



National Anti-Doping Scheme Amendment Instrument 2008 (No. 001/008)

Australian Sports Anti-Doping Authority Act 2006

The Australian Sports Anti-Doping Authority makes this Instrument under subsection 10 (1) of the *Australian Sports Anti-Doping Authority Act 2006*.

Dated 23rd of September 2008

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1 Name of Instrument

This Instrument is the National Anti-Doping Scheme Amendment Instrument 2008 (No. 001/008).

2 Commencement

This Instrument commences on the day after it is registered.

3 Amendment of National Anti-Doping Scheme

Schedule 1 amends the National Anti-Doping Scheme.

4 Transitional Provisions*Definitions*

(1) For this provision:

old NAD scheme means the NAD scheme as in force immediately before the commencement of this Instrument.

transition time means the end of 31 December 2008.

Continued Application of old NAD scheme

(2) Despite the substitution of the contents of Schedule 1 for the old NAD scheme, clauses 1(2), 2A, 4, 5 and 7 and divisions 2.6, 2.7 and 2.8 (including all definitions relating to those provisions) of the old NAD scheme continue to have effect until the transition time as though that substitution had not happened.

Commencement of provisions of Schedule 1

(3) Clauses 1.04, 1.06 and 2.01 and Divisions 4.1, 4.2 and 4.3 of Schedule 1 (including all definitions relating to those provisions) do not take effect until the transition time. All other provisions (including all definitions relating to those provisions) of Schedule 1 take effect upon the commencement of this Instrument.

Modifications of provisions of Schedule 1

(4) Until the transition time:

- (a) any reference to clause 2.01 of Schedule 1 is taken to be a reference to clause 1(2) of the old NAD scheme; and
- (b) any reference to the anti-doping rules is taken to be a reference to the anti-doping rules in clause 1(2) of the old NAD scheme; and
- (c) any reference to an anti-doping rule violation is taken to be a reference to a breach of the anti-doping rules in clause 1(2) of the old NAD scheme; and
- (d) any reference to the Register of Findings is taken to be a reference to the Register established by clause 78 of the old NAD scheme.

Schedule 1 Amendments

(section 3)

[1] Parts 1 to 5, other than clause 96

substitute

Part 1 Preliminary

1.01 Overview

This instrument establishes the NAD scheme for section 9 of the Act, which is a scheme about the following matters:

- (1) the implementation of the General Anti-Doping Convention;
- (2) the implementation of the UNESCO Anti-Doping Convention, in particular Article 3(a) which obliges States Parties to adopt appropriate measures consistent with the principles of the World Anti-Doping Code;
- (3) ancillary or incidental matters.

1.02 Functions of ASADA under the NAD scheme

- (1) Without limiting the functions conferred on ASADA by specific provisions of the Act and any other provision of the NAD scheme, ASADA is authorised to exercise the following powers and functions:

- (a) planning, implementing, evaluating and monitoring education and information programs for doping-free sport for all participants;

Note *This is in addition to the function conferred by paragraph 21 (1) (f) of the Act.*

- (b) encouraging and promoting research relevant to sports drug and safety matters, including sociological, behavioural, juridical and ethical studies;

Note *This is in addition to the function conferred by paragraph 21 (1) (g) of the Act.*

- (c) having the role and responsibility of a National Anti-Doping Organisation for Australia under the UNESCO Anti-Doping Convention and the World Anti-Doping Code, including performance of functions internationally that relate to that role and responsibility;

- (d) providing services relating to sports drug and safety matters to a sporting administration body in accordance with contractual arrangements with the body on behalf of the Commonwealth;

Note *This is in addition to the function conferred by paragraph 21 (1) (k) of the Act.*

- (e) undertaking results management for a sporting administration body regardless of whether or not ASADA has conducted the sample collection;
- (f) delegating results management responsibilities to International Federations in accordance with the World Anti-Doping Code;
- (g) functions about performance of activities relating to sports drug and safety matters referred to ASADA by a sporting administration body.

- (2) Anything done under a contractual arrangement in performance of a function mentioned in subclause (1) is taken to be done under the NAD scheme.

- (3) Anything done in performance of a function mentioned in subclause (1) is taken to be done under the NAD scheme even if it could have been done under the Act.

1.03 Authority for ASADA to exercise certain powers

Exercise of powers in relation to requests from sporting administration bodies

- (1) ASADA is authorised to exercise powers under the NAD scheme in order to cooperate with a request from a sporting administration body if the request is reasonably necessary to enforce or give effect to the World Anti-Doping Code and other relevant international anti-doping instruments.

Exercise of powers in relation to requests to sporting administration bodies

- (2) ASADA is authorised to use information about an athlete or support person that is given to ASADA by a sporting administration body as if it were information that was obtained by an investigation by ASADA under the NAD scheme if ASADA requested the sporting administration body to provide, or obtain and provide, the information.

ASADA to have regard to the World Anti-Doping Code

- (3) In exercising powers for the NAD scheme and making recommendations, ASADA must have regard to the World Anti-Doping Code (including the comments annotating various provisions of the World Anti-Doping Code) and other relevant international anti-doping instruments.

Note *Regulation 4 of the Australian Sports Anti-Doping Regulations 2006 prescribes additional **relevant international anti-doping instruments** for the Act.*

1.04 Application

- (1) The anti-doping rules for athletes and support persons in clause 2.01 apply to matters arising before the commencement of section 13 of the Act and the NAD Scheme to the extent that those matters would have constituted a breach of the anti-doping rules (whether described as rules or something else, such as policies) of the relevant sporting administration body (as defined in clause 1.05) in force at the time.
- (2) An action may be commenced against an athlete or support person in relation to a breach of the anti-doping rules only if the action is commenced within 8 years after the breach occurred.

1.05 Definitions

In the NAD scheme:

A sample means the part of a sample given by an athlete that is contained within a bottle labelled 'A' or 'Part 1' in a sample collection kit.

Act means the *Australian Sports Anti-Doping Authority Act 2006*.

accredited laboratory means:

- (a) a laboratory in Australia that WADA recognises as an accredited laboratory for the purpose of analysing samples for prohibited substances and use of prohibited methods; or

- (b) a laboratory in Australia, if a prescribed organisation recognises the laboratory as a laboratory complying with:
 - (i) the International Standards Organisation's general requirements for the competence of calibration and testing laboratories; or
 - (ii) the prescribed requirements; or
- (c) an accredited foreign laboratory.

adverse analytical finding means a report from an accredited laboratory or other WADA-approved entity that, consistent with the International Standard for Laboratories and related technical documents, identifies in a sample the presence of a prohibited substance or its metabolites or markers (including elevated quantities of endogenous substances) or evidence of the use of a prohibited method.

anti-doping organisation means a signatory to the World Anti-Doping Code that is responsible for adopting rules for initiating, implementing or enforcing part of the doping control process, including:

- (a) the International Olympic Committee; and
- (b) the International Paralympic Committee; and
- (c) major event organisations that conduct testing at their events; and
- (d) WADA; and
- (e) International Sporting Federations; and
- (f) national anti-doping organisations.

anti-doping purpose has the meaning given by clause 3.12.

anti-doping rules means the anti-doping rules set out in detail in clause 2.01.

anti-doping rule violation has the meaning given by clause 2.01.

ASADA representative means:

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

athlete has the meaning given by clause 1.06.

attempt, for an anti-doping rule violation, means purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an anti-doping rule violation; however, there will be no anti-doping rule violation based solely on an attempt to commit a violation if the person renounces the attempt before it is discovered by a third party not involved in the attempt.

atypical finding means a report from an accredited laboratory or other WADA-approved entity that requires further investigation as provided by the International Standard for Laboratories or related technical documents before the determination of an adverse analytical finding.

B sample means a sample given by an athlete that is contained within a bottle labelled 'B' or 'Part 2' in a sample collection kit.

blood collection official means a person approved by ASADA as a blood collection official under clause 3.04.

CAS means the Court of Arbitration for Sport.

chaperone means:

- (a) a person appointed by ASADA to be a chaperone under clause 3.02; or

(b) a doping control officer.

Note A doping control officer is taken to be chaperone: see subclause 3.02 (2).

competition means a single race, match, game or singular athletic contest.

Example: A basketball game or the finals of the Olympic 100 metre race in athletics.

