



## DLRA Policy ANTI-DOPING POLICY

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### INTERPRETATION

This anti-doping policy takes effect on **1 August 2016**.

In this anti-doping policy, references to the *DLRA*<sup>1</sup> should be read as references to the Dry Lake Racers Australia Inc.

### **WARNING TO ATHLETES AND ATHLETE SUPPORT PERSONNEL**

- You are responsible for knowing what the anti-doping rule violations are.
- You must find out which substances and methods are prohibited.
- Ignorance is no excuse.
- You must be aware of the rules in this anti-doping policy.
- This anti-doping policy adopts the *Strict Liability* principle.
- Athletes are responsible for anything found in their system.
- You must be aware of the sanctions that could be applied to you in this anti-doping policy.

<sup>1</sup> Defined terms are in italics and capitalised. Other words will have either the definition provided for by the *WADA Code*, or if they are not defined they will have their plain English meaning.



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### INTRODUCTION

#### Preface

This anti-doping policy is adopted and implemented by the DLRA in accordance with ASADA's and the DLRA's responsibilities under the World Anti-Doping Code, the Australian Sports Anti-Doping Authority Act 2006 (Cth), the Australian Sports Anti-Doping Authority Regulations 2006 (Cth) (including the National Anti-Doping scheme), and in furtherance of combined ongoing efforts to eradicate doping in sport in Australia.

This anti-doping policy contains rules governing the conditions under which sport is played. Aimed at enforcing anti-doping principles in a global and harmonised manner, they are distinct in nature from criminal and civil laws, and are not intended to be subject to or limited by any national requirements and legal standards applicable to criminal or civil proceedings. When reviewing the facts and the law of a given case, all courts, arbitral Tribunals and other adjudicating bodies should be aware of and respect the distinct nature of this anti-doping policy implementing the Code as well as Australian legislation, and the fact that these rules represent the consensus of a broad spectrum of stakeholders around the world as to what is necessary to protect and ensure fair sport

The DLRA has its own Code of Conduct<sup>2</sup>. This is a separate policy document that is managed and enforced by the DLRA and is binding on all Athletes and Athlete Support Personnel. It is a document that covers conduct issues that either do not constitute a possible anti-doping rule violation, or have occurred as a consequence of behaviour that does constitute a possible anti-doping rule violation. This separate document will enable the separate management of conduct-related issues, including public disclosure, suspension or termination of contract and consequential sanctioning.

The DLRA's Code of Conduct or other policy documents or rules shall not limit or change the effect of this anti-doping policy.

#### Fundamental rationale for the Code and the DLRA Anti-Doping Policy

Anti-doping programmes seek to preserve what is intrinsically valuable about sport. This intrinsic value is often referred to as 'the spirit of sport'. It is the essence of Olympism: the pursuit of human excellence through the dedicated perfection of each Person's natural talents. It is how we play true. The spirit of sport is the celebration of the human spirit, body and mind, and is reflected in values we find in and through sport, including:

- ethics, fair play and honesty;
- health;
- excellence in performance;
- character and education;
- fun and joy;
- teamwork;

<sup>2</sup> Refer to the DLRA Member Protection Policy. This is available for download at [www.dlra.com.au](http://www.dlra.com.au).



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- dedication and commitment;
- respect for rules and laws;
- respect for self and other participants;
- courage; and
- community and solidarity.

Doping is fundamentally contrary to the spirit of sport.

ASADA's purpose is to protect Australia's sporting integrity and the health of Australian *Athletes*. Everything they do is focused on this outcome. ASADA aims to be an influential leader in anti-doping programme delivery. They place considerable focus on deterrence strategies. They seek to prevent the use of prohibited substances and methods in sport, and protect clean *Athletes* and the reputation of sports by conducting education, communications and awareness programs and initiatives.

Their aim is to create equality in sport so that Australian *Athletes* can participate on a level playing field at home and overseas. To achieve this, they provide programmes to help national sporting organisations meet their anti-doping responsibilities and they implement a strategic, targeted detection programme that incorporates intelligence gathering, *Testing* and investigations. ASADA seeks to engage *Athletes*, *Athlete Support Personnel* and the broader community in the fight against doping in sport.

### **The National Anti-Doping Programme**

ASADA is a statutory agency that operates under the ASADA Act and the ASADA Regulations, including the *National Anti-Doping scheme*, which is contained in Schedule 1 to the Regulations. ASADA is the independent *National Anti-Doping Organisation* for Australia. As such, ASADA has a number of responsibilities including:

- planning, coordinating, implementing, monitoring and advocating improvements in *Doping Control*;
- cooperating with relevant national organisations, agencies and other *Anti-Doping Organisations*;
- encouraging reciprocal *Testing* between *National Anti-Doping Organisations*;
- planning, implementing and monitoring anti-doping information, education and prevention programs;
- pursuing potential anti-doping rule violations within its jurisdiction, including investigating whether *Athletes*, *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping, and ensuring proper enforcement of *Consequences*;
- conducting an automatic investigation of *Athlete Support Personnel* within its jurisdiction in the case of any anti-doping rule violation by a *Minor* and of any *Athlete Support Personnel* who has provided support to more than one *Athlete* found to have committed an anti-doping rule violation;
- cooperating fully with WADA in connection with investigations conducted by WADA pursuant to Article 20.7.10 of *the Code*; and
- where funding is provided, working with the relevant body to ensure that relevant funding is



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withheld to an *Athlete* or *Athlete Support Personnel* while he or she is serving a period of *Ineligibility* for violation of anti-doping rules.

### DLRA objectives

The objectives of this anti-doping policy are to:

- (1) comply with *the Code*, ASADA Act, ASADA Regulations (including the *NAD scheme*) as amended from time to time; and
- (2) promote the integrity of motor sport by deterring doping in motor sport.

### Scope of this anti-doping policy

The scope of application of this anti-doping policy is set out in Article 1.

## ARTICLE 1 APPLICATION OF ANTI-DOPING POLICY

### 1.1 Application of the anti-doping policy

This anti-doping policy shall apply to the *DLRA* and all its member or affiliate organisations.

*The DLRA* agrees to be bound by the *Sporting Administration Body Rules* as contained in clause 2.04 of the *Australian Sports Anti-Doping Authority Regulations 2006*.

### 1.2 Application to the *DLRA*

1.2.1 As a condition of receiving financial and/or other assistance from the Australian Government, the *DLRA* shall accept and abide by the spirit and terms of ASADA's Anti-Doping Programme and this anti-doping policy, and shall adopt this anti-doping policy into their governing documents, constitution and/or rules as part of the rules of sport that bind their members and *Participants*.

1.2.2 Under this anti-doping policy the *DLRA* recognises the authority and responsibility of ASADA under this anti-doping policy and the *ASADA Act* and *ASADA Regulations* (including carrying out *Testing*). The *DLRA* shall also recognise, abide by and give effect to the decisions made pursuant to this anti-doping policy, including the decisions of hearing panels imposing sanctions on individuals under their jurisdiction.

### 1.3 Application to *Persons*

1.3.1 This anti-doping policy shall apply to the following *Persons* (including *Minors*), in each case, whether or not such *Person* is a citizen of or (temporary or permanent) resident in Australia:

1.3.1.1 all *Athletes* and *Athlete Support Personnel* who are members of the *DLRA* or of any member or affiliate organisation (including any clubs, teams, associations or leagues);



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**1.3.1.2** all *Athletes* and *Athlete Support Personnel* and other *Persons* who participate in such capacity in *Events*, *Competitions* and other activities organised, convened, authorised or recognised by the *DLRA* or any member or affiliate organisation (including any clubs, teams, associations or championships), wherever held;

**1.3.1.3** any other *Athlete* or *Athlete Support Personnel* or other *Person* who, by virtue of an accreditation, a license or other contractual arrangement, or otherwise, is subject to the jurisdiction of the *DLRA* or of any member or affiliate organisation (including any clubs, teams, associations or leagues), for the purposes of anti-doping;

**1.3.1.4** all *Athletes* who do not fall within one of these provisions of this Article 1.3.1, but who wish to be eligible to participate in *International Events* or *National Events*, must be available for *Testing* under this anti-doping policy. *Athletes* wishing to be eligible to participate in *International Events* must be available for *Testing* for the period of time specified by the *FIA*. *Athletes* wishing to be eligible to participate in *National Events* must be available for *Testing* under this anti-doping policy for at least six months before they will be eligible for such *Events*; and

**1.3.1.5** any *Athlete* or *Athlete Support Personnel* or other *Person* shall be deemed to have agreed to be bound by and comply with this anti-doping policy for a period of six months following the last time the *Athlete* or *Athlete Support Person* or other *Person* participated in or was scheduled to participate in any capacity recognised under this anti-doping policy. For clarity *Athletes* shall remain subject to *Testing* for that six-month period and be subject to results management (including hearings and appeals processes) in accordance with Article 17. The continuation of the application of this anti-doping policy prevails regardless of retirement, contract termination, or any other cessation of arrangement with the *DLRA*.

**1.3.2** This anti-doping policy shall also apply to all other *Persons* over whom the *Code*, *ASADA Act*, *ASADA Regulations* and *NAD scheme* give *ASADA* jurisdiction in respect of compliance with the anti-doping rules as defined in the *ASADA Act*, including all *Athletes* who are nationals of or resident in Australia, and all *Athletes* who are present in Australia, whether to compete or to train or otherwise.

**1.3.3** *Persons* falling within the scope of Article 1.3.1 or 1.3.2 are deemed to have accepted and to have agreed to be bound by this anti-doping policy, and to have submitted to the authority of *ASADA* and other *Anti-Doping Organisations* under this anti-doping policy and to the jurisdiction of the hearing panels specified in Article 8 and Article 13 to hear and determine cases and appeals brought under this anti-doping policy, as a condition of their membership, accreditation and/or participation in sport.



## **ARTICLE 2 DEFINITIONS OF DOPING - ANTI-DOPING RULE VIOLATIONS**

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.10 of this anti-doping policy.

The purpose of Article 2 is to specify the circumstances and conduct which constitute anti-doping rule violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules have been violated.

*Athletes* or other *Persons* shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the *Prohibited List*.

The following constitute anti-doping rule violations:

### **2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample**

**2.1.1** It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body. *Athletes* are responsible for any *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 rule violation under Article 2.1<sup>3</sup>.

**2.1.2** Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following: presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in the *Athlete's A Sample* where the *Athlete* waives analysis of the *B Sample* and the *B Sample* is not analysed; or, where 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*; or, where the *Athlete's B Sample* is split into two bottles and the analysis of the second bottle confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the first bottle<sup>4</sup>.

**2.1.3** 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* shall constitute an anti-doping rule violation.

**2.1.4** As an exception to the general rule of Article 2.1, the *Prohibited List* or *International Standards* may establish special criteria for the evaluation of *Prohibited Substances* that can also be produced endogenously.

### **2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Methods**

**2.2.1** It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or

<sup>3</sup> Comment to Article 2.1.1: An anti-doping rule violation is committed under this article without regard to an *Athlete's Fault*. This rule has been referred to in various CAS decisions as '*Strict Liability*'. An *Athlete's Fault* is taken into consideration in determining the *Consequences* of this anti-doping rule violation under Article 10. This principle has consistently been upheld by CAS.



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her body and that no *Prohibited Method* is Used. 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 rule violation for *Use* of a *Prohibited Substance* or a *Prohibited Method*.

**2.2.2** 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<sup>6</sup>.

### 2.3 Evading, refusing or failing to submit to *Sample* Collection

Evading *Sample* collection or, without compelling justification, refusing or failing to submit to *Sample* collection after notification as authorised in this anti-doping policy, the *NAD scheme* or other applicable anti-doping rules<sup>7</sup>.

### 2.4 Whereabouts failures

Any combination of three missed tests and/or filing failures, as defined in the *International Standard for Testing and Investigations*, within a 12-month period by an *Athlete* in a *Registered Testing Pool*.

### 2.5 *Tampering* or *Attempted Tampering* with any part of *Doping Control*

Conduct which subverts the *Doping Control* process but which would not otherwise be included in the definition of *Prohibited Methods*. *Tampering* shall include, without limitation, intentionally interfering or attempting to interfere with a *Doping Control* official, providing fraudulent information to an *Anti-Doping Organisation* or intimidating or attempting to intimidate a potential witness.<sup>8</sup>

4 Comment to Article 2.1.2: The *Anti-Doping Organisation* with results management responsibility may, at its discretion, choose to have the *B Sample* analysed even if the *Athlete* does not request the analysis of the *B Sample*.

5 Comment to Article 2.2: It has always been the case that *Use* or *Attempted Use* of a *Prohibited Substance* or *Prohibited Method* may be established by any reliable means. As noted in the Comment to Article 3.2, unlike the proof required to establish an *anti-doping rule violation* under Article 2.1, *Use* or *Attempted Use* may also be established by other reliable means such as admissions by the *Athlete*, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the *Athlete Biological Passport*, or other analytical information which does not otherwise satisfy all the requirements to establish 'Presence' of a *Prohibited Substance* under Article 2.1. For example, *Use* may be established based upon reliable analytical data from the analysis of an *A Sample* (without confirmation from an analysis of a *B Sample*) or from the analysis of a *B Sample* alone where the *Anti-Doping Organisation* provides a satisfactory explanation for the lack of confirmation in the other *Sample*.

6 Comment to Article 2.2.2: Demonstrating the '*Attempted Use*' of a *Prohibited Substance* or a *Prohibited Method* requires proof of intent on the *Athlete's* part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the *Strict Liability* principle established for violations of Article 2.1 and violations of Article 2.2 in respect of *Use* of a *Prohibited Substance* or *Prohibited Method*. An *Athlete's Use* of a *Prohibited Substance* constitutes an anti-doping rule violation unless such substance is not prohibited *Out-of-Competition* and the *Athlete's Use* takes place *Out-of-Competition*. (However, the presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in a *Sample* collected *In-Competition* is a violation of Article 2.1 regardless of when that substance might have been administered.)

7 Comment to Article 2.3: For example, it would be an anti-doping rule violation of 'evading *Sample* collection' if it were established that an *Athlete* was deliberately avoiding a *Doping Control* official to evade notification or *Testing*. A violation of 'failing to submit to *Sample* collection' may be based on either intentional or negligent conduct of the *Athlete*, while 'evading' or 'refusing *Sample* collection' contemplates intentional conduct by the *Athlete*.

8 Comment to Article 2.5: For example, this article would prohibit altering identification numbers on a *Doping Control* form during *Testing*, breaking the *B* bottle at the time of *B Sample* analysis, or altering a *Sample* by the addition of a foreign substance. Offensive conduct towards a *Doping Control* official or other *Person* involved in *Doping Control* which does not otherwise constitute *Tampering* may be addressed in the *code* of conduct.





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### 2.6 Possession of a Prohibited Substance or a Prohibited Method

**2.6.1** Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a TUE granted in accordance with Article 4.4 or other acceptable justification<sup>9,10</sup>.

**2.6.2** Possession by an Athlete Support Person In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Support Person Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition in connection with an *Athlete, Competition* or training, unless the *Athlete Support Person* establishes that the *Possession* is consistent with a TUE granted to an *Athlete* in accordance with Article 4.4 or other acceptable justification<sup>9,10</sup>.

### 2.7 Trafficking or Attempted Trafficking of any Prohibited Substance or Prohibited Method

### 2.8 Administration or Attempted Administration to any Athlete In- Competition of any Prohibited Substance or Prohibited Method, or Administration or Attempted Administration to any Athlete Out-of- Competition of any Prohibited Substance or any Prohibited Method that is prohibited Out-of-Competition

### 2.9 Complicity

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation, *Attempted* anti-doping rule violation or violation of Article 10.12.1 by another *Person*.

### 2.10 Prohibited Association

Association by an *Athlete* or other *Person* subject to the authority of an *Anti-Doping Organisation* in a professional or sport-related capacity with any *Athlete Support Person* who<sup>11</sup>:

**2.10.1** If subject to the authority of an *Anti-Doping Organisation*, is serving a period of *Ineligibility*; or

9 Comment to Articles 2.6.1 and 2.6.2: Acceptable justification would not include, for example, buying or *Possessing a Prohibited Substance* for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that *Person* had a physician's prescription, for example, buying Insulin for a diabetic child.

10 Comment to Article 2.6.2: Acceptable justification would include, for example, a team doctor carrying *Prohibited Substances* for dealing with acute and emergency situations.

11 Comment to Article 2.10: *Athletes* and other *Persons* must not work with coaches, trainers, physicians or other *Athlete Support Personnel* who are *Ineligible* on account of an anti-doping rule violation or who have been criminally convicted or professionally disciplined in relation to doping. Some examples of the types of association which are prohibited include: obtaining training, strategy, technique, nutrition or medical advice; obtaining therapy, treatment or prescriptions; providing any bodily products for analysis; or allowing the *Athlete Support Person* to serve as an agent or representative. Prohibited association need not involve any form of compensation.



