must give a competitor whose name and details have been entered on the relevant register written notice that the entry has been made.

Note 3 Under r 61, a competitor has a right to apply to the Administrative Appeals Tribunal for a review of a decision of the Agency to enter the competitor’s name and details on the relevant register. For other competitors’ rights in relation to entries on the register, see Div 2.6.

30 Entries about results from tests arranged by sporting administration bodies

(1) This regulation applies if:

(a) the Agency asks a sporting administration body, under paragraph 17ZC (1) (a) of the Act, to arrange for a competitor who competes in a particular sport to be asked to give a sample to determine whether the competitor has been using a relevant scheduled drug or doping method; and

(b) the sporting administration body asks the competitor to give the sample; and

(c) the competitor gives the sample in response to the sporting administration body’s request; and
(d) the result of the relevant test of the sample is positive; and
(e) the relevant submission period has ended; and
(f) the Agency has considered any submission that the competitor has given to the Agency under paragraph 55 (2) (a) or 58 (1) (a); and
(g) the Agency is satisfied that the sporting administration body’s procedures for collecting and dealing with samples given for drug testing purposes have been substantially complied with; and
(h) the Agency has considered any other relevant circumstances; and
(i) the Agency has decided that the test result is valid and must be entered on the relevant register.

(2) The Agency must enter on the relevant register:
(a) the name of the competitor; and
(b) details of the test result; and
(c) any information about the competitor that the relevant orders require the Agency to enter in the circumstances.

(3) The Agency may also enter that information on the relevant register in the circumstances (if any) stated in the relevant orders.

(4) In this regulation:

relevant circumstances includes the following circumstances:
(a) an investigation conducted by the ASDMAC under subregulation 64 (1), or an analytical investigative body under regulation 25, in relation to the sample, has revealed that the positive test result is not attributable to naturally occurring levels of the substance concerned;
(b) the competitor had approval from the ASDMAC or a therapeutic approval body for the use of the drug concerned for therapeutic purposes;
(c) any circumstances stated in the relevant orders for this subregulation.
Regulation 31

relevant submission period means:

(a) if only Part A of the competitor’s sample has been tested under the relevant scheme — the submission period mentioned in subregulation 55 (2); and

(b) if both Part A and Part B of the competitor’s sample have been tested under the relevant scheme — the submission period mentioned in subregulation 58 (1).

relevant test means:

(a) if only Part A of the competitor’s sample has been tested under the relevant scheme — the testing of Part A of the sample; and

(b) if both Part A and Part B of the competitor’s sample have been tested under the relevant scheme and the testing of Part B of the sample confirms the result of the testing of Part A of the sample — the testing of Part A and Part B of the sample.

Note 1 For the meaning of positive test result, see s 14 of the Act.

Note 2 Under r 60, the Agency must give a competitor whose name and details have been entered on the relevant register written notice that the entry has been made.

Note 3 Under r 61, a competitor has a right to apply to the Administrative Appeals Tribunal for a review of a decision of the Agency to enter the competitor’s name and details on the relevant register. For other competitors’ rights in relation to entries on the register, see Div 2.6.

31 Giving notice about entries

(1) This regulation applies if the Agency has entered information about a competitor on the relevant register.

(2) Within a reasonable time after entering the information, the Agency must give written notice about the entry to:

(a) each relevant national sporting organisation in relation to the competitor; and

(b) each relevant sporting organisation (if any) in relation to the competitor; and

(c) each relevant government agency in relation to the competitor.
(3) The notice must include details of the entry.

Note relevant national sporting organisation and relevant sporting organisation are defined in s 2 of the Act. Government agency is defined in r 3.

32 Giving information relating to entries to sporting administration bodies

(1) The Agency may give information arising out of the entry of a competitor's name on the relevant register to 1, or more than 1, specified sporting administration body, including information about:

(a) a failure by the competitor to provide a sample; or
(b) a failure by the competitor to comply with the scheme; 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 giving or testing of the sample; or
(e) the results of the testing.

(2) Any information given under subregulation (1) may be given orally or by written notice.

(3) In this regulation:

specified sporting administration body means a sporting administration body specified for this regulation by the relevant orders.

33 Giving information to sporting administration bodies if no entry made on register

(1) Subregulation (2) applies if:

(a) a competitor has failed to comply with a request by the Agency for a sample under regulation 17 or has been notified of a positive test result for a sample given by the competitor; and
(b) no entry has been made on the relevant register about the failure to comply or the positive test result.

(2) The Agency may give information about the competitor’s failure to comply with a request for a sample or the positive test result to 1, or more than 1, specified sporting administration body.

(3) However, the Agency must make sure that the competitor cannot be identified by any information given under subregulation (2).

(4) Any information given under subregulation (2) may be given orally or by written notice.

(5) In this regulation:

*specified sporting administration body* means a sporting administration body specified for this regulation by the relevant orders.

34 Removal of names from register

(1) This regulation applies if:

(a) a competitor’s name and information about the competitor *(relevant personal information)* have been entered on the relevant register; and

(b) when the event that caused the entry to be made happened, the competitor was under 18.

(2) If the Agency receives written notice from a relevant sporting administration body that the competitor is not prevented from taking part, or has not become ineligible to take part, in sporting competition for a period as a direct or indirect result of the entry being made, the Agency must remove the relevant personal information from the register as soon as practicable.