Note: For stage races and other athletic contests in which prizes are awarded on a daily or other interim basis the distinction between a competition and an event will be as provided in the rules of the applicable International Sporting Federation.

consequences, of an anti-doping rule violation, means:

- (a) disqualification; or
- (b) ineligibility; or
- (c) provisional suspension.

disqualification means invalidation of an athlete's results in a particular competition or event, with all resulting penalties including forfeiture of medals, points and prizes.

domestic testing pool means the pool of athletes designated as such by ASADA, who are not in ASADA's registered testing pool and who are subject to testing both in-competition and out-of-competition as part of ASADA's test distribution plan.

doping control means all steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps and processes in between.

Note: These steps and processes include provision of whereabouts information, sample collection and handling, laboratory analysis, therapeutic use exemptions, results management and hearings.

doping control officer means a person appointed by ASADA to be a doping control officer under clause 3.01.

event means a series of individual competitions conducted together under 1 ruling body (eg, the Olympic Games or Commonwealth Games).

finding means a finding by ASADA that an athlete or support person has committed an anti-doping rule violation.

government agency means:

- (a) a government sports agency; or
- (b) any other department or authority of the Commonwealth, a State or Territory through which funding or other support is provided for a sporting activity.

government sports agency means ASADA, the ASC, the Department and any other academy or institute of sport or similar body established by the Commonwealth, a State or a Territory.

in-competition means, unless provided otherwise in the rules of an International Sporting Federation, a national sporting organisation or other relevant anti-doping organisation, the period commencing 12 hours before a competition in which an athlete is scheduled to participate through the end of the competition and the sample collection process related to the competition.

ineligibility means an athlete or other person being barred for a specified period of time from participating in any competition or other activity or funding as provided in Article 10.9 of the World Anti-Doping Code.

international event means an event for which the International Olympic Committee, the International Paralympic Committee, an International Sporting Federation, a major

event organisation, or another international sporting organisation is the ruling body for the event or appoints the technical officials for the event.

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

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

International Standard for Therapeutic Use Exemptions means the International Standard for Therapeutic Use Exemptions adopted by the WADA, as amended from time to time, including technical documents issued under the International Standard for Therapeutic Use Exemptions.

international-level athlete means an athlete designated by 1 or more International Sporting Federations as being within the registered testing pool for an International Sporting Federation.

investigator means a person appointed as an investigator by ASADA under clause 3.03.

law enforcement body means an agency responsible for the performance of functions or activities directed to:

- (a) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction for a breach; or
- (b) the management of property seized or restrained under laws relating to the confiscation of the proceeds of crime or the enforcement of such law, or of orders made under such laws.

major event organisation means a continental association of National Olympic Committees or other multi-sport organisation that functions as the ruling body for a continental, regional or other international event.

marker means a compound, group of compounds or biological parameter that indicates the use of a prohibited substance or a prohibited method.

metabolite means a substance produced by a biotransformation process.

minor means a natural person who has not reached the age of 18 years.

national anti-doping organisation means the entity designated within each country as possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of samples, the management of test results and the conduct of hearings, all at the national level, including an entity that may be designated by multiple countries to serve as regional anti-doping organisation for those countries. If this designation has not been made by the competent public authority, the entity is the country's national Olympic committee or its designee. The national anti-doping organisation for Australia is ASADA.

national event means a sport event involving international-level or national-level athletes that is not an international event.

national-level athlete means an athlete in ASADA's registered testing pool or domestic testing pool or an athlete who participates in or prepares for an event, training camp, exhibition or practice organised or sanctioned by his or her national sporting organisation or professional league.

national Olympic committee, for a country, means the organisation recognised as such by the International Olympic Committee. The national Olympic committee for Australia is the Australian Olympic Committee.

no advance notice means a doping control that takes place with no advance warning to the athlete and for which the athlete is continuously chaperoned from the moment of notification through to sample provision.

out-of-competition means a doping control that is not in-competition.

participant means an athlete or support person.

personal interest, for the collection or outcome of the testing of a sample, has the meaning given by clause 1.08.

possession means the actual, physical possession, or the constructive possession (that will be found only if the person has exclusive control over the prohibited substance or prohibited method or the premises in which a prohibited substance or prohibited method exists), however, if the person does not have exclusive control over the prohibited substance or prohibited method or the premises in which a prohibited substance or prohibited method exists, constructive possession will only be found if the person knew about the presence of the prohibited substance or prohibited method and intended to exercise control over it.

However, there will be no anti-doping rule violation based solely on possession if, before receiving notification of any kind that the person has committed an anti-doping rule violation, the person has taken concrete action demonstrating that the person never intended to have possession and has renounced possession by explicitly declaring it to an anti-doping organisation.

Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a prohibited substance or prohibited method constitutes possession by the person who makes the purchase.

prohibited list means the list identifying prohibited substances and prohibited methods published by WADA, as in force from time to time.

prohibited method means a method so described on the prohibited list.

prohibited substance means a substance so described on the prohibited list.

provisional suspension means an athlete or other person being barred temporarily from participating in any competition before the final decision at a hearing conducted under a sporting administration body's anti-doping policy.

publicly disclose means to disseminate or distribute information to the general public or persons beyond those persons entitled to earlier notification in accordance with the NAD scheme or a sporting organisation's anti-doping policy.

Register of Findings or **Register** means the register mentioned in paragraph 13 (1) (i) of the Act and maintained by ASADA under Division 4.3 of the NAD scheme.

registered testing pool means the pool of top-level athletes established separately by each International Sporting Federation and national anti-doping organisation who are subject to both in-competition and out-of-competition testing as part of that International Sporting Federation's or national anti-doping organisation's test distribution plan.

relevant national sporting organisation, for an athlete or a support person, means a national sporting organisation:

- (a) of which the athlete or support person is, in his or her capacity as an athlete or support person, a member or with which the athlete or support person is, in that capacity, associated; or
- (b) of which the relevant sporting organisation of the athlete or support person is a member or with which that organisation is associated.

relevant sporting administration body, for an athlete or a support person, means a sporting administration body for the sport in which the athlete or support person is competing or otherwise participating.

relevant sporting organisation, for an athlete or a support person, means a sporting organisation (other than a national sporting organisation) of which the athlete or support person is, in his or her capacity as an athlete or support person, a member or with which the athlete or support person is, in that capacity, associated.

representative, for an athlete, means:

- (a) a person chosen by the athlete to accompany the athlete to the extent permissible under the International Standard for Testing, while a sample is collected from the athlete (the **collection process**); or
- (b) an interpreter chosen by the athlete to help the athlete during the collection process.

sporting tribunal means CAS or a body approved by ASADA that convenes from time to time to hear allegations of anti-doping rule violations against athletes, support persons and other persons in order to:

- (a) determine whether an anti-doping rule violation has occurred; and
- (b) determine appropriate sanctions where an anti-doping rule violation is found to have been committed; or
- (c) hear appeals.

substantial assistance, by a person, means:

- (a) full disclosure in a signed written statement of all information that a person possesses in relation to anti-doping rule violations, which information must be credible and must comprise an important part of any case that is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought; and
- (b) full cooperation with the investigation and adjudication of any case related to that information, including for example, presentation of testimony at a hearing if requested to do so by an anti-doping organisation or hearing panel.

support person has the meaning given by clause 1.07.

tampering means:

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

testing means the parts of the doping control process involving test distribution planning, sample collection, sample handling and sample transport to the laboratory.

trafficking means selling, giving, transporting, sending, delivering or distributing a prohibited substance or prohibited method (either physically or by electronic or other means) by an athlete, support person or any other person subject to the jurisdiction of an anti-doping organisation to a third party, however, this definition will not include the actions of bona fide medical personnel involving a prohibited substance used for genuine and legal therapeutic purposes or other acceptable justification, and will not include actions involving prohibited substances that are not prohibited in out-of-

competition testing unless the circumstances as a whole demonstrate the prohibited substances are not intended for genuine and legal therapeutic purposes.

TUE committee means a therapeutic use exemptions committee established by an anti-doping organisation and constituted in accordance with the *International Standard for Therapeutic Use Exemptions*, including ASDMAC within Australia.

use means the utilisation, application, ingestion, injection or consumption by any means of a prohibited substance or prohibited method.

