

**ANTI-DOPING POLICY OF
THE AUSTRALIAN RUGBY LEAGUE COMMISSION LTD
THE NATIONAL RUGBY LEAGUE LTD**



**THE NSWRL, THE QRL, THE CRL
AND OUR MEMBER & SUB-MEMBER ORGANISATIONS**

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IMPORTANT WARNING

YOU MUST FIND OUT WHICH DRUGS ARE PROHIBITED

IGNORANCE IS NO EXCUSE

YOU MUST BE AWARE OF THE RULES IN THIS ADP AND WHAT IS PROHIBITED

THIS ADP ADOPTS THE STRICT LIABILITY PRINCIPLE

ATHLETES ARE RESPONSIBLE FOR ANYTHING FOUND IN THEIR SYSTEM

APPROVED BY ASADA AND ADOPTED BY OUR SPORT FOR A COMMENCEMENT DATE OF 1 JANUARY 2013

SOME IMPORTANT DETAILS OF OUR SPORT

Item 1 – *Individual Sport or Team Sport*

For the purposes of this ADP and the WADC our sport is a *Team Sport*. This has particular relevance for WADC 9 (see rule **150**) and WADC 11.2 (see rule **189**).

Item 2 – *Our elite level Competitions and Events*

For the purposes of rule **26(3)**, as at the commencement date, we have declared (so far) only the NRL competition and the national U20 competition run in conjunction with the NRL competition to be at elite level.

Item 3 – *A typical Competition*

In our sport a typical *Competition* is a rugby league match.

Item 4 – *A typical Event*

In our sport a typical *Event* is the Rugby League World Cup and the entire NRL competition.

Item 5 – *Our International Federation*

In our sport our International Federation is the RLIF.

PART 1 – INTRODUCTION & APPLICATION

Adoption

1. This is the Anti-Doping Policy (**ADP**) of the Australian Rugby League Commission Limited (**ARL**), the National Rugby League Limited (**NRL**), the New South Wales Rugby League (**NSWRL**), the Queensland Rugby League (**QRL**), the Country Rugby League (**CRL**) and our member and sub-member organisations and applies to the sport of rugby league as played in Australia and New Zealand¹.
2. This ADP is current as at the date shown on the front page as the "**commencement date**" and will come into force (and apply to *Samples* collected) on and from 12.01 am on the commencement date. (All *Samples* collected prior to 12.01 am on the commencement date will be dealt with under the then existing applicable anti-doping rules.)
3. We have adopted this ADP so as to be compliant with the WADA Code (**WADC** or **the Code**), and also to comply with the National Anti-Doping scheme (**NAD scheme**) administered by the Australian Sports Anti-Doping Authority (**ASADA**).
4. Where this ADP repeats any part of the WADC that is so as to expressly incorporate the article as a rule in this ADP.
5. As this ADP is to apply to the various *Events* and organisations within our sport, the terms 'our sport', 'us', and 'we' are used to refer to those *Events* and organisations in a distributive manner.

Prohibited List

6. We adopt the WADA List, together with such alterations as may be permitted within the WADA List as are considered appropriate for our sport (any such alterations to be noted in

¹ As to application in New Zealand, this ADP applies save for entirely New Zealand domestic rugby league if covered exclusively by the anti-doping policy of the NZRL.

some appropriate way), as our list of prohibited classes of drugs and doping methods (**the Prohibited List**). See also **Part 4 – The Prohibited List & Therapeutic Use Exemptions**.

WADC articles and definitions

7. Where this ADP replicates an article of the WADC the prefix “WADC” appears. To facilitate consistency with the WADC, so far as practical, we have used the same defined terms as the WADC and they appear in italics with the first letter as a capital, eg *Athlete*. There is a definitions section towards the back of this ADP: see from page **60**.
8. So far as the context permits, this ADP is to be interpreted so as to be consistent with the WADC and the NAD scheme.

Overview

9. This ADP binds all *Participants* in our sport and obliges *Athletes* in our sport to submit to *Testing*.
10. The anti-doping rule violations (**ADRVs**) in this ADP are taken verbatim from the WADC. See **Part 2 – Anti-Doping Rule Violations**.
11. The results management of any suspected ADRVs will be carried out by us and/or ASADA pursuant to its own powers and/or such delegation and authorisation as we may have given to ASADA from time to time.
12. The process to give all persons alleged to have committed a fair hearing is set out in this ADP, is WADC compliant and has been approved by ASADA. In this regard see especially rules **108, 132** and **138**.
13. The sanctions in respect of proven ADRVs are taken verbatim from the WADC. See **Part 9 – Sanctions**.

Delegation to ASADA

14. We hereby delegate to ASADA the function of all notifications and reports that we would have to make under the WADC to *WADA*. See WADC 14.1 at page **52** below.
15. We may make further delegations to ASADA from time to time as we consider appropriate.

WADA

16. The World Anti-Doping Agency (**WADA**) was established in November 1999 in Switzerland. On 5 March 2003 *WADA* adopted the ‘World Anti-Doping Code’ (**WADC** or **the Code**). The WADC was amended in November 2007.
17. The WADC has been adopted by ASADA and ASADA is a signatory to the WADC.
18. The WADC states that the purposes of the WADC and the World Anti-Doping Program which supports it are:
 - (1) To protect the *Athletes’* fundamental right to participate in doping-free sport and thus promote health, fairness and equality for *Athletes* worldwide, and
 - (2) To ensure harmonized, coordinated and effective anti-doping programs at the international and national level with regard to detection, deterrence and prevention of doping.
19. The World Anti-Doping Program has three main elements:
 - (1) Level 1: The WADC itself.

- (2) Level 2: *International Standards*.
- (3) Level 3: Models of Best Practice and Guidelines.

20. Adherence to the *International Standards* is mandatory for compliance with the WADC. The most significant of the *International Standards* is the WADA List.

Fundamental rationale of the WADC

21. The WADC states that the fundamental rationale of the WADC as follows:

"Anti-doping programs 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; it is how we play true. The spirit of sport is the celebration of the human spirit, body and mind, and is characterized by the following values:

- *Ethics, fair play and honesty*
- *Health*
- *Excellence in performance*
- *Character and education*
- *Fun and joy*
- *Teamwork*
- *Dedication and commitment*
- *Respect for rules and laws*
- *Respect for self and other participants*
- *Courage*
- *Community and solidarity*

Doping is fundamentally contrary to the spirit of sport."

WADC mandatory in substance

22. The WADC is mandatory in substance. The WADC (at p9) states the position as follows:

"All provisions of the Code are mandatory in substance and must be followed as applicable by each Anti-Doping Organization and Athlete or other Person. The Code does not, however, replace or eliminate the need for comprehensive anti-doping rules adopted by each Anti-Doping Organization. While some provisions of the Code must be incorporated without substantive change by each Anti-Doping Organization in its own anti-doping rules, other provisions of the Code establish mandatory guiding principles that allow flexibility in the formulation of rules by each Anti-Doping Organization or establish requirements that must be followed by each Anti-Doping Organization but need not be repeated in its own anti-doping rules."

Application

23. This ADP applies to all *Participants* in our sport and in all *Competitions* and *Events* in our sport (whether run, authorised, sanctioned or approved by us or one of our member or sub-member organisations or held under our or their auspices). That includes:

- (1) all *Athletes* who are:
 - (a) registered with us or one of our member or sub member organisations;
 - (b) in training for or compete from time to time in any *Competition* or *Event* in our sport; or
 - (c) registered with, compete, train or trial with any team and/or club involved in our sport;

- (2) all *Athlete Support Personnel*;
 - (3) *Event* organisers;
 - (4) teams and/or clubs in our sport; and
 - (5) others having access to our facilities and services for sporting purposes.
24. To be eligible to participate (in the case of an *Athlete*) or assist any *Athlete* (in the case of *Athlete Support Personnel*) in any *Competition* or *Event* in our sport or other activity organised, convened or authorised by us or one of our member or sub member organisations, a person agrees to be bound by and to comply with this ADP. By so participating or assisting, a person shall be deemed to have agreed to be bound by and comply with this ADP, whether a registered member or not.

Classification of *Athletes*

25. The WADC permits differential classification of *Athletes* with the result that not all *Athletes* are subject to all aspects of the WADC.
26. In our sport we have determined the following classifications of *Athletes* and with the stated application:
- (1) *International-Level Athletes*: Those *Athletes* designated by our International Federation as being within the *Registered Testing Pool* for our International Federation.
Application: All aspects of the WADC and this ADP apply and such *Athletes* must comply with the whereabouts requirements in the *International Standard for Testing*.
 - (2) *National level Athletes*: Those *Athletes* in our sport designated or classified by ASADA from time to time as being "National level *Athletes*", which includes, but is not necessarily limited to, the *Athletes* within ASADA's *Registered Testing Pool* for our sport.
Application: All aspects of the WADC and this ADP apply, except that the whereabouts requirements in the *International Standard for Testing* may be as varied by ASADA.
 - (3) *Other elite level Athletes*: Those *Athletes* in our sport who compete in or train for *Competitions* and/or *Events* we declare from time to time as being at elite level (see Schedule "**Item 2 – Our elite level Competitions and Events**" for those declared as at the commencement date).
Application: All aspects of the WADC and this ADP apply except that (a) the whereabouts requirements are only those applicable under this ADP (see rule **88**) and not those in the *International Standard for Testing* nor those of ASADA; and (b) the requirements of a TUE for any Specified Substance will be deemed to be met upon proof of prior written approval by the *Athlete's* treating doctor. Such an approval will be deemed to be an approval granted by a TUEC in accordance with clause 4.02(2) of the NAD scheme. NAD scheme 1.06(4) does not apply to *Athletes* at this level.
 - (4) *Non elite Athletes*: All other *Athletes* competing or training in our sport.
Application: All aspects of the WADC and this ADP apply except that (a) there are no whereabouts requirements applicable at all (although such *Athletes* are still subject to *Testing* on demand); and (b) the requirements of a TUE for any Specified Substance will be deemed to be met upon proof of prior written approval by the *Athlete's* treating doctor. Such an approval will be deemed to be an approval granted by a TUEC in accordance with clause 4.02(2) of the NAD scheme. NAD scheme 1.06(4) does not apply to *Athletes* at this level.