(3) If, as a direct or indirect result of the entry being made, the competitor is prevented from taking part, or becomes ineligible to take part, in sporting competition for a period (the *suspension period*) the Agency must remove the relevant personal information from the register as soon as practicable after the end of the suspension period.
(4) However, subregulation (5) applies if, for a period (the disqualification period) that ends after the suspension period, the Commission has disqualified the competitor from:
(a) receiving funding from the Commission; or
(b) using facilities that:
   (i) are fully or partly provided by the Commission; or
   (ii) are fully or partly operated or maintained with funding received from the Commission.

(5) As soon as practicable after the end of the disqualification period, the Agency must remove the relevant personal information from the register.

(6) The Agency must remove from a register a competitor’s name and any other personal information about the competitor in any other circumstances stated for this subregulation in the relevant orders.

Note Under subs 16 (2) of the Act, if the Administrative Appeals Tribunal sets aside a reviewable decision of the Agency to enter the competitor’s name and details on the relevant register, the Agency must remove the entry made as a result of the Agency’s decision as soon as practicable.

35 Notice of removal of name from register

As soon as practicable after the Agency removes information about a competitor from the relevant register, the Agency must give a written notice to any person to whom the Agency has given notice about the entry stating that the information has been removed.
Division 2.6 Competitors' rights

Subdivision 2.6.1 Rights when Agency arranges testing

36 Application of Subdivision
This Subdivision applies if the Agency asks a competitor for a sample under regulation 17.

37 Notice about competitors' rights etc
(1) As soon as practicable after the Agency asks the competitor for the sample, the Agency must give the competitor notice of the possible consequences of failing to comply with a request by the Agency to provide a sample.

(2) The Agency may give the notice orally or in writing.
   Note Section 67A of the Act deals with giving written notices.

38 What competitor may do before giving sample
(1) Before going with a chaperone to a place to give the sample, the competitor may:
   (a) arrange for a representative to accompany the competitor to the place; or
   (b) with the consent of the chaperone, do anything that is reasonable for the competitor to do before going to the place to give the sample.

(2) The competitor must remain visible to the chaperone while doing anything mentioned in subregulation (1).

(3) A chaperone must not refuse any reasonable request by a competitor for consent under subregulation (1).

(4) A refusal by a chaperone to consent to a request by a competitor under subregulation (1) does not invalidate any test conducted on a sample given by the competitor.
39 Right to a representative

(1) The competitor may choose a representative to monitor the collection of the sample.

(2) However, the representative must not witness the passing of a urine sample unless the competitor needs help to pass the sample because the competitor has a disability.

40 Notice about failure to comply with request

(1) This regulation applies if the competitor fails to comply with the request for a sample under regulation 17.

(2) As soon as practicable after becoming aware of the failure to comply, the Agency must give the competitor a written notice stating that the competitor (or a person on the competitor’s behalf) may, within 7 days after receiving the notice:

(a) give a written submission to the Agency setting out any reasonable cause for the failure; or

(b) by giving a written notice to the Agency, waive the competitor’s right to make a submission.

41 Submission about failure to comply

(1) If the competitor fails to comply with the request for a sample under regulation 17, the competitor (or a person on the competitor’s behalf) may, within 7 days after receiving the notice mentioned in subregulation 40 (2) (the submission period):

(a) give a written submission to the Agency setting out any reasonable cause for the failure; or

(b) by giving a written notice to the Agency, waive the competitor’s right to make a submission.

(2) If the competitor does not give the Agency a written submission or notice within the submission period, the competitor is taken to have waived the competitor’s right to make a submission.
Regulation 42

(3) Subregulation (4) applies if the Agency considers that the competitor is likely to take part in:
(a) international sporting competition; or
(b) a sporting competition to select people to represent Australia in international sporting competition.

(4) Before the end of the submission period, the Agency may, by written notice to the competitor, substitute for the period of 7 days mentioned in subregulation (1) a shorter period that it considers appropriate in the circumstances.

(5) The submission period is taken to have ended:
(a) if, by written notice before the end of the submission period, the competitor waives the competitor’s right to make a submission — when the Agency receives the written notice;
(b) if the competitor gives the Agency a submission before the end of the submission period — when the Agency receives the submission.

Note 1 For the meaning of fails to comply with a request, see s 12 of the Act.

Note 2 Section 67A of the Act deals with giving written notices.

Note 3 Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

42 What happens if result of test of Part A of sample is positive

(1) This regulation applies if:
(a) the competitor gives a sample in response to the Agency’s request for a sample; and
(b) the result of the testing arranged by the Agency of Part A of the sample is positive.

(2) As soon as practicable after the Agency becomes aware of the positive test result, the Agency may arrange for Part B of the sample to be tested on a particular day (the testing day).
(3) However, the Agency must not arrange for Part B of the sample to be tested on a day earlier than the day when the competitor is presumed to have received the notice mentioned in subregulation 43 (2).

(4) Also, when deciding on the testing day, the Agency must make sure that, before the testing day, the competitor will have a reasonable period of time in which to exercise the competitor’s right to waive the competitor’s right to have Part B of the sample tested.

Note: Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

43 Notice about positive test result — Part A of sample

(1) This regulation applies if:

(a) the competitor gives a sample in response to the Agency’s request for a sample; and

(b) the result of the testing arranged by the Agency of Part A of the sample is positive; and

(c) the Agency has arranged, under regulation 42, for Part B of the sample to be tested on a particular day.