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**2.10.2** If not subject to the authority of an *Anti-Doping Organisation*, and where *Ineligibility* has not been addressed in a results management process pursuant to *the Code*, has been convicted or found in a criminal, disciplinary or professional proceeding to have engaged in conduct which would have constituted a violation of anti-doping rules if *Code-compliant* rules had been applicable to such *Person*. The disqualifying status of such *Person* shall be in force for the longer of six years from the criminal, professional or disciplinary decision or the duration of the criminal, disciplinary or professional sanction imposed; or

**2.10.3** Is serving as a front or intermediary for an individual described in Article 2.10.1 or 2.10.2.

In order for this provision to apply, it is necessary that the *Athlete* or other *Person* has previously been advised in writing by an *Anti-Doping Organisation* with jurisdiction over the *Athlete* or other *Person*, or by *WADA*, of the *Athlete Support Person's* disqualifying status and the potential *Consequence of Prohibited Association* and that the *Athlete* or other *Person* can reasonably avoid the association. The *Anti-Doping Organisation* shall also use reasonable efforts to advise the *Athlete Support Person* who is the subject of the notice to the *Athlete* or other *Person* that the *Athlete Support Person* may, within 15 days, come forward to the *Anti-Doping Organisation* to explain that the criteria described in Articles 2.10.1 and 2.10.2 do not apply to him or her. (Notwithstanding Article 17, this Article applies even when the *Athlete Support Person's* disqualifying conduct occurred prior to the effective date provided in Article 20.7.)

The burden shall be on the *Athlete* or other *Person* to establish that any association with *Athlete Support Personnel* described in Article 2.10.1 or 2.10.2 is not in a professional or sport-related capacity.

*Anti-Doping Organisations* that are aware of *Athlete Support Personnel* who meet the criteria described in Article 2.10.1, 2.10.2, or 2.10.3 shall submit that information to *WADA*.



## ARTICLE 3 PROOF OF DOPING

### 3.1 Burdens and standards of proof

The *Anti-Doping Organisation* shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the *Anti-Doping Organisation* has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where this anti-doping policy places the burden of proof upon the *Athlete* or other *Person* alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability<sup>12</sup>

### 3.2 Methods of establishing facts and presumptions

Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases<sup>13</sup>:

**3.2.1** Analytical methods or decision limits approved by WADA after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any *Athlete* or other *Person* seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge. CAS on its own initiative may also inform WADA of any such challenge. At WADA's request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within ten days of WADA's receipt of such notice, and WADA's receipt of the CAS file, WADA shall also have the right to intervene as a party, appear amicus curiae, or otherwise provide evidence in such proceeding.

**3.2.2** WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted *Sample* analysis and custodial procedures in accordance with the *International Standard for Laboratories*. The *Athlete* or other *Person* may rebut this presumption by establishing that a departure from the *International Standard for Laboratories* occurred which could reasonably have caused the *Adverse Analytical Finding*. If the *Athlete* or other *Person* rebuts the preceding presumption by showing that a departure from the *International Standard for Laboratories* occurred which could reasonably have caused the *Adverse Analytical Finding*, then the *Anti-Doping Organisation* shall have the

12 Comment to Article 3.1: This standard of proof required to be met by the *Anti-Doping Organisation* is comparable to the standard which is applied in most countries to cases involving professional misconduct.

13 Comment to Article 3.2: For example, an *Anti-Doping Organisation* may establish an anti-doping rule violation under Article 2.2 based on the *Athlete's* admissions, the credible testimony of third *Persons*, reliable documentary evidence, reliable analytical data from either an *A* or *B Sample* as provided in the comments to Article 2.2, or conclusions drawn from the profile of a series of the *Athlete's* blood or urine *Samples*, such as data from the *Athlete Biological Passport*.

14 Comment to Article 3.2.2: The burden is on the *Athlete* or other *Person* to establish, by a balance of probability, a departure from the *International Standard for Laboratories* that could reasonably have caused the *Adverse Analytical Finding*. If the *Athlete* or other *Person* does so, the burden shifts to the *Anti-Doping Organisation* to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the *Adverse Analytical Finding*.



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burden to establish that such departure did not cause the *Adverse Analytical Finding*<sup>14</sup>.

**3.2.3** Departures from any other *International Standard* or other anti-doping rule or policy set forth in *the Code* or this anti-doping policy which did not cause an *Adverse Analytical Finding* or other anti-doping rule violation shall not invalidate such evidence or results.

If the *Athlete* or other *Person* establishes a departure from another *International Standard* or other anti-doping rule or policy which could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding* or other anti-doping rule violation, then the *Anti-Doping Organisation* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding* or the factual basis for the anti-doping rule violation.

**3.2.4** The facts established by a decision of a court or professional disciplinary *Tribunal* of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the *Athlete* or other *Person* to whom the decision pertained of those facts unless the *Athlete* or other *Person* establishes that the decision violated principles of natural justice.

**3.2.5** The hearing panel in a hearing on an anti-doping rule violation may draw an inference adverse to the *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation based on the *Athlete's* or other *Person's* refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in *Person* or telephonically as directed by the hearing panel) and to answer questions from the hearing panel or the *Anti-Doping Organisation* asserting the anti-doping rule violation.



## **ARTICLE 4 THE PROHIBITED LIST**

### **4.1 Incorporation, Publication and Revision of the *Prohibited List*<sup>15</sup>**

This anti-doping policy incorporates the *Prohibited List* which is published and revised by WADA as described in Article 4.1 of the *Code* as in force from time to time.

Unless provided otherwise in the *Prohibited List* and/or a revision, the *Prohibited List* and revisions shall go into effect under this anti-doping policy three months after publication by WADA without requiring any further action by the *Anti-Doping Organisation*. All *Athletes* and other *Persons* shall be bound by the *Prohibited List*, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all *Athletes* and other *Persons* to familiarise themselves with the most up-to-date version of the *Prohibited List* and all revisions thereto.

### **4.2 Prohibited Substances and Prohibited Methods Identified on the *Prohibited List*<sup>16</sup>**

#### **4.2.1 Prohibited Substances and Prohibited Methods**

The *Prohibited List* shall identify those *Prohibited Substances* and *Prohibited Methods* which are prohibited at all times (both *In-Competition* and *Out-of-Competition*) because of their potential to enhance performance in future *Competitions* or their masking potential, and those *Prohibited Substances* and *Prohibited Methods* which are prohibited *In-Competition* only. The *Prohibited List* may be expanded by WADA for a particular sport. *Prohibited Substances* and *Prohibited Methods* may be included in the *Prohibited List* by general category (for example, anabolic agents) or by specific reference to a particular substance or method.

#### **4.2.2 Specified Substances**

For purposes of the application of Article 10, all *Prohibited Substances* shall be *Specified Substances* except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so identified on the *Prohibited List*. The category of *Specified Substances* shall not include *Prohibited Methods*<sup>17</sup>.

### **4.3 WADA's determination of the *Prohibited List***

WADA's determination of the *Prohibited Substances* and *Prohibited Methods* that will be included on

15 Comment to Article 4.1: For the sake of predictability, a new *Prohibited List* will be published every year whether or not changes have been made. WADA will always have the most current *Prohibited List* published on its website. The current *Prohibited List* is available on WADA's website at [www.wada-ama.org](http://www.wada-ama.org).

16 Comment to Article 4.2: *Out-of-Competition Use* of a substance which is only prohibited *In-Competition* is not an anti-doping rule violation unless an *Adverse Analytical Finding* for the substance or its *Metabolites* or *Markers* is reported for a *Sample* collected *In-Competition*.

17 Comment to Article 4.2.2: The *Specified Substances* identified in Article 4.2.2 should not in any way be considered less important or less dangerous than other doping substances. Rather, they are simply substances which are more likely to have been consumed by an *Athlete* for a purpose other than the enhancement of sport performance.



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the *Prohibited List*, the classification of substances into categories on the *Prohibited List*, and the classification of a substance as prohibited at all times or *In- Competition* only, is final and shall not be subject to challenge by an *Athlete* or other *Person*.

### 4.4 Therapeutic Use Exemptions (TUEs)

**4.4.1** The presence of a *Prohibited Substance* or its *Metabolites* or *Markers*, and/or the *Use* or *Attempted Use*, *Possession* or *Administration* or *Attempted Administration* of a *Prohibited Substance* or *Prohibited Method* shall not be considered an anti-doping rule violation if it is consistent with the provisions of a *TUE* granted in accordance with the *International Standard for Therapeutic Use Exemptions*.

**4.4.2** The TUE Committee for Australia is the Australian Sports Drug Medical Advisory Committee (ASDMAC). Unless otherwise specified by ASDMAC in a notice posted on its website, any National-Level Athlete who needs to Use a Prohibited Substance or Prohibited Method for therapeutic purposes should apply to ASDMAC for a TUE as soon as the need arises and in any event (or where Article 4.3 of the International Standard for Therapeutic Use Exemptions applies in regard to retroactive TUEs) at least 30 days before the Athlete's next Competition, by completing the form at [www.asdmac.gov.au](http://www.asdmac.gov.au) with assistance from their doctor. ASDMAC will consider applications for the grant or recognition of TUEs. ASDMAC shall promptly evaluate and decide upon the application in accordance with the relevant provisions of the International Standard for Therapeutic Use Exemptions and the specific ASDMAC protocols posted on its website at <http://www.asdmac.gov.au>. ASDMAC's decision shall be final (except as outlined in Article 4.4.6) and where ASDMAC has granted a TUE, the decision shall be reported to WADA and other relevant Anti-Doping Organisations in accordance with the International Standard for Therapeutic Use Exemptions<sup>18</sup>.

**4.4.3** If an Anti-Doping Organisation chooses to test an Athlete who is not an International-Level or a National-Level Athlete, and that Athlete was not required to obtain a TUE in advance in accordance with 4.4.2, the Athlete may apply for a retroactive TUE for any Prohibited Substance or Prohibited Method that he/she is using for therapeutic reasons.

**4.4.4** A TUE granted by ASDMAC is valid at national level only. An Athlete who is or becomes an International-Level Athlete should do the following:

**4.4.4.1** Where the International-Level Athlete already has a TUE granted by ASDMAC for the substance or method in question, the International-Level Athlete may apply to the FIA to recognise that TUE, in accordance with Article 7 of the International Standard for Therapeutic Use Exemptions. If that TUE meets the criteria set out in the International Standard for Therapeutic Use Exemptions, then the FIA shall

<sup>18</sup> Comment to Article 4.4.2: The submission of false or misleading information in support of a TUE application (including but not limited to the failure to advise of the unsuccessful outcome of a prior application to another *Anti-Doping Organisation* for such a *TUE*) may result in a charge of *Tampering* or *Attempted Tampering* under Article 2.5. An *Athlete* should not assume that his/her application for grant or recognition of a *TUE* (or for renewal of a *TUE*) will be granted. Any *Use* or *Possession* or *Administration* of a *Prohibited Substance* or *Prohibited Method* before an application has been granted is entirely at the *Athlete's* own risk.



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recognise it for purposes of International-Level Competition as well. If the FIA considers that the TUE granted by ASDMAC does not meet those criteria and so refuses to recognise it, the FIA shall notify the International-Level Athlete and ASDMAC promptly with reasons. The International-Level Athlete and ASDMAC shall have 21 days from such notification to refer the matter to WADA for review. If the matter is referred to WADA for review in accordance with Article 4.4.6, the TUE granted by ASDMAC remains valid for national-level Competition and Out-of-Competition Testing (but is not valid for International-Level Competition) pending WADA's decision. If the matter is not referred to WADA for review, the TUE becomes invalid for any purpose when the 21-day review deadline expires<sup>19</sup>.

**4.4.4.2** Where the International-Level Athlete does not already have a TUE granted by ASDMAC for the substance or method in question, the International-Level Athlete must apply directly to the FIA for a TUE in accordance with the process set out in the International Standard for Therapeutic Use Exemptions. If the FIA grants the International-Level Athlete's application, it shall notify the International-Level Athlete and ASDMAC. If ASDMAC considers that the TUE granted by the FIA does not meet the criteria set out in the International Standard for Therapeutic Use Exemptions, it has 21 days from such notification to refer the matter to WADA for review. If ASDMAC refers the matter to WADA for review, the TUE granted by the FIA remains valid for international-level Competition and Out-of-Competition Testing (but is not valid for national-level Competition) pending WADA's decision. If ASDMAC does not refer the matter to WADA for review, the TUE granted by the FIA becomes valid for national-level Competition as well when the 21-day review deadline expires<sup>20</sup>.

### 4.4.5 Expiration, cancellation, withdrawal or reversal of a TUE

**4.4.5.1** A TUE granted pursuant to this anti-doping policy: (a) shall expire automatically at the end of any term for which it was granted, without the need for any further notice or other formality; (b) may be cancelled if the Athlete does not promptly comply with any requirements or conditions imposed by the TUE Committee upon grant of the TUE; (c) may be withdrawn by the TUE Committee if it is subsequently determined that the criteria for grant of a TUE are not in fact met; or (d) may be reversed on review by WADA or on appeal.

**4.4.5.2** In such event, the Athlete shall not be subject to any Consequences based on his/her

<sup>19</sup> Comment to Article 4.4.4.1: Further to Articles 5.6 and 7.1(a) of the *International Standard for Therapeutic Use Exemptions*, the FIA may publish notice on its website that it will automatically recognise TUE decisions (or categories of such decisions, for example, as to particular substances or methods) made by a national TUE Committee. If an Athlete's TUE falls into a category of automatically recognised TUEs, then he/she does not need to apply to the FIA for recognition of that TUE.

If the FIA refuses to recognise a TUE granted by ASDMAC only because medical records or other information are missing that are needed to demonstrate satisfaction of the criteria in the *International Standard for Therapeutic Use Exemptions*, the matter should not be referred to WADA. Instead, the file should be completed and re-submitted to the FIA.

<sup>20</sup> Comment to Article 4.4.4.2: The FIA and ASDMAC may agree that ASDMAC will consider TUE applications on behalf of the FIA.



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Use or Possession or Administration of the Prohibited Substance or Prohibited Method in question in accordance with the TUE prior to the effective date of expiry, cancellation, withdrawal or reversal of the TUE. The review pursuant to Article 7.2 of any subsequent Adverse Analytical Finding shall include consideration of whether such finding is consistent with Use of the Prohibited Substance or Prohibited Method prior to that date, in which event no anti-doping rule violation shall be asserted.

### **4.4.6 Reviews and appeals of TUE decisions**

**4.4.6.1** If ASDMAC denies an application for a TUE, the Athlete may appeal exclusively to the national-level appeal body, the TUERC.

**4.4.6.2** WADA shall review any decision by the FIA not to recognise a TUE granted by ASDMAC that is referred to WADA by the Athlete or ASDMAC. In addition, WADA shall review any decision by the FIA to grant a TUE that is referred to WADA by ASDMAC. WADA may review any other TUE decisions at any time, whether upon request by those affected or on its own initiative. If the TUE decision being reviewed meets the criteria set out in the International Standard for Therapeutic Use Exemptions, WADA will not interfere with it. If the TUE decision does not meet those criteria, WADA will reverse it.

**4.4.6.3** Any TUE decision by the FIA (or by ASDMAC where it has agreed to consider the application on behalf of the FIA) that is not reviewed by WADA, or that is reviewed by WADA but is not reversed upon review, may be appealed by the Athlete or ASDMAC exclusively to CAS, in accordance with Article 13<sup>21</sup>.

**4.4.6.4** A decision by WADA to reverse a TUE decision may be appealed by the Athlete, ASDMAC and/or the FIA exclusively to CAS, in accordance with Article 13.

**4.4.6.5** A failure to take action within a reasonable time on a properly submitted application for grant recognition of a TUE or for review of a TUE decision shall be considered a denial of the application.





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### ARTICLE 5 TESTING AND INVESTIGATIONS

#### 5.1 Purpose of *Testing* and investigations

*Testing* and investigations shall only be undertaken for anti-doping purposes. They shall be conducted in conformity with the provisions of the *International Standard for Testing and Investigations* and (where relevant) the requirements of the *ASADA Act*, *ASADA Regulations* and *NAD scheme*, including the Australian Government Investigations Standards.

**5.1.1** All *Athletes* must comply with any request for *Testing* by an *Anti-Doping Organisation* with *Testing* jurisdiction, including *ASADA*. *Testing* shall be undertaken to obtain analytical evidence as to the *Athlete's* compliance (or non-compliance) with the strict *Code* prohibition on the presence / *Use* of a *Prohibited Substance* or *Prohibited Method*.