Our note: The effect is that non elite *Athletes* will not have any whereabouts forms to worry about nor need to obtain a TUE if they have an existing and current prescription for use of a Specified Substance. They will still need a TUE for certain substances, eg anabolic steroids (albeit it is highly unlikely one would be granted for such a substance).

International-Level Athletes and National level *Athletes* have no excuse for not knowing their classification and acting accordingly. Other *Athletes* in any doubt as to their classification must ascertain their classification from time to time from us. In case of any ambiguity our determination of an *Athlete's* classification is final.

This rule is relevant to WADC 2.4: see rules **41** and rule **88**.

Only Athletes Subject to Testing

27. For the purposes of this ADP, *Athletes* are the only persons subject to *Testing*.

Amendment

28. We may modify, update or generally amend this ADP from time to time.

Objects

29. The objectives of this ADP are to:

- (1) Comply with the WADC and the NAD scheme;
- (2) Implement a fair policy that operates to deter cheating by doping in our sport; and
- (3) Promote the image and reputation of our sport.

PART 2 – ANTI-DOPING RULE VIOLATIONS

The Anti Doping Rule Violations in this part are taken verbatim from the WADC.

WADC 1: Definition of Doping

30. WADC 1: Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in WADC Article 2.1 through WADC Article 2.8 below.

WADC 2: Anti Doping Rule Violations (ADRVs)

31. WADC 2: *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.

[Comment to WADC Article 2: 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 has been violated.]

The following constitute anti-doping rule violations:

32. WADC 2.1: The presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample*.
33. WADC 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 violation under WADC Article 2.1.

[Comment to WADC Article 2.1.1: For purposes of anti-doping rule violations involving the presence of a Prohibited Substance (or its Metabolites or Markers), the Code adopts the rule of strict liability which was found in the Olympic Movement Anti-Doping Code ("OMADC") and the vast majority of pre-Code anti-doping rules. Under the strict liability principle, an Athlete is responsible, and an anti-doping rule violation occurs, whenever a Prohibited Substance is found in an Athlete's Sample. The violation occurs whether or not the Athlete intentionally or unintentionally used a Prohibited Substance or was negligent or otherwise at fault. If the positive Sample came from an In-Competition test, then the results of that Competition are automatically invalidated (Article 9 (Automatic Disqualification of Individual Results)). However, the Athlete then has the possibility to avoid or reduce sanctions if the Athlete can demonstrate that he or she was not at fault or significant fault (Article 10.5 (Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances)) or in certain circumstances did not intend to enhance his or her sport performance (Article 10.4 (Elimination or Reduction of the Period of Ineligibility for Specified Substances under Certain Circumstances)).

The strict liability rule for the finding of a Prohibited Substance in an Athlete's Sample, with a possibility that sanctions may be modified based on specified criteria, provides a reasonable balance between effective anti-doping enforcement for the benefit of all "clean" Athletes and fairness in the exceptional circumstance where a Prohibited Substance entered an Athlete's system through No Fault or Negligence or No Significant Fault or Negligence on the Athlete's part. It is important to emphasize that while the determination of whether the anti-doping rule violation has occurred is based on strict liability, the imposition of a fixed period of Ineligibility is not automatic. The strict liability principle set forth in the Code has been consistently upheld in the decisions of CAS.]

34. WADC 2.1.2: Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either 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*.

[Comment to Article 2.1.2: The Anti-Doping Organization with results management responsibility may in its discretion choose to have the B Sample analysed even if the Athlete does not request the analysis of the B Sample.]

35. WADC 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.
36. WADC 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.
37. WADC 2.2: *Use or Attempted Use* by an *Athlete* of a *Prohibited Substance* or a *Prohibited Method*.

[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 WADC Article 3.2 (Methods of Establishing Facts and Presumptions), 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, 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 Organization provides a satisfactory explanation for the lack of confirmation in the other Sample.]

38. WADC 2.2.1: It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing *Use* on the *Athlete's* part be demonstrated in order to establish an anti-doping rule violation for *Use* of a *Prohibited Substance* or a *Prohibited Method*.
39. WADC 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.

[Comment to Article 2.2.2: Demonstrating the "Attempted Use" of a Prohibited Substance 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 (Presence of a Prohibited Substance or its Metabolites or Markers) regardless of when that substance might have been administered.)]

40. WADC 2.3: Refusing or failing without compelling justification to submit to *Sample* collection after notification as authorized in applicable anti-doping rules, or otherwise evading *Sample* collection.

[Comment to Article 2.3: Failure or refusal to submit to Sample collection after notification was prohibited in almost all pre-Code anti-doping rules. This Article expands the typical pre-Code rule to include "otherwise evading Sample collection" as prohibited conduct. Thus, for example, it would be an anti-doping rule violation if it were established that an Athlete was hiding from a Doping Control official to evade notification or Testing. A violation of "refusing or failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Athlete, while "evading" Sample collection contemplates intentional conduct by the Athlete.]

Our note 1: The “applicable anti-doping rules” means this ADP, the WADC, the applicable *International Standard*, the NAD scheme and any rules made under those documents.

Our note 2: This rule also applies where an *Athlete* makes him or herself inaccessible to a Drug Testing Authority.

41. WADC 2.4: Violation of applicable requirements regarding *Athlete* availability for *Out-of-Competition Testing* including failure to file required whereabouts information and missed tests which are declared based on rules which comply with the *International Standard for Testing*. Any combination of three missed tests and/or filing failures within an eighteen-month period as determined by *Anti-Doping Organizations* with jurisdiction over the *Athlete* shall constitute an anti-doping rule violation.

[Comment to Article 2.4: Separate whereabouts filing failures and missed tests declared under the rules of the Athlete’s International Federation or any other Anti-Doping Organizations with authority to declare whereabouts filing failures and missed tests in accordance with the International Standard for Testing shall be combined in applying this Article. In appropriate circumstances, missed tests or filing failures may also constitute an anti-doping rule violation under Article 2.3 or Article 2.5.]

Our note: The applicable requirements depend on the classification of the *Athlete*: see rule **26**. The requirements in our sport for *Athletes* who are at elite level as declared in rule **26** are set out in rule **88**.

42. WADC 2.5: *Tampering or Attempted Tampering* with any part of *Doping Control*.

[Comment to Article 2.5: This Article prohibits conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods. For example, altering identification numbers on a Doping Control form during Testing, breaking the B Bottle at the time of B Sample analysis or providing fraudulent information to an Anti-Doping Organization.]

43. WADC 2.6: *Possession of Prohibited Substances and Methods*:

2.6.1 *Possession* by an *Athlete In-Competition* of any *Prohibited Method* or any *Prohibited Substance*, or *Possession* by an *Athlete Out-of-Competition* of any *Prohibited Method* or any *Prohibited Substance* which is prohibited *Out-of-Competition*, unless the *Athlete* establishes that the *Possession* is pursuant to a therapeutic use exemption granted in accordance with WADC Article 4.4 (Therapeutic Use) or other acceptable justification.

2.6.2 *Possession* by an *Athlete Support Personnel In-Competition* of any *Prohibited Method* or any *Prohibited Substance*, or *Possession* by an *Athlete Support Personnel Out-of-Competition* of any *Prohibited Method* or any *Prohibited Substance* which is prohibited *Out-of-Competition*, in connection with an *Athlete*, *Competition* or *training*, unless the *Athlete Support Personnel* establishes that the *Possession* is pursuant to a therapeutic use exemption granted to an *Athlete* in accordance with Article 4.4 (Therapeutic Use) or other acceptable justification.

[Comment to Article 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, e.g., buying Insulin for a diabetic child.]

[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.]

44. WADC 2.7: *Trafficking* or *Attempted Trafficking* in any *Prohibited Substance* or *Prohibited Method*.
45. WADC 2.8: Administration or *Attempted* administration to any *Athlete In-Competition* of any *Prohibited Method* or *Prohibited Substance*, or administration or *Attempted* administration to any *Athlete Out-of-Competition* of any *Prohibited Method* or any *Prohibited Substance* that is

prohibited in Out-of-Competition *Testing*, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation.

[Comment to Article 2.8: The Code does not make it an anti-doping rule violation for an Athlete or other Person to work or associate with Athlete Support Personnel who are serving a period of Ineligibility. However, a sport organization may adopt its own rules which prohibit such conduct.]

Ignorance is No Excuse

46. An ADRV occurs even if the *Athlete* does not know the *Prohibited Substance* or *Prohibited Method* is prohibited under this ADP. The onus is on the *Athlete* to check all substances and methods.

Awareness of this ADP

47. All persons to whom this ADP applies shall be aware of this ADP, its implications, the sanctions that apply, the requirements necessary to comply with this ADP and must comply with any obligation imposed on them by this ADP.

PART 3 – PROOF OF DOPING

WADC 3.1: Burdens and Standards of Proof

48. The *Anti-Doping Organization* shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the *Anti-Doping Organization* 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 the *Code* 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, except as provided in Articles 10.4 and 10.6 where the *Athlete* must satisfy a higher burden of proof.

[Comment to Article 3.1: This standard of proof required to be met by the Anti-Doping Organization is comparable to the standard which is applied in most countries to cases involving professional misconduct. It has also been widely applied by courts and tribunals in doping cases. See, for example, the CAS decision in N., J., Y., W. v. FINA, CAS 98/208, 22 December 1998.]

Our note: We are an *Anti-Doping Organization* for the purposes of this rule and generally.

WADC 3.2: Methods of Establishing Facts and Presumptions.