(2) As soon as practicable after arranging the testing, the Agency must give the competitor a written notice (the information notice) stating:

(a) that the result of the test is positive; and

(b) that the competitor has a right to have Part B of the sample tested and that the Agency has arranged for Part B of the sample to be tested on the date stated in the notice for the testing (the testing day); and

(c) that Part B of the sample will be tested on the testing day at the time and place stated in the notice unless the competitor gives the Agency a written notice waiving that right (waiver notice) before the testing day; and
(d) that if, before the testing day, the competitor gives the Agency a waiver notice, the competitor (or a person on the competitor’s behalf) may, within 7 days after receiving the information notice:

(i) give the Agency a submission setting out any information or evidence that may affect the validity of the results of the testing of Part A of the sample; or

(ii) by giving the Agency a written notice, waive the competitor’s right to make a submission; and

(e) that if, before the testing day, the competitor does not give the Agency a waiver notice:

(i) Part B of the sample will be tested on the testing day; and

(ii) the competitor is entitled to be present or represented at the testing of Part B of the sample; and

(iii) the Agency will give the competitor notice of the result of the test as soon as practicable; and

(iv) if the result of the test is positive, the competitor may choose an option mentioned in subregulation (3); and

(f) the possible consequences, mentioned in subregulation (4), of a positive test result for the sample.

(3) For subparagraph (2) (e) (iv), the options are that within 7 days after receiving the notice about the result of Part B of the sample, the competitor (or a person on the competitor’s behalf) may:

(a) give the Agency a submission setting out any information or evidence that may affect the validity of the results of the testing of Part A or Part B of the sample; or

(b) by giving the Agency a written notice, waive the competitor’s right to make a submission.

(4) For paragraph (2) (f), the possible consequences are that:

(a) the Agency may have to enter information about the test result on the relevant register; and
(b) if the Agency enters information about the test result on the relevant register, the Agency must give written notice about the entry to:
   (i) each relevant national sporting organisation in relation to the competitor; and
   (ii) each relevant sporting organisation (if any) in relation to the competitor; and
   (iii) each relevant government agency in relation to the competitor; and
(c) a person to whom section 67 of the Act applies may be required to produce in a court any document containing information to which that section applies, or to give to a court any information to which the section applies, for a criminal proceeding.

(5) Before the information notice is presumed to have been received by the competitor, the Agency may give the competitor oral notice of the matters mentioned in the information notice.

Note 1 Section 67 of the Act deals with disclosure of confidential information. For example, under that section, a member of the Agency may be required to produce in a court a document containing information about a competitor for the purposes of a criminal proceeding.

Note 2 relevant national sporting organisation and relevant sporting organisation are defined in s 2 of the Act. Government agency is defined in r 3.

Note 3 Section 67A of the Act deals with giving written notices.

Note 4 Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

44 Competitor may waive right to have Part B of sample tested

(1) Subregulation (2) applies if the Agency has arranged, under regulation 42, for Part B of the competitor’s sample to be tested.

(2) Before the testing day mentioned in paragraph 43 (2) (b) in relation to Part B of the sample, the competitor may give the Agency a written notice waiving the competitor’s right to have Part B of the sample tested.
Submission about Part A of sample

(1) This regulation applies if:
   (a) the Agency has arranged, under regulation 42, for Part B of the competitor’s sample to be tested; and
   (b) before the testing day mentioned in paragraph 43 (2) (b) in relation to Part B of the sample, the competitor gives the Agency a written notice waiving the competitor’s right to have Part B of the sample tested.

(2) The competitor (or a person on the competitor’s behalf) may, within 7 days after receiving the written notice mentioned in subregulation 43 (2) (the submission period):
   (a) give the Agency a submission setting out any information or evidence that may affect the validity of the results of the testing of Part A of the sample; or
   (b) by giving the Agency a written notice, waive the competitor’s right to make a submission.

(3) If the competitor does not give the Agency a written submission or notice within the submission period, the competitor is taken to have waived the competitor’s right to make a submission.

(4) Subregulation (5) applies if the Agency considers that the competitor is likely to take part in:
   (a) international sporting competition; or
   (b) a sporting competition to select people to represent Australia in international sporting competition.

(5) Before the end of the submission period, by written notice to the competitor, the Agency may substitute for the period of 7 days a shorter period that it considers appropriate in the circumstances.

(6) The submission period is taken to have ended:
   (a) if, by written notice before the end of the submission period, the competitor waives the competitor’s right to make a submission — when the Agency receives the written notice;
(b) if the competitor gives the Agency a submission before the end of the submission period — when the Agency receives the submission.

Note 1 Section 67A of the Act deals with giving written notices.

Note 2 Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

46 What happens if competitor does not waive right to have Part B of sample tested

(1) This regulation applies if:

(a) the Agency has arranged, under regulation 42, for Part B of the competitor’s sample to be tested; and

(b) before the testing day mentioned in paragraph 43 (2) (b) in relation to Part B of the sample, the competitor does not give the Agency a written notice waiving the right to have Part B of the competitor’s sample tested.

(2) The competitor is entitled to be present or represented at the testing of Part B of the sample (including the unsealing of the sample).

(3) Part B of the sample must be tested on the testing day at the time and place stated in the notice to the competitor mentioned in subregulation 43 (2).