**5.1.2** Investigations shall be undertaken:

**5.1.2.1** in relation to *Atypical Findings*, *Atypical Passport Findings* and *Adverse Passport Findings*, in accordance with Articles 7.4 and 7.5 respectively, gathering intelligence or evidence (including, in particular, analytical evidence) in order to determine whether an anti-doping rule violation has occurred under Article 2.1 and/or Article 2.2; and

**5.1.2.2** in relation to other indications of potential anti-doping rule violations, in accordance with Articles 7.6 and 7.7, gathering intelligence or evidence (including, in particular, non-analytical evidence) in order to determine whether an anti-doping rule violation has occurred under any of Articles 2.2 to 2.10.

**5.1.3** *ASADA* may obtain, assess and process anti-doping intelligence from all available sources, to inform the development of an effective, intelligent and proportionate test distribution plan, to plan *Target Testing*, and/or to form the basis of an investigation into a possible anti-doping rule violation(s).

**5.1.4** The *DLRA* will refer all information and intelligence relating to all instances of possible anti-doping rule violations under this anti-doping policy to *ASADA* and cooperate with any investigation by *ASADA* as required.

#### 5.2 Authority to conduct *Testing*<sup>22</sup>

**5.2.1** Any *Athlete* may be required to provide a *Sample* at any time and at any place by any *Anti-Doping Organisation* with the *Testing* authority over him or her. Subject to the jurisdictional limitations for *Event Testing* set out in Article 5.3 of the *Code*, *ASADA* shall have *In-Competition* and *Out-of-Competition Testing* authority over all of the *Athletes* falling within the scope of Article 1.3.

**5.2.1.1** The *FIA* shall have *In-Competition* and *Out-of-Competition Testing* authority over all *Athletes* who are subject to its rules, including those who participate in



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*International Events* or who participate in *Events* governed by the rules of the *FIA*, or who are members or license holders of the *FIA* or the *DLRA*, or their member organisations or affiliates.

**5.2.2** For the avoidance of doubt, *ASADA* may require any *Athlete* over whom it has *Testing* authority (including any *Athlete* serving a period of *Ineligibility*) to provide a *Sample* at any time and at any place.

**5.2.3** *WADA* shall have *In-Competition* and *Out-of-Competition Testing* authority as set out in Article 20.7.8 of *the Code*.

**5.2.4** If the *FIA* or *Major Event Organisation* delegates or contracts any part of *Testing* to a *National Anti-Doping Organisation* (directly or through the *DLRA*), that *National Anti-Doping Organisation* may collect additional *Samples* or direct the laboratory to perform additional types of analysis at the *National Anti-Doping Organisation's* expense. If additional *Samples* are collected or additional types of analysis are performed, the *FIA* or *Major Event Organisation* shall be notified.

**5.2.5** Where another *Anti-Doping Organisation* with *Testing* authority over an *Athlete* who is subject to this anti-doping policy conducts *Testing* on that *Athlete*, *ASADA* and the *DLRA* shall recognise such *Testing* in accordance with Article 15, and (where agreed with that other *Anti-Doping Organisation* or otherwise provided in Article 7 of *the Code*) *ASADA* may bring proceedings against the *Athlete* pursuant to this anti-doping policy for any anti-doping rule violation(s) arising in relation to such *Testing*.

### 5.3 Event Testing

**5.3.1** Except as provided in Article 5.3 of *the Code*, only a single organisation should be responsible for initiating and directing *Testing* at *Event Venues* during an *Event Period*. At *International Events*, the collection of *Samples* shall be initiated and directed by the *FIA* (or any other international organisation which is the ruling body for the *Event*). At *National Events*, the collection of *Samples* shall be initiated and directed by *ASADA*. At the request of the ruling body for an *Event*, any *Testing* during the *Event Period* outside of the *Event Venues* shall be coordinated with that ruling body.

**5.3.2** If an *Anti-Doping Organisation* which would otherwise have *Testing* authority but is not responsible for initiating and directing *Testing* at an *Event* desires to conduct *Testing* of *Athletes* at the *Event Venues* during the *Event Period*, the *Anti-Doping Organisation* shall first confer with the ruling body of the *Event* to obtain permission to conduct and coordinate such *Testing*. If the *Anti-Doping Organisation* is not satisfied with the response from the

22 Comment to Article 5.2: Unless the *Athlete* has identified a 60-minute time-slot for *Testing* between the hours of 11pm and 6am, or has otherwise consented to *Testing* during that period, the *Anti-Doping Organisation* will not test an *Athlete* during that period unless it has a serious and specific suspicion that the *Athlete* may be engaged in doping. A challenge to whether the *Anti-Doping Organisation* had sufficient suspicion for *Testing* in that period shall not be a defence to an anti-doping rule violation based on such test or attempted test.



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ruling body of the *Event*, the *Anti-Doping Organisation* may ask WADA for permission to conduct *Testing* and to determine how to coordinate such *Testing*, in accordance with the procedures set out in the *International Standard for Testing and Investigations*. WADA shall not grant approval for such *Testing* before consulting with and informing the ruling body for the *Event*. WADA's decision shall be final and not subject to appeal. Unless otherwise provided in the authorisation to conduct *Testing*, such tests shall be considered *Out-of-Competition* tests. Results management for any such test shall be the responsibility of the *Anti-Doping Organisation* initiating the test unless provided otherwise in the rules of the ruling body of the *Event*. For the avoidance of doubt, where the *Anti-Doping Organisation* initiating the test is the DLRA, Article 7.1.1 shall apply.

### 5.4 Athlete whereabouts information

**5.4.1** All *Athletes* identified for inclusion in a *Registered Testing Pool* must provide accurate whereabouts information to the relevant *Anti-Doping Organisation/s* in accordance with the *Code* and *International Standards*, the *NAD scheme*, the *FIA Anti-Doping Regulations*, this anti-doping policy, and any ASADA *Athlete* whereabouts policy approved from time to time, and to keep this information updated at all times.

**5.4.1.1** Where the *Athlete* is in ASADA's *Registered Testing Pool*, the *Athlete* must provide whereabouts information in accordance with the requirements in the *Code*, *International Standard for Testing and Investigation*, *NAD scheme* and any *Athlete* whereabouts policy approved by ASADA from time to time.

**5.4.2** ASADA shall make available, through ADAMS or another system approved by WADA, a list which identifies those *Athletes* included in its *Registered Testing Pool* by name. ASADA shall coordinate with the *FIA* the identification of such *Athletes* and the collection of their whereabouts information. Where an *Athlete* is included in both the *FIA's* and ASADA's *Registered Testing Pool*, ASADA and the *FIA* shall agree between themselves which of them shall accept that *Athlete's* whereabouts filings; in no case shall an *Athlete* be required to make whereabouts filings to more than one of them. ASADA shall review and update as necessary its criteria for including *Athletes* in its *Registered Testing Pool*, and shall revise the membership of its *Registered Testing Pool* from time to time as appropriate in accordance with those criteria. *Athletes* shall be notified before they are included in a *Registered Testing Pool* and when they are removed from that pool.

**5.4.3** For purposes of Article 2.4, an *Athlete's* failure to comply with the requirements of the *International Standard for Testing and Investigations* or any *Athlete* whereabouts policy approved by ASADA from time to time shall be deemed a filing failure or a missed test (as defined in the *International Standard for Testing and Investigations* or any *Athlete* whereabouts policy approved by ASADA from time to time) where the conditions set forth in the *International Standard for Testing and Investigations* (or any *Athlete* whereabouts policy approved by ASADA from time to time) for declaring a filing failure or missed test are met.



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Three of these filing failures in a 12-month period will constitute a possible anti-doping rule violation.

**5.4.4** An *Athlete* who has been designated for inclusion in ASADA's *Registered Testing Pool* will continue to be subject to the requirements set out in the *International Standard for Testing and Investigations* or any *Athlete* whereabouts policy approved by ASADA from time to time unless and until:

**5.4.4 (a)** he or she retires from *Competition* in accordance with Article 5.4.5;

**5.4.4 (b)** he or she has been given written notice by ASADA that they are no longer in ASADA's *Registered Testing Pool*.

**5.4.5** An *Athlete* who is in ASADA's *Registered Testing Pool* who wants to retire from *Competition* must do so by submitting to ASADA a completed 'RETIREMENT NOTIFICATION FORM' available at [www.asada.gov.au](http://www.asada.gov.au). An *Athlete's* retirement date will be the date on which ASADA receives the fully completed form.

**5.4.5.1** Upon receipt of a notification in accordance with Article 5.45, ASADA will, as soon as reasonably practicable, provide the *Athlete* and the DLRA with a written confirmation of the *Athlete's* retirement.

**5.4.6** Retirement does not:

**5.4.6 (a)** excuse the *Athlete* from giving a *Sample* requested on or before their retirement date, or a *Sample* required as part of an investigation commenced prior to their retirement date;

**5.4.6 (b)** excuse the *Athlete* from assisting, cooperating and liaising with ASADA and other *Anti-Doping Organisations* in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation;

**5.4.6 (c)** prevent the analysis of a *Sample* given by the *Athlete* on or before their retirement date;

**5.4.6 (d)** affect the results of *Testing* under 5.6.6(a) or 5.6.6(b).

**5.4.6 (e)** affect the operation of Article 1.3.1.5.

**5.4.7** An *Athlete* who wants to retire from the *Registered Testing Pool* of the FIA must follow the FIA's retirement procedures.

**5.4.8** Whereabouts information relating to an *Athlete* shall be shared with WADA and other *Anti-Doping Organisations* having authority to test that *Athlete*, shall be maintained in strict confidence at all times, shall be used exclusively for the purposes set out in Article 5.6 of the *Code*, and shall be destroyed in accordance with the *International Standard for the*



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*Protection of Privacy and Personal Information, the Australian Privacy Principles and the Archives Act 1983 (Cth) once it is no longer relevant for these purposes.*

### **5.5 Retired Athletes returning to Competition**

**5.5.1** If an *International-Level* or *National-Level Athlete* in a *Registered Testing Pool* retires and then wishes to return to active participation in sport, the *Athlete* shall not compete in *International Events* or *National Events* until the *Athlete* has made himself or herself available for *Testing*, by giving six months prior written notice to the *FIA*, where applicable, and *ASADA*. *WADA*, in consultation with the *FIA* and *ASADA*, may grant an exemption to the six-month written notice rule where the strict application of that rule would be manifestly unfair to an *Athlete*. This decision may be appealed under Article 13. Any competitive results obtained in violation of this Article 5.5.1 shall be *Disqualified*.

**5.5.2** If an *Athlete* retires from sport while subject to a period of *Ineligibility* the *Athlete* shall not resume competing in *International Events* or *National Events* until the *Athlete* has given six months prior written notice (or notice equivalent to the period of *Ineligibility* remaining as of the date the *Athlete* retired, if that period was longer than six months) to *ASADA* and to the *FIA*, where applicable, of his/her intent to resume competing and has made him/herself available for *Testing* for that notice period, including (if requested) complying with the whereabouts requirements of Annex I to the *International Standard for Testing and Investigations*.



## **ARTICLE 6 ANALYSIS OF SAMPLES**

*Samples* shall be analysed in accordance with the following principles.

### **6.1 Use of accredited and approved laboratories<sup>23</sup>**

For purposes of Article 2.1, *Samples* shall be analysed only in laboratories accredited or otherwise approved by WADA. The choice of the WADA-accredited or WADA-approved laboratory used for the *Sample* analysis shall be determined exclusively by the *Anti-Doping Organisation* responsible for results management.

### **6.2 Purpose of analysis of *Samples*<sup>24</sup>**

**6.2.1** *Samples* shall be analysed to detect *Prohibited Substances* and *Prohibited Methods* and other substances as may be directed by WADA pursuant to the monitoring program described in Article 4.5 of the *Code*; or to assist in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling; or for any other legitimate anti-doping purpose. *Samples* may be collected and stored for future analysis.

**6.2.2** An *Anti-Doping Organisation* shall ask laboratories to analyse *Samples* in conformity with Article 6.4 of the *Code* and Article 4.7 of the *International Standard for Testing and Investigations*.

### **6.3 Research on *Samples***

No *Sample* may be used for research without the *Athlete's* written consent. *Samples* used for purposes other than Article 6.2 shall have any means of identification removed such that they cannot be traced back to a particular *Athlete*.

### **6.4 Standards for *Sample* analysis and reporting<sup>25</sup>**

Laboratories shall analyse *Samples* and report results in conformity with the *International Standard for Laboratories*. To ensure effective *Testing*, the Technical Document referenced at Article 5.4.1 of the *Code* will establish risk assessment-based *Sample* analysis menus appropriate for particular sports and sport disciplines, and laboratories shall analyse *Samples* in conformity with those menus, except as follows:

**6.4.1** An *Anti-Doping Organisation* may request that laboratories analyse its *Samples* using

23 Comment to Article 6.1: Violations of Article 2.1 may be established only by *Sample* analysis performed by a laboratory accredited or otherwise approved by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.

24 Comment to Article 6.2: For example, relevant profile information could be used to direct *Target Testing* or to support an anti-doping rule violation proceeding under Article 2.2, or both.

25 Comment to Article 6.4: The objective of this Article is to extend the principle of 'intelligent *Testing*' to the *Sample* analysis menu so as to most effectively and efficiently detect doping. It is recognised that the resources available to fight doping are limited and that increasing the *Sample* analysis menu may, in some sports and countries, reduce the number of *Samples* which can be analysed.



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more extensive menus than those described in the Technical Document.

**6.4.2** *Anti-Doping Organisations* may request that laboratories analyse its *Samples* using less extensive menus than those described in the Technical Document only if they have satisfied WADA that, because of the particular circumstances of its country or of the sport in question, as set out in their test distribution plan, less extensive analysis would be appropriate.

**6.4.3** As provided in the *International Standard for Laboratories*, laboratories at their own initiative and expense may analyse *Samples* for *Prohibited Substances* or *Prohibited Methods* not included on the *Sample* analysis menu described in the Technical Document or specified by the *Testing* authority. Results from any such analysis shall be reported and have the same validity and consequence as any other analytical result.

### 6.5 Further analysis of samples

Any *Sample* may be subject to further analysis by the *Anti-Doping Organisation* responsible for results management at any time before both the *A* and *B Sample* analytical results (or *A Sample* result where *B Sample* analysis has been waived or will not be performed) have been communicated by the *Anti-Doping Organisation* to the *Athlete* as the asserted basis for an Article 2.1 anti-doping rule violation.

*Samples* may be stored and subjected to further analyses for the purpose of Article 6.2 at any time exclusively at the direction of the *Anti-Doping Organisation* that initiated and directed *Sample* collection or WADA. (Any *Sample* storage or further analysis initiated by WADA shall be at WADA's expense.) Further analysis of *Samples* shall conform with the requirements of the *International Standard for Laboratories* and the *International Standard for Testing and Investigations*.

## ARTICLE 6A NON-ANALYTICAL INVESTIGATION PROCESS

### 6A.1 Obligation on Persons

When the *DLRA* or any *Person* bound by this anti-doping policy has information relevant to a possible anti-doping rule violation, that *Person* must immediately pass such information to ASADA.

**6A.1.1** The *DLRA* or the *Person* must act in a discreet and confidential manner in discharging their obligations under this anti-doping policy. The deliberate or wilful withholding of information relevant to a potential anti-doping rule violation by an *Athlete* or other *Person* may constitute an anti-doping rule violation or a breach to be dealt with under the *DLRA* Code of Conduct (where applicable).

### 6A.2 Roles and responsibilities of other parties



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Where an investigation is required to determine whether an anti-doping rule violation may have occurred under this anti-doping policy, unless otherwise agreed between ASADA and the DLRA, ASADA will conduct the investigation.

**6A.2.1** Where ASADA believes it is appropriate to do so, ASADA may, in its discretion, advise the DLRA of an ASADA investigation. ASADA may also consult affected or interested parties about their participation in any investigation.

**6A.2.2** Where ASADA does agree to the DLRA commencing its own investigation, the DLRA must do so in coordination with any investigation being undertaken by ASADA and seek ASADA's input into such investigation undertaken by the DLRA;

**6A.2.3** All *Persons* bound by this anti-doping policy and the DLRA must assist, cooperate, and liaise with ASADA in relation to any investigation into a potential anti-doping rule violation (or the DLRA where it has approval by ASADA to conduct its own investigation or be involved in an ASADA investigation). Specifically, all *Persons* must cooperate with and assist ASADA (or the DLRA where relevant), including by:

- (a) attending an interview to fully and truthfully answer questions;
- (b) giving information; and
- (c) producing documents or things,

in an *investigation* being conducted by ASADA (or the DLRA where relevant), even if to do so might tend to incriminate them or expose them to a penalty, sanction or other disciplinary measure.