Note *In accordance with the definition of **World Anti-Doping Code** in subsection 4 (1) of the Act, a reference to the World Anti-Doping Code is a reference to the World Anti-Doping Code as in force from time to time.*

Note *Other words and phrases used in the NAD scheme, including **ASADA** and **ASC**, are defined in section 4 of the Act.*

1.06 Classes of athletes subject to the NAD scheme

- (1) The anti-doping rules apply to all persons who are involved as athletes in a sport with an anti-doping policy and such persons are subject to the NAD scheme.
- (2) The following classes of athletes may be tested by ASADA under the NAD scheme:
 - (a) athletes in ASADA's registered testing pool;
 - (b) athletes in ASADA's domestic testing pool;
 - (c) international-level athletes;
 - (d) athletes who compete in international events;
 - (e) athletes who compete in national events;
 - (f) athletes for whom ASADA is required or permitted to test under a contract or an anti-doping arrangement; and
 - (g) athletes in the registered testing pool of an International Sporting Federation or national anti-doping organisation.
- (3) The requirement to provide whereabouts information under the NAD scheme applies to the following athletes:
 - (a) athletes in ASADA's registered testing pool;
 - (b) athletes in an International Sporting Federation's registered testing pool; and
 - (c) any other athletes whom ASADA requests to provide whereabouts information in accordance with the NAD scheme.
- (4) The requirement to obtain an advance therapeutic use exemption from a TUE Committee applies to the following athletes:
 - (a) athletes in ASADA's registered testing pool;
 - (b) athletes in ASADA's domestic testing pool;
 - (c) international-level athletes;
 - (d) athletes entering international events;
 - (e) athletes entering open-age national events; and
 - (f) athletes who require therapeutic use exemptions under the terms of a contract or an anti-doping arrangement with ASADA or ASDMAC.

1.07 Meaning of *support person*

- (1) The anti-doping rules apply to all persons who are involved as support persons in a sport with an anti-doping policy and such persons are subject to the NAD scheme.
- (2) For the NAD scheme, a ***support person*** is:
 - (a) a person who works with or treats 1 or more athletes participating in, or preparing for, sporting activities in 1 or more of the following capacities:
 - (i) coach;
 - (ii) trainer;
 - (iii) manager;
 - (iv) agent;
 - (v) team staff member;
 - (vi) official;
 - (vii) medical practitioner;
 - (viii) para-medical practitioner; or
 - (b) any other person who works (as a volunteer or otherwise) with, or helps, an athlete subject to the NAD scheme to participate in, or prepare for, sports competition.

1.08 Meaning of *personal interest*

- (1) For the NAD scheme, if 1 of the circumstances mentioned in subclause (2) exists for a person, the person is taken to have a personal interest in:
 - (a) the collection or outcome of the testing of a sample of an athlete; or
 - (b) the investigation of an anti-doping rule violation; or
 - (c) the compliance by a sporting administration body with the sporting administration body rules; or
 - (d) any other matter relating to the NAD scheme.
- (2) The circumstances are that:
 - (a) the person has a direct or indirect pecuniary interest in:
 - (i) the outcome of the testing of the sample; or
 - (ii) the other matter; or
 - (b) the person participates, or is involved, in the administration of a sport in which the athlete competes; or
 - (c) the person is a member of, or is involved in the administration of, a sporting organisation of which the athlete is a member; or
 - (d) a sample of an athlete was collected, or is to be collected, at, or for, a particular sporting event or sporting venue, and the person is involved in the administration of that event or venue (otherwise than for the purposes of the NAD scheme); or
 - (e) the person is related to, or has some involvement in the affairs of, the athlete.

Note: Provisions of the Public Service Act 1999 and the Act also relate to conflict of interest with respect to ASADA members, ASADA representatives and ASADA staff. Nothing in the NAD scheme limits the operation of those provisions.

Part 2 The Rules

Division 2.1 *Anti-doping rule violations*

2.01 Anti-doping rules

- (1) The purpose of this Division is to specify the circumstances and conduct that constitute breaches of the anti-doping rules, or anti-doping rule violations. Entries onto the Register of Findings will proceed based on the assertion that 1 or more of these specific rules has been violated.
- (2) Athletes and support persons are responsible for knowing what constitutes an anti-doping rule violation and the substances and methods that have been included on the prohibited list. The following anti-doping rule violations constitute breaches of the ***anti-doping rules***:
 - (a) Presence of a prohibited substance or its metabolites or markers in an athlete's sample.
 - (i) It is each athlete's personal duty to ensure that no prohibited substance enters his or her body. Athletes are responsible for a prohibited substance or its metabolites or markers found to be present in their samples. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the athlete's part be demonstrated in order to establish an anti-doping violation under this paragraph.
 - (ii) Sufficient proof of an anti-doping rule violation under this paragraph is established by either of the following:
 - A. presence of a prohibited substance or its metabolites or markers in the athlete's A sample if the athlete waives analysis of the B sample and the B sample is not analysed;
 - B. if the athlete's B sample is analysed and the analysis of the athlete's B sample confirms the presence of the prohibited substance or its metabolites or markers found in the athlete's A sample.
 - (iii) Excepting those substances for which a quantitative threshold is specifically identified in the prohibited list, the presence of any quantity of a prohibited substance or its metabolites or markers in an athlete's sample will constitute an anti-doping rule violation.
 - (iv) As an exception to the general rule established by this paragraph, the prohibited list or International Standards may establish special criteria for the evaluation of prohibited substances that can also be produced endogenously.
 - (b) Use or attempted use by an athlete of a prohibited substance or a prohibited method.

- (i) It is each athlete's personal duty to ensure that no prohibited substance enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the athlete's part be demonstrated in order to establish an anti-doping violation for use of a prohibited substance or a prohibited method.
- (ii) The success or failure of the use or attempted use of a prohibited substance or prohibited method is not material. It is sufficient that the prohibited substance or prohibited method was used or attempted to be used for an anti-doping rule violation to be committed.
- (c) Refusing or failing without compelling justification to submit to sample collection after notification as authorised in applicable anti-doping rules, or otherwise evading sample collection.
- (d) Violation of applicable requirements regarding athlete availability for out-of-competition testing, including failure to file required whereabouts information and missed tests that are declared based on rules that comply with the International Standard for Testing. Any combination of 3 missed tests or filing failures within 18 months as determined by anti-doping organisations with jurisdiction over the athlete will constitute an anti-doping rule violation.
- (e) Tampering or attempted tampering with any part of doping control.
- (f) Possession of prohibited substances and prohibited methods.
 - (i) Possession by an athlete in-competition of a prohibited method or a prohibited substance, or possession by an athlete out-of-competition of a prohibited method or any prohibited substance that is prohibited out-of-competition unless the athlete establishes that the possession is authorised by a therapeutic use exemption granted in accordance with the World Anti-Doping Code and the International Standard for Therapeutic Use Exemptions or other acceptable justification.
 - (ii) Possession by a support person in-competition of a prohibited method or a prohibited substance, or possession by a support person out-of-competition of a prohibited method or a prohibited substance that is prohibited out-of-competition in connection with an athlete, competition or training, unless the support person establishes that the possession is authorised by a therapeutic use exemption granted to an athlete in accordance with the World Anti-Doping Code and the International Standard for Therapeutic Use Exemptions or other acceptable justification.
- (g) Trafficking or attempted trafficking in a prohibited substance or prohibited method.
- (h) Administration or attempted administration to an athlete in-competition of a prohibited method or prohibited substance, or administration or attempted administration to an athlete out-of-competition of a prohibited method or a prohibited substance that is prohibited out-of-competition, or assisting, encouraging, aiding, abetting, covering up or other type of complicity involving an anti-doping rule violation or an attempted anti-doping rule violation.

Division 2.2 *Sporting Administration Body Rules*

2.02 Meaning of *sporting administration body* in this Part

For this Part:

sporting administration body means a national sporting organisation for Australia.

2.03 Sporting administration body rules — powers of ASADA

- (1) For subsection 15 (1) of the Act, the sporting administration body rules mentioned in Schedule 1 apply to all sporting administration bodies.
- (2) ASADA is authorised:
 - (a) to monitor the compliance by sporting administration bodies with the sporting administration body rules; and
 - (b) to notify the ASC about the extent of the compliance by sporting administration bodies; and
 - (c) to publish reports about the extent of compliance by sporting administration bodies with the sporting administration body rules.