(4) However, if it is impracticable for the test to be conducted in accordance with subregulation (3):

(a) the test may be conducted after the stated time, or on a later day, or at a different place; and

(b) the Agency must give the competitor reasonable notice of where and when the testing will be conducted and allow the competitor to be present.

(5) Reasonable notice mentioned in paragraph (4) (b) may be given orally or in writing.
Notice of positive test result — Part B of sample

1. This regulation applies if:
   (a) the Agency has arranged, under regulation 42, for Part B of the competitor's sample to be tested; and
   (b) before the testing day mentioned in paragraph 43 (2) (b) in relation to Part B of the sample, the competitor does not give the Agency a written notice waiving the right to have Part B of the sample tested; and
   (c) the result of the test is positive.

2. As soon as practicable after becoming aware of the test result, the Agency must give the competitor a written notice stating that:
   (a) the result of the test is positive; and
   (b) if the competitor has any information or evidence that may affect the validity of the results of the testing of either Part A or Part B of the competitor's sample, the competitor (or a person on the competitor's behalf) may, within 7 days after receiving the notice:
      (i) give a written submission to the Agency setting out the information or evidence; or
      (ii) by giving the Agency a written notice, waive the competitor's right to make a submission.

Submission about Part A or Part B of sample

1. If regulation 47 applies, the competitor (or a person on the competitor's behalf) may, within 7 days after receiving the notice mentioned in subregulation 47 (2) (the submission period):
   (a) give a written submission to the Agency setting out the information or evidence; or
   (b) by giving the Agency a written notice, waive the competitor's right to make a submission.

2. If the competitor does not give the Agency a written submission or notice within the submission period, the competitor is taken to have waived the competitor's right to make a submission.
(3) Subregulation (4) applies if the Agency considers that the competitor is likely to take part in:
   (a) international sporting competition; or
   (b) a sporting competition to select people to represent Australia in international sporting competition.

(4) Before the end of the submission period, by written notice to the competitor, the Agency may substitute for the period of 7 days a shorter period that it considers appropriate in the circumstances.

(5) The submission period is taken to have ended:
   (a) if, by written notice before the end of the submission period, the competitor waives the competitor’s right to make a submission — when the Agency receives the written notice;
   (b) if the competitor gives the Agency a submission before the end of the submission period — when the Agency receives the submission.

Note 1 Section 67A of the Act deals with giving written notices.

Note 2 Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

Subdivision 2.6.2 Rights when sporting administration body arranges testing

49 Application of Subdivision

This Subdivision applies if:

(a) the Agency asks a sporting administration body, under paragraph 17ZA (1) (a) of the Act, to arrange for a competitor who competes in a particular sport to be asked to give a sample to determine whether the competitor has been using a relevant scheduled drug or doping method; and

(b) the Agency asks the sporting administration body, under paragraph 17ZA (1) (b) of the Act, to arrange for Part A of the sample to be tested for that purpose; and
(c) the Agency asks the sporting administration body, under paragraph 17ZC (1) (c) of the Act, to arrange for the Agency to be given information arising out of the making of the request; and

(d) the sporting administration body asks the competitor to give the sample.

50 Notice about failure to comply with request

(1) This regulation applies if the competitor fails to comply with the request mentioned in paragraph 49 (d).

(2) As soon as practicable after the sporting administration body tells the Agency that the competitor has failed to comply with the request, the Agency must give the competitor a written notice stating that the competitor (or a person on the competitor’s behalf) may, within 7 days after receiving the notice:

(a) give a written submission to the Agency setting out any reasonable cause for the failure; or

(b) by giving a written notice to the Agency, waive the competitor’s right to make a submission.

51 Submission about failure to comply

(1) If the competitor fails to comply with the request mentioned in paragraph 49 (d), the competitor (or a person on the competitor’s behalf) may, within 7 days after receiving the notice mentioned in subregulation 50 (2) (the submission period):

(a) give a written submission to the Agency setting out any reasonable cause for the failure; or

(b) by giving a written notice to the Agency, waive the competitor’s right to make a submission.

(2) If the competitor does not give the Agency a written submission or notice within the submission period, the competitor is taken to have waived the competitor’s right to make a submission.
(3) Subregulation (4) applies if the Agency considers that the competitor is likely to take part in:
   (a) international sporting competition; or
   (b) a sporting competition to select people to represent Australia in international sporting competition.

(4) Before the end of the submission period, the Agency may, by written notice to the competitor, substitute for the period of 7 days mentioned in subregulation (1) a shorter period that it considers appropriate in the circumstances.

(5) The submission period is taken to have ended:
   (a) if, by written notice before the end of the submission period, the competitor waives the competitor's right to make a submission — when the Agency receives the written notice;
   (b) if the competitor gives the Agency a submission before the end of the submission period — when the Agency receives the submission.

Note 1 For the meaning of fails to comply with a request, see s 12 of the Act.

Note 2 Section 67A of the Act deals with giving written notices.

Note 3 Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

52 What happens if result of test of Part A of sample is positive

(1) This regulation applies if:
   (a) the competitor gives a sample in response to the sporting administration body’s request for a sample; and
   (b) the result of the testing arranged by the sporting administration body of Part A of the competitor’s sample is positive; and
   (c) the sporting administration body has given the Agency information about the result of the test.
(2) As soon as practicable after the Agency becomes aware of the positive test result, the Agency may:
   (a) arrange for Part B of the sample to be tested on a particular day (the \textit{testing day}); or
   (b) ask the sporting administration body to arrange for that testing to be conducted on that day.