For the avoidance of doubt, the common law privileges against self-incrimination and self-exposure to a penalty are abrogated by this article.





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### ARTICLE 7 RESULTS MANAGEMENT

#### 7.1 Responsibility for conducting results management

**7.1.1** ASADA shall take responsibility for results management of all potential anti-doping rule violations under this anti-doping policy in accordance with Article 7 of the *Code*, the *ASADA Act*, the *ASADA Regulations*, and the *NAD scheme* as in force from time to time. This includes any matters referred to the *DLRA* by other *Anti-Doping Organisations* for results management.

**7.1.2** Where ASADA elects to collect additional *Samples* in the circumstances set out in Article 5.2.4, then it shall be considered the *Anti-Doping Organisation* that initiated and directed *Sample* collection and will have results management responsibility. However, where ASADA only directs the laboratory to perform additional types of analysis at ASADA's expense, then the *FIA* or *Major Event Organisation* shall be considered the *Anti-Doping Organisation* that initiated and directed *Sample* collection and will have results management responsibility.

**7.1.3** If a dispute arises between *Anti-Doping Organisations* over which of them has results management responsibility, *WADA* shall decide which *Anti-Doping Organisation* has such responsibility. *WADA's* decision may be appealed to *CAS* within seven days of notification of the *WADA* decision by any of the *Anti-Doping Organisations* involved in the dispute. The appeal shall be dealt with by *CAS* in an expedited manner and shall be heard before a single arbitrator.

#### 7.2 Review regarding *Adverse Analytical Findings*

Results management in respect of the results of tests initiated by an *Anti-Doping Organisation* shall proceed as follows:

**7.2.1** Upon receipt of an *Adverse Analytical Finding*, ASADA shall conduct a review to determine whether:

- (a) an applicable *TUE* has been granted or will be granted as provided in the *International Standard for Therapeutic Use Exemptions*, or
- (b) there is any apparent departure from the *International Standard for Testing and Investigations* or *International Standard for Laboratories* that caused the *Adverse Analytical Finding*.

**7.2.2** If the review of an *Adverse Analytical Finding* under Article 7.2.1 reveals an applicable *TUE* or departure from the *International Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Adverse Analytical Finding*, the entire test shall be considered negative. ASADA will inform, in accordance with the *Code* and the *NAD scheme*, the *Athlete*, the *FIA*, the *DLRA* and *WADA*.



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### 7.3 Notification after review regarding *Adverse Analytical Findings*

**7.3.1** If the review of an *Adverse Analytical Finding* under Article 7.2.1 does not reveal an applicable *TUE* or entitlement to a *TUE* as provided in the *International Standard for Therapeutic Use Exemptions*, or departure from the *International Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Adverse Analytical Finding*, ASADA shall promptly notify the *Athlete*, and simultaneously the *FIA*, the *DLRA* and *WADA* in the manner set out in Article 14.1, of:

- (a) the *Adverse Analytical Finding*;
- (b) the anti-doping rule violated;
- (c) the *Athlete's* right to request the analysis of the *B Sample* or, failing such request by the specified deadline, that the *B Sample* analysis may be deemed waived;
- (d) the scheduled date, time and place for the *B Sample* analysis if the *Athlete* or ASADA chooses to request an analysis of the *B Sample*;
- (e) the opportunity for the *Athlete* and/or the *Athlete's* representative to attend the *B Sample* opening and analysis in accordance with the *International Standard for Laboratories*; and
- (f) the *Athlete's* right to request copies of the *A* and *B Sample* laboratory documentation package which includes information as required by the *International Standard for Laboratories*.

If ASADA decides not to bring forward the *Adverse Analytical Finding* as an anti-doping rule violation, it will notify the *Athlete*, the *FIA*, the *DLRA* and *WADA*.

In all cases where an *Athlete* has been notified of an asserted anti-doping rule violation that does not result in a mandatory *Provisional Suspension* under Article 7.9.1, the *Athlete* shall be offered the opportunity to accept a *Provisional Suspension* pending the resolution of the matter.

**7.3.2** Where requested by the *Athlete* or ASADA (or another *Anti-Doping Organisation*) arrangements shall be made to analyse the *B Sample* in accordance with the *International Standard for Laboratories*. An *Athlete* may accept the *A Sample* analytical results by waiving the requirement for *B Sample* analysis. ASADA may nonetheless elect to proceed with the *B Sample* analysis even where the *Athlete* has waived this requirement.

**7.3.3** The *Athlete* and/or his representative shall be allowed to be present at the analysis of the *B Sample*. Also, a representative of ASADA shall be allowed to be present.



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**7.3.4** If the *B Sample* analysis does not confirm the *A Sample* analysis, then (unless ASADA takes the case forward as an anti-doping rule violation under Article 2.2) the entire test shall be considered negative and the *Athlete*, the *FIA*, the *DLRA* and *WADA* shall be so informed.

**7.3.5** If the *B Sample* analysis confirms the *A Sample* analysis, the findings shall be reported to the *Athlete*, the *FIA*, the *DLRA*, and *WADA* in accordance with the *Code* and the *NAD scheme*.

### **7.4 Review of Atypical Findings**

**7.4.1** As provided in the *International Standard for Laboratories*, in some circumstances laboratories are directed to report the presence of *Prohibited Substances*, which may also be produced endogenously, as *Atypical Findings*; that is, as findings that are subject to further investigation.

**7.4.2** Upon receipt of an *Atypical Finding*, ASADA shall conduct a review to determine whether:

(a) an applicable *TUE* has been granted or will be granted as provided in the *International Standard for Therapeutic Use Exemptions*, or

(b) there is any apparent departure from the *International Standard for Testing and Investigations* or *International Standard for Laboratories* that caused the *Atypical Finding*.

**7.4.3** If the review of an *Atypical Finding* under Article 7.4.2 reveals an applicable *TUE* or a departure from the *International Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Atypical Finding*, the entire test shall be considered negative and the *Athlete*, the *FIA*, the *DLRA* and *WADA* shall be so informed in accordance with the *Code* and the *NAD scheme*.

**7.4.4** If that review does not reveal an applicable *TUE* or a departure from the *International Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Atypical Finding*, ASADA shall conduct the required investigation or cause it to be conducted. After the investigation is completed, either the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding*, in accordance with the *Code* and the *NAD scheme* and this anti-doping policy, or else the *Athlete*, the *FIA*, the *DLRA* and *WADA* shall be notified that the *Atypical Finding* will not be brought forward as an *Adverse Analytical Finding*.

**7.4.5** ASADA will not provide notice of an *Atypical Finding* until it has completed its investigation and has decided whether it will bring the *Atypical Finding* forward as an *Adverse Analytical Finding* unless one of the following circumstances exists:

**7.4.5.1** If ASADA determines the *B Sample* should be analysed prior to the conclusion of its investigation, it may conduct the *B Sample* analysis after notifying the *Athlete*, with such



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notice to include a description of the *Atypical Finding* and the information described in Article 7.3.1(d) – (f).

**7.4.5.2** If ASADA is asked;

(a) by a *Major Event Organisation* shortly before one of its *International Events*, or

(b) by a sport organisation responsible for meeting an imminent deadline for selecting team members for an *International Event*, to disclose whether any *Athlete* identified on a list provided by the *Major Event Organisation* or sport organisation has a pending *Atypical Finding*, ASADA shall so advise the *Major Event Organisation* or sports organisation after first providing notice of the *Atypical Finding* to the *Athlete*.

### **7.5 Review of Atypical Passport Findings and Adverse Passport Findings**

Review of *Atypical Passport Findings* and *Adverse Passport Findings* shall take place as provided in the *International Standard for Testing and Investigations* and *International Standard for Laboratories*. At such time as ASADA is satisfied that an anti-doping rule violation has occurred, it shall promptly give the *Athlete* (and simultaneously, the *FIA*, the *DLRA* and *WADA*) notice of the anti-doping rule violation asserted and the basis of that assertion.

### **7.6 Review of whereabouts failures**

ASADA shall review potential filing failures and missed tests (as defined in the *International Standard for Testing and Investigations* and any *Athlete* whereabouts policy approved by ASADA from time to time) in respect of *Athletes* who file their whereabouts information with ASADA, in accordance with Annex I to the *International Standard for Testing and Investigations*. At such time as ASADA is satisfied that an Article 2.4 anti-doping rule violation has occurred, it shall promptly give the *Athlete* (and simultaneously, the *FIA*, the *DLRA*, and *WADA*) notice that it is asserting a violation of Article 2.4 and the basis of that assertion.

### **7.7 Review of other anti-doping rule violations not covered by Articles 7.2 to 7.6**

ASADA shall conduct any follow-up investigation required into a possible anti-doping rule violation not covered by Articles 7.2 to 7.6. At such time as ASADA is satisfied that an anti-doping rule violation has occurred and ASADA has completed all necessary steps as required by the *NAD scheme*, it shall promptly give the *Athlete* or other *Person* (and simultaneously the *FIA*, the *DLRA*, and *WADA*) notice of the anti-doping rule violation asserted, and the basis of that assertion.

### **7.8 Identification of prior anti-doping rule violations**

Before giving an *Athlete* or other *Person* notice of an asserted anti-doping rule violation, ASADA shall refer to its own records as well as *ADAMS*, and contact *WADA* and other relevant *Anti-Doping Organisations* to determine whether any prior anti-doping rule violation exists.

### **7.9 Provisional Suspensions<sup>26</sup>**



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**7.9.1 Mandatory Provisional Suspension:** If analysis of an *A Sample* has resulted in an *Adverse Analytical Finding* for a *Prohibited Substance* that is not a *Specified Substance*, or for a *Prohibited Method*, and a review in accordance with Article 7.2.2 does not reveal an applicable *TUE* or departure from the *International Standard for Testing and Investigations* or the *International Standard for Laboratories* that caused the *Adverse Analytical Finding*, a *Provisional Suspension* shall be imposed by the *DLRA* upon, or promptly after, the notification described in Articles 7.2, 7.3 or 7.5.

**7.9.2 Optional Provisional Suspension:** In the case of an *Adverse Analytical Finding* for a *Specified Substance*, or in the case of any other anti-doping rule violations not covered by Article 7.9.1, the *DLRA* may impose a *Provisional Suspension* on the *Athlete* or other *Person* against whom the anti-doping rule violation is asserted at any time after the review and notification described in Articles 7.2 to 7.7 and prior to the final hearing as described in Article 8.

**7.9.3** Where a *Provisional Suspension* is imposed pursuant to Article 7.9.1 or Article 7.9.2, the *Athlete* or other *Person* shall be given either:

(a) an opportunity for a *Provisional Hearing* either before or on a timely basis after imposition of the *Provisional Suspension*; or

(b) an opportunity for an expedited final hearing in accordance with Article 8 on a timely basis after imposition of the *Provisional Suspension*. Furthermore, the *Athlete* or other *Person* has a right to appeal the *Provisional Suspension* in accordance with Article 13.2 (except as set out in Article 7.9.3.1).

**7.9.3.1** The *Provisional Suspension* may be lifted if the *Athlete* demonstrates to the hearing panel that the violation is likely to have involved a *Contaminated Product*. A hearing panel's decision not to lift a mandatory *Provisional Suspension* on account of the *Athlete's* assertion regarding a *Contaminated Product* shall not be appealable.

**7.9.3.2** The *Provisional Suspension* shall be imposed (or shall not be lifted) unless the *Athlete* or other *Person* establishes at a *Provisional Hearing* that:

(a) the assertion of an anti-doping rule violation has no reasonable prospect of being upheld, for example, because of a patent flaw in the case against the *Athlete* or other *Person*;

(b) the *Athlete* or other *Person* has a strong arguable case that he/she bears *No Fault or Negligence* for the anti-doping rule violation(s) asserted, so that any period of *Ineligibility* that might otherwise be imposed for such a violation is likely to be completely eliminated by application of Article 10.4; or

(c) some other facts exist that make it clearly unfair, in all of the circumstances, to impose a *Provisional Suspension* prior to a final hearing in accordance with Article 8.



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This ground is to be construed narrowly, and applied only in truly exceptional circumstances. For example, the fact that the *Provisional Suspension* would prevent the *Athlete* or other *Person* participating in a particular *Competition* or *Event* shall not qualify as exceptional circumstances for these purposes.

**7.9.4** If a *Provisional Suspension* is imposed based on an *A Sample Adverse Analytical Finding* and subsequent analysis of the *B Sample* does not confirm the *A Sample* analysis, then the *Athlete* shall not be subject to any further *Provisional Suspension* on account of a violation of Article 2.1. In circumstances where the *Athlete* (or the *Athlete's* team) has been removed from a *Competition* based on a violation of Article 2.1 and the subsequent *B Sample* analysis does not confirm the *A Sample* finding, then if it is still possible for the *Athlete* or team to be reinstated without otherwise affecting the *Competition*, the *Athlete* or team may continue to take part in the *Competition*. In addition, the *Athlete* or team may thereafter take part in other *Competitions* in the same *Event*.

**7.9.5** In all cases where an *Athlete* or other *Person* has been notified of an asserted anti-doping rule violation but a *Provisional Suspension* has not been imposed on him or her, the *Athlete* or other *Person* shall be offered the opportunity to accept a *Provisional Suspension* voluntarily pending the resolution of the matter.

### 7.9A Infraction notices

Once the *ADRVP* makes an assertion of a possible anti-doping rule violation in accordance with the *ASADA Act* and *NAD scheme*, unless otherwise agreed in writing between *ASADA* and the *DLRA*, *ASADA* will:

**7.9A.1** notify the *Athlete* or *Athlete Support Person*, the *DLRA*, the *FIA*, *WADA*, and relevant *Anti-Doping Organisations* of the assertion;

**7.9A.2** issue the *Athlete* or *Athlete Support Person* with an infraction notice under this Article. The infraction notice will:

**7.9A.2(a)** notify the *Person* of the asserted anti-doping rule violations under this anti-doping policy and the basis for the violation;

**7.9A.2(b)** state that the *Person* has a right to a hearing in relation to the asserted anti-doping rule violation/s;

**7.9A.2(c)** state that in the event the *Person* elects to have a hearing, the *Person* must file their application (however described) for a hearing with the *CAS* or other hearing body recognised or approved by *ASADA* within 14 days of receipt of the infraction notice;

**7.9A.2(d)** state that if the *Person* does not respond within 14 days of receipt of the infraction notice, or files an application for a hearing in *CAS* after the end of the 14



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days referred to in Article 7.9A.2(c), they will be deemed to have waived their right to a hearing and the *DLRA*, in consultation with *ASADA* and other relevant parties, where applicable, may apply a sanction in accordance with Article 10;

**7.9A.2(e)** be provided to the *Athlete* or *Athlete Support Person*, the *DLRA*, the *FIA*, *WADA*, and relevant *Anti-Doping Organisation* in accordance with the *Code*.

Note: *Athletes* and other *Persons* are responsible for keeping their contact details up to date with the *DLRA*. Delivery to the last known address is sufficient in circumstances where the current whereabouts of the *Person* are not known. In addition, members of the *DLRA* should refer to Article 14.1.1.

### 7.10 Resolution without a hearing

**7.10.1** An *Athlete* or other *Person* against whom an anti-doping rule violation is asserted may admit that violation at any time, waive a hearing, and accept the *Consequences* that are mandated by this anti-doping policy or (where some discretion as to *Consequences* exists under this anti-doping policy) that have been offered by *ASADA* or the *DLRA*.

**7.10.2** Alternatively, if the *Athlete* or other *Person* against whom an anti-doping rule violation is asserted fails to dispute that assertion within the deadline specified in the Infraction Notice sent by *ASADA* asserting the violation, then he/she shall be deemed to have admitted the violation, to have waived a hearing, and to have accepted the *Consequences* that are mandated by this anti-doping policy or (where some discretion as to *Consequences* exists under this anti-doping policy) that have been offered by *ASADA* or the *DLRA*.

**7.10.3** In cases where Article 7.10.1 or Article 7.10.2 applies, a hearing before a hearing panel shall not be required. Instead the *DLRA*, in consultation with *ASADA*, shall promptly issue a written decision confirming the commission of the anti-doping rule violation(s) and the *Consequences* imposed as a result, and setting out the reasons for any period of *Ineligibility* imposed, including (if applicable) a justification for why the maximum potential period of *Ineligibility* was not imposed. The *DLRA* shall send copies of that decision to other *Anti-Doping Organisations* with a right to appeal under Article 13.2.3, and shall *Publicly Disclose* that decision in accordance with Article 14.3.2.