2.04 Sporting administration body rules

A sporting administration body must:

- (a) at all times have in place, maintain and enforce anti-doping policies and practices that comply with:
 - (i) the mandatory provisions of the World Anti-Doping Code and International Standards; and
 - (ii) the NAD Scheme; and
- (b) not adopt its anti-doping policy unless it has been approved by ASADA or not substantively amend its anti-doping policy unless the amendment has been approved by ASADA; and
- (c) ensure that at all times it has the authority to enforce its anti-doping policy; and
- (d) immediately inform ASADA of an alleged breach of its anti-doping policy and cooperate with any investigation into the matter; and
- (e) provide to ASADA appropriate details or reports related to investigations, hearings, appeals and sanctions; and
- (f) provide ASADA with relevant information in a timely manner, including sporting administration body and International Federation anti-doping policies, policy amendments, policy endorsement and implementation date, athlete whereabouts information, athlete education, information relating to events and camps, lists of athletes subject to anti-doping policies and advice relating to athletes in ASADA's registered testing pool and domestic testing pool; and
- (g) ensure that other rules and regulations of the sport do not override the provisions of its anti-doping policy; and
- (h) comply with, implement and enforce its anti-doping policy to the satisfaction of ASADA; and
- (i) submit to the operations of ASADA; and
- (j) refer all instances of possible anti-doping rule violations to ASADA for investigation and cooperate with any investigation, as required; and

- (k) allow ASADA to present anti-doping cases at hearings unless ASADA has approved the sporting administration body presenting its own case; and
- (l) recognise ASADA as having a right to appeal decisions relating to anti-doping cases, including in cases ASADA has not presented the anti-doping case at the hearing; and
- (m) accept findings by ASADA, ensure an infraction notice is issued in accordance with ASADA's recommendations in the case of an adverse finding, and enforce penalties imposed in accordance with ASADA's recommendation unless otherwise determined by a sporting tribunal; and
- (n) ensure that its members and staff cooperate with ASADA; and
- (o) promote information, education and other anti-doping programs in accordance with the World Anti-Doping Code and as requested by ASADA; and
- (p) comply with any other conditions relating to anti-doping and notified to it by the ASC that the ASC is required by legislation or by ASADA to require from sporting organisations to which the ASC provides funding, services and support.

Part 3 Testing and Investigating

Division 3.1 People carrying out doping control functions

Subdivision 3.1.1 ASADA representatives

3.01 Doping control officers

ASADA may appoint a person to be a doping control officer. A person appointed to be a doping control officer must obtain, at ASADA's expense, appropriate clearance as required by State or Territory legislation in order to work with minors.

3.02 Chaperones

- (1) ASADA may appoint a person to be a chaperone. A person appointed to be a chaperone must obtain, at ASADA's expense, appropriate clearance as required by State or Territory legislation in order to work with minors.
- (2) A doping control officer is also taken to be a chaperone.

3.03 Investigators

ASADA may appoint a person to be an investigator. A person appointed to be an investigator must obtain, at ASADA's expense, appropriate clearance as required by State or Territory legislation in order to work with minors.

3.04 Blood collection officials

- (1) ASADA may approve a person as a blood collection official if ASADA is satisfied on reasonable grounds that the person is qualified to perform the blood collection procedure required by the International Standard for Testing.
- (2) A blood collection official must carry evidence of his or her qualifications to perform blood collection procedures.

3.05 Drug testing officials

For paragraphs 47 (1) (e) and 78 (1) (d) of the Act, drug testing officials under the NAD scheme include doping control officers, chaperones, investigators and blood collection officials.

3.06 Identity cards

- (1) ASADA must make sure that each of the following persons carries an identity card:
 - (a) a blood collection official;
 - (b) a chaperone;
 - (c) a doping control officer;
 - (d) an investigator.
- (2) An identity card must:

- (a) show for which of the roles mentioned in subclause (1) the card is given to the person; and
 - (b) display the signature of a member of ASADA staff.
- (3) An identity card for a person who is a chaperone or a doping control officer must display a recent photograph of the person.
 - (4) A person who ceases to have the role for which an identity card was given to the person must return the card to ASADA on the day when the person ceases to have the role.

3.07 Production of identity cards

- (1) If an ASADA representative makes a request of a participant under the NAD scheme, the ASADA representative must produce his or her identity card.
- (2) A participant is not required to comply with a request made by the ASADA representative until the representative produces his or her identity card.

Subdivision 3.1.2 Conflict of Interest

3.08 Conflict of interest

- (1) ASADA must make sure that the conditions of service, applicable to an ASADA representative or other representative of an anti-doping organisation that is engaged by ASADA for the purpose of sample collection, require the representatives to report to ASADA (which may be done through the applicable anti-doping organisation) any personal interest.
- (2) If an ASADA representative or other representative of an anti-doping organisation that is engaged by ASADA for the purpose of sample collection reports a personal interest in a matter mentioned in subclause (1), ASADA may:
 - (a) direct another ASADA representative to carry out the duties of an ASADA representative in relation to the matter; or
 - (b) direct that another representative of the anti-doping organisation must carry out the relevant duties in relation to the matter.

Note *For the meaning of **personal interest**, see clause 1.08.*

Division 3.2 Locating athletes

3.09 Whereabouts information for athlete

- (1) ASADA may ask an athlete mentioned in subclause 1.06(3) to give ASADA the following information (**whereabouts information**) for a period:
 - (a) a complete mailing address where correspondence may be sent to the athlete for formal notice purposes;
 - (b) details of any telephone number that may be used to contact the athlete;
 - (c) details of any disability of the athlete that may affect the procedure to be followed in conducting a sample collection session;
 - (d) specific confirmation of the athlete's consent to the sharing of his or her whereabouts information with other anti-doping organisations having authority to test him or her;
 - (e) for each day during the following quarter, the full address of the place where the athlete will be residing (eg home, temporary lodgings, hotel);
 - (f) for each day during the following quarter, the name and address of each location where the athlete will train, work or conduct any other regular activity (eg school), as well as the usual time-frames for those regular activities;
 - (g) the athlete's competition schedule for the following quarter, including the name and address of each location where the athlete is scheduled to compete during the quarter and any date on which he or she is scheduled to compete at the location;
 - (h) for each day during the following quarter, one specific 60-minute time slot between 6 am and 11 pm each day where the athlete will be available and accessible for testing at a specific location.
- (2) The request:
 - (a) may be made orally or by written notice; and
 - (b) must explain how the athlete is to give whereabouts information to ASADA; and
 - (c) must include the information that ASADA may share whereabouts information with other anti-doping organisations.

Note ASADA must also comply with its obligation to explain to the athlete the possible consequences of failing to comply with the request: see subsection 14 (2) of the Act.

- (3) If ASADA asks an intellectually disabled athlete for whereabouts information, ASADA must give at least 1 of the following persons oral or written notice that ASADA has made the request:
 - (a) the athlete's spouse;
 - (b) the athlete's parent or guardian;
 - (c) the athlete's coach;
 - (d) a representative of a relevant sporting administration body.
- (4) For subclauses (2) and (3), ASADA may give a written notice to a person:

- (a) by delivering it personally to the person; or
 - (b) by sending it by post, or by means of a courier service, to the person at the address of the person's place of residence last known to ASADA; or
 - (c) if the person has notified ASADA of a number to which notices may be sent to the person by fax — by sending it to the person by fax to that number; or
 - (d) if the person has notified ASADA of an email address to which notices may be sent to the person — by sending it to the person by email to that address.
- (5) If a notice cannot be given in accordance with subclause (4), it can be given by sending it to the relevant sporting administration body in any of the following ways and asking the body to forward the notice in a sealed envelope to the person:
- (a) by post, or by means of a courier service, to the address of the body last known to ASADA;
 - (b) if the body has notified ASADA of a number to which notices may be sent to the body by fax — by sending it to the body by fax to that number.
- (6) ASADA may share whereabouts information about an athlete with another anti-doping organisation only if:
- (a) the information is shared for the purposes of doping control; and
 - (b) if the anti-doping organisation is not subject to the Information Privacy Principles or the National Privacy Principles contained in the *Privacy Act 1988* or a law that is substantially similar to the Information Privacy Principles or the National Privacy Principles, before disclosing the whereabouts information to the anti-doping organisation, ASADA enters into a legally binding agreement with the anti-doping organisation to ensure that any whereabouts information that is disclosed is:
 - (i) not used or disclosed by the anti-doping organisation for a purpose other than doping control; and
 - (ii) securely retained and restrictions placed on who can access the information; and
 - (iii) destroyed or returned to ASADA once the purpose for which the disclosure is made is completed.
- (7) In this clause:
- quarter** means a period of 3 months.

3.10 Contact details for athlete

- (1) ASADA may ask an athlete to give ASADA the following information:
 - (a) a complete mailing address where correspondence may be sent to the athlete for formal notice purposes; and
 - (b) details of any telephone number that may be used to contact the athlete.
- (2) The request:

- (a) may be made orally or by written notice; and
- (b) must explain how the athlete is to give the information to ASADA; and
- (c) must include the information that ASADA may share the information with other anti-doping organisations.