49. WADC 3.2: 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:

[Comment to Article 3.2: For example, an Anti-Doping Organization may establish an anti-doping rule violation under Article 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) 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.]

50. WADC 3.2.1: WADA-accredited laboratories 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 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 Organization* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*.

[Comment to Article 3.2.1: 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 Organization to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]

51. WADC 3.2.2: Departures from any other *International Standard* or other anti-doping rule or policy which did not cause an *Adverse Analytical Finding* or other anti-doping rule violation shall not invalidate such results. If the *Athlete* or other *Person* establishes that a departure from another *International Standard* or other anti-doping rule or policy which could reasonably have caused the *Adverse Analytical Finding* or other anti-doping rule violation occurred, then the *Anti-Doping Organization* 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.

52. WADC 3.2.3: 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.
53. WADC 3.2.4: The hearing panel/tribunal 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/tribunal) and to answer questions from the hearing panel/tribunal or the *Anti-Doping Organization* asserting the anti-doping rule violation.

[Comment to Article 3.2.4: Drawing an adverse inference under these circumstances has been recognized in numerous CAS decisions.]

Rules relating to the NAD scheme²

54. Matters on the Register: Where a person has had the opportunity to challenge an entry on the Register in the AAT (including any appeal from the AAT to the Federal Court) but has not done so or has done so unsuccessfully, the person may not dispute the matters contained in the entry on the Register in response to an allegation of an ADRV or in any hearing under this ADP.
55. AAT hearings: Subject to rule **56**, where a person has challenged an entry on the Register in the AAT, in response to an allegation of an ADRV or in any hearing in the Tribunal, that person:
- (1) may not dispute any findings made by the AAT;
 - (2) may not dispute any decision made by the AAT; and
- all material that went into evidence in the AAT is admissible and may be used as evidence in a hearing of the Tribunal.
56. Federal Court appeals: In the event there has been an appeal from the AAT to the Federal Court, in response to an allegation of an ADRV or in any hearing in the Tribunal, that person:
- (1) may not dispute any findings made by the Federal Court;
 - (2) may not dispute any decision made by the Federal Court; and
- all material that went into evidence in the AAT and the Federal Court is admissible and may be used as evidence in a hearing of the Tribunal.

Documentary Proof

57. Where a document:
- (1) which is of, or has been created by:
 - (a) the chief medical officer of our sport;
 - (b) a Drug Testing Authority or any other official medical authority; or

² These are in addition to WADC Article 3.2 given the particular circumstances applicable in Australia, ie the opportunity to have a hearing in the AAT following entry on the ASADA Register.

- (c) any state or federal government body or law enforcement agency (including without limitation the Therapeutic Goods Administration, the Australian Customs and Border Protection Services and the Federal, State and Territory police services); and
- (2) is sought to be used as evidence in a hearing in the Tribunal and a copy of the document has been made available to other relevant parties a reasonable time prior to the hearing,

the document *shall* be admitted as evidence of its contents (without the need to call the maker of the document) and given such weight as the Tribunal considers appropriate in all circumstances. This rule does not limit the circumstances in which the Tribunal *may* admit other documents into evidence.

PART 4 – THE PROHIBITED LIST & THERAPEUTIC USE EXEMPTIONS

WADC 4.1: Publication and Revision of the *Prohibited List*.³

58. WADC 4.1: Unless provided otherwise in the *Prohibited List* or a revision, the *Prohibited List* and revisions shall go into effect under this ADP three months after publication of the *Prohibited List* by WADA without requiring any further action by us.

WADC 4.2.2: Specified Substances.

59. WADC 4.2.2: For purposes of the application of Article 10 (Sanctions on Individuals), 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*. *Prohibited Methods* shall not be Specified Substances.

[Comment to Article 4.2.2: In drafting the Code there was considerable stakeholder debate over the appropriate balance between inflexible sanctions which promote harmonization in the application of the rules and more flexible sanctions which better take into consideration the circumstances of each individual case. This balance continued to be discussed in various CAS decisions interpreting the Code. After three years experience with the Code, the strong consensus of stakeholders is that while the occurrence of an anti-doping rule violation under Articles 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) and 2.2 (Use of a Prohibited Substance or Prohibited Method) should still be based on the principle of strict liability, the Code sanctions should be made more flexible where the Athlete or other Person can clearly demonstrate that he or she did not intend to enhance sport performance. The change to Article 4.2 and related changes to Article 10 provide this additional flexibility for violations involving many Prohibited Substances. The rules set forth in Article 10.5 (Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances) would remain the only basis for eliminating or reducing a sanction involving anabolic steroids and hormones, as well as the stimulants and the hormone antagonists and modulators so identified on the Prohibited List, or Prohibited Methods.]

WADC 4.3.3: WADA List conclusive

60. WADC 4.3.3: WADA's determination of the *Prohibited Substances* and *Prohibited Methods* that will be included on the *Prohibited List* and the classification of substances into categories on the *Prohibited List* is final and shall not be subject to challenge by an *Athlete* or other *Person* based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk, or violate the spirit of sport.

[Comment to Article 4.3.3: The question of whether a substance meets the criteria in Article 4.3 (Criteria for Including Substances and Methods on the Prohibited List) in a particular case cannot be raised as a defence to an anti-doping rule violation. For example, it cannot be argued that the Prohibited Substance detected would not have been performance enhancing in that particular sport. Rather, doping occurs when a substance on the Prohibited List is found in an Athlete's Sample. Similarly, it cannot be argued that a substance listed in the class of anabolic agents does not belong in that class.]

WADC 4.4: Therapeutic Use

61. WADA has adopted an *International Standard* for the process of granting therapeutic use exemptions.
62. Under the WADC our International Federation is to ensure, for *International-Level Athletes* or any other *Athlete* who is entered in an *International Event*, that a process is in place whereby *Athletes* with documented medical conditions requiring the *Use of a Prohibited Substance* or a *Prohibited Method* may request a therapeutic use exemption. *Athletes* who have been

³ This is WADC 4.1 so far as is applicable.

identified as included in our International Federation's *Registered Testing Pool* may only obtain therapeutic use exemptions in accordance with the rules of our International Federation.

63. Under the WADC our International Federation is required to publish a list of those *International Events* for which a therapeutic use exemption from the International Federation is required.
64. Under the WADC each *National Anti-Doping Organization* (in our case, ASADA) is required to ensure, for all *Athletes* within its jurisdiction that have not been included in an International Federation *Registered Testing Pool*, that a process is in place whereby *Athletes* with documented medical conditions requiring the *Use of a Prohibited Substance or a Prohibited Method* may request a therapeutic use exemption.

Note: ASADA has put in place a process where ASDMAC is authorised to deal with TUE applications and that is ratified by this ADP.

65. Such applications shall be evaluated in accordance with the *International Standard for Therapeutic Use Exemptions*.
66. Under the WADC International Federations and *National Anti-Doping Organizations* are required to promptly report to WADA through ADAMS the granting of any therapeutic use exemption except to national-level *Athletes* that are not included in the *National Anti-Doping Organization's Registered Testing Pool*. Where such reporting is not able to be performed via ADAMS, it shall be reported by other means as determined by ASADA.
67. WADA, on its own initiative, may review at any time the granting of a therapeutic use exemption to any *International-Level Athlete* or national-level *Athlete* that is included in his or her *National Anti-Doping Organization's Registered Testing Pool*. Further, upon the request of any such *Athlete* that has been denied a therapeutic use exemption, WADA may review such denial. If WADA determines that such granting or denial of a therapeutic use exemption did not comply with the *International Standard for Therapeutic Use Exemptions*, WADA may reverse the decision.

Note: Further provisions dealing with TUEs are in WADC 13.4 (see rules **202** and **203**).

68. If, contrary to the requirement of WADC Article 4.4, our International Federation does not have a process in place where *Athletes* may request therapeutic use exemptions, an *International-Level Athlete* may request WADA to review the application as if it had been denied.
69. The presence of a *Prohibited Substance* or its *Metabolites* or *Markers* (Article 2.1), *Use or Attempted Use of a Prohibited Substance or a Prohibited Method* (Article 2.2), *Possession of Prohibited Substances and Methods* (Article 2.6) or *Administration of a Prohibited Substance or Prohibited Method* (Article 2.8) consistent with the provisions of an applicable therapeutic use exemption and issued pursuant to the *International Standard for Therapeutic Use Exemptions* shall not be considered an anti-doping rule violation.

Who can issue a Therapeutic Use Exemption?

70. A Therapeutic Use Exemption ('TUE') may be issued by a TUEC and/or WADA.

Our note: ASDMAC is a TUEC for all *Athletes* within ASADA's jurisdiction that have not been included in an International Federation's *Registered Testing Pool*.

Application for a Therapeutic Use Exemption

71. An application for a TUE must comply with the relevant *International Standard*.

72. The *Athlete* must bear all costs of any application for a TUE.

Additional information may be required

73. The TUEC and/or *WADA* may require the *Athlete* to provide additional information and may also require the *Athlete* to undergo medical examinations.

Independent advice may be sought

74. Independent advice may be obtained (as thought appropriate) in determining whether to issue a TUE.

Conditions attaching to a TUE

75. The TUEC and/or *WADA* (as the case may be) may in its absolute discretion issue a TUE upon such terms and conditions as it deems appropriate in its absolute discretion.

Our note: The TUE may, for example, specify the permitted dose, require the *Prohibited Substance* to be administered only by the *Athlete's* team medical officer (and/or the *Athlete's* own treating doctor), require the *Athlete's* team medical officer (and/or the *Athlete's* own treating doctor) to certify that only the authorised, dose has been administered and specify a regime for ongoing *Testing*.