### 7.11 Notification of results management decisions

In all cases where *ASADA* or the *DLRA* (where relevant) has asserted the commission of an anti-doping rule violation, withdrawn the assertion of an anti-doping rule violation, imposed a *Provisional Suspension*, or agreed with an *Athlete* or other *Person* on the imposition of *Consequences* without a hearing, *ASADA* or the *DLRA* (where relevant) shall give notice thereof in accordance with Article 14.2.1 to other *Anti-Doping Organisations* with a right to appeal under Article 13.2.3.

### 7.12 Retirement from sport <sup>27</sup>



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If an *Athlete* or other *Person* retires while ASADA (or another *Anti-Doping Organisation*) is conducting the results management process, ASADA (or the other *Anti-Doping Organisation*) retains jurisdiction to complete its results management and hearing and appeals process. If an *Athlete* or other *Person* retires before any results management process has begun, and ASADA or another *Anti-Doping Organisation* would have had results management authority over the *Athlete* or other *Person* at the time the *Athlete* or other *Person* committed an anti-doping rule violation, ASADA or another *Anti-Doping Organisation* has authority to conduct results management in respect of that anti-doping rule violation.





## **ARTICLE 8 RIGHT TO A FAIR HEARING**

### **8.1 Fair hearings**

Any *Person* who is asserted to have committed an anti-doping rule violation under this anti-doping policy is entitled to a hearing process. Such hearing process shall address whether an anti-doping rule violation was committed and, if so, the appropriate *Consequences*. All hearings conducted pursuant to this Article 8 will respect the following principles:

- 8.1.1** a timely hearing;
- 8.1.2** a fair and impartial hearing body;
- 8.1.3** the right to representation at the *Person's* own expense; and
- 8.1.4** a timely, written, reasoned decision.

Subject to these principles, the hearing will be conducted in the manner that the hearing body determines is appropriate, with as little formality and technicality, and as quickly as proper consideration of the issues permit.

### **8.2 Event hearings**

Hearings held in connection with *Events* may be conducted by an expedited process as permitted by the rules of the relevant *Anti-Doping Organisation* and the hearing panel.

### **8.3 Waiver of hearing**

The right to a hearing may be waived either expressly or by the *Athlete's* or other *Person's* failure to challenge ASADA's assertion that an anti-doping rule violation has occurred within the specific time period provided in the infraction notice issued under Article 7.9A.

### **8.4 Establishment of hearings**

**8.4.1** The Article 8 hearing body for the purposes of this anti-doping policy at first instance is CAS or a hearing body recognised or approved in writing by ASADA on a case-by-case basis. Any appeal from a first-instance decision will be heard by CAS.

**8.4.2** Should a *Person* elect to have a hearing in accordance with Article 8 or Article 7.9.3, the *Person* will be responsible for filing their application for a hearing with CAS, and paying any applicable CAS fees.

**8.4.3** ASADA and the DLRA are both entitled to present evidence, file submissions, cross-examine witnesses and do any other thing necessary for the enforcement of this anti-doping policy at any hearing under this Article. Unless otherwise agreed in writing between ASADA and the DLRA, ASADA will take the lead in presenting the matter in any hearing.



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**8.4.4** Each party shall bear in equal proportions any upfront fee of CAS (excluding the initial CAS application fee which shall be borne by the party applying). Should it be found that no anti-doping rule violation has been committed, ASADA shall reimburse the *Athlete* or other *Person* their application fee and their portion of the upfront fee. Each party shall otherwise bear their own costs.

### **8.5 Right to attend hearings**

The *FIA*, *WADA* and, where applicable, the Australian Sports Commission and relevant State Institutes of Sport/State Academies of Sport, shall have the right to attend hearings as an observer or an interested or affected party.

It shall be the duty of ASADA to inform those relevant parties of such right to attend as an observer or interested/affected party as applicable. If those parties fail to respond to such notification within 14 days, they shall be taken to have waived their right to so participate.

### **8.6 CAS determination**

**8.6.1** CAS will determine:

- (a) if the *Person* has committed a violation of this anti-doping policy;
- (b) if so, what *Consequences* will apply (including the start date for any period of *Ineligibility*); and
- (c) any other issues such as, but not limited to, reimbursement of funding provided to the *Athlete* or other *Person* by a sport organisation.

**8.6.2** *Consequences* will be in accordance with Article 10.

### **8.7 Public disclosure of hearing outcomes**

ASADA and the DLRA shall report the outcome of all anti-doping rule violations in accordance with the *Code*, the *ASADA Act* and the *NAD scheme*, and this anti-doping policy, as in force from time to time.

### **8.8 Appeals and review**

Decisions by CAS at first instance may be appealed as provided in Article 13.

### **8.9 Use of information arising during hearings**

If, during a hearing, a party to the hearing process implicates a third party in a potential anti-doping rule violation, then ASADA (or any other *Anti-Doping Organisation*) may use any such information that arises as a result of the CAS process without having to first seek the permission of CAS or the parties. This clause overrides R43 and R59 of the CAS Code of Sports-related Arbitration to the extent of any inconsistency.



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### ARTICLE 9 AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS<sup>28</sup>

An anti-doping rule violation in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the result obtained in that *Competition* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.

<sup>28</sup> Comment to Article 9: For *Team Sports*, any awards received by individual players will be *Disqualified*. However, *Disqualification* of the team will be as provided in Article 11. In sports which are not *Team Sports* but where awards are given to teams, *Disqualification* or other disciplinary action against the team when one or more team members have committed an anti-doping rule violation shall be as provided in the applicable rules of the *FIA*.



## ARTICLE 10 SANCTIONS ON INDIVIDUALS<sup>29</sup>

### 10.1 Disqualification of results in the Event during which an anti-doping rule violation occurs<sup>30</sup>

An anti-doping rule violation occurring during, or in connection with, an Event may, upon the decision of the ruling body of the Event, lead to Disqualification of all of the Athlete's individual results obtained in that Event with all Consequences, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1.

Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the seriousness of the Athlete's anti-doping rule violation and whether the Athlete tested negative in the other Competitions.

**10.1.1** If the Athlete establishes that he or she bears No Fault or Negligence for the violation, the Athlete's individual results in the other Competitions shall not be Disqualified, unless the Athlete's results in Competitions other than the Competition in which the anti-doping rule violation occurred were likely to have been affected by the Athlete's anti-doping rule violation.

### 10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6:

**10.2.1** The period of Ineligibility shall be four years where:

**10.2.1.1** The anti-doping rule violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not

**10.2.1.2** The anti-doping rule violation involves a Specified Substance and ASADA can establish that the anti-doping rule violation was intentional.

29 Comment to Article 10: Harmonisation of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonisation means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonisation of sanctions are based on differences between sports including, for example, the following: in some sports the *Athletes* are professionals making a sizable income from the sport and in others the *Athletes* are true amateurs; in those sports where an *Athlete's* career is short, a standard period of *Ineligibility* has a much more significant effect on the *Athlete* than in sports where careers are traditionally much longer. A primary argument in favour of harmonisation is that it is simply not right that two *Athletes* from the same country who test positive for the same *Prohibited Substance* under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organisations to be more lenient with dopers. The lack of harmonisation of sanctions has also frequently been the source of jurisdictional conflicts between international federations and *National Anti-Doping Organisations*.

30 Comment to Article 10.1: Whereas Article 9 *Disqualifies* the result in a single *Competition* in which the *Athlete* tested positive (for example the 100 metre backstroke), this article may lead to *Disqualification* of all results in all races during the *Event* (for example the FINA World Championships).



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**10.2.2** If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.

**10.2.3** As used in Articles 10.2 and 10.3, the term 'intentional' is meant to identify those Athletes who cheat. The term, therefore, requires that the Athlete or other Person engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not 'intentional' if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered 'intentional' if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.

### 10.3 Ineligibility for other anti-doping rule violations

The period of Ineligibility for anti-doping rule violations other than as provided in Article 10.2 shall be as follows, unless Articles 10.5 or 10.6 are applicable:

**10.3.1** For violations of Article 2.3 or Article 2.5, the period of Ineligibility shall be four years unless, in the case of failing to submit to Sample collection, the Athlete can establish that the commission of the anti-doping rule violation was not intentional (as defined in Article 10.2.3), in which case the period of Ineligibility shall be two years.

**10.3.2** For violations of Article 2.4, the period of Ineligibility shall be two years, subject to reduction down to a minimum of one year, depending on the Athlete's degree of Fault. The flexibility between two years and one year of Ineligibility in this article is not available to Athletes where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the Athlete was trying to avoid being available for Testing.

**10.3.3** For violations of Article 2.7 or 2.8, the period of Ineligibility shall be a minimum of four years up to lifetime Ineligibility, depending on the seriousness of the violation. An Article 2.7 or Article 2.8 violation involving a Minor shall be considered a particularly serious violation and, if committed by Athlete Support Personnel for violations other than for Specified Substances, shall result in lifetime Ineligibility for Athlete Support Personnel. In addition, significant violations of Article 2.7 or 2.8 which may also violate non-sporting laws and regulations shall be reported to the competent administrative, professional or judicial authorities<sup>31</sup>.

<sup>31</sup> Comment to Article 10.3.3: Those who are involved in doping *Athletes* or covering up doping should be subject to sanctions which are more severe than the *Athletes* who test positive. Since the authority of *Sporting Administration Bodies* is generally limited to *Ineligibility* for accreditation, membership and other sport benefits, reporting *Athlete Support Personnel* to competent authorities is an important step in the deterrence of doping.



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**10.3.4** For violations of Article 2.9, the period of Ineligibility imposed shall be a minimum of two years, up to four years, depending on the seriousness of the violation.

**10.3.5** For violations of Article 2.10, the period of Ineligibility shall be two years, subject to reduction down to a minimum of one year, depending on the Athlete or other Person's degree of Fault and other circumstances of the case<sup>32</sup>.

### **10.4 Elimination of the period of Ineligibility where there is No Fault or Negligence<sup>33</sup>**

If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.

### **10.5 Reduction of the period of Ineligibility based on No Significant Fault or Negligence**

**10.5.1** Reduction of sanctions for Specified Substances or Contaminated Products for Violations of Article 2.1, 2.2 or 2.6.

#### **10.5.1.1** Specified Substances

Where the anti-doping rule violation involves a Specified Substance, and the Athlete or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility and, at a maximum, two years of Ineligibility, depending on the Athlete's or other Person's degree of Fault.

#### **10.5.1.2** Contaminated Products

In cases where the Athlete or other Person can establish No Significant Fault or Negligence and the detected Prohibited Substance came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility and, at a maximum, two years' Ineligibility, depending on the Athlete's or other Person's degree of Fault<sup>34</sup>.

#### **10.5.2** Application of No Significant Fault or Negligence beyond the application of Article

32 Comment to Article 10.3.5: Where the 'other Person' referenced in Article 2.10 is an entity and not an individual, that entity may be disciplined as provided in Article 12.

33 Comment to Article 10.4: This article and Article 10.5.2 apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. They will only apply in exceptional circumstances, for example where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, *No Fault or Negligence* would not apply in the following circumstances: (a) a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (*Athletes* are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination); (b) the *Administration of a Prohibited Substance* by the Athlete's Personal physician or trainer without disclosure to the Athlete (*Athletes* are responsible for their choice of medical Personnel and for advising medical Personnel that they cannot be given any *Prohibited Substance*); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (*Athletes* are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Article 10.5 based on *No Significant Fault or Negligence*.

34 Comment to Article 10.5.1.2: In assessing that Athlete's degree of Fault, it would, for example, be favourable for the Athlete if the Athlete had declared the product which was subsequently determined to be contaminated on his or her Doping Control form.



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### 10.5.1

If an *Athlete* or other *Person* establishes in an individual case where Article 10.5.1 is not applicable, that he or she bears *No Significant Fault or Negligence*, then, subject to further reduction or elimination as provided in Article 10.6, the otherwise applicable period of *Ineligibility* may be reduced based on the *Athlete* or other *Person's* degree of *Fault*, but the reduced period of *Ineligibility* may not be less than one-half of the period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this article may be no less than eight years<sup>35</sup>.

### 10.6 Elimination, reduction, or suspension of period of Ineligibility or other Consequences for reasons other than Fault

#### 10.6.1 Substantial Assistance in discovering or establishing anti-doping rule violations<sup>36</sup>.

**10.6.1.1** An Anti-Doping Organisation with results management responsibility for an anti-doping rule violation may, prior to a final appellate decision under Article 13 or the expiration of the time to appeal, suspend a part of the period of *Ineligibility* imposed in an individual case where the *Athlete* or other *Person* has provided Substantial Assistance to an Anti-Doping Organisation, another criminal authority or professional disciplinary body which results in: (a) the Anti-Doping Organisation discovering or bringing forward an anti-doping rule violation by another *Person*, or (b) which results in a criminal or disciplinary body discovering or bringing forward a criminal offence or the breach of professional rules committed by another *Person* and the information provided by the *Person* providing Substantial Assistance is made available to the Anti-Doping Organisation with results management responsibility. After a final appellate decision under Article 13 or the expiration of time to appeal, an Anti-Doping Organisation may only suspend a part of the otherwise applicable period of *Ineligibility* with the approval of WADA and the FIA. The extent to which the otherwise applicable period of *Ineligibility* may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the *Athlete* or other *Person* and the significance of the Substantial Assistance provided by the *Athlete* or other *Person* to the effort to eliminate doping in sport. No more than three-quarters of the otherwise applicable period of *Ineligibility* may be suspended. If the otherwise applicable period of *Ineligibility* is a lifetime, the non-suspended period under this article must be no less than eight years. If the *Athlete* or other *Person* fails to continue to cooperate and to provide the complete and credible Substantial Assistance upon which a suspension of the

<sup>35</sup> Comment to Article 10.5.2: This article may be applied to any anti-doping rule violation except those articles where intent is an element of the anti-doping rule violation (for example Article 2.5, 2.7, 2.8 or 2.9) or an element of a particular sanction (for example Article 10.2.1) or a range of *Ineligibility* is already provided in an article based on the *Athlete* or other *Person's* degree of *Fault*.

<sup>36</sup> Comment to Article 10.6.1: The cooperation of *Athletes*, *Athlete Support Personnel* and other *Persons* who acknowledge their mistakes and are willing to bring other anti-doping rule violations to light is important to clean sport. This is the only circumstance under the *Code* where the suspension of an otherwise applicable period of *Ineligibility* is authorised.



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period of Ineligibility was based, the Anti-Doping Organisation that suspended the period of ineligibility shall reinstate the original period of Ineligibility. If an Anti-Doping Organisation decides to reinstate a suspended period of Ineligibility or decides not to reinstate a suspended period of Ineligibility, that decision may be appealed by any Person entitled to appeal under Article 13.

**10.6.1.2** To further encourage Athletes and other Persons to provide Substantial Assistance to Anti-Doping Organisations, at the request of the Anti-Doping Organisation conducting results management or at the request of the Athlete or other Person who has, or has been asserted to have, committed an anti-doping rule violation, WADA may agree at any stage of the results management process, including after a final appellate decision under Article 13, to what it considers to be an appropriate suspension of the otherwise-applicable period of Ineligibility and other Consequences. In exceptional circumstances, WADA may agree to suspensions of the period of Ineligibility and other Consequences for Substantial Assistance greater than those otherwise provided in this Article, or even no period of Ineligibility, and/or no return of prize money or payment of fines or costs. WADA's approval shall be subject to reinstatement of sanction, as otherwise provided in this Article. Notwithstanding Article 13, WADA's decisions in the context of this article may not be appealed by any other Anti-Doping Organisation.

**10.6.1.3** If any part of an otherwise applicable sanction is suspended because of Substantial Assistance, then notice providing justification for the decision shall be provided to the other Anti-Doping Organisations with a right to appeal under Article 13.2.3 as provided in Article 14.2. In unique circumstances where WADA determines that it would be in the best interest of anti-doping, WADA may authorise an Anti-Doping Organisation to enter into appropriate confidentiality agreements limiting or delaying the disclosure of the Substantial Assistance agreement or the nature of Substantial Assistance being provided.

### **10.6.2 Admission of an anti-doping rule violation in the absence of other evidence**

Where an Athlete or other Person voluntarily admits the commission of an anti-doping rule violation before having received notice of a Sample collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of Ineligibility may be reduced, but not below one-half of the period of Ineligibility

37 Comment to Article 10.6.2: This article is intended to apply when an *Athlete* or other *Person* comes forward and admits to an anti-doping rule violation in circumstances where no *Anti-Doping Organisation* is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the *Athlete* or other *Person* believes he or she is about to be caught. The amount by which *Ineligibility* is reduced should be based on the likelihood that the *Athlete* or other *Person* would have been caught had he/she not come forward voluntarily.





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otherwise applicable<sup>37</sup>.