(3) However, the Agency must not arrange for Part B of the sample to be tested on a day earlier than the day when the competitor is presumed to have received the notice mentioned in subregulation 53 (2).

(4) Also, when deciding on the testing day, the Agency must make sure that, before the testing day, the competitor will have a reasonable period of time in which to exercise the competitor’s right to waive the competitor’s right to have Part B of the sample tested.

\textit{Note} Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

53 \hspace{3em} \textbf{Notice about positive test result — Part A of sample}

(1) This regulation applies if:
   (a) the competitor gives a sample in response to the sporting administration body’s request for a sample; and
   (b) the result of the testing arranged by the sporting administration body of Part A of the sample is positive; and
   (c) the Agency has arranged, under regulation 52, for Part B of the sample to be tested on a particular day.

(2) As soon as practicable after arranging the testing, the Agency must give the competitor a written notice (the \textit{information notice}) stating:
   (a) that the result of the test is positive; and
   (b) that the competitor has a right to have Part B of the sample tested and that the Agency, or the sporting administration body at the Agency’s request, has arranged for Part B of the sample to be tested on the date stated in the notice for the testing (the \textit{testing day}); and
(c) that Part B of the sample will be tested on the testing day at the time and place stated in the notice unless the competitor gives the Agency a written notice waiving that right (waiver notice) before the testing day; and

(d) that if, before the testing day, the competitor gives the Agency a waiver notice, the competitor (or a person on the competitor's behalf) may, within 7 days after receiving the information notice:

(i) give the Agency a submission setting out any information or evidence that may affect the validity of the results of the testing of Part A of the sample; or

(ii) by giving the Agency a written notice, waive the competitor's right to make a submission; and

(e) that if, before the testing day, the competitor does not give the Agency a waiver notice:

(i) Part B of the sample will be tested on the testing day; and

(ii) the competitor is entitled to be present or represented at the testing of Part B of the sample; and

(iii) the Agency will give the competitor notice of the result of the test as soon as practicable; and

(iv) if the result of the test is positive, the competitor may chose an option mentioned in subregulation (3); and

(f) the possible consequences, mentioned in subregulation (4), of a positive test result for the sample.

(3) For subparagraph (2) (c) (iv), the options are that within 7 days after receiving the notice about the result of Part B of the sample, the competitor (or a person on the competitor's behalf) may:

(a) give the Agency a submission setting out any information or evidence that may affect the validity of the results of the testing of Part A or Part B of the sample; or

(b) by giving the Agency a written notice, waive the competitor’s right to make a submission.
(4) For paragraph (2) (f), the possible consequences are that:
   (a) the Agency may have to enter information about the test result on the relevant register; and
   (b) if the Agency enters information about the test result on the relevant register, the Agency must give written notice about the entry to:
      (i) each relevant national sporting organisation in relation to the competitor; and
      (ii) each relevant sporting organisation (if any) in relation to the competitor; and
      (iii) each relevant government agency in relation to the competitor; and
   (c) a person to whom section 67 of the Act applies may be required to produce in a court any document containing information to which that section applies, or to give to a court any information to which the section applies, for a criminal proceeding.

(5) Before the information notice is presumed to have been received by the competitor, the Agency may give the competitor oral notice of the matters mentioned in the information notice.

Note 1 Section 67 of the Act deals with disclosure of confidential information. For example, under that section, a member of the Agency may be required to produce in a court a document containing information about a competitor for the purposes of a criminal proceeding.

Note 2 relevant national sporting organisation and relevant sporting organisation are defined in s 2 of the Act. Government agency is defined in r 3.

Note 3 Section 67A of the Act deals with giving written notices.

Note 4 Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

54 Competitor may waive right to have Part B of sample tested

(1) Subregulation (2) applies if the Agency or the sporting administration body arranges, under regulation 52, for Part B of the competitor's sample to be tested.
(2) Before the testing day mentioned in paragraph 53 (2) (b) in relation to Part B of the sample, the competitor may give the Agency a written notice waiving the right to have Part B of the sample tested.

55 Submission about Part A of sample

(1) This regulation applies if:

(a) the Agency or the sporting administration body arranges, under regulation 52, for Part B of the competitor’s sample to be tested; and

(b) before the testing day mentioned in paragraph 53 (2) (b) in relation to Part B of the sample, the competitor gives the Agency a written notice waiving the right to have Part B of the sample tested.

(2) The competitor (or a person on the competitor’s behalf) may, within 7 days after receiving the written notice mentioned in subregulation 53 (2) (the submission period):

(a) give the Agency a submission setting out any information or evidence that may affect the validity of the results of the testing of Part A of the sample; or

(b) by giving the Agency a written notice, waive the competitor’s right to make a submission.

(3) If the competitor does not give the Agency a written submission or notice within the submission period, the competitor is taken to have waived the competitor’s right to make a submission.

(4) Subregulation (5) applies if the Agency considers that the competitor is likely to take part in:

(a) international sporting competition; or

(b) a sporting competition to select people to represent Australia in international sporting competition.

(5) Before the end of the submission period, by written notice to the competitor, the Agency may substitute for the period of 7 days a shorter period that it considers appropriate in the circumstances.
(6) The submission period is taken to have ended:
(a) if, by written notice before the end of the submission period, the competitor waives the competitor's right to make a submission — when the Agency receives the written notice;
(b) if the competitor gives the Agency a submission before the end of the submission period — when the Agency receives the submission.