Cost of Ongoing Testing

76. Where the TUEC and/or *WADA* (as the case may be), as a condition of a TUE, specifies a regime for ongoing *Testing* the *Athlete* must bear the cost of such *Testing* unless agreed otherwise in writing

TUEs may not always be granted

77. An *Athlete* may not assume that his/her application for a TUE (or for renewal of a TUE) will be granted. However, based upon medical and other advice provided to us, we expect that applications by *International-Level Athletes* and National level *Athletes* for TUEs for the use of probenecid (S5 of the *WADA* List) pursuant to a written approval of a team medical officer and/or the *Athlete's* own treating doctor for the treatment of severe infections in conjunction with appropriate antibiotic therapy will be approved.⁴

Deemed acceptance of conditions

78. If an *Athlete* does compete after receipt of a TUE, the act of competing is deemed to be his/her acceptance and agreement to the conditions, if any, attaching to the TUE.

⁴ As probenecid is a Specified Substance this sentence has no need of application to *Athletes* below National level.

PART 5 – TESTING PROCEDURES & INVESTIGATIONS

Who conducts Testing

79. The collection of *Samples* and the carrying out of *Testing of Athletes* in our sport is only to be undertaken by ASADA or another Drug Testing Authority. Several different *Anti-Doping Organisations* may also have jurisdiction to test *Athletes* who are subject to this ADP. We recognise such *Testing* and may bring proceedings against an *Athlete* pursuant to this ADP for an ADRV detected by such *Testing*.

Athletes are liable to be Tested

80. All *Athletes* are liable to be selected for *Testing* by a Drug Testing Authority and, if selected, are obliged to provide *Samples*. This ADP constitutes an “anti-doping arrangement” with ASADA for the purposes of clause 1.06(2)(f) of the NAD scheme.

Testing may take place anywhere and at any time

81. *Testing* may take place anywhere at any time. This includes after competing, at training, at home and at any other suitable facility. *Athletes* are liable to be selected for any number of drug tests; there is no maximum number.

WADC 5.1: Test Distribution Planning.

82. Subject to the jurisdictional limitations for *In-Competition Testing* in WADC Article 15.1, each *National Anti-Doping Organization* (which in Australia is ASADA) shall have *Testing* jurisdiction over all *Athletes* who are present in that *National Anti-Doping Organization’s* country or who are nationals, residents, license-holders or members of sport organizations of that country.

83. Each International Federation shall have *Testing* jurisdiction over all *Athletes* who are members of their member National Federations or who participate in their events.

84. All *Athletes* must comply with any request for *Testing* by any *Anti-Doping Organization* with *Testing* jurisdiction.

85. Any *Athlete* included in the *Registered Testing Pool* of our International Federation shall be subject to the whereabouts requirements set out in the *International Standard for Testing*.

86. *Target Testing* is a priority.

[Comment to Article 5.1: Target Testing is specified because random Testing, or even weighted random Testing, does not ensure that all of the appropriate Athletes will be tested (for example: world class Athletes, Athletes whose performances have dramatically improved over a short period of time, Athletes whose coaches have had other Athletes test positive, etc.).

Obviously, Target Testing must not be used for any purpose other than legitimate Doping Control. The Code makes it clear that Athletes have no right to expect that they will be tested only on a random basis. Similarly, it does not impose any reasonable suspicion or probable cause requirement for Target Testing.]

Incorporation of the International Standard for Testing⁵

87. This ADP adopts and incorporates the *WADA International Standard for Testing*, as amended from time to time. All persons shall be deemed to accept that *International Standard* and any amendments thereto as binding upon them without further formality. Any *Testing* carried out must substantially comply with the procedures for the making of a request for and collection of a *Sample* mentioned in the *WADA International Standard for Testing*.

⁵ See WADC 5.2, WADA model rule 5.3 and NAD scheme 3.13

Whereabouts requirements for elite Athletes

The following rule **88** only applies to *Athletes* at elite level. *International-Level Athletes* and National level *Athletes* have more onerous obligations which are referred to in rule **26**.

88. *Athletes* who are at elite level as declared under rule **26** must:

- (1) provide to us a "Whereabouts Form" in accordance with **Appendix 1 – Whereabouts Form** (or where the *Athlete* is a member of a team with an Anti-Doping Officer, to the team's Anti-Doping Officer or where the *Athlete* is a member of a team which does not have an Anti-Doping Officer, to the team manager) which contains information that continues to be up to date and which provides a current telephone number of the *Athlete*;

Our note: It is not acceptable to provide a telephone number that is just for the purposes of the "Whereabouts Form"; the current telephone number most frequently used by the *Athlete* to receive telephone calls is the telephone number which must be included in the "Whereabouts Form".

- (2) not deliberately or recklessly provide incorrect information on a "Whereabouts Form";
- (3) not fail on more than one occasion to update the whereabouts information within 10 days of the information contained in a "Whereabouts Form" previously lodged becoming out of date;
- (4) not refuse to update the whereabouts information contained in a "Whereabouts Form" previously lodged within 3 days of being requested to do so; and
- (5) not be unavailable for *Out-of-Competition Testing* on a total of three (or more) occasions during any 18 month period.

Note 1: An *Athlete* is unavailable for *Out-of-Competition Testing* if and only if the *Athlete* for a period of 24 hours is not at any of the places specified on the most recently lodged "Whereabouts Form" and does not answer the telephone when called on the current telephone number included in the "Whereabouts Form".

Note 2: An *Athlete* cannot be regarded as having been unavailable for a 2nd or subsequent occasion unless the *Athlete* player has received, more than 7 days earlier, written notice of the 1st (or 2nd as the case may be) occasion the *Athlete* was unavailable and has not provided an explanation, which is satisfactory to us, as to the circumstances of the 1st (or 2nd as the case may be) occasion.

Selection of Athletes

89. *Athletes* may be chosen for *Testing* by a Drug Testing Authority. Selection for *Testing* may be random but need not be random. A Drug Testing Authority may select an *Athlete* or a group of *Athletes* for *Testing* on any basis or without justification and in selecting *Athletes* for *Testing* may act on requests made by our Anti-Doping Co-ordinator. *Target Testing* is fully acceptable.
90. In order to preserve the ability to conduct *No Advance Notice Testing*, those who become aware of the selection of an *Athlete* for *Testing* shall only disclose such information on a strictly need-to-know basis. Any failure to comply with this requirement may result in the bringing of disciplinary charges for misconduct against those involved pursuant to the disciplinary rules of our sport.

Conduct of Testing

91. The collection of *Samples* and the carrying out of *Testing* shall be conducted in accordance with procedures of the Drug Testing Authority which requested the *Sample*.
92. *Athletes* are obliged to comply with all reasonable requests of the Drug Testing Authority which requested the *Sample*.
93. *Athletes* should be given the opportunity:
 - (1) to disclose any medications recently taken; and
 - (2) to record any comments in relation to the drug test, including any concerns in relation to the *Sample* collection process.

WADC 5.3 Retired *Athletes* Returning to *Competition*

94. WADC 5.3 requires us to set eligibility requirements in our sport for *Athletes* who are not *Ineligible* and retire from our sport while included in a *Registered Testing Pool* and then seek to return to active participation in sport.

Our eligibility requirements for returning *Athletes*

95. The eligibility requirements we have set in our sport for *Athletes* who are not *Ineligible* and retire from our sport while included in a *Registered Testing Pool* and then seek to return to active participation in sport are as follows:
 - (1) This rule only applies to *Athletes* who were *International-Level Athletes* or national level *Athletes* at the time of their retirement;
 - (2) Prior to competing such *Athletes* must notify ASADA by fully completing and forwarding to ASADA an ASADA "REQUEST FOR REINSTATEMENT FORM"⁶. (Reinstatement requests that are not fully completed will not be accepted and will be returned to the *Athlete* for completion). The *Athlete's* reinstatement request date will be the date ASADA receives the fully completed reinstatement request. Reinstatement will be at our discretion in consultation with ASADA. Upon receipt of notification, ASADA should, as soon as reasonably practicable:
 - (a) provide the *Athlete* with a written confirmation of the outcome of the *Athlete's* reinstatement request; and
 - (b) if the reinstatement request is approved, provide us and, in the case of *Athletes* who were *International-Level Athletes* immediately prior to retirement, our International Federation with a written confirmation of the *Athlete's* reinstatement.
 - (3) If reinstatement is granted then this ADP will apply to the *Athlete* from the date of their reinstatement request.
 - (4) An *Athlete* who is reinstated may not compete in *Competitions* and *Events* which are subject to this ADP or the ADP of our International Federation until the following periods expire:
 - (a) **For international *Competitions* and *Events*:** The period is as determined by our International Federation from time to time, but in the absence of such determination shall be the same as the period for national *Competitions* and *Events* set out below.

⁶ The ASADA REQUEST FOR REINSTATEMENT FORM should be accessible on the internet through the website of the Australian Sports Anti-Doping Authority (www.asada.gov.au), if not telephone ASADA.

- (b) **For national *Competitions and Events*:** 6 months from the date of the reinstatement request.
 - (c) **For other *Competitions and Events*:** 3 months from the date of the reinstatement request.
- (5) We may abridge or extend the time period in our absolute discretion in circumstances that we consider warrant special treatment.

WADC ARTICLE 6 ANALYSIS OF SAMPLES

96. WADC 6: *Samples* shall be analysed in accordance with the following principles:

WADC 6.1: Use of Approved Laboratories

97. WADC 6.1: For purposes of WADC Article 2.1 (Presence of a *Prohibited Substance* or its *Metabolites* or *Markers*), *Samples* shall be analysed only in WADA-accredited laboratories or as otherwise approved by WADA. The choice of the WADA-accredited laboratory (or other laboratory or method approved by WADA) used for the *Sample* analysis shall be determined exclusively by the *Anti-Doping Organization* responsible for results management.

[Comment to Article 6.1: Violations of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) may be established only by Sample analysis performed by a WADA-approved laboratory or another laboratory specifically authorized by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.]