**10.6.3** Prompt admission of an anti-doping rule violation after being confronted with a violation sanctionable under Article 10.2.1 or Article 10.3.1

An Athlete or other Person potentially subject to a four-year sanction under Article 10.2.1 or 10.3.1 (for evading or refusing Sample Collection or Tampering with Sample Collection), by promptly admitting the asserted anti-doping rule violation after being confronted by ASADA (or another Anti-Doping Organisation), and also upon the approval and at the discretion of both WADA and the Anti-Doping Organisation with results management responsibility, may receive a reduction in the period of Ineligibility down to a minimum of two years, depending on the seriousness of the violation and the Athlete or other Person's degree of Fault.

**10.6.4** Application of multiple grounds for reduction of a sanction

Where an Athlete or other Person establishes entitlement to reduction in sanction under more than one provision of Article 10.4, 10.5 or 10.6, before applying any reduction or suspension under Article 10.6, the otherwise applicable period of Ineligibility shall be determined in accordance with Articles 10.2, 10.3, 10.4 and 10.5. If the Athlete or other Person establishes entitlement to a reduction or suspension of the period of Ineligibility under Article 10.6, then the period of Ineligibility may be reduced or suspended, but not to below one-fourth of the otherwise applicable period of Ineligibility<sup>38</sup>.

### 10.7 Multiple violations

**10.7.1** For an Athlete or other Person's second anti-doping rule violation, the period of Ineligibility shall be the greater of:

- (a) six months;
- (b) one-half of the period of Ineligibility imposed for the first anti-doping rule violation without taking into account any reduction under Article 10.6; or
- (c) twice the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, without taking into account any reduction under Article 10.6.

The period of Ineligibility established may then be further reduced by the application of Article 10.6.

<sup>38</sup> Comment to Article 10.6.4: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel (or the DLRA if the Athlete waives their right to a hearing and admits the anti-doping rule violation/s) determines which of the basic sanctions (Articles 10.2, 10.3, 10.4 or 10.5) apply to the particular anti-doping rule violation. Second, if the basic sanction provides for a range of sanctions, the hearing panel/DLRA must determine the applicable sanction within that range according to the Athlete or other Person's degree of Fault. In a third step, the hearing panel/DLRA establishes whether there is a basis for elimination, suspension, or reduction of the sanction (Article 10.6). Finally, the hearing panel/DLRA decides on the commencement of the period of Ineligibility under Article



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**10.7.2** A third anti-doping rule violation will always result in a lifetime period of Ineligibility, except if the third violation fulfils the condition for elimination or reduction of the period of Ineligibility under Article 10.4 or 10.5, or involves a violation of Article 2.4. In these particular cases, the period of Ineligibility shall be from eight years to lifetime Ineligibility.

**10.7.3** An anti-doping rule violation for which an Athlete or other Person has established No Fault or Negligence shall not be considered a prior violation for purposes of this Article.

**10.7.4** Additional rules for certain potential multiple violations

**10.7.4.1** For purposes of imposing sanctions under Article 10.7, an anti-doping rule violation will only be considered a second violation if the Anti-Doping Organisation can establish that the Athlete or other Person committed the second anti-doping rule violation after the Athlete or other Person received notice pursuant to Article 7, or after the Anti-Doping Organisation made reasonable efforts to give notice, of the first anti-doping rule violation. If the Anti-Doping Organisation cannot establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction.

**10.7.4.2** If, after the imposition of a sanction for a first anti-doping rule violation, an Anti-Doping Organisation discovers facts involving an anti-doping rule violation by the Athlete or other Person which occurred prior to notification regarding the first violation, then the DLRA, in consultation with ASADA, shall impose an additional sanction based on the sanction that could have been imposed if the two violations had been adjudicated at the same time. Results in all Competitions dating back to the earlier anti-doping rule violation will be Disqualified as provided in Article 10.8.

**10.7.5** Multiple anti-doping rule violations during ten-year period

For purposes of Article 10.7, each anti-doping rule violation must take place within the same ten-year period in order to be considered multiple violations.

### **10.8 Disqualification of results in Competitions subsequent to Sample collection or commission of an anti-doping rule violation**

In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting

39 Comment to Article 10.8: Nothing in this anti-doping policy precludes clean *Athletes* or other *Persons* who have been damaged by the actions of a *Person* who has committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such *Person*.



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Consequences, including forfeiture of any medals, points and prizes<sup>39</sup>.

### 10.9 Allocation of CAS Cost Awards and Forfeited Prize Money

The priority for repayment of CAS cost awards and forfeited prize money shall be: first, payment of costs awarded by CAS; second, reallocation of forfeited prize money to other Athletes if provided for in the rules of the FIA; and third, reimbursement of the expenses of ASADA (or any other Anti-Doping Organisation) that conducted results management in the case.

### 10.10 Financial Consequences

The imposition of a financial sanction (such as the recovery of funding by a sport organisation) shall not be considered a basis for reducing the Ineligibility or other sanction which would otherwise be applicable under this Anti-Doping Policy or the Code.

### 10.11 Commencement of Ineligibility period<sup>40</sup>

Except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed.

#### 10.11.1 Delays not attributable to the Athlete or other Person

Where there have been substantial delays in the hearing process or other aspects of Doping Control not attributable to the Athlete or other Person, the body imposing the sanction may start the period of Ineligibility at an earlier date commencing as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. All competitive results achieved during the period of Ineligibility, including retroactive Ineligibility, shall be Disqualified<sup>41</sup>.

#### 10.11.2 Timely admission

Where the Athlete or other Person promptly (which, in all Events, for an Athlete means before the Athlete competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by ASADA (or another Anti-Doping Organisation), the period of Ineligibility may start as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. In each case where this article is applied, the Athlete or other Person shall serve at least one-half of the period of Ineligibility going forward from the date the Athlete or other Person accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is

40 Comment to Article 10.11: This article makes clear that delays not attributable to the *Athlete*, timely admission by the *Athlete* and *Provisional Suspension* are the only justifications for starting the period of *Ineligibility* earlier than the date of the final hearing decision.

41 Comment to Article 10.11.1: In cases of anti-doping rule violations other than under Article 2.1, the time required for ASADA (or another *Anti-Doping Organisation*) to discover and develop facts sufficient to establish an anti-doping rule violation may be lengthy, particularly where the *Athlete* or other *Person* has taken affirmative action to avoid detection. In these circumstances, the flexibility provided in this article to start the sanction at an earlier date should not be used.



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otherwise imposed. This article shall not apply where the period of Ineligibility already has been reduced under Article 10.6.3.

### **10.11.3** Credit for Provisional Suspension or period of Ineligibility served

**10.11.3.1** If a Provisional Suspension is imposed and respected by the Athlete or other Person, then the Athlete or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal.

**10.11.3.2** If an Athlete or other Person voluntarily accepts a Provisional Suspension in writing from the DLRA and thereafter respects the Provisional Suspension, the Athlete or other Person shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed. A copy of the Athlete or other Person's voluntary acceptance of a Provisional Suspension shall be provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation under Article 14.1<sup>42</sup>.

**10.11.3.3** No credit against a period of Ineligibility shall be given for any time period before the effective date of the Provisional Suspension or voluntary Provisional Suspension regardless of whether the Athlete elected not to compete or was suspended by his or her team.

**10.11.3.4** In Team Sports, where a period of Ineligibility is imposed upon a team, unless fairness requires otherwise, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived, on the date Ineligibility is accepted or otherwise imposed. Any period of team Provisional Suspension (whether imposed or voluntarily accepted) shall be credited against the total period of Ineligibility to be served.

### **10.12** Status during Ineligibility

#### **10.12.1** Prohibition against participation during Ineligibility

No Athlete or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Competition or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organised by any Signatory, Signatory's member organisation, or a club or other member organisation of a Signatory's member organisation, or in Competitions authorised or organised by any professional league

42 Comment to Article 10.11.3.2: An *Athlete's* voluntary acceptance of a *Provisional Suspension* is not an admission by the *Athlete* and shall not be used in any way as to draw an adverse inference against the *Athlete*.



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or any international- or national- level Event organisation or any elite or national-level sporting activity funded by a government agency.

An Athlete or other Person subject to a period of Ineligibility longer than four years may, after completing four years of the period of Ineligibility, participate as an Athlete in local sport Events not sanctioned or otherwise under the jurisdiction of a Code Signatory or member of a Code Signatory, but only so long as the local sport Event is not at a level that could otherwise qualify such Athlete or other Person directly or indirectly to compete in (or accumulate points toward) a national championship or International Event, and does not involve the Athlete or other Person working in any capacity with Minors.

An Athlete or other Person subject to a period of Ineligibility shall remain subject to Testing<sup>43</sup>.

### 10.12.2 Return to training

As an exception to Article 10.12.1, an Athlete may return to train with a team or to use the facilities of a club or other member organisation of a Signatory's member organisation during the shorter of: (1) the last two months of the Athlete's period of Ineligibility, or (2) the last one-fourth of the period of Ineligibility imposed<sup>44</sup>.

### 10.12.3 Violation of the prohibition of participation during Ineligibility

Where an Athlete or other Person who has been declared Ineligible violates the prohibition against participation during Ineligibility described in Article 10.12.1, the results of such participation shall be Disqualified and a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. The new period of Ineligibility may be adjusted based on the Athlete or other Person's degree of Fault and other circumstances of the case. The determination of whether an Athlete or other Person has violated the prohibition against participation, and whether an adjustment is appropriate, shall be made by the DLRA in consultation with ASADA (and any other Anti-Doping Organisation). This decision may be appealed under Article 13.

Where an Athlete Support Person or other Person assists a Person in violating the

43 Comment to Article 10.12.1: For example, subject to Article 10.12.2, an *Ineligible Athlete* cannot participate in a training camp, exhibition or practice organised by his or her *Sporting Administration Body* or a club which is a member of that *Sporting Administration Body* or which is funded by a government agency. Further, an *Ineligible Athlete* may not compete in a non-*Signatory* professional league (for example, the National Hockey League, the National Basketball Association), *Events* organised by a non-*Signatory International Event* organisation or a non-*Signatory* national-level event organisation without triggering the *Consequences* set forth in Article 10.12.3. The term 'activity' also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organisation described in this Article. *Ineligibility* imposed in one sport shall also be recognised by other sports (see Article 15.1).

44 Comment to Article 10.12.2: In many *Team Sports* and some *Individual Sports* (for example, ski jumping and gymnastics), an *Athlete* cannot effectively train on his/her own so as to be ready to compete at the end of the *Athlete's* period of *Ineligibility*. During the training period described in this Article, an *Ineligible Athlete* may not compete or engage in any activity described in Article 10.12.1 other than training.



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prohibition against participation during Ineligibility, an Anti-Doping Organisation with jurisdiction over such Athlete Support Person or other Person shall impose sanctions for a violation of Article 2.9 for such assistance.

### **10.12.4** Withholding of financial support during Ineligibility

In addition, for any anti-doping rule violation not involving a reduced sanction as described in Article 10.4 or 10.5, some or all sport-related financial support or other sport-related benefits received by such Person will be withheld by Signatories, Signatories' member organisations and governments.

### **10.13** Automatic publication of sanction

A mandatory part of each sanction shall include automatic publication, as provided in Article 14.3.



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### ARTICLE 11 CONSEQUENCES TO TEAMS

#### 11.1 Testing of Team Sports

Where more than one member of a team in a Team Sport has been notified of an anti-doping rule violation under Article 7 in connection with an Event, the ruling body for the Event shall conduct appropriate Target Testing of the team during the Event Period.

#### 11.2 Consequences for Team Sports

If more than two members of a team in a Team Sport are found to have committed an anti-doping rule violation during an Event Period, the ruling body of the Event shall impose an appropriate sanction on the team (for example, loss of points, Disqualification from a Competition or Event, or other sanction) in addition to any Consequences imposed upon the individual Athletes committing the anti-doping rule violation.

#### 11.3 Event ruling body may establish stricter Consequences for Team Sports

The ruling body for an Event may elect to establish rules for the Event which impose Consequences for Team Sports stricter than those in Article 11.2 for purposes of the Event<sup>45</sup>.

<sup>45</sup> Comment to Article 11.3: For example, the International Olympic Committee could establish rules which would require *Disqualification* of a team from the Olympic Games based on a lesser number of anti-doping rule violations during the period of the Games.



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### ARTICLE 12 SANCTIONS AGAINST SPORTING BODIES

#### 12.1 Withholding funding for non-compliance

ASADA may request the Australian Sports Commission and any other relevant public authorities to withhold some or all funding or other non-financial support to the *DLRA*, if the *DLRA* is not in compliance with this anti-doping policy.

#### 12.2 Disciplinary action against the DLRA

ASADA may request for the Australian Sports Commission to take additional disciplinary action against the *DLRA* with respect to recognition, the eligibility of its officials and *Athletes* to participate in *International Events*, and fines based on the following:

**12.2.1** Four or more violations of this anti-doping policy (other than violations involving Article 2.4) are committed by *Athletes* or other *Persons* affiliated with the *DLRA* within a 12-month period.

**12.2.2** More than one *Athlete* or other *Person* to whom this anti-doping policy applies commits an anti-doping rule violation during an *International Event*.

**12.2.3** The *DLRA* has failed to make diligent efforts to keep ASADA informed about an *Athlete's* whereabouts after receiving a request for that information from ASADA.





## **ARTICLE 13 APPEALS**

### **13.1 Decisions subject to appeal**

Decisions made under this anti-doping policy may be appealed as set forth below in Articles 13.2 through 13.6 or as otherwise provided in this anti-doping policy, the *Code* or the *International Standards*. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review provided in the *Anti-Doping Organisation's* rules must be exhausted, provided that such review respects the principles set forth in Article 13.2.2 (except as provided in Article 13.1.3).

#### **13.1.1 Scope of review not limited**

The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker.

#### **13.1.2 CAS shall not defer to the findings being appealed**

In making its decision, CAS need not give deference to the discretion exercised by the body whose decision is being appealed<sup>46</sup>.

#### **13.1.3 WADA is not required to exhaust internal remedies**

Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within the *Anti-Doping Organisation's* process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the *Anti-Doping Organisation's* process.

### **13.2 Appeals from decisions regarding anti-doping rule violations, *Consequences*, *Provisional Suspensions*, recognition of decisions and jurisdiction**

A decision that an anti-doping rule violation was committed, a decision imposing *Consequences* or not imposing *Consequences* for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision by WADA not to grant an exception to the six months' notice requirement for a retired *Athlete* to return to *Competition* under Article 5.5.1; a decision by WADA assigning results management under Article 7.1 of the *Code*; a decision by ASADA (or other *Anti-Doping Organisation*) not to bring forward an *Adverse Analytical Finding* or an *Atypical Finding* as an anti-doping rule violation, or a decision not to go forward with an anti-doping rule violation after an investigation under Article 7.7; a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing*; the DLRA's failure to comply with Article 7.9; a decision that ASADA, the DLRA (or another *Anti-Doping Organisation*) lacks jurisdiction to rule on an alleged anti-doping rule violation or its *Consequences*; a decision to suspend, or not suspend, a

<sup>46</sup> Comment to Article 13.1.2: CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.



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period of *Ineligibility* or to reinstate, or not reinstate, a suspended period of *Ineligibility* under Article 10.6.1; a decision under Article 10.12.3; and a decision by ASADA (or another *Anti-Doping Organisation*) not to recognise another *Anti-Doping Organisation's* decision under Article 15, may be appealed exclusively as provided in Articles 13.2 to 13.6.

### 13.2.1 Appeals involving *International-Level Athletes* or *International Events*

In cases arising from participation in an *International Event* or in cases involving *International-Level Athletes*, the decision may be appealed exclusively to the Appeals Division of CAS<sup>47</sup>.

### 13.2.2 Appeals involving other *Athletes* or other *Persons*

In cases where Article 13.2.1 is not applicable, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court.

### 13.2.3 *Persons* entitled to appeal

In cases under Article 13.2.1, the following parties shall have the right to appeal to CAS:

- (a) the *Athlete* or other *Person* who is the subject of the decision being appealed;
- (b) the other party to the case in which the decision was rendered;
- (c) the *FIA*;
- (d) ASADA and (if different) the *National Anti-Doping Organisation* of the *Person's* country of residence or countries where the *Person* is a national or license holder; and
- (f) WADA.

In cases under Article 13.2.2, the following parties, at a minimum, shall have the right to appeal:

- (a) the *Athlete* or other *Person* who is the subject of the decision being appealed;
- (b) the other party to the case in which the decision was rendered;
- (c) the *FIA*;
- (d) ASADA and (if different) the *National Anti-Doping Organisation* of the *Person's* country of residence; and
- (f) WADA.

Notwithstanding any other provision herein, the only *Person* who may appeal from a

<sup>47</sup> Comment to Article 13.2.1: CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.



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*Provisional Suspension* is the *Athlete* or other *Person* upon whom the *Provisional Suspension* is imposed.

### **13.2.4 Cross Appeals and other subsequent appeals allowed**

Cross appeals and other subsequent appeals by any respondent named in cases brought to CAS under the *Code* are specifically permitted. Any party with a right to appeal under this Article 13 must file a cross appeal or subsequent appeal at the latest with the party's answer<sup>48</sup>.

### **13.3 Failure to render a timely decision**

Where, in a particular case, an *Anti-Doping Organisation* fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if an *Anti-Doping Organisation* had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines that an anti-doping rule violation was committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorney fees in prosecuting the appeal shall be reimbursed to WADA by the *Anti-Doping Organisation*<sup>49</sup>.

### **13.4 Appeals relating to TUEs**

TUE decisions may be appealed exclusively as provided in Article 4.4.

### **13.5 Notification of appeal decisions**

Any *Anti-Doping Organisation* that is a party to an appeal shall promptly provide the appeal decision to the *Athlete* or other *Person* and to the other *Anti-Doping Organisations* that would have been entitled to appeal under Article 13.2.3 as provided under Article 14.2.

### **13.6 Time for filing appeals**

#### **13.6.1 Appeals to CAS**

The time to file an appeal to CAS shall be 21 days from the date of receipt of the decision by the appealing party. This notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings that led to the decision being appealed:

<sup>48</sup> Comment to Article 13.2.4: This provision is necessary because since 2011, CAS rules no longer permit an *Athlete* the right to cross appeal when an *Anti-Doping Organisation* appeals a decision after the *Athlete's* time for appeal has expired. This provision permits a full hearing for all parties.

<sup>49</sup> Comment to Article 13.3: Given the different circumstances of each anti-doping rule violation investigation and results management process, it is not feasible to establish a fixed time period for an *Anti-Doping Organisation* to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the *Anti-Doping Organisation* and give the *Anti-Doping Organisation* an opportunity to explain why it has not yet rendered a decision.



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(a) Within 15 days from notice of the decision, such party/ies shall have the right to request a copy of the case file from the body that issued the decision;

(b) If such a request is made within the 15-day period, then the party making such request shall have 21 days from receipt of the file to file an appeal to CAS.

This notwithstanding, the filing deadline for an appeal filed by WADA shall be the later of:

(a) 21 days after the last day on which any other party in the case could have appealed; or

(b) 21 days after WADA's receipt of the complete file relating to the decision.



## **ARTICLE 14 CONFIDENTIALITY AND REPORTING**

### **14.1 Information concerning Adverse Analytical Findings, Atypical Findings, and other asserted anti-doping rule violations**

#### **14.1.1 Notice of anti-doping rule violations to Athletes and other Persons**

Notice to Athletes or other Persons that an anti-doping rule violation is being asserted against them shall occur as provided under Articles 7 and 14 of this anti-doping policy. Notice to an Athlete or other Person who is a member of the DLRA may be put into effect by delivery of the notice to the DLRA.

#### **14.1.2 Notice of anti-doping rule violations to the FIA and WADA**

Notice of the assertion of an anti-doping rule violation to the FIA and WADA shall occur as provided under Articles 7 and 14 of this anti-doping policy, simultaneously with the notice to the Athlete or other Person.

#### **14.1.3 Content of an anti-doping rule violation notice**

Notification shall include: the Athlete's name, country, sport and discipline within the sport, the Athlete's competitive level, whether the test was In-Competition or Out-of-Competition, the date of Sample collection, the analytical result reported by the laboratory, and other information as required by the International Standard for Testing and Investigations (where applicable), or, for anti-doping rule violations other than under Article 2.1, the rule violated and the basis of the asserted violation.

#### **14.1.4 Status reports**

Except with respect to investigations which have not resulted in notice of an anti-doping rule violation pursuant to Article 14.1.1, the FIA and WADA shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to Article 7, 8 or 13 and shall be provided with a prompt written reasoned explanation or decision explaining the resolution of the matter.

#### **14.1.5 Confidentiality**

The recipient organisations shall not disclose this information beyond those *Persons* with a need to know (which would include the appropriate personnel at the applicable *Sporting Administration Body* and team, in a *Team Sport*) until ASADA, the DLRA or other *Anti-Doping Organisation* has made public disclosure or has failed to make Public Disclosure as required in Article 14.3.

### **14.2 Notice of anti-doping rule violation decisions and request for files**

**14.2.1** Anti-doping rule violation decisions rendered pursuant to Article 7.11, 8.6, 10.4, 10.5, 10.6, 10.12.3 or 13.5 shall include the full reasons for the decision, including, if applicable, a



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justification for why the greatest possible *Consequences* were not imposed. Where the decision is not in English or French, *ASADA* or another *Anti-Doping Organisation* shall provide a short English or French summary of the decision and the supporting reasons.

**14.2.2** An *Anti-Doping Organisation* having a right to appeal a decision received pursuant to Article 14.2.1 may, within 15 days of receipt, request a copy of the full case file pertaining to the decision.

### 14.3 Public disclosure

**14.3.1** The identity of any *Athlete* or other *Person* who is asserted by *ASADA* or another *Anti-Doping Organisation* to have committed an anti-doping rule violation, may be *Publicly Disclosed* by *ASADA* or another *Anti-Doping Organisation* only after notice has been provided to the *Athlete* or other *Person* in accordance with Article 7.3, 7.4, 7.5, 7.6 or 7.7 and simultaneously to *WADA* and the *FIA* in accordance with Article 14.1.2.

**14.3.2** No later than 20 days after it has been determined in a final appellate decision under Article 13.2.1 or 13.2.2, or such appeal has been waived, or a hearing in accordance with Article 8 has been waived, or the assertion of an anti-doping rule violation has not been timely challenged, *ASADA* and the *DLRA* must *Publicly Report* the disposition of the matter, including the sport, the anti-doping rule violated, the name of the *Athlete* or other *Person* committing the violation, the *Prohibited Substance* or *Prohibited Method* involved (if any) and the *Consequences* imposed. *ASADA* and the *DLRA* must also *Publicly Report* within 20 days the results of final appeal decisions concerning anti-doping rule violations, including the information described above.

**14.3.3** In any case where it is determined, after a hearing or appeal, that the *Athlete* or other *Person* did not commit an anti-doping rule violation, the decision may be *Publicly Disclosed* only with the consent of the *Athlete* or other *Person* who is the subject of the decision. *ASADA* and the *DLRA* shall use reasonable efforts to obtain such consent. If consent is obtained, *ASADA* and the *DLRA* shall *Publicly Disclose* the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

**14.3.4** Publication shall be accomplished at a minimum by placing the required information on *ASADA's* website or publishing it through other means and leaving the information up for the longer of one month or the duration of any period of *Ineligibility*.

**14.3.5** Neither *ASADA*, nor the *DLRA*, nor any official of either body, shall publicly comment on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to the *Athlete* or other *Person* against whom an anti-doping rule violation is asserted, or their representatives.

**14.3.5(a)** Where an *Athlete* or other *Person* or their representative comments about their matter the *Athlete* or other *Person* is taken to have consented to *ASADA* commenting in response to their matter for the purposes of the *ASADA Act*.



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**14.3.6** The mandatory *Public Reporting* required in Article 14.3.2 shall not be required where the *Athlete* or other *Person* who has been found to have committed an anti-doping rule violation is a *Minor*. Any optional *Public Reporting* in a case involving a *Minor* shall be proportionate to the facts and circumstances of the case.

### 14.4 Data privacy

**14.4.1** ASADA may collect, store, process or disclose personal information relating to *Athletes* and other *Persons* where necessary and appropriate to conduct their anti-doping activities under the *ASADA Act*, *ASADA Regulations*, the *NAD scheme*, *Code*, the *International Standards* (including specifically the *International Standard for the Protection of Privacy and Personal Information*), the *Australian Privacy Principles*, the *Archives Act 1983 (Cth)*, and this anti-doping policy as in force from time to time.

**14.4.2** Any *Participant* who submits information including personal data to any *Person* in accordance with this anti-doping policy shall be deemed to have agreed, pursuant to applicable data protection laws and otherwise, that such information may be collected, processed, disclosed and used by such *Person* for the purposes of the implementation of this anti-doping policy, in accordance with the *International Standard for the Protection of Privacy and Personal Information*, the *Australian Privacy Principles*, the *Archives Act 1983 (Cth)*, *ASADA Act*, *ASADA Regulations*, the *NAD scheme* as in force from time to time



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### ARTICLE 15 APPLICATION AND RECOGNITION OF DECISIONS

**15.1** Subject to the right to appeal provided in Article 13, *Testing*, hearing results or other final adjudications of any *Signatory* which are consistent with the *Code* and are within that *Signatory's* authority shall be applicable worldwide and shall be recognised and respected by ASADA and the *DLRA*<sup>50</sup>.

**15.2** ASADA and the *DLRA* shall recognise the measures taken by other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*.

<sup>50</sup> Comment to Article 15.1: The extent of recognition of *TUE* decisions of other *Anti-Doping Organisations* shall be determined by Article 4.4 and the *International Standard for Therapeutic Use Exemptions*.





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### ARTICLE 16 INCORPORATION OF THIS ANTI-DOPING POLICY AND OBLIGATIONS OF THE DLRA

**16.1** The *DLRA* and its members shall comply with this anti-doping policy. This anti-doping policy shall also be incorporated either directly or by reference into the *DLRA NCRs* so that *ASADA* may enforce the anti-doping policy itself directly as against *Athletes* and other *Persons* under the *DLRA's* jurisdiction.

**16.2** The *DLRA* shall establish rules requiring all *Athletes* and each *Athlete Support Personnel* who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel in a *Competition* or activity authorised or organised by the *DLRA* or one of its member organisations to agree to be bound by this anti-doping policy and to submit the results management authority to the *Anti-Doping Organisation* responsible under *the Code* as a condition of such participation.

**16.3** The *DLRA* shall report any information suggesting or relating to an anti-doping rule violation to *ASADA* and to the *FIA*, and shall cooperate with investigations conducted by any *Anti-Doping Organisation* with authority to conduct the investigation.

**16.4** The *DLRA* shall have disciplinary rules in place to prevent *Athlete Support Personnel* who are *Using Prohibited Substances or Prohibited Methods* without valid justification from providing support to *Athletes* under the jurisdiction of *ASADA* or the *DLRA*.

**16.5** The *DLRA* shall be required to conduct anti-doping education in coordination with *ASADA*.



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### ARTICLE 17 STATUTE OF LIMITATIONS

No anti-doping rule violation proceeding may be commenced against an *Athlete* or other *Person* unless he or she has been notified of the anti-doping rule violation as provided in Article 7, or notification has been reasonably attempted, within ten years from the date the violation is asserted to have occurred.



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### **ARTICLE 18 COMPLIANCE REPORTS TO WADA**

This article has been removed by ASADA.



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### ARTICLE 19 EDUCATION

ASADA, in collaboration with the *DLRA*, will support the *DLRA* to plan, implement, evaluate and monitor anti-doping information, education and prevention programs on at least the issues listed at Article 18.2 of the *Code*, and shall support active participation by *Athletes* and *Athlete Support Personnel* in such programs.



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### ARTICLE 20 AMENDMENT AND INTERPRETATION OF ANTI-DOPING POLICY

**20.1** This anti-doping policy may be amended from time to time by the *DLRA* subject to written approval by the *ASADA* CEO under clause 2.04 of the *NAD scheme*.

**20.2** This anti-doping policy shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.

**20.3** The headings (with the exception of Article 2) used for the various Parts and Articles of this anti-doping policy are for convenience only and shall not be deemed part of the substance of this anti-doping policy or to affect in any way the language of the provisions to which they refer.

**20.4** *The Code* and the *International Standards* shall be considered integral parts of this anti-doping policy and shall prevail in case of conflict.

**20.5** This anti-doping policy has been adopted pursuant to the applicable provisions of the *Code* and shall be interpreted in a manner that is consistent with applicable provisions of the *Code*. The Introduction shall be considered an integral part of this anti-doping policy.

**20.6** The comments annotating various provisions of the *Code* and this anti-doping policy shall be used to interpret this anti-doping policy.

**20.7** This anti-doping policy takes full force and effect on 23 February 2015 (the 'Effective Date'). It shall not apply retroactively to matters pending before the Effective Date; provided, however, that:

**20.7.1** Anti-doping rule violations taking place prior to the Effective Date count as 'first violations' or 'second violations' for purposes of determining sanctions under Article 10 for violations taking place after the Effective Date.

**20.7.2** The retrospective periods in which prior violations can be considered for purposes of multiple violations under Article 10.7.5 and the statute of limitations set forth in Article 17 are procedural rules and should be applied retroactively; provided, however, that Article 17 shall only be applied retroactively if the statute of limitation period has not already expired by the Effective Date. Otherwise, with respect to any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date, the case shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, unless the panel hearing the case determines the principle of 'lex mitior' appropriately applies under the circumstances of the case.

**20.7.3** Any Article 2.4 whereabouts failure (whether a filing failure or a missed test, as those terms are defined in the *International Standard for Testing and Investigations*) prior to the Effective Date shall be carried forward and may be relied upon, prior to expiry, in accordance with the *International Standard for Testing and Investigation*, but it shall be deemed to have expired 12 months after it occurred.



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**20.7.4** With respect to cases where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date, but the *Athlete* or other *Person* is still serving the period of *Ineligibility* as of the Effective Date, the *Athlete* or other *Person* may apply to the *Anti-Doping Organisation* which had results management responsibility for the anti-doping rule violation to consider a reduction in the period of *Ineligibility* in light of this anti-doping policy. Such application must be made before the period of *Ineligibility* has expired. The decision rendered may be appealed pursuant to Article 13.2. This anti-doping policy shall have no application to any case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.

**20.7.5** For purposes of assessing the period of *Ineligibility* for a second violation under Article 10.7.1, where the sanction for the first violation was determined based on rules in force prior to the Effective Date, the period of *Ineligibility* which would have been assessed for that first violation had this anti-doping policy been applicable, shall be applied.



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### ARTICLE 21 INTERPRETATION OF THE *CODE*

**21.1** The official text of the *Code* shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

**21.2** The comments annotating various provisions of *the Code* shall be used to interpret the *Code*.

**21.3** The *Code* shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the *Signatories* or governments.

**21.4** The headings used for the various Parts and Articles of the *Code* are for convenience only and shall not be deemed part of the substance of the *Code* or to affect in any way the language of the provisions to which they refer.

**21.5** The *Code* shall not apply retroactively to matters pending before the date the *Code* is accepted by a *Signatory* and implemented in its rules. However, pre-*Code* anti-doping rule violations would continue to count as 'first violations' or 'second violations' for the purposes of determining sanctions under Article 10 for subsequent post-*Code* violations.

**21.6** The purpose, scope and organisation of the World Anti-Doping Program and the *Code* and Appendix 1, Definitions, shall be considered integral parts of the *Code*.



## **ARTICLE 22 ADDITIONAL ROLES AND RESPONSIBILITIES OF ATHLETES AND OTHER PERSONS**

### **22.1 Roles and responsibilities of *Athletes***

**22.1.1** To be knowledgeable of and comply with this anti-doping policy.

**22.1.2** To be available for *Sample* collection at all times<sup>51</sup>.

**22.1.3** To take responsibility, in the context of anti-doping, for what they ingest and use.

**22.1.4** To inform medical personnel of their obligation not to *Use Prohibited Substances* and *Prohibited Methods* and to take responsibility to make sure that any medical treatment received does not violate this anti-doping policy.

**22.1.5** To disclose to the *FIA* and to *ASADA* any decision by a non-*Signatory* finding that the *Athlete* committed an anti-doping rule violation within the previous ten years.

**22.1.6** To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations.

### **22.2 Roles and responsibilities of *Athlete Support Personnel***

**22.2.1** To be knowledgeable of and comply with this anti-doping policy.

**22.2.2** To cooperate with the *Athlete Testing* program.

**22.2.3** To use his or her influence on *Athlete* values and behaviour to foster anti-doping attitudes.

**22.2.4** To disclose to the *FIA* and to *ASADA* any decision by a non-*Signatory* finding that he or she committed an anti-doping rule violation within the previous ten years.

**22.2.5** To cooperate with *Anti-Doping Organisations* investigating anti-doping rule violations.

**22.2.6** *Athlete Support Personnel* shall not *Use* or *Possess* any *Prohibited Substance* or *Prohibited Method* without valid justification.

NOTE: Coaches and other *Athlete Support Personnel* are often role models for *Athletes*. They should not be engaging in personal conduct which conflicts with their responsibility to encourage their *Athletes* not to dope. *Use* or *Possession* of a *Prohibited Substance* or *Prohibited Method* by an *Athlete Support Person* without valid justification is not an anti-doping rule violation under the *Code*, but may be a breach under the *DLRA Code of Conduct*.