*Note 1* Section 67A of the Act deals with giving written notices.

*Note 2* Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

### 56 What happens if competitor does not waive right to have Part B of sample tested

(1) This regulation applies if:
(a) the Agency or the sporting administration body arranges, under regulation 52, for Part B of the competitor's sample to be tested; and
(b) before the testing day mentioned in paragraph 53 (2) (b) in relation to Part B of the sample, the competitor does not give the Agency a written notice waiving the right to have Part B of the sample tested.

(2) The competitor is entitled to be present or represented at the testing of Part B of the sample (including the unscaling of the sample).

(3) Part B of the sample must be tested on the testing day at the time and place stated in the notice to the competitor mentioned in subregulation 53 (2).

(4) However, if it is impracticable for the test to be conducted in accordance with subregulation (3):
(a) the test may be conducted after the stated time, or on a later day, or at a different place; and
(b) the Agency must give the competitor reasonable notice of where and when the testing will be conducted and allow the competitor to be present.
(5) Reasonable notice mentioned in paragraph (4) (b) may be given orally or in writing.

57  Notice of positive test result — Part B of the sample

(1) This regulation applies if:
   (a) the Agency or the sporting administration body arranges, under regulation 52, for Part B of the competitor's sample to be tested; and
   (b) before the testing day mentioned in paragraph 53 (2) (b) in relation to Part B of the sample, the competitor does not give the Agency a written notice waiving the right to have Part B of the sample tested; and
   (c) the result of the test is positive.

(2) As soon as practicable after becoming aware of the test result, the Agency must give the competitor a written notice stating that:
   (a) the result of the test is positive; and
   (b) if the competitor has any information or evidence that may affect the validity of the results of the testing of either Part A or Part B of the competitor's sample, the competitor (or a person on the competitor's behalf) may, within 7 days after receiving the notice:
      (i) give a written submission to the Agency setting out the information or evidence; or
      (ii) by giving the Agency a written notice, waive the competitor's right to make a submission.

58  Submission about Part A or Part B of sample

(1) If regulation 57 applies, the competitor (or a person on the competitor's behalf) may, within 7 days after receiving the notice mentioned in subregulation 57 (2) (the submission period):
   (a) give a written submission to the Agency setting out the information or evidence; or
   (b) by giving the Agency a written notice, waive the competitor's right to make a submission.
(2) If the competitor does not give the Agency a written submission or notice within the submission period, the competitor is taken to have waived the competitor's right to make a submission.

(3) Subregulation (4) applies if the Agency considers that the competitor is likely to take part in:
(a) an international sporting competition; or
(b) a sporting competition to select people to represent Australia in international sporting competition.

(4) Before the end of the submission period, by written notice to the competitor, the Agency may substitute for the period of 7 days a shorter period that it considers appropriate in the circumstances.

(5) The submission period is taken to have ended:
(a) if, by written notice before the end of the submission period, the competitor waives the competitor's right to make a submission — when the Agency receives the written notice;
(b) if the competitor gives the Agency a submission before the end of the submission period — when the Agency receives the submission.

Note 1 Section 67A of the Act deals with giving written notices.

Note 2 Regulation 83 states when a notice that is given to a competitor is presumed to have been received.

Subdivision 2.6.3 Other competitors' rights

59 Application of Subdivision
This Subdivision applies in relation to a competitor if:
(a) the competitor has been asked by either the Agency or a sporting administration body to provide a sample; and
(b) the Agency makes an entry that includes information about a competitor on the relevant register.
60 Notice about entry on register etc

(1) As soon as practicable after making the entry, the Agency must give the competitor written notice that the entry has been made.

(2) The notice must state the name of each person or organisation to which the Agency has given, or proposes to give, notice of making the entry.

(3) The notice must also state that the competitor may apply to the Administrative Appeals Tribunal for review of a decision of the Agency to enter the competitor's name and information about the competitor on the relevant register.

Note 1 Under s 31, the Agency must give written notice about an entry that includes information about a competitor on the relevant register to:

(a) each relevant national sporting organisation in relation to the competitor; and

(b) each relevant sporting organisation (if any) in relation to the competitor; and

(c) each relevant government agency in relation to the competitor.

Note 2 Section 67A of the Act deals with giving written notices.

61 Right to apply to the AAT

If the Agency decides to enter a competitor's name and information about the competitor on the relevant register, the competitor may apply to the Administrative Appeals Tribunal for review of the decision.

Note Under subs 16 (2) of the Act, if the Administrative Appeals Tribunal sets aside a reviewable decision of the Agency to enter the competitor's name and details on the relevant register, the Agency must remove the entry made as a result of the Agency's decision as soon as practicable.

62 Additional competitors' rights

The orders for each scheme may confer additional rights on competitors.
63 Competitor may waive rights

A competitor may waive any of the competitor's rights under the relevant scheme:

(a) by written notice; or

(b) unless these regulations state that the waiver must be by written notice — orally.
Part 3  ASDMAC functions and procedures

64  Functions of ASDMAC

(1) The ASDMAC may investigate a positive test result for a sample given by a competitor to find out whether the result was caused by naturally occurring levels of the substance concerned.

(2) The ASDMAC may give a competitor approval to use a scheduled drug or doping method for therapeutic purposes.