WADC 6.2: Purpose of Collection and Analysis of Samples

98. WADC 6.2: *Samples* shall be analysed to detect *Prohibited Substances* and *Prohibited Methods* identified on the *Prohibited List* and other substances as may be directed by WADA pursuant to Article 4.5 (Monitoring Program), or to assist an *Anti-Doping Organization* in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling, for anti-doping purposes.

[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 (Use of a Prohibited Substance), or both.]

WADC 6.3: Research on Samples

99. WADC 6.3: No *Sample* may be used for any purpose other than as described in WADC Article 6.2 without the *Athlete's* written consent. *Samples* used for purposes other than WADC Article 6.2 shall have any means of identification removed such that they cannot be traced back to a particular *Athlete*.

WADC 6.4: Standards for Sample Analysis and Reporting

100. WADC 6.4: Laboratories shall analyse *Doping Control Samples* and report results in conformity with the *International Standard* for Laboratories.

WADC 6.5: Retesting Samples

101. WADC 6.5: A *Sample* may be reanalysed for the purpose of Article 6.2 at any time exclusively at the direction of the *Anti-Doping Organization* that collected the *Sample* or WADA. The circumstances and conditions for retesting *Samples* shall conform with the requirements of the *International Standard* for Laboratories.

[Comment to Article 6.5: Although this Article is new, Anti-Doping Organizations have always had the authority to reanalyse Samples. The International Standard for Laboratories or a new technical document which is made a part of the International Standard will harmonize the protocol for such retesting.]

Investigations

102. We, ASADA or another Drug Testing Authority may carry out investigations in relation to whether *Participants* have committed an ADRV.
103. *Participants* are required to cooperate with an investigation by us, ASADA or another Drug Testing Authority (provided all expenses or costs of a *Participant* are fully met).

PART 6 – ACTION ON ALLEGED ADRVS & OTHER BREACHES

Results management in relation to *Samples*

104. Results management in relation to *Samples* must be carried out in accordance with processes that respect the principles in WADC 7.1 to 7.3. Notifications may be made orally, especially when there are aspects which may be urgent.

Results management other than in relation to *Samples*

105. Results management other than in relation to *Samples* may be carried out by us, ASADA or another Drug Testing Authority in accordance with the rules below.

Where we must act

106. We must investigate upon:

- (1) notification by a Drug Testing Authority of any matter which could reasonably be regarded as giving rise to an ADRV;
- (2) notification by a NADO of evidence which the NADO believes establishes an ADRV in respect of an *Athlete* or some other person bound by this ADP;
- (3) receipt of a statutory declaration implicating an *Athlete* or some other person bound by this ADP in a matter which could reasonably be regarded as giving rise to an ADRV; or
- (4) receipt of reasonably reliable information indicating an *Athlete* used a *Prohibited Substance* or a *Prohibited Method*.

Where we may act

107. We may investigate an allegation of an ADRV or other breach of this ADP on our own volition if our Anti-Doping Co-ordinator so chooses.

Notice of an alleged ADRV or other breach of this ADP⁷

108. On notification by a Drug Testing Authority of an *Adverse Analytical Finding* in respect of an *Athlete* bound by this ADP, or upon notification by a NADO of evidence which satisfies us that an ADRV has occurred by an *Athlete* or some other person bound by this ADP or where we otherwise propose to allege that an ADRV or other breach of this ADP has occurred, we shall deliver to the person concerned a notice of an alleged ADRV or other breach of this ADP which must:

- (1) be in writing;
- (2) set out the nature and particulars of the alleged ADRV or other breach of this ADP;
- (3) state the intention to convene the Tribunal to conduct a hearing and
 - (a) nominate a date on which the Tribunal will conduct the hearing to determine whether an ADRV or other breach of this ADP has occurred or
 - (b) state that a such a date will be nominated in due course, being a date not less than ten (10) days from the date of nomination, unless the parties agree to a reduced notice period;
- (4) state that the person must respond in one of the ways specified in rule **111** and that failure to do may result in a default decision under rule **113**; and
- (5) enclose a copy of this ADP.

⁷ See WADC 7.4

Note: Delivery to the last known address is sufficient in circumstances where the current whereabouts of the person concerned are not known.

Where there is a current delegation to ASADA, the matters in this rule may be carried out by ASADA and shall be deemed to be as effective as if we had carried them out.

109. Other *Anti-Doping Organizations* shall be notified as provided in WADC Article 14.1.2.

Irregularities shall not invalidate any notice of an alleged ADRV or other breach

110. Any irregularity in a notice of an alleged ADRV (or other breach) shall not invalidate the notice unless the Tribunal determines that the irregularity is such as to give rise to genuine unfairness. If that occurs, a fresh notice may be issued.

Response to a notice of an alleged ADRV (or other breach)

111. A person receiving a notice of an alleged ADRV (or other breach), within the period provided for in the notice, must either:

- (1) make contact with our Anti-Doping Co-ordinator and indicate his/her intention to attend the hearing (a hearing will then take place - see Part 7 – The Anti-Doping Tribunal and Part 8 – Hearings); or
- (2) plead guilty or no contest or the like, waive his/her right to a hearing and submit to such sanction as our Anti-Doping Co-ordinator may impose, after consultation with ASADA, in his/her absolute discretion, being a sanction which does not exceed that which the Tribunal could impose.

Note: The purpose of this rule is to require a response to the notice of alleged ADRV. Failure to respond at all can lead to the imposition of a sanction without there being a hearing – see rule **113**.

112. Where the person elects under rule **111(2)**, our Anti-Doping Co-ordinator, after consultation with ASADA, may decide the allegations and exercise the discretion to impose a sanction which does not exceed that which the Tribunal could impose. In doing so there must be provided written reasons for the sanction imposed. For all purposes (including appeals) a decision and sanction so imposed is to be treated in the same way as a decision and sanction imposed by the Tribunal. Also see rule **142** relating to WADC 8.3.

113. Where the person fails to respond to the notice of alleged ADRV in one or other of the ways specified in rule **111** the following applies:

- (1) Our Anti-Doping Co-ordinator, after consultation with ASADA, may cause a default decision to be delivered to the person concerned which may exercise the discretion to impose a sanction which does not exceed that which the Tribunal could impose. In doing so there must be provided written reasons for the sanction imposed.
- (2) The default decision shall also state:

If having seen this default decision you now wish to notify our Anti-Doping Co-ordinator that you wish to attend a hearing you must do so before [INSERT DATE].

If you fail to respond to the default decision (before the date specified [INSERT DATE]) stating you wish to attend a hearing at such date as may be nominated by our Anti-Doping Co-ordinator this default decision becomes operative on the date specified.

- (3) If the person does respond before the date specified by the default decision stating he/she wishes to attend a hearing at such date as may be nominated by our Anti-Doping Co-ordinator then the default decision lapses and a hearing shall be convened.
- (4) If the person fails to respond to the default decision before the date specified in the default decision stating he/she wishes to attend a hearing at such date as may be nominated by our Anti-Doping Co-ordinator the default decision becomes operative on the date specified. For all purposes (including appeals) the default decision and any sanction so imposed is to be treated in the same way as decision and sanction imposed by the Tribunal.

Note: Also see rules **141** and **142**.

Privacy not required by this ADP

114. Once the name of a person appears on the ASADA Register, nothing in this ADP requires the name of the person or the details appearing on the Register to be kept confidential.

Note: There may be reasons apart from this ADP which require the name and details to be kept confidential.

115. Once a Provisional Suspension notice or a notice of an alleged ADRV (or other breach) has been issued we may publish the name of the person and the details appearing in the notice.

Note: In order to allow greater transparency and recognising that criminal charges are not kept confidential by the criminal law, this ADP does not mandate confidentiality. We note that the WADC does not require confidentiality after the issue of a Provisional Suspension notice or a notice of an alleged ADRV (or other breach).

Although this rule gives us power to publish it does not mean we are obliged to do so.

Rights pending resolution of an alleged ADRV

116. Subject to the rules below as to *Provisional Suspensions*, a person alleged to have committed an ADRV may continue to compete, train, coach or hold office pending the resolution of the allegation by a decision under this ADP.

WADC 7.5: Provisional Suspensions

117. WADC 7.5.1 requires there to be a mandatory *Provisional Suspension* after *A Sample Adverse Analytical Finding*.

- (1) When notification of an *A Sample Adverse Analytical Finding* is received by us for a *Prohibited Substance*, other than a *Specified Substance*, a *Provisional Suspension* shall be imposed promptly after the review and notification described in WADC Articles 7.1 and 7.2.
- (2) Provided, however, that a *Provisional Suspension* may not be imposed unless the *Athlete* is given either:
 - (a) an opportunity for a *Provisional Hearing* either before imposition of the *Provisional Suspension* or on a timely basis after imposition of the *Provisional Suspension*; or
 - (b) an opportunity for an expedited hearing in accordance with WADC Article 8 (Right to a Fair Hearing) on a timely basis after imposition of a *Provisional Suspension*.
- (3) If a *Provisional Suspension* is imposed based on an *A Sample Adverse Analytical Finding* and a subsequent *B Sample* analysis (if requested by the *Athlete* or *Anti-Doping Organization*) 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 WADC Article 2.1 (Presence of a *Prohibited Substance* or its *Metabolites* or *Markers*).

- (4) In circumstances where the *Athlete* (or the *Athlete's* team as may be provided in the rules of the applicable International Federation) has been removed from a *Competition* or *Event* based on a violation of WADC Article 2.1 and the subsequent B *Sample* analysis does not confirm the A *Sample* finding, if, without otherwise affecting the *Competition* or *Event*, it is still possible for the *Athlete* or team to be reinserted, the *Athlete* or team may continue to take part in the *Competition* or *Event*.