Note ASADA must also comply with its obligation to explain to the athlete the possible consequences of failing to comply with the request: see subsection 14 (2) of the Act.

- (3) For subclause (2), ASADA may give a written notice to a person:
 - (a) by delivering it personally to the person; or
 - (b) by sending it by post, or by means of a courier service, to the person at the address of the person's place of residence last known to ASADA; or
 - (c) if the person has notified ASADA of a number to which notices may be sent to the person by fax — by sending it to the person by fax to that number; or
 - (d) if the person has notified ASADA of an email address to which notices may be sent to the person — by sending it to the person by email to that address.
- (4) If a notice cannot be given in accordance with subclause (3), it can be given by sending it to the relevant sporting administration body in any of the following ways and asking the body to forward the notice in a sealed envelope to the person:
 - (a) by post, or by means of a courier service, to the address of the body last known to ASADA;
 - (b) if the body has notified ASADA of a number to which notices may be sent to the body by fax — by sending it to the body by fax to that number.

3.11 ASADA may ask for help in locating athlete

If ASADA is having difficulty notifying an athlete of a request for whereabouts information under subclause 3.09 (1) or contact details under subclause 3.10(1), ASADA may ask for help in notifying the athlete from:

- (1) a relevant sporting administration body; or
- (2) a person who knows, or is related to, the athlete; or
- (3) a government agency; or
- (4) an anti-doping organisation.

Note: Any requests for help made by, or assistance provided to, ASADA under this clause must comply with relevant obligations under the Privacy Act 1988.

Division 3.3 Requests for samples

3.12 Purposes for which samples may be requested, collected and tested

- (1) For this Part, a sample may be requested, collected and tested for 1 or more of the following purposes (*anti-doping purposes*):
 - (a) to detect the presence of a prohibited substance or use of a prohibited method in the sample;
 - (b) to assist in investigation of a possible anti-doping rule violation;
 - (c) to detect the presence of a substance that is the subject of a monitoring program by WADA;
 - (d) to assist an anti-doping organisation in profiling biological parameters in the sample;
 - (e) for research, if subclauses (2) and (3) are complied with;
 - (f) to comply with a request from another national anti-doping organisation or an International Sporting Federation.
- (2) ASADA may use a sample for research, with the written consent of the athlete who provided the sample.
- (3) Before using a sample for research, ASADA must ensure that it is no longer possible to identify the athlete who provided the sample.

3.13 International Standard to be followed

A request for a sample and sample collection made under this Division must substantially comply with the procedures for the making of a request for and collection of a sample mentioned in the International Standard for Testing.

3.14 ASADA may ask athlete for and collect samples

- (1) ASADA may ask an athlete to give ASADA a sample for an anti-doping purpose.
- (2) ASADA may collect a sample from an athlete for an anti-doping purpose at any time.
- (3) Nothing in the NAD scheme prevents ASADA from asking an athlete to give, on the same day, 1 or more urine samples and 1 or more blood samples.
- (4) ASADA may ask an athlete, a TUE committee or a sporting administration body, to provide information about a sample.

3.15 ASADA may ask sporting administration body or anti-doping organisation to request sample

ASADA may ask a sporting administration body or anti-doping organisation to arrange for an athlete to be requested to give a sample for an anti-doping purpose.

3.16 Request to give sample

- (1) A request for a sample may be made orally or by written notice.
- (2) The request must include the following information:

- (a) the place where the athlete is to give the sample;
- (b) when the athlete must go to the place for that purpose;
- (c) the kind of sample the athlete will be required to provide.

Note ASADA must also comply with its obligation to explain to the athlete the possible consequences of failing to comply with the request: see subsection 14 (2) of the Act.

- (3) The information must be given:
 - (a) at the time the request is made; or
 - (b) as soon as practicable afterwards.
- (4) The request may be accompanied by a request for the athlete to provide the requester with photo identification.
- (5) The request may be in relation to a no advance notice doping control.
- (6) If an intellectually disabled athlete is asked for a sample, the requester must give at least 1 of the following persons oral or written notice that the request has been made:
 - (a) the athlete's spouse;
 - (b) the athlete's parent or guardian;
 - (c) the athlete's coach;
 - (d) a representative of a relevant sporting administration body.
- (7) If it would be unreasonable to require the athlete to go to the stated place at the stated time, the requester may agree with the athlete to collect the sample at a different time or place.
- (8) If ASADA is having difficulty finding an athlete in order to make a request under subclause 3.16 (1), ASADA may ask for help in finding the athlete from:
 - (a) a relevant sporting administration body; or
 - (b) a person who knows, or is related to, the athlete; or
 - (c) a government agency; or
 - (d) an anti-doping organisation.
- (9) In this Division:

requester means:

 - (a) ASADA; or
 - (b) a sporting administration body or anti-doping organisation that ASADA has asked under clause 3.15 to arrange for an athlete to give a sample.

3.17 ASADA to engage an interpreter

- (1) This clause applies if a requester asks an athlete for a sample or for information relating to a possible anti-doping rule violation under this Division.
- (2) The requester must make reasonable efforts to ensure that its request is understood.
- (3) If the requester believes the athlete is unable to receive or understand the request for a sample (eg because the athlete is deaf), the requester may communicate with the athlete through an interpreter.
- (4) If the requester needs to give notice of the request for a sample to a person mentioned in paragraph 3.16 (6) (a), (b), (c) or (d) and the requester believes that person is unable to understand English, or otherwise has difficulty communicating in English, the requester may communicate with the person through an interpreter.

3.18 ASADA to pay athlete's expenses

- (1) This clause applies if a place stated under paragraph 3.16(2)(a) is more than 50 kilometres from the place where the request is received.
- (2) ASADA must offer to pay the reasonable expenses of the athlete incurred in travelling from the place where the request was received to the stated place.
- (3) ASADA may also offer to pay the reasonable expenses of the athlete incurred in travelling from the place where the request was received to the stated place if it is otherwise reasonable to do so.

3.19 Retired athletes

- (1) Subclause (2) applies if:
 - (a) an athlete has been asked for a sample under this Division; and
 - (b) the athlete claims to have retired from taking part in sporting competition.
- (2) ASADA may ask a sporting administration body to inform ASADA whether the athlete has notified the body that he or she has retired from taking part in sporting competition and, if so, the date of notification.
- (3) ASADA may decide that the athlete is not required to give the sample if ASADA is satisfied that, before the time the sample is to be given, the athlete has retired from taking part in sporting competition.

3.20 What athlete may do before giving sample

- (1) Before going with a chaperone to a place to give the sample, the athlete may, with the permission of the chaperone:
 - (a) participate in a victory ceremony; or
 - (b) fulfil media commitments; or
 - (c) compete in further competitions; or
 - (d) perform a warm down; or
 - (e) obtain or receive necessary medical treatment; or
 - (f) locate a representative or interpreter; or
 - (g) obtain photo identification; or
 - (h) complete a training session; or
 - (i) do anything else that is justifiable in the circumstances.
- (2) The athlete must remain continuously chaperoned while doing anything mentioned in subclause (1).
- (3) A chaperone must not refuse a reasonable request by an athlete for consent under subclause (1) but must refuse a request if it will not be possible for the athlete to be continuously chaperoned.
- (4) A refusal by a chaperone to consent to a request by an athlete under subclause (1) does not invalidate any test conducted on a sample given by the athlete.
- (5) The doping control officer or chaperone must document a request by an athlete for consent under subclause (1) and details of subsequent activity of the athlete.

3.21 Right to a representative

- (1) An athlete who has been asked to give a sample is entitled to be accompanied by a representative during the sample collection session except when the athlete is passing a urine sample. In particular an athlete who is a minor must be provided with the opportunity to be accompanied by a representative of his or her choice.
- (2) If an athlete who is a minor has been asked to give a sample, the athlete's representative may observe the chaperone when the minor athlete is passing a urine sample, but not directly observe the passing of the urine sample unless requested to do so by the minor athlete.
- (3) If an athlete who is a minor has been asked to give a sample, the chaperone observing the minor passing a urine sample is also entitled to be accompanied by a representative during the sample collection session. The representative may observe the chaperone when the minor athlete is passing a urine sample, but not directly observe the passing of the urine sample.
- (4) If an athlete with a disability has been asked to give a sample, the athlete's representative may assist the athlete during the entire sample collection session if authorised by the athlete and agreed to by the doping control officer.