(3) The ASDMAC may disclose to a competitor:
   (a) information arising out of the entry of the competitor’s name on the relevant register; or
   (b) information about a test on a sample given by the competitor:
      (i) carried out by a sporting administration body other than under section 17ZC of the Act; and
      (ii) that has revealed the presence of a relevant scheduled drug or doping method.

(4) The ASDMAC may disclose to any relevant sporting administration body:
   (a) information arising out of the entry of a competitor’s name on the relevant register; or
   (b) information about a test on a competitor’s sample:
      (i) carried out by a sporting administration body other than under section 17ZC of the Act; and
      (ii) that has revealed the presence of a relevant scheduled drug or doping method.

(5) If the Agency asks the ASDMAC to review the procedures adopted by a sporting administration body for approving the use of scheduled drugs or doping methods for therapeutic purposes, the ASDMAC may do so.
Regulation 65

(6) The orders may confer additional functions on the ASDMAC.

Note For other functions of the ASDMAC, see s 65C of the Act and r 32.

65 Convoking meetings of ASDMAC

(1) The ASDMAC Chairman must call as many meetings as are necessary for the efficient performance of the ASDMAC’s functions.

(2) Subregulation (3) applies if:
   (a) the Chairman receives a written notice from the Minister or at least 2 ASDMAC members asking the Chairman to convene a meeting of the ASDMAC; or
   (b) the Chairman receives an oral or written request from the Agency to convene a meeting of the ASDMAC.

(3) The Chairman must convene a meeting of the ASDMAC as soon as practicable.

66 Quorum

The quorum for a meeting of the ASDMAC is 3 ASDMAC members.

67 Who is to chair at meetings in the absence of Chairman

(1) If the ASDMAC Chairman is to be absent from a meeting of the ASDMAC, the Chairman may nominate an ASDMAC member to chair the meeting.

(2) If the Chairman is absent from a meeting and does not nominate an ASDMAC member to chair the meeting under subregulation (1), the ASDMAC members present at the meeting must elect 1 of their number to chair the meeting.

68 Voting at meetings

(1) Each ASDMAC member present and voting at a meeting of the ASDMAC (including the member chairing the meeting) has a single vote.
(2) Each question arising at a meeting of the ASDMAC must be decided by a majority of the votes of the ASDMAC members present and voting.

(3) If the votes on a question to be decided are equal, the ASDMAC member chairing the meeting may decide the question.

Note: An ASDMAC member may be allowed to participate in a meeting by telephone etc (see r 69).

69 Conduct of meetings

(1) Subject to this Part, the ASDMAC may conduct its meetings as it considers appropriate.

(2) The ASDMAC may allow an ASDMAC member to participate in a meeting by telephone, closed circuit television or any other means of communication.

(3) A person who is allowed to participate in a meeting under subregulation (2) is taken to be present at the meeting.

70 Minutes of meetings

The ASDMAC must keep minutes of its meetings and records of any resolutions taken to have been passed at its meetings.

Note: Under subs 65E (2) and (3) of the Act, the ASDMAC may pass a resolution without holding a meeting in certain circumstances. A resolution that is passed in accordance with those subsections is taken to have been passed at a meeting of the ASDMAC.
Part 4  Approval of couriers

Division 4.1  Approved couriers

71  Approvals

(1) The Agency may, on application made in accordance with regulation 72, approve a courier in writing.

(2) However, the Agency may only approve a courier if the Agency considers that the application demonstrates that the courier can provide courier services to the Agency that are at least equivalent to the services provided by other courier services mentioned in regulation 86.

(3) If the Agency approves a courier, the Agency must give a copy of the approval to the courier.

72  Applications

(1) An application for approval of a courier must:
   (a) be made to the Agency in writing; and
   (b) state the full name of the applicant; and
   (c) state the address of the main place of business of the applicant; and
   (d) state the purpose of the application and the facts and other matters on which the application is based.

(2) The Agency may, by written notice, require an applicant to give to the Agency any information (in addition to the information contained in the application) that is necessary for proper consideration of the application.

73  Reasons for refusal of applications

If the Agency decides to refuse an application for approval of a courier, the Agency must tell the applicant in writing of the refusal, the reasons for the refusal and that the applicant may apply to have the decision reconsidered.
Division 4.2  Cancellation of approvals

74 When approvals may be cancelled
The grounds for cancellation of an approval are that:
(a) the application for the approval was false or misleading in a material respect; or
(b) the person to whom the approval was granted is unsuitable to continue to be a person to whom the approval applies because the person has contravened a provision of the Act or these regulations; or
(c) since the approval was granted:
   (i) a change has happened in relation to something the Agency must consider in deciding whether to grant an approval; and
   (ii) if the change had happened before the approval was granted — the approval would not have been granted; or
(d) the courier is no longer able to provide courier services mentioned in subregulation 71 (2).

75 Cancellation of approvals
(1) This regulation applies if the Agency considers that a ground exists to cancel an approval of a courier.

(2) If the Agency proposes to cancel an approval, the Agency must give to the person to whom the approval was granted a written notice that:
(a) makes a statement to that effect; and
(b) states the ground for the proposed cancellation; and
(c) outlines the facts and other circumstances forming the basis for that ground; and
(d) invites the person to state in writing, within a stated time of at least 28 days, why the approval should not be cancelled.
(3) If, after considering any relevant written statement made within the stated time, the Agency considers that a ground exists to cancel the approval, the Agency may cancel the approval.