[Comment to WADC Article 7.5: Before a Provisional Suspension can be unilaterally imposed by an Anti-Doping Organization, the internal review specified in the Code must first be completed. In addition, a Signatory imposing a Provisional Suspension is required to give the Athlete an opportunity for a Provisional Hearing either before or promptly after the imposition of the Provisional Suspension, or an expedited final hearing under Article 8 promptly after imposition of the Provisional Suspension. The Athlete has a right to appeal under Article 13.2.]

In the rare circumstance where the B Sample analysis does not confirm the A Sample finding, the Athlete that had been provisionally suspended will be allowed, where circumstances permit, to participate in subsequent Competitions during the Event. Similarly, depending upon the relevant rules of the International Federation in a Team Sport, if the team is still in Competition, the Athlete may be able to take part in future Competitions.

Athletes shall receive credit for a Provisional Suspension against any period of Ineligibility which is ultimately imposed as provided in Article 10.9.3.]

118. WADC 7.5.2 also permits *Provisional Suspension* based on A *Sample Adverse Analytical Finding* for Specified Substances or other anti-doping rule violations.

- (1) In relation to all other alleged ADRVs (or other breach) we may invite the person the subject of the allegation to voluntarily accept a *Provisional Suspension*. Where we do so and the person does voluntarily accept a *Provisional Suspension* the person will be able to benefit from WADC 10.9.4 (even if the person is not an *Athlete*): see rule **178** below.⁸
- (2) Where the person the subject of the allegation does not voluntarily accept a *Provisional Suspension* we may impose a *Provisional Suspension* provided, however, that a *Provisional Suspension* may not be imposed unless the *Athlete* is given either:
- (a) an opportunity for a *Provisional Hearing* either before imposition of the *Provisional Suspension* or on a timely basis after imposition of the *Provisional Suspension*; or
 - (b) an opportunity for an expedited hearing in accordance with WADC Article 8 (Right to a Fair Hearing) on a timely basis after imposition of a *Provisional Suspension*.

WADC 7.6: Retirement from Sport

119. WADC 7.6: If an *Athlete* or other *Person* retires while a results management process is underway, the *Anti-Doping Organization* conducting the results management process retains jurisdiction to complete its results management process. If an *Athlete* or other *Person* retires before any results management process has begun, the *Anti-Doping Organization* which would have had results management jurisdiction over the *Athlete* or other *Person* at the time the *Athlete* or other *Person* committed an anti-doping rule violation, has jurisdiction to conduct results management.

[Comment to Article 7.6: Conduct by an Athlete or other Person before the Athlete or other Person was subject to the jurisdiction of any Anti-Doping Organization would not constitute

⁸ This is based on WADC 7.5.2 but modified to suit our sport.

an anti-doping rule violation but could be a legitimate basis for denying the Athlete or other Person membership in a sports organization.]

PART 7 – THE ANTI-DOPING TRIBUNAL

Establishment and function of the Anti-Doping Tribunal

120. A tribunal has been or is hereby established to hear allegations of ADRVs against *Athletes* or other persons bound by this ADP, to determine whether an ADRV has occurred, to impose appropriate sanctions and do all other things required by this ADP to be done by the Anti-Doping Tribunal. In this ADP that tribunal will be referred to as the 'Anti-Doping Tribunal'. All hearings shall be in the Anti-Doping Tribunal unless there is a referral to CAS under rule **130** or there is an appeal to CAS authorised by this ADP.
121. The Anti-Doping Tribunal (differently constituted) will also hear appeals and applications for review of sanctions, as set out in **Part 10 – Appeals and review of sanctions**, save where an appeal must be to CAS.

Composition

122. The Anti-Doping Tribunal shall be constituted from time to time by individuals we appoint.
123. When sitting as a first instance tribunal the Anti-Doping Tribunal must comprise:
- (1) a person qualified as a barrister or solicitor, who shall be the chairperson;
 - (2) a fully qualified medical practitioner;
 - (3) a prominent citizen (which includes a former representative *Athlete* who has succeeded in a career following retirement).
124. When sitting as an appeal tribunal the Anti-Doping Tribunal must comprise:
- (1) a person qualified as a barrister or solicitor, who shall be the chairperson;
 - (2) a fully qualified medical practitioner or a 2nd person qualified as a barrister or solicitor;
 - (3) a prominent citizen (which includes a former representative *Athlete* who has succeeded in a career following retirement) or a 3rd person qualified as a barrister or solicitor.

Tribunal members have immunity

125. The members of the Anti-Doping Tribunal and counsel assisting the Anti-Doping Tribunal are immune from suit and no person may institute or maintain any proceedings or bring any claim in respect of any act or omission in the lead up to a hearing, in connection with a hearing or the hearing itself, or any findings made, except in the event of fraud.

Conflict of Interest

126. The Anti-Doping Tribunal members should have no conflict of interest in any case and are required to declare any possible conflict of interest. A member standing down from an Anti-Doping Tribunal hearing shall be replaced for the duration of the hearing with a person of similar qualifications. Such a person may be appointed by us.

Members not to hold office or be employed by us or any teams

127. A member of the Anti-Doping Tribunal shall not hold any office with or be currently employed by us or our member or sub-member organisations nor any team/club which participates in any *Competition* or *Event* in our sport in any capacity (except as a member of a different tribunal).

Counsel Assisting

128. The Anti-Doping Tribunal may appoint a counsel assisting. ASADA may provide information it considers relevant to counsel assisting.

129. The functions of counsel appointed by the Anti-Doping Tribunal to assist it include, at his/her discretion, the following:

- (1) liaising with us and/or ASADA to identify what allegations are to be made;
- (2) liaising with us and/or ASADA on the content of any notice of an alleged ADRV (or other breach) before such notice of an alleged ADRV (or other breach) is issued under rule **108**;
- (3) liaising with us and/or ASADA in relation to the collection of evidence and requesting us and/or ASADA to obtain (or where practicable simply obtaining himself or herself) such evidence as counsel considers would be appropriate for the Anti-Doping Tribunal to have presented to it;
- (4) liaising with any representative of the person alleged to have committed an ADRV;
- (5) liaising with the chairman of the Anti-Doping Tribunal or any other members of the Anti-Doping Tribunal prior to and throughout the hearing in relation to matters of procedure and the topics of any particular evidence that the Anti-Doping Tribunal may wish to have called before it;
- (6) providing legal advice to the Anti-Doping Tribunal if it so desires;
- (7) calling such evidence as counsel considers appropriate;
- (8) examining or cross-examining witnesses at any hearing; and
- (9) carrying out any or all of the above functions and such other functions as counsel assisting considers appropriate,

provided that under no circumstances is counsel assisting to participate in the deliberations of the Anti-Doping Tribunal.

Referral to CAS

130. Any matter which is competent for the Anti-Doping Tribunal to hear or determine may be referred to CAS for CAS to determine in accordance with its own procedures by our Anti-Doping Co-ordinator, or the Anti-Doping Tribunal of its own volition.

PART 8 – HEARINGS

This Part applies to original hearings, appeals or reviews of sanctions, as the case may be, held in the Anti-Doping Tribunal and in CAS.

Right to a Hearing⁹

131. A person alleged to have committed an ADRV has a right to a hearing.

WADC 8.1: Fair Hearings

132. WADC 8.1: The hearing process shall respect the following principles:

- (1) a timely hearing;
- (2) fair and impartial hearing panel;
- (3) the right to be represented by counsel at the *Person's* own expense;
- (4) the right to be informed in a fair and timely manner of the asserted anti-doping rule violation;
- (5) the right to respond to the asserted anti-doping rule violation and resulting *Consequences*; the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing panel's discretion to accept testimony by telephone or written submission);
- (6) the *Person's* right to an interpreter at the hearing, with the hearing panel to determine the identity, and responsibility for the cost, of the interpreter; and
- (7) a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any period of *Ineligibility*.

[Comment to Article 8.1: This Article contains basic principles relative to ensuring a fair hearing for Persons asserted to have violated anti-doping rules. This Article is not intended to supplant each Signatory's own rules for hearings but rather to ensure that each Signatory provides a hearing process consistent with these principles.]

Parties to a hearing

133. Apart from us, the parties to a hearing shall include:

- (1) the person(s) alleged to have committed an ADRV;
- (2) any other person(s) or entities against whom a sanction is sought to be imposed; and
- (3) any other person whose legal rights would be (or it is probable would be) adversely affected by the outcome of the hearing.

134. It is not necessary to join any other person whose legal rights would be (or it is probable would be) affected favourably by the outcome of the hearing. Specifically it is not necessary to join any other person or entity whose result, place or points in any *Competition* or *Event* might be improved by the outcome of the hearing. Any such person or entity the subject of this rule has no right to be joined as a party to a hearing and has no right to be heard at a hearing.

Conduct of hearings

135. Hearings may be in person or conducted by conference facility.

136. Hearings shall be conducted in English unless all parties agree on some other language.

⁹ Implicit in WADC 8.1

Hearings to be informal

137. Hearings shall be conducted with as little formality and technicality as proper consideration of the matter before the Tribunal permits. The Tribunal shall not be bound by judicial rules governing the admissibility of evidence. Instead, facts relating to an alleged ADRV (or other breach) may be established (or defended) by any reliable means, including admissions.

Procedure

138. To ensure that the principles for a fair hearing apply, at all Tribunal hearings:

- (1) All parties and the Tribunal may call, examine and cross-examine witnesses; and
- (2) All parties and the Tribunal may appoint representatives including a solicitor or counsel to assist them and cross-examine witnesses, the cost of such representation to be borne by the party on whose behalf they appear.

139. The Tribunal may seek expert advice to interpret any technical matter from the chief medical officer of our sport, or any other expert medical or scientific authority.

Hearings in private

140. All hearings in the Tribunal will be held in private save to the extent that the Tribunal rules otherwise or where the person the subject of the alleged ADRV (or other breach) consents. However, following such hearing details of the hearing may be published.