Division 3.4 Analysing samples

3.22 What ASADA may do with samples

- (1) This clause applies if:
 - (a) an athlete has been asked for a sample under this Division; and
 - (b) the athlete gives the sample in response to the request.
- (2) ASADA may:
 - (a) for a blood sample — centrifuge the sample to separate serum from whole blood for transport of the serum to a laboratory; and
 - (b) for a urine sample — test the specific gravity and acidity (pH level) of the sample to determine its suitability for analysis; and
 - (c) take any other actions in relation to the sample that are reasonable necessary to fulfil an anti-doping purpose.

3.23 ASADA may ask laboratory to test samples

- (1) This clause applies to a sample:
 - (a) if an athlete has been asked for the sample under this Division and the athlete gives the sample in response to the request; and
 - (b) whether or not ASADA has done anything with the sample under clause 3.22.
- (2) ASADA may ask an accredited laboratory to analyse the sample for an anti-doping purpose.

Note *For anti-doping purposes, see clause 3.*

3.24 World Anti-Doping Code procedures to be followed

An analysis of a sample made under this Division must comply, or substantially comply, with the procedures for analysis of a sample mentioned in the World Anti-Doping Code and International Standards.

Note The World Anti-Doping Code is available at the following website address:
<http://www.wada-ama.org>.

3.25 Retention and retesting of samples

- (1) This clause applies if:
 - (a) ASADA has asked an accredited laboratory to analyse a sample given by an athlete under the NAD scheme; and
 - (b) there is a B sample; and
 - (c) the B sample has not been used for analysis under the NAD scheme.
- (2) If the result of the analysis of the A sample is positive, the accredited laboratory must keep the B sample for at least 12 months.
- (3) If the result of the analysis of the A sample is negative, the accredited laboratory must keep any remaining A sample and the B sample for at least 90 days, or longer as requested by ASADA.
- (4) ASADA may, at any time, analyse and store the A or B sample or use the result of such an analysis for an anti-doping purpose.
- (5) ASADA may ask an accredited laboratory to store, analyse or reanalyse a sample for an anti-doping purpose at any time.

Note There is an 8 year time limit on taking action in relation to a matter: see subclause 1.04 (2).

3.26 Ownership of samples

- (1) A sample collected from an athlete at ASADA's initiative is the property of ASADA.
- (2) ASADA may transfer ownership of a sample collected from an athlete at ASADA's initiative to another anti-doping organisation exercising results management authority in relation to the sample.

Division 3.5 Investigations

3.27 Investigations

- (1) For paragraph 13 (1) (f) of the Act, ASADA is authorised to investigate possible anti-doping rule violations that may have been committed by athletes or support persons.
- (2) An investigation must comply, or substantially comply, with the procedures mentioned in:
 - (a) the World Anti-Doping Code; and
 - (b) the International Standards; and
 - (c) the Australian Government Investigations Standard.
- (3) A failure to comply with those procedures does not affect the validity of the investigation.

Part 4 Results management

Division 4.1 Adverse analytical findings

4.01 Initial review

- (1) This clause applies if ASADA receives notice from an accredited laboratory of an atypical finding or an adverse analytical finding in relation to an A sample provided by an athlete.
- (2) On receipt of an atypical finding or an adverse analytical finding, ASADA must review, for irregularity or departures from the relevant international standards, the documentation relevant to the sample collection session and the laboratory analysis.
- (3) If there is an irregularity or departure from the relevant international standards in the documentation, ASADA must determine whether the irregularity or departure can be considered to undermine the validity of the atypical finding or the adverse analytical finding.
- (4) If ASADA considers that the irregularity or departure does undermine the validity of the atypical finding or the adverse analytical finding, ASADA must declare the result of testing void.

4.02 Therapeutic use

- (1) This clause applies if ASADA receives notice from an accredited laboratory of an atypical finding or an adverse analytical finding in relation to an A sample provided by an athlete and ASADA does not declare the result of testing void under clause 4.01.
- (2) ASADA must determine whether approval has been granted to the athlete by a TUE committee, in accordance with the International Standard for Therapeutic Use Exemptions, for the therapeutic use of the prohibited substance or prohibited method revealed in the atypical finding or adverse analytical finding.
- (3) If ASADA determines that the analysis has revealed a prohibited substance or method for which a therapeutic use exemption has been granted in accordance with the International Standard for Therapeutic Use Exemptions, ASADA may determine that there is no adverse analytical finding.
- (4) If the athlete has been granted a therapeutic use exemption in accordance with the International Standard for Therapeutic Use Exemptions, but the level of the prohibited substance or prohibited method in the A sample is not consistent with the exemption, then ASADA may continue results management in relation to the atypical finding or adverse analytical finding.
- (5) If the athlete has not been granted a therapeutic use exemption in accordance with the International Standard for Therapeutic Use Exemptions, then ASADA must continue results management in relation to the atypical finding or adverse analytical finding.

4.03 Follow-up investigations

- (1) This clause applies if ASADA receives notice from an accredited laboratory of an atypical finding in relation to an A sample provided by an athlete; and
 - (a) does not declare the result of testing void under clause 4.01; and
 - (b) has not determined that there is no adverse analytical finding due to a therapeutic use exemption having been granted in accordance with the International Standard for Therapeutic Use Exemptions in accordance with clause 4.02.
- (2) ASADA may conduct an investigation in relation to the atypical finding in order to determine whether or not the atypical finding amounts to an adverse analytical finding. In order to conduct this investigation, ASADA may request the assistance of:
 - (a) the athlete; or
 - (b) an accredited laboratory; or
 - (c) other anti-doping organisations; or
 - (d) a TUE committee; or
 - (e) another expert in a field relevant to the investigation.
- (3) At the conclusion of the follow-up investigation, ASADA must make a final determination as to whether the atypical finding amounts to an adverse analytical finding. In making this determination, ASADA must take into account all laboratory analyses and the findings and recommendations of any TUE committee or other expert consulted.
- (4) If ASADA determines that an atypical finding does not amount to an adverse analytical finding, ASADA must notify the athlete accordingly.

4.04 Notification after initial review

- (1) This clause applies if ASADA:
 - (a) receives a notice from an accredited laboratory of an atypical finding or an adverse analytical finding in relation to an A sample provided by an athlete; and
 - (b) does not declare the result of testing void under clause 4.01; and
 - (c) has not determined that there is no adverse analytical finding due to a therapeutic use exemption having been granted in accordance with the International Standard for Therapeutic Use Exemptions in accordance with clause 4.02; and
 - (d) for an atypical finding - determines that the atypical finding amounts to an adverse analytical finding at the conclusion of a follow-up investigation in accordance with clause 4.03.
- (2) ASADA must notify the athlete in writing of the A sample adverse analytical finding. The notice must include:
 - (a) the date of the sample collection; and
 - (b) that the A sample has returned an adverse analytical finding; and
 - (c) that the B sample will be analysed unless the athlete waives the right to have the B sample analysed (subject to subclause (d)); and
 - (d) that ASADA may analyse the B sample even if the athlete waives the right to have the B sample analysed; and

- (e) details of the time, date and place for the B sample analysis; and
 - (f) the right of the athlete or a representative of the athlete, or both, to attend the identification, opening and analysis of the B sample; and
 - (g) any other parties that will be notified of the A sample adverse analytical finding; and
 - (h) that the athlete will be given the opportunity to make a submission in relation to the sample even if the B sample is not analysed.
- (3) The notice to the athlete of the A sample adverse analytical finding may include any other relevant details, including details of any provisional suspension to be imposed on the athlete in accordance with the rules of a relevant sporting organisation.

4.05 B sample analysis

- (1) This clause applies if:
- (a) the athlete does not waive the B sample analysis; or
 - (b) ASADA decides to have the B sample analysed.
- (2) The B sample must be analysed in accordance with the International Standard for Laboratories.
- (3) The athlete or a representative of the athlete has the right to attend the identification, opening and analysis of the B sample.
- (4) If ASADA determines that the B sample analysis does not confirm the A sample analysis, ASADA must notify the athlete and any other parties that were notified of the A sample adverse analytical finding that the sample has been declared negative.
- (5) If the B sample analysis does confirm the A sample analysis, ASADA may continue results management in relation to the adverse analytical finding.