(4) If the Agency cancels the approval, the Agency must tell the person in writing of the cancellation, the reasons for the cancellation and that the person may apply to have the decision reconsidered.
Division 4.3  Reconsideration and review

76 Application of Division
This Division applies to a decision of the Agency under subregulation 71 (1) or 75 (3).

77 Who may apply for reconsideration of decisions
A person whose interests are affected by a decision may apply in writing to the Agency for reconsideration of the decision.

78 Applications for reconsideration
(1) An application under regulation 77 must be made within:
   (a) 28 days after the day when the Agency told the person about the decision; or
   (b) a longer period allowed by the Agency, either before or after the end of the 28 days.

(2) The application must state the grounds on which reconsideration of the decision is sought.

79 Agency to reconsider decisions
(1) Within 28 days after receiving an application under regulation 77, the Agency must reconsider the decision and confirm or revoke the decision.

(2) The Agency must inform the applicant in writing of the result of the reconsideration and of the reasons for the result.

80 Review of certain decisions
Application may be made under the Administrative Appeals Tribunal Act 1975 for review of a decision that has been reconsidered under regulation 79.
Regulation 81

Part 5  Miscellaneous

81  Delegation by the Agency

(1) The Agency may, by resolution, delegate all or any of its
powers under these regulations, except the power to delegate
under this subregulation, to:
(a) the Chief Executive; or
(b) a drug control official; or
(c) a chaperone; or
(d) an employee of the Agency.

(2) A delegation under subregulation (1) is subject to any
directions given by the Agency.

82  Delegation by a drug control official

(1) A drug control official may delegate to a chaperone all or any
of the official’s powers under these regulations except the
power to delegate under this subregulation.

(2) A delegation under subregulation (1) is subject to any
directions given by the drug control official.

83  When notices are presumed to have been received

(1) This regulation applies if the Agency sends a notice to a
competitor for these regulations.

(2) The competitor is presumed to have received the notice (unless
the Agency is given evidence sufficient to raise doubt about the
presumption):
(a) if the notice is delivered personally to the competitor —
on the day when it is delivered; and
(b) if the notice is sent by means of a prescribed courier
service, to the competitor at the address of the
competitor’s place of residence last known to the Agency,
being a place of residence in Australia — 3 days after the
date it is sent; and
(c) if the notice is sent by post, or by means of a prescribed courier service, to the competitor at the address of the competitor’s place of residence last known to the Agency, being a place of residence outside Australia — 10 days after the date it is sent; and

(d) if the competitor has notified the Agency of a number to which notices may be sent to the competitor by facsimile and the notice is sent to that number — the day it is sent; and

(e) if the notice is sent to the competitor’s electronic mail address (if any) — the day it is sent.

Note: For service by post to an address in Australia or an external Territory, see Evidence Act 1995, s 160.

(3) However, subregulation (4) applies if:

(a) the notice cannot be:
   (i) delivered personally; or
   (ii) sent to the competitor by post or prescribed courier service; or
   (iii) sent to the competitor by facsimile transmission; and

(b) a notice (to which the notice to the competitor is attached in a sealed envelope addressed to the competitor) is sent to a sporting administration body of which the competitor is a member at its address last known to the Agency asking the organisation to send the envelope to the competitor.

(4) The competitor is presumed to have received the notice 10 days after the date it is sent.

Note 1: Section 67A of the Act states the different ways in which a written notice by the Agency to a person or sporting organisation may be given.

Note 2: See r 86 about prescribed courier services.

84 Organisation that may recognise laboratories as accredited

For paragraph 66 (1) (b) of the Act, National Association of Testing Authorities, Australia (ACN 004 379 748) is a prescribed organisation.
Regulation 85

85 Anti-doping arrangements

For section 66A of the Act, the international arrangements mentioned in Schedule 1 are anti-doping arrangements for the Act.

86 Prescribed courier services

For subparagraphs 67A (a) (ii) and (iv) and (b) (i) of the Act, the following courier services are prescribed:

(a) the courier service known as TNT Failsafe High Security Couriers operated by TNT Australia Limited, Australian Company Number (ACN) 000 495 269;

(b) the courier service known as Interstate Safe Hand Courier operated by Delfast Pty Ltd, ACN 008 478 608;

(c) the courier service known as Specialised Air Service operated by Universal Express, Business Registration Number (BRN) F00069878;

(d) the courier service known as Diplomat Courier Service operated by Universal Express, BRN F00069878;

(e) the courier service known as Priority Courier Service operated by Wards Skyroads, an express distribution service of Mayne Nickless Limited, ACN 004 073 410;

(f) DHL Worldwide Express, DHL International (Australia) Pty. Limited, ACN 001 112 929;

(g) the services of a courier who is approved under subregulation 71 (1).
Part 6  Repeal of the Australian Sports Drug Agency Regulations

87  Repeals

The following statutory rules are repealed:

- 1991 No. 19
- 1993 No. 210
- 1994 Nos. 284 and 410
- 1996 No. 163.
Schedule 1  International anti-doping arrangements
(regulation 85)


2. Co-operation Agreement between the International Olympic Committee, the Australian Government and the Sydney Organising Committee for the Olympic Games, signed by all parties on 13 July 1995.


4. International Anti-Doping Arrangement, signed by Australia on 18 April 1996.


Note