Hearings in the absence of the person the subject of the alleged ADRV (or other breach)

141. Where the person the subject of the alleged ADRV (or other breach) does not attend a Tribunal hearing within 1 hour of the time specified, the Tribunal may proceed and shall consider the evidence before it when making a decision.

WADC 8.3: Waiver of Hearing

142. WADC 8.3: The right to a hearing may be waived either expressly or by the *Athlete's* or other *Person's* failure to challenge an *Anti-Doping Organization's* assertion that an anti-doping rule violation has occurred within the specific time period provided in the *Anti-Doping Organization's* rules. Where no hearing occurs, the *Anti-Doping Organization* with results management responsibility shall submit to the persons described in WADC Article 13.2.3 a reasoned decision explaining the action taken.

Note: No hearing need take place where rule **112** or **113** apply.

Reasons to be provided and published

143. The Tribunal shall in all cases provide brief written reasons for its decision, specifically including an explanation of the reason(s) for any period of *Ineligibility*. Before providing such written reasons it is permissible for the Tribunal to state its decision orally and to supplement such oral statement in its later written reasons.

144. Following a hearing, all sanctions imposed and all reasons for decisions of the Tribunal must be published within 20 days of being delivered. For hearings in CAS, R43 of the CAS Code of Sports Related Arbitration does not apply. Awards are public and may be published in full.

145. Evidence given at a hearing and other matters occurring during a hearing may be made public.

Decision Final

146. The decision of the Tribunal is final, subject only to the rights of appeal and the right to make an application for review of the sanction, which are provided in **Part 10 – Appeals and review of sanctions** of this ADP.

Expedited hearing procedures in connection with Events¹⁰

147. WADC 8.2 permits us to make rules for expedited hearings in connection with *Events*.

[Comment to WADC Article 8.2: For example a hearing could be expedited on the eve of a major Event where the resolution of the anti-doping rule violation is necessary to determine the Athlete's eligibility to participate in the Event or during an Event where the resolution of the case will affect the validity of the Athlete's results or continued participation in the Event.]

We have made the rule below:

148. Alleged/suspected ADRVs by an *Athlete* or other person bound by this ADP in or in connection with or in the lead up to certain *Events* designated by the Anti-Doping Co-ordinator may be dealt with on an expedited basis:

- (1) in accordance with a protocol issued by the Anti-Doping Co-ordinator (and in the absence of an issued protocol, as decided from time to time by the Anti-Doping Co-ordinator on an ad hoc basis), and
- (2) at least in the case of an *Athlete*, such that permits the hearing to be concluded prior to the next occasion the *Athlete* or the *Athlete's* team/club is scheduled to play.

This rule allows all time periods in this ADP applicable to such *Athlete* or other person to be abridged at the discretion of the Anti-Doping Co-ordinator. Those *Events* need not be designated prior to the Anti-Doping Co-ordinator becoming aware of the alleged/suspected ADRV.

Costs

149. Costs of all hearings in our sport are to be borne by each party respectively and under no circumstances may costs orders be made which would have the effect of ordering one party to pay the costs of another party save only where one party has caused another party to incur costs in circumstances that amount to a deliberate abuse.

¹⁰ See WADC 8.2

PART 9 - SANCTIONS

The rules in this part are taken verbatim from the WADC.

WADC ARTICLE 9: AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS

150. WADC 9: 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.

[Comment to Article 9: When an Athlete wins a gold medal with a Prohibited Substance in his or her system, that is unfair to the other Athletes in that Competition regardless of whether the gold medallist was at fault in any way.

Only a "clean" Athlete should be allowed to benefit from his or her competitive results.

For Team Sports, see Article 11 (Consequences to Teams).

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 International Federation.]

Our note: Our sport is classified as a *Team Sport*: see "**Item 1 – Individual Sport or Team Sport**".

WADC ARTICLE 10: SANCTIONS ON INDIVIDUALS

151. WADC 10.1: *Disqualification* of Results in *Event* During which an Anti-Doping Rule Violation Occurs.

An anti-doping rule violation occurring during or in connection with an *Event* may, upon the decision of the ruling body¹¹ 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.

[Comment to Article 10.1: Whereas Article 9 (Automatic Disqualification of Individual Results) Disqualifies the result in a single Competition in which the Athlete tested positive (e.g., the 100 meter backstroke), this Article may lead to Disqualification of all results in all races during the Event (e.g., the FINA World Championships).

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

152. WADC 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.

WADC 10.2: Ineligibility for Presence, Use or Attempted Use, or Possession of Prohibited Substances and Prohibited Methods

153. WADC 10.2: The period of *Ineligibility* imposed for a violation of Articles 2.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*), 2.2 (*Use or Attempted Use of Prohibited Substance or Prohibited Method*) and 2.6 (*Possession of Prohibited Substances and Prohibited Methods*) shall be as follows, unless the conditions for eliminating or reducing the period of *Ineligibility*, as provided in Articles 10.4 and 10.5, or the conditions for increasing the period of *Ineligibility*, as provided in Article 10.6, are met:

¹¹ This means us or one of our member or sub-member organisations.

First violation: Two (2) years *Ineligibility*.

[Comment to Article 10.2: Harmonization of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonization means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonization 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 (e.g., artistic gymnastics) a two year Disqualification has a much more significant effect on the Athlete than in sports where careers are traditionally much longer (e.g., equestrian and shooting); in Individual Sports, the Athlete is better able to maintain competitive skills through solitary practice during Disqualification than in other sports where practice as part of a team is more important. A primary argument in favour of harmonization 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 bodies to be more lenient with dopers. The lack of harmonization of sanctions has also frequently been the source of jurisdictional conflicts between International Federations and National Anti-Doping Organizations.]

WADC 10.3: Ineligibility for Other Anti-Doping Rule Violations

154. WADC 10.3: The period of *Ineligibility* for anti-doping rule violations other than as provided in Article 10.2 shall be as follows:

155. WADC 10.3.1: For violations of Article 2.3 (refusing or failing to submit to *Sample* collection) or Article 2.5 (*Tampering with Doping Control*), the *Ineligibility* period shall be two (2) years unless the conditions provided in Article 10.5, or the conditions provided in Article 10.6, are met.

156. WADC 10.3.2: For violations of Articles 2.7 (*Trafficking or Attempted Trafficking*) or 2.8 (Administration or *Attempted Administration of Prohibited Substance or Prohibited Method*), the period of *Ineligibility* imposed shall be a minimum of four (4) years up to lifetime *Ineligibility* unless the conditions provided in Article 10.5 are met. An anti-doping rule violation involving a *Minor* shall be considered a particularly serious violation, and, if committed by *Athlete Support Personnel* for violations other than Specified Substances referenced in Article 4.2.2, shall result in lifetime *Ineligibility* for such *Athlete Support Personnel*. In addition, significant violations of such Articles which also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.

[Comment to Article 10.3.2: 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 sport organizations is generally limited to Ineligibility for credentials, membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.]

157. WADC 10.3.3: For violations of WADC Article 2.4 (whereabouts filing failures and/or missed tests), the period of *Ineligibility* shall be at a minimum one (1) year and at a maximum two (2) years based on the *Athlete's* degree of fault.

[Comment to Article 10.3.3: The sanction under Article 10.3.3 shall be two years where all three filing failures or missed tests are inexcusable. Otherwise, the sanction shall be assessed in the range of two years to one year, based on the circumstances of the case.]

WADC 10.4: Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specific Circumstances

158. WADC 10.4: Where an *Athlete* or other *Person* can establish how a Specified Substance entered his or her body or came into his or her *Possession* and that such Specified Substance was not intended to enhance the *Athlete's* sport performance or mask the use of a

performance-enhancing substance, the period of *Ineligibility* found in Article 10.2 shall be replaced with the following:

First violation: At a minimum, a reprimand and no period of *Ineligibility* from future *Events*, and at a maximum, two (2) years' *Ineligibility*.

To justify any elimination or reduction, the *Athlete* or other *Person* must produce corroborating evidence in addition to his or her word which establishes to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the use of a performance enhancing substance. The *Athlete's* or other *Person's* degree of fault shall be the criteria considered in assessing any reduction of the period of *Ineligibility*.

[Comment to Article 10.4: Specified Substances are not necessarily less serious agents for purposes of sports doping than other Prohibited Substances (for example, a stimulant that is listed as a Specified Substance could be very effective to an Athlete in competition); for that reason, an Athlete who does not meet the criteria under this Article would receive a two-year period of Ineligibility and could receive up to a four-year period of Ineligibility under Article 10.6. However, there is a greater likelihood that Specified Substances, as opposed to other Prohibited Substances, could be susceptible to a credible, non-doping explanation.

This Article applies only in those cases where the hearing panel is comfortably satisfied by the objective circumstances of the case that the Athlete in taking or Possessing a Prohibited Substance did not intend to enhance his or her sport performance. Examples of the type of objective circumstances which in combination might lead a hearing panel to be comfortably satisfied of no performance-enhancing intent would include: the fact that the nature of the Specified Substance or the timing of its ingestion would not have been beneficial to the Athlete; the Athlete's open Use or disclosure of his or her Use of the Specified Substance; and a contemporaneous medical records file substantiating the non-sport-related prescription for the Specified Substance. Generally, the greater the potential performance-enhancing benefit, the higher the burden on the Athlete to prove lack of an intent to enhance sport performance.

While the absence of intent to enhance sport performance must be established to the comfortable satisfaction of the hearing panel, the Athlete may establish how the Specified Substance entered the body by a balance of probability.

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 this Article. It is anticipated that the period of Ineligibility will be eliminated entirely in only the most exceptional cases.]

Our note: A precedent has been established to the effect that for a cannabinoid ADRV the sanction for a 1st violation is Ineligibility for not less than 3 months or 12 Competitions (whichever is the greater) but that such sanction may be suspended on conditions that extensive community service is performed and there is no other ADRV for the following 2 years. We consider that is a suitable precedent and hope it will be applied in our sport in the future if the circumstances are reasonably similar.