4.06 Notification after B sample analysis

- (1) This clause applies if:
- (a) the B sample analysis confirms the A sample analysis; or
 - (b) the athlete waives the B sample analysis and ASADA decides not to have the B sample analysed.
- (2) ASADA must notify the athlete in writing of the adverse analytical finding. The notice must include:
- (a) that the result of the B sample analysis (if conducted) confirms the adverse analytical finding; and
 - (b) that the athlete (or a person on the athlete's behalf) may, within the response period, give ASADA a written submission setting out information or evidence that may affect the validity of the results of the testing, or waiving this right to make a submission; and
 - (c) that if the athlete (or a person on the athlete's behalf) does not give ASADA a written submission or notice within the response period, the athlete is taken to have waived the athlete's right to make a submission; and
 - (d) that, after considering any submission made by the athlete (or a person on the athlete's behalf), ASADA may make an entry on the Register relating to the adverse analytical finding; and

- (e) details of other parties that will be notified of the entry on the Register; and
 - (f) that ASADA may also publicly disclose details of the entry on the Register.
- (3) For this clause, **response period** means:
- (a) within 10 days after receiving the notice; or
 - (b) if ASADA considers that a shorter period is reasonably necessary due to the circumstances (eg a forthcoming international event or national event) - a shorter period notified by ASADA in writing to the athlete before the end of the original response period; or
 - (c) a longer period notified by ASADA in writing to the athlete.

Division 4.2 Other anti-doping rule violations

4.07 Notification of possible anti-doping rule violation

- (1) This clause applies if:
- (a) ASADA receives evidence or information showing a possible anti-doping rule violation other than an adverse analytical finding; and
 - (b) following a review of the evidence or information, ASADA determines there is a possible anti-doping rule violation that warrants action by ASADA.
- (2) ASADA must notify the participant in writing of the possible anti-doping rule violation. The notice must include:
- (a) details of the possible anti-doping rule violation; and
 - (b) that the participant (or a person on the participant's behalf) may, within the response period, give ASADA a written submission setting out information or evidence relating to the possible anti-doping rule violation, or waiving this right to make a submission; and
 - (c) that if the participant (or a person on the participant's behalf) does not give ASADA a written submission or notice within the response period, the participant is taken to have waived the participant's right to make a submission; and
 - (d) that, after considering any submission made by the participant (or a person on the participant's behalf), ASADA may make an entry on the Register relating to the possible anti-doping rule violation; and
 - (e) that ASADA may make recommendations to relevant sporting organisations about the consequences of the possible anti-doping rule violation; and
 - (f) details of other parties that will be notified of the entry on the Register; and
 - (g) that ASADA may also publicly disclose details of the entry on the Register.
- (3) For this clause, **response period** means:
- (a) within 10 days after receiving the notice; or
 - (b) if ASADA considers that a shorter period is reasonably necessary due to the circumstances (eg a forthcoming international event or national event) - a shorter period notified by ASADA in writing to the participant before the end of the original response period; or
 - (c) a longer period notified by ASADA in writing to the participant.

Division 4.3 Register of Findings

4.08 Establishment and maintenance of Register of Findings

For paragraph 13 (1) (i) of the Act, ASADA must establish and maintain a Register of Findings for the purpose of recording findings of ASADA relating to adverse analytical findings and other possible anti-doping rule violations.

4.09 Finding – anti-doping rule violation

- (1) This clause applies if:
 - (a) a participant has received notification under clauses 4.06 or 4.07; and
 - (b) the response period for the notification has ended.
- (2) ASADA must, as soon as practicable, consider any submissions made by the participant and decide whether or not to make an entry on the Register.
- (3) If ASADA decides not to make an entry on the Register, ASADA must notify the participant and any other parties that have been notified of the adverse analytical finding or possible anti-doping rule violation.

4.10 Entry of finding on Register

As soon as practicable after deciding to make an entry on the Register, ASADA must enter the following information on the Register:

- (1) the name of the participant;
- (2) if the participant is an athlete:
 - (a) the athlete's date of birth;
 - (b) the athlete's sport;
- (3) the nature of the finding relating to the adverse analytical finding or other possible anti-doping rule violation;
- (4) the date of the adverse analytical finding or other possible anti-doping rule violation;
- (5) any other details relevant to the adverse analytical finding or other possible anti-doping rule violation that ASADA considers should be entered on the Register.

4.11 Notice of entry on Register

- (1) As soon as practicable after making an entry on the Register, ASADA must give the participant to whom the finding relates a written notice stating:
 - (a) details of the finding relating to the adverse analytical finding or other possible anti-doping rule violation; and
 - (b) that an entry has been made on the Register about the finding; and
 - (c) that the participant has the right to have ASADA's decision to make the entry on the Register reviewed by the Administrative Appeals Tribunal by application made within 28 days of receipt of the notice; and
 - (d) the persons or organisations to whom ASADA must or may give written notification of the entry on the Register.
- (2) A notice under this clause may also state:

- (a) details of any recommendation that ASADA has made, or proposes to make, to relevant sporting organisations about the consequences of the adverse analytical finding or other possible anti-doping rule violation subject to the finding; and
- (b) any other details relevant to the finding.

4.12 Review by Administrative Appeals Tribunal

An athlete or support person to whom an entry on the Register relates may, within 28 days of receipt of the notice mentioned in clause 4.11, apply to the Administrative Appeals Tribunal for review of ASADA's decision on the entry.

4.13 Presentation of cases

- (1) For paragraph 13 (1) (k) of the Act, ASADA may present at a hearing of the Court of Arbitration for Sport or another sporting tribunal:
 - (a) a finding that has been entered on the Register; or
 - (b) a recommendation by ASADA in relation to a finding.
- (2) With the approval of ASADA, a sporting administration body may present a finding on the Register to the Court of Arbitration for Sport or another sporting tribunal.
- (3) Giving an approval under subclause (2) does not prevent ASADA from appearing before, or giving information to, the sporting tribunal.

4.14 Removal of names from Register

ASADA must remove an entry from the Register as soon as practicable if, after the entry has been made, any of the following happens:

- (1) ASADA becomes satisfied that at the time to which the entry relates the person was not a participant;
- (2) ASADA decides, having regard to a decision of a sporting tribunal, that the entry should be removed from the Register;
- (3) ASADA is satisfied that, at the time to which the entry relates, the person was a minor, and no period of ineligibility has been imposed on the person as a result of the entry or the period of ineligibility imposed on the person as a result of the entry has ended;
- (4) the Administrative Appeals Tribunal, on a review under clause 4.12, sets aside the finding on which the entry was based and ASADA has decided not to appeal the decision of the Administrative Appeals Tribunal.

4.15 Correction or amendment of entry on Register

- (1) This clause applies if:
 - (a) ASADA becomes aware that the Register contains an error because of a mistake, an omission, or a false entry in the Register; or
 - (b) ASADA decides, having regard to a decision of a sporting tribunal, that an entry on the Register requires amendment.
- (2) ASADA must correct the error or amend the entry on the Register as soon as practicable.

4.16 Register – notice of removal, correction or amendment

As soon as practicable after ASADA corrects, amends or removes information about a participant in the Register, ASADA must give a written notice to any person to whom ASADA has given notice about the entry stating that the information has been corrected, amended or removed.

Division 4.4 Disclosure of information

4.17 Notice of entries on Register

- (1) This clause applies if ASADA has entered information about a participant on the Register.
- (2) Within a reasonable time after making the entry on the Register, ASADA must give written notice about the entry to:
 - (a) each relevant national sporting organisation for the participant; and
 - (b) each relevant sporting administration body for the participant; and
 - (c) the relevant International Sporting Federation for the participant; and
 - (d) each relevant government sports agency for the participant; and
 - (e) WADA; and
 - (f) any relevant national sporting organisation for any other participant whose interests may be affected by the conduct of the participant.
- (3) The notice must include details of the entry.
- (4) The notice may include details of any recommendation that ASADA has made or is intending to make in relation to the entry.

4.18 Information relating to entries on Register

- (1) ASADA may give information arising out of or connected with the entry of the name of a participant on the Register to 1 or more sporting administration bodies.
- (2) The information may be given orally or by written notice.

4.19 Information about potential entries on Register

- (1) This clause applies if ASADA:
 - (a) is considering whether to enter information relating to a participant on the Register; and
 - (b) has not yet entered the information.
- (2) ASADA may give the information to 1 or more sporting administration bodies.
- (3) The information may be given orally or by written notice.