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### APPENDIX 1 DEFINITIONS<sup>52</sup>

**ADAMS:** The Anti-Doping Administration and Management System is a web-based database management tool for data entry, storage, sharing and reporting designed to assist stakeholders and WADA in their anti-doping operations in conjunction with data protection legislation.

**Administration:** Providing, supplying, supervising, facilitating, or otherwise participating in the *Use* or *Attempted Use* by another *Person* of a *Prohibited Substance* or *Prohibited Method*. However, this definition shall not include the actions of bona fide medical personnel involving a *Prohibited Substance* or *Prohibited Method* used for genuine and legal therapeutic purposes or other acceptable justification and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate that such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**ADRVP:** The Anti-Doping Rule Violation Panel constituted pursuant to the *ASADA Act*.

**Adverse Analytical Finding:** A report from a WADA-accredited laboratory or other WADA-approved laboratory 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*.

**Adverse Passport Finding:** A report identified as an *Adverse Passport Finding* as described in the applicable *International Standards*.

**Anti-Doping Organisation:** A *Signatory* that is responsible for adopting rules for initiating, implementing or enforcing any part of the *Doping Control* process. This includes, for example, WADA, international federations, other *Major Event Organisations* that conduct *Testing* at their *Events*, and *National Anti-Doping Organisations*. For the purposes of this anti-doping policy, ASADA is an *Anti-Doping Organisation*.

**Archives Act 1983(Cth):** is the Commonwealth legislation that governs the retention and disposal of Commonwealth records. ASADA's Disposal Authority document is approved pursuant to that legislation, and it categorises types of records and classifies how long those records must be retained, and how they must be stored.

**ASADA:** The Australian Sports Anti-Doping Authority.

**ASADA Act:** The *Australian Sports Anti-Doping Authority Act 2006* (Cth).

**ASADA Regulations:** The *Australian Sports Anti-Doping Authority Regulations 2006* (Cth) (the *National Anti-Doping scheme* is contained in Schedule 1 to the Regulations).

<sup>52</sup> Comment: Defined terms shall include their plural and possessive forms, as well as those terms used as other parts of speech.



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**ASDMAC:** Australian Sports Drug Medical Advisory Committee constituted pursuant to the ASADA Act.

**Athlete:** Any Person who competes in sport at the international level (as defined by each international federation), or the national level (as defined by each *National Anti-Doping Organisation*). For the purposes of this anti-doping policy, *Athlete* includes any Person falling within the scope of Article 1.3.1 or 1.3.2. An *Anti-Doping Organisation* has discretion to apply anti-doping rules to an *Athlete* who is neither an *International-Level Athlete* nor a *National-Level Athlete*, and thus to bring them within the definition of 'Athlete'. In relation to *Athletes* who are neither *International-Level* nor *National-Level Athletes*, an *Anti-Doping Organisation* may elect to: conduct limited *Testing* or no *Testing* at all; analyse *Samples* for less than the full menu of *Prohibited Substances*; require limited or no whereabouts information; or not require advance *TUEs*. However, if an Article 2.1, 2.3 or 2.5 anti-doping rule violation is committed by any *Athlete* over whom an *Anti-Doping Organisation* has authority who competes below the international or national level, then the *Consequences* set forth in the *Code* (except Article 14.3.2) must be applied. For purposes of Article 2.8 and Article 2.9 and for purposes of anti-doping information and education, any Person who participates in sport under the authority of any *Signatory*, government, or other sports organisation accepting the *Code* is an *Athlete*.

**Athlete Biological Passport:** The program and methods of gathering and collating data as described in the *International Standard for Testing and Investigations* and *International Standard for Laboratories*.

**Athlete Support Person:** Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other Person working with, treating or assisting an *Athlete* participating in or preparing for sports *Competition* whether a member of a *Sporting Administration Body* or not falling within the scope of Article 1.3.1 or 1.3.2.

**Attempt:** 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. Provided, however, there shall be no anti-doping rule violation based solely on an *Attempt* to commit a violation if the Person renounces the *Attempt* prior to it being discovered by a third party not involved in the *Attempt*.

**Atypical Finding:** A report from a WADA-accredited laboratory or other WADA-approved laboratory which requires further investigation as provided by the *International Standard for Laboratories* or related Technical Documents prior to the determination of an *Adverse Analytical Finding*.

**Atypical Passport Finding:** A report described as an *Atypical Passport Finding* as described in the applicable *International Standards*.

**Australian Privacy Principles:** are contained in Schedule 1 of the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth) which amends the Privacy Act 1988 (Cth). ASADA is required to comply with this legislation.

**DLRA:** The Dry Lakes Racers Australia Inc.



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**CAS:** The Court of Arbitration for Sport.

**Code:** The World Anti-Doping Code.

**Competition:** A single motor sport activity with its own results. It may comprise one or more heats and a final, free practice, qualifying practice sessions and results of several categories or be divided in some similar manner, but must be completed by the end of the Event. The following are considered as a Competition: Circuit Races, Rallies, Cross-Country Rallies, Drag Races, Hill Climbs, Record Attempts, Tests, Trials, drifting and other forms of Competitions at the discretion of the FIA, as defined in Article 20 of the FIA International Sporting Code.

**Consequences of anti-doping rule violations ('Consequences'):** An Athlete's or other Person's violation of an anti-doping rule may result in one or more of the following:

(a) *Disqualification* means the Athlete's results in a particular Competition or Event are invalidated, with all resulting Consequences including forfeiture of any medals, points and prizes;

(b) *Ineligibility* means the Athlete or other Person is barred on account of an anti-doping rule violation for a specified period of time from participating in any Competition or other activity or funding as provided in Article 10.12.1;

(c) *Provisional Suspension* means the Athlete or other Person is barred temporarily from participating in any Competition or activity prior to the final decision at a hearing conducted under Article 8;

(d) *Financial Consequences* means a financial sanction imposed for an anti-doping rule violation or to recover costs associated with an anti-doping rule violation; and

(e) *Public Disclosure* or *Public Reporting* means the dissemination or distribution of information to the general public or Persons beyond those Persons entitled to earlier notification in accordance with Article 14. Teams in *Team Sports* may also be subject to Consequences as provided in Article 11 of the Code.

**Contaminated Product:** A product that contains a *Prohibited Substance* that is not disclosed on the product label or in information available in a reasonable internet search.

**Disqualification:** See *Consequences of anti-doping rule violations*.

**Domestic Testing Pool:** means the pool of Athletes designated as such by the ASADA CEO, who are not in the ASADA CEO's *Registered Testing Pool* and who are subject to testing both *In-Competition* and *Out-of-Competition* as part of the ASADA CEO's test distribution plan.

**Doping Control:** All steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps and processes in between such as provision of whereabouts information, *Sample* collection and handling, laboratory analysis, *TUEs*, results management and hearings.

**Event:** An *Event* is made up of one or more *Competitions*.



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**Event Period:** The time between the beginning and end of an *Event*, as established by the ruling body of the *Event*.

**Event Venues:** Those venues so designated by the ruling body for the *Event*.

**Fault:** *Fault* is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an *Athlete* or other *Person's* degree of *Fault* include, for example, the *Athlete's* or other *Person's* experience, whether the *Athlete* or other *Person* is a *Minor*, special considerations such as impairment, the degree of risk that should have been perceived by the *Athlete* and the level of care and investigation exercised by the *Athlete* in relation to what should have been the perceived level of risk. In assessing the *Athlete's* or other *Person's* degree of *Fault*, the circumstances considered must be specific and relevant to explain the *Athlete's* or other *Person's* departure from the expected standard of behaviour. Thus, for example, the fact that an *Athlete* would lose the opportunity to earn large sums of money during a period of *Ineligibility*, or the fact that the *Athlete* only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of *Ineligibility* under Article 10.5.1 or 10.5.2<sup>53</sup>.

**FIA:** the Fédération Internationale de l'Automobile.

**Financial Consequences:** See *Consequences of anti-doping rule violations*.

**In-Competition:** Unless provided otherwise in the rules of the FIA or the ruling body of the *Event* in question, '*In-Competition*' means the period commencing 12 hours before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*<sup>54</sup>.

**Individual Sport:** Any sport that is not a *Team Sport*.

**Ineligibility:** See *Consequences of anti-doping rule violations*.

**International Event:** An *Event* or *Competition* where the FIA, a *Major Event Organisation*, or another international sport organisation is the ruling body for the *Event* or appoints the technical officials for the *Event*.

**International-Level Athlete:** means an *Athlete* who competes in sport at the international level, as determined by the international sporting federation for that sport in accordance with the International Standard for Testing and Investigations. For the avoidance of doubt, *International-Level Athlete* includes any *Athlete* included on the FIA's *Registered Testing Pool*, or any *Athlete* who participates in, or plans to participate in, a *Competition/Event* registered on the FIA International

<sup>53</sup> Comment: The criteria for assessing an *Athlete's* degree of *Fault* is the same under all Articles where *Fault* is to be considered. However, under Article 10.5.2, no reduction of sanction is appropriate unless, when the degree of *Fault* is assessed, the conclusion is that *No Significant Fault or Negligence* on the part of the *Athlete* or other *Person* was involved.

<sup>54</sup> Comment: The FIA or ruling body for an *Event* may establish an "*In-Competition*" period that is different than the *Event Period*.



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Sporting Calendar (available at [www.fia.com/sports/calendars](http://www.fia.com/sports/calendars)).

**International Standard:** A standard adopted by WADA in support of the *Code*. Compliance with an *International Standard* (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the *International Standard* were performed properly. *International Standards* shall include any Technical Documents issued pursuant to the *International Standard*.

**Major Event Organisations:** The continental associations of *National Olympic Committees* and other international multi-sport organisations that function as the ruling body for any continental, regional or other *International Event*.

**Marker:** A compound, group of compounds or biological variable(s) that indicates the *Use* of a *Prohibited Substance* or *Prohibited Method*.

**Metabolite:** Any substance produced by a biotransformation process.

**Minor:** A natural *Person* who has not reached the age of 18 years.

**NAD scheme:** The *National Anti-Doping scheme* which is contained in Schedule 1 to the *Australian Sports Anti-Doping Authority Regulations 2006* (Cth).

**National Anti-Doping Organisation:** The entity(ies) designated by 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 at the national level. If this designation has not been made by the competent public authority(ies), the entity shall be the country's *National Olympic Committee* or its designee.

**National Event:** A sport *Event* or *Competition* involving *International* or *National-Level Athletes* that is not an *International Event*.

**National-Level Athlete:** means an *Athlete* in the ASADA CEO'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 Sporting Organisation:** See *Sporting Administration Body*.

**NCR:** The National Competition Rules as published by the *DLRA* and as amended from time to time.

**No Fault or Negligence:** The *Athlete* or other *Person's* establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had *Used* or been administered the *Prohibited Substance* or *Prohibited Method* or otherwise violated an anti-doping rule. Except in the case of a *Minor*, for any violation of Article 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

**No Significant Fault or Negligence:** The *Athlete* or other *Person's* establishing that his or her *Fault* or negligence, when viewed in the totality of the circumstances and taking into account the criteria for



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*No Fault or Negligence*, was not significant in relationship to the anti-doping rule violation. Except in the case of a *Minor*, for any violation of Article 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system<sup>55</sup>.

***Out-of-Competition:*** Any period which is not *In-Competition*.

***Participant:*** Any *Athlete* or *Athlete Support Person*.

***Person:*** A natural *Person* or an organisation or other entity. For the avoidance of doubt, *Person* includes *Athletes* and *Athlete Support Personnel*.

***Possession:*** The actual, physical *Possession*, or the constructive *Possession* (which shall be found only if the *Person* has exclusive control or intends to exercise control over the *Prohibited Substance* or *Prohibited Method* or the premises in which a *Prohibited Substance* or *Prohibited Method* exists); provided, however, that 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* shall only be found if the *Person* knew about the presence of the *Prohibited Substance* or *Prohibited Method* and intended to exercise control over it. Provided, however, there shall be no anti-doping rule violation based solely on *Possession* if, prior to 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<sup>56</sup>.

***Prohibited List:*** The WADA list identifying the *Prohibited Substances* and *Prohibited Methods*.

***Prohibited Method:*** Any method so described on the *Prohibited List*.

***Prohibited Substance:*** Any substance, or class of substances, so described on the *Prohibited List*.

***Provisional Hearing:*** For purposes of Article 7.9, an expedited abbreviated hearing occurring prior to a hearing under Article 8 that provides the *Athlete* with notice and an opportunity to be heard in

55 Comment: For Cannabinoids, an *Athlete* may establish *No Significant Fault or Negligence* by clearly demonstrating that the context of the *Use* was unrelated to sport performance.

56 Comment: Under this definition, steroids found in an *Athlete's* car would constitute a violation unless the *Athlete* establishes that someone else used the car; in that event, the *Anti-Doping Organisation* must establish that, even though the *Athlete* did not have exclusive control over the car, the *Athlete* knew about the steroids and intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of an *Athlete* and spouse, the *Anti-Doping Organisation* must establish that the *Athlete* knew the steroids were in the cabinet and that the *Athlete* intended to exercise control over the steroids. The act of purchasing a *Prohibited Substance* alone constitutes *Possession*, even where, for example, the product does not arrive, is received by someone else, or is sent to a third party address.

57 Comment: A *Provisional Hearing* is only a preliminary proceeding which may not involve a full review of the facts of the case. Following a *Provisional Hearing*, the *Athlete* remains entitled to a subsequent full hearing on the merits of the case. By contrast, an 'expedited hearing', as that term is used in Article 7.9, is a full hearing on the merits conducted on an expedited time schedule.



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either written or oral forms<sup>57</sup>.

**Provisional Suspension:** See *Consequences of anti-doping rule violations*.

**Publicly Disclose or Publicly Report:** See *Consequences of anti-doping rule violations*.

**Registered Testing Pool:** The pool of highest-priority *Athletes* established separately at the international level by the FIA and at the national level by ASADA, who are subject to focused *In-Competition* and *Out-of-Competition Testing* as part of the FIA's or ASADA's test distribution plan and therefore are required to provide whereabouts information as provided in Article 5.6 of the *Code* and the *International Standard for Testing and Investigations*.

**Sample:** Any biological material collected for the purposes of *Doping Control*<sup>58</sup>.

**Signatories:** Those entities signing the *Code* and agreeing to comply with the *Code*, as provided in Article 23 of the *Code*.

**Specified Substance:** See Article 4.2.2.

**Sporting Administration Body:** The definition provided by the *ASADA Act*.

**Sporting Administration Body Rules:** The *Sporting Administration Body Rules* as contained in the *ASADA Regulations*.

**Strict Liability:** The rule which provides that under Article 2.1 and Article 2.2, it is not necessary that intent, *Fault*, negligence, or knowing *Use* on the *Athlete's* part be demonstrated by the *Anti-Doping Organisation* in order to establish an anti-doping rule violation.

**Substantial Assistance:** For purposes of Article 10.6.1, a *Person* providing *Substantial Assistance* must: (1) fully disclose in a signed written statement all information he or she possesses in relation to anti-doping rule violations, and (2) fully cooperate with the investigation and adjudication of any case related to that information, including, for example, presenting testimony at a hearing if requested to do so by an *Anti-Doping Organisation* or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

**Tampering:** Altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring.

**Target Testing:** Selection of specific *Athletes* for *Testing* based on criteria set forth in the *International Standard for Testing and Investigations*.

<sup>60</sup> Comment: It has sometimes been claimed that the collection of blood samples violates the tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim



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**Team Sport:** A sport in which the substitution of players is permitted during a *Competition*.

**Testing:** The parts of the *Doping Control* process involving test distribution planning, *Sample* collection, *Sample* handling, and *Sample* transport to the laboratory.

**Trafficking:** Selling, giving, transporting, sending, delivering or distributing (or *Possessing* for any such purpose) a *Prohibited Substance* or *Prohibited Method* (either physically or by any electronic or other means) by an *Athlete*, *Athlete Support Person* or any other *Person* subject to the jurisdiction of an *Anti-Doping Organisation* to any third party; provided, however, this definition shall 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 shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**Tribunal:** A hearing body that is compliant with Article 8 of the *Code*.

**TUE:** *Therapeutic Use Exemption*, as described in Article 4.4.

**TUE Committee or TUEC:** *Therapeutic Use Exemption Committee*. In Australia, this role is fulfilled by the *Australian Sports Drug Medical Advisory Committee*.

**TUERC:** *Therapeutic Use Exemption Review Committee*.

**Use:** The utilisation, application, ingestion, injection or consumption by any means whatsoever of any *Prohibited Substance* or *Prohibited Method*.

**WADA:** The World Anti-Doping Agency.