WADC 10.5: Elimination or Reduction of Period of *Ineligibility* Based on Exceptional Circumstances.

WADC 10.5.1: No Fault or Negligence.

159. WADC 10.5.1: If an *Athlete* establishes in an individual case that he or she bears *No Fault or Negligence*, the otherwise applicable period of *Ineligibility* shall be eliminated. When a *Prohibited Substance* or its *Markers* or *Metabolites* is detected in an *Athlete's Sample* in violation of Article 2.1 (presence of *Prohibited Substance*), the *Athlete* must also establish how the *Prohibited Substance* entered his or her system in order to have the period of

Ineligibility eliminated. In the event this Article is applied and the period of *Ineligibility* otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of *Ineligibility* for multiple violations under Article 10.7.

WADC 10.5.2: No Significant Fault or Negligence.

160. WADC 10.5.2: If an *Athlete* or other *Person* establishes in an individual case that he or she bears *No Significant Fault or Negligence*, then the otherwise applicable period of *Ineligibility* may be reduced, 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 8 years. When a *Prohibited Substance* or its *Markers* or *Metabolites* is detected in an *Athlete's Sample* in violation of Article 2.1 (Presence of *Prohibited Substance*), the *Athlete* must also establish how the *Prohibited Substance* entered his or her system in order to have the period of *Ineligibility* reduced.

[Comment to Articles 10.5.1 and 10.5.2: The Code provides for the possible reduction or elimination of the period of Ineligibility in the unique circumstance where the Athlete can establish that he or she had No Fault or Negligence, or No Significant Fault or Negligence, in connection with the violation. This approach is consistent with basic principles of human rights and provides a balance between those Anti-Doping Organizations that argue for a much narrower exception, or none at all, and those that would reduce a two year suspension based on a range of other factors even when the Athlete was admittedly at fault. These Articles apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. Article 10.5.2 may be applied to any anti-doping violation even though it will be especially difficult to meet the criteria for a reduction for those anti-doping rule violations where knowledge is an element of the violation.]

Articles 10.5.1 and 10.5.2 are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases.

To illustrate the operation of Article 10.5.1, an example where No Fault or Negligence would result in the total elimination of a sanction is where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence 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 based on No Significant Fault or Negligence. (For example, reduction may well be appropriate in illustration (a) if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements.)

For purposes of assessing the Athlete or other Person's fault under Articles 10.5.1 and 10.5.2, the evidence considered must be specific and relevant to explain the Athlete 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 this Article.

While minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the Athlete or other Person's fault under Article 10.5.2, as well as Articles 10.4 and 10.5.1.

Article 10.5.2 should not be applied in cases where Articles 10.3.3 or 10.4 apply, as those Articles already take into consideration the Athlete or other Person's degree of fault for purposes of establishing the applicable period of Ineligibility.]

WADC 10.5.3: Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations.

161. WADC 10.5.3: An *Anti-Doping Organization* 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 Organization*, criminal authority or professional disciplinary body which results in the *Anti-Doping Organization* discovering or establishing an anti-doping rule violation by another *Person* or which results in a criminal or disciplinary body discovering or establishing a criminal offense or the breach of professional rules by another *Person*. After a final appellate decision under Article 13 or the expiration of time to appeal, an *Anti-Doping Organization* may only suspend a part of the applicable period of *Ineligibility* with the approval of WADA and the applicable International Federation. 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 section must be no less than 8 years. If the *Anti-Doping Organization* suspends any part of the period of *Ineligibility* under this Article, the *Anti-Doping Organization* shall promptly provide a written justification for its decision to each *Anti-Doping Organization* having a right to appeal the decision. If the *Anti-Doping Organization* subsequently reinstates any part of the suspended period of *Ineligibility* because the *Athlete* or other *Person* has failed to provide the *Substantial Assistance* which was anticipated, the *Athlete* or other *Person* may appeal the reinstatement pursuant to Article 13.2.

[Comment to Article 10.5.3: 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.

Factors to be considered in assessing the importance of the Substantial Assistance would include, for example, the number of individuals implicated, the status of those individuals in the sport, whether a scheme involving Trafficking under Article 2.7 or administration under Article 2.8 is involved and whether the violation involved a substance or method which is not readily detectable in Testing. The maximum suspension of the Ineligibility period shall only be applied in very exceptional cases. An additional factor to be considered in connection with the seriousness of the anti-doping rule violation is any performance-enhancing benefit which the Person providing Substantial Assistance may be likely to still enjoy. As a general matter, the earlier in the results management process the Substantial Assistance is provided, the greater the percentage of the period of Ineligibility may be suspended.

If the Athlete or other Person who is asserted to have committed an anti-doping rule violation claims entitlement to a suspended period of Ineligibility under this Article in connection with the Athlete or other Person's waiver of a hearing under Article 8.3 (Waiver of Hearing), the Anti-Doping Organization shall determine whether a suspension of a portion of the period of Ineligibility is appropriate under this Article. If the Athlete or other Person claims entitlement to a suspended period of Ineligibility before the conclusion of a hearing under Article 8 on the anti-doping rule violation, the hearing panel shall determine whether a suspension of a portion of the period of Ineligibility is appropriate under this Article at the same time the hearing panel decides whether the Athlete or other Person has committed an anti-doping rule violation. If a portion of the period of Ineligibility is suspended, the decision shall explain the basis for concluding the information provided was credible and was important to discovering or proving the anti-doping rule violation or other offense. If the Athlete or other Person claims entitlement to a suspended period of Ineligibility after a final decision finding an anti-doping rule violation has been rendered and

is not subject to appeal under Article 13, but the Athlete or other Person is still serving the period of Ineligibility, the Athlete or other Person may apply to the Anti-Doping Organization which had results management responsibility for the anti-doping rule violation to consider a suspension in the period of Ineligibility under this Article. Any such suspension of the period of Ineligibility shall require the approval of WADA and the applicable International Federation. If any condition upon which the suspension of a period of Ineligibility is based is not fulfilled, the Anti-Doping Organization with results management authority shall reinstate the period of Ineligibility which would otherwise be applicable. Decisions rendered by Anti-Doping Organizations under this Article may be appealed pursuant Article 13.2.

This is the only circumstance under the Code where the suspension of an otherwise applicable period of Ineligibility is authorized.]

WADC 10.5.4: Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence.

162. WADC 10.5.4: 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* otherwise applicable.

[Comment to Article 10.5.4: 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 Organization 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 knows he or she is about to be caught.]

WADC 10.5.5: Where an Athlete or Other Person Establishes Entitlement to Reduction in Sanction Under More than One Provision of this Article.

163. WADC 10.5.5: Before applying any reductions under Articles 10.5.2, 10.5.3 or 10.5.4, the otherwise applicable period of *Ineligibility* shall be determined in accordance with Articles 10.2, 10.3, 10.4 and 10.6. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under two or more of Articles 10.5.2, 10.5.3 or 10.5.4, then the period of *Ineligibility* may be reduced or suspended, but not below one-quarter of the otherwise applicable period of *Ineligibility*.

[Comment to Article 10.5.5: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions (Article 10.2, Article 10.3, Article 10.4 or Article 10.6) applies to the particular anti-doping rule violation. In a second step, the hearing panel establishes whether there is a basis for elimination or reduction of the sanction (Articles 10.5.1 through 10.5.4). Note, however, not all grounds for elimination or reduction may be combined with the provisions on basic sanctions. For example, Article 10.5.2 does not apply in cases involving Articles 10.3.3 or 10.4, since the hearing panel, under Articles 10.3.3 and 10.4, will already have determined the period of Ineligibility based on the Athlete or other Person's degree of fault. In a third step, the hearing panel determines under Article 10.5.5 whether the Athlete or other Person is entitled to a reduction under more than one provision of Article 10.5. Finally, the hearing panel decides on the commencement of the period of Ineligibility under Article 10.9. The following four examples demonstrate the proper sequence of analysis:

Example 1.

Facts: An Adverse Analytical Finding involves the presence of an anabolic steroid; the Athlete promptly admits the anti-doping rule violation as alleged; the Athlete establishes No Significant Fault (Article 10.5.2); and the Athlete provides important Substantial Assistance (Article 10.5.3).

Application of Article 10:

1. *The basic sanction would be two years under Article 10.2. (Aggravating circumstances (Article 10.6) would not be considered because the Athlete promptly admitted the violation. Article 10.4 would not apply because a steroid is not a Specified Substance.)*

2. *Based on No Significant Fault alone, the sanction could be reduced up to one-half of the two years. Based on Substantial Assistance alone, the sanction could be reduced up to three-quarters of the two years.*

3. *Under Article 10.5.5, in considering the possible reduction for No Significant Fault and Substantial Assistance together, the most the sanction could be reduced is up to three-quarters of the two years. Thus, the minimum sanction would be a six-month period of Ineligibility.*

4. *Under Article 10.9.2, because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event the Athlete would have to serve at least one-half of the Ineligibility period (minimum three months) after the date of the hearing decision.*

Example 2.

Facts: An Adverse Analytical Finding involves the presence of an anabolic steroid; aggravating circumstances exist and the Athlete is unable to establish that he did not knowingly commit the anti-doping rule violation; the Athlete does not promptly admit the anti-doping rule violation as alleged; but the Athlete does provide important Substantial Assistance (Article 10.5.3).

Application of Article 10:

1. *The basic sanction would be between two and four years Ineligibility as provided in Article 10.6.*

2. *Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the maximum four years.*

3. *Article 10.5.5 does not apply.*

4. *Under Article 10.9.2, the period of Ineligibility would start on the date of the hearing decision.*

Example 3.

Facts: An Adverse Analytical Finding involves the presence of a Specified Substance; the Athlete establishes how the Specified Substance entered his body and that he had no intent to enhance his sport performance; the Athlete establishes that he had very little fault; and