4.20 Conditions on the release of information

- (1) If a notice or information provided by ASADA under clause 4.17, 4.18 or 4.19 contains information that is not in the public domain (non-public information), ASADA may give the information to a particular sporting administration body only if:
 - (a) ASADA has taken reasonable steps to satisfy itself that the non-public information will not be used or disclosed by the body in a way that would be unfairly prejudicial to the interests of the athlete or support person, including taking reasonable steps to satisfy itself that the non-public information will be treated in confidence; and
 - (b) the body has given a written undertaking that the non-public information will be treated in confidence.
- (2) If ASADA becomes aware that an undertaking given under subclause (1) has been breached by a national sporting organisation, ASADA must report details of the breach to the ASC.

4.21 Non-entry information

- (1) This clause applies to information that:
 - (a) is not information arising out of an entry on the Register; and
 - (b) relates, or appears to relate, to a person in connection with a possible anti-doping rule violation by an athlete or support person.
- (2) For paragraph 13 (1) (g) of the Act, ASADA may disclose the information to all or any of the following:
 - (a) a sporting administration body;
 - (b) the Australian Federal Police;
 - (c) the Australian Customs Service;
 - (d) the Therapeutic Goods Administration;
 - (e) Federal, State or Territory law enforcement bodies.
- (3) Nothing in this clause limits, or is limited by, any other provision of the NAD scheme under which ASADA is required or authorised to disclose information.
- (4) If a body mentioned in subclause (2) is not subject to the Information Privacy Principles or the National Privacy Principles contained in the Privacy Act 1988 or a law that is substantially similar to the Information Privacy Principles or the National Privacy Principles, before disclosing personal information to the body, ASADA must enter into a legally binding agreement with that body to ensure that any personal information that is disclosed is:
 - (a) not used or disclosed by that body for a purpose other than the purpose for which the information is given to the body; and

- (b) securely retained and restrictions placed on who can access the information; and
- (c) destroyed or returned to ASADA once the purpose for which the disclosure is made is completed.

4.22 Making information publicly available

- (1) For paragraph 13 (1) (m) of the Act, ASADA is authorised to publish information on and related to the Register only if:
 - (a) ASADA:
 - (i) considers the publication to be in the public interest; or
 - (ii) has received the consent to the publication by the athlete or support person to whom the information relates; and
 - (b) any of the following apply:
 - (i) a decision has been handed down for a hearing process conducted in accordance with Article 8 of the World Anti-Doping Code, in relation to the finding concerning the information, by a sporting tribunal;
 - (ii) the athlete or support person has waived his or her right to a hearing;
 - (iii) the athlete or support person has refused to recognise the jurisdiction of a sporting tribunal to conduct a hearing process in relation to the finding concerning the information; or
 - (iv) no sporting tribunal has jurisdiction to conduct a hearing process in relation to the finding concerning the information; and
 - (c) if the athlete or support person applied to have the decision to make the entry reviewed by the Administrative Appeals Tribunal:
 - (i) for information for which the Administrative Appeals Tribunal has granted an order under subsection 35 (2) of the Administrative Appeals Tribunal Act 1975 — the review process has been finally determined; or
 - (ii) the Administrative Appeals Tribunal has not granted an order under subsection 35 (2) of the Administrative Appeals Tribunal Act 1975; or
 - (iii) the athlete or support person has not applied to the Administrative Appeals Tribunal for a review of the decision within the applicable timeframe.

Note In accordance with the definition of **World Anti-Doping Code** in subsection 4 (1) of the Act, the reference in subparagraph (b) (i) to the World Anti-Doping Code is a reference to the World Anti-Doping Code as in force from time to time.

- (2) For subclause (1), ASADA may determine:
 - (a) the way in which the information is to be made publicly available; and
 - (b) the times at which the information is to be made publicly available.

Part 5 ASDMAC functions

5.01 Functions of ASDMAC

- (1) The ASDMAC may give an athlete approval, in accordance with the World Anti-Doping Code and the International Standard for Therapeutic Use Exemptions, to use a prohibited substance or a prohibited method for therapeutic purposes.
- (2) ASDMAC may develop and implement its own procedure for the issuing of therapeutic use exemptions under subclause (1).
- (3) If an athlete has an approval for the use of a prohibited substance or a prohibited method for therapeutic purposes, the ASDMAC may investigate the sample analysis result for a sample given by the athlete to find out whether the athlete has complied with the conditions of the approval.
- (4) The ASDMAC may investigate an atypical finding or an adverse analytical finding for a sample given by an athlete to find out whether the atypical finding or adverse analytical finding was caused by naturally occurring levels of the substance concerned.
- (5) The ASDMAC may review the procedures adopted by a sporting administration body for approving the use of a prohibited substance or a prohibited method.
- (6) ASDMAC may provide advice relating to therapeutic use exemptions and ASDMAC functions to ASADA, sporting administration bodies, participants or other TUE committees.
- (7) If ASADA consults with the ASDMAC about whether an approval for the use of a prohibited substance or a prohibited method for therapeutic purposes was given:
 - (a) by ASDMAC; or
 - (b) by a TUE committee; or
 - (c) because of a decision by WADA following a review or appeal;the ASDMAC may investigate the approval and give its opinion to ASADA.
- (8) The ASDMAC may participate in a review or an appeal that is related directly or indirectly to a decision made by the ASDMAC:
 - (a) to approve the use of a prohibited substance or a prohibited method for therapeutic purposes; or
 - (b) to refuse to approve the use of a prohibited substance or a prohibited method for therapeutic purposes.

5.02 Disclosure of information by ASDMAC

- (1) The ASDMAC may disclose to an athlete information about analysis of a sample given by the athlete that:
 - (a) has led to the entry of the name of the athlete on the Register; or
 - (b) was carried out by a sporting administration body other than at the request of ASADA and that has resulted in an atypical finding or an adverse analytical finding.
- (2) The ASDMAC may disclose to any relevant sporting administration body information about analysis of an athlete's sample that:
 - (a) has led to the entry of the name of the athlete on the Register; or

- (b) was carried out by a sporting administration body other than at the request of ASADA and that has resulted in an atypical finding or an adverse analytical finding.
- (3) The ASDMAC may give information to a sporting administration body that:
- (a) is related to a drug testing program; and
 - (b) is related directly or indirectly to a decision made by the ASDMAC:
 - (i) to approve the use of a prohibited substance or a prohibited method for therapeutic purposes; or
 - (ii) to refuse to approve the use of a prohibited substance or a prohibited method for therapeutic purposes.
- (4) However, the ASDMAC may give information under subclause (3) only if the ASDMAC has taken reasonable steps to satisfy itself that the information disclosed will not be used or disclosed for a purpose other than any of the following:
- (a) an anti-doping testing service;
 - (b) a safety checking service;
 - (c) a sports drug and safety matter.

Part 6 Miscellaneous

6.01 When notices are taken to have been received

- (1) This clause applies if ASADA sends a notice to an athlete or support person for the NAD scheme.
- (2) The athlete or support person is taken to have received the notice (unless ASADA is given evidence sufficient to raise doubt about the matter):
 - (a) if the notice is delivered personally to the athlete or support person — on the day when it is delivered; and
 - (b) if the notice is sent by means of a courier service, to the athlete or support person at the address of the place of residence of the athlete or support person last known to ASADA, 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 courier service, to the athlete at the address of the place of residence of the athlete or support person last known to ASADA, being a place of residence outside Australia — 10 days after the date it is sent; and
 - (d) if the athlete or support person has notified ASADA of a number to which notices may be sent to the athlete or support person by fax and the notice is sent to that number — the day it is sent; and
 - (e) if the notice is sent to the electronic mail address of the athlete or support person — the day it is sent.

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

- (3) However, subclause (4) applies if:
 - (a) the notice cannot be:
 - (i) delivered personally; or
 - (ii) sent to the athlete or support person by post or courier service; or
 - (iii) sent to the athlete or support person by facsimile transmission; and
 - (b) a notice (to which the notice to the athlete or support person is attached in a sealed envelope addressed to the athlete or support person) is sent to a sporting administration body of which the athlete or support person is a member at its address last known to ASADA asking the organisation to send the envelope to the athlete or support person.
- (4) The athlete or support person is taken to have received the notice 10 days after the date it is sent.

6.02 Waiver of Rights

Subject to subsection 14(5) of the Act, an athlete or support person may waive his or her rights as permitted by the NAD scheme:

- (a) by written notice; or
- (b) unless the NAD scheme states that the waiver must be by written notice – orally.

[2] **Clause 96**

Renumber as clause 6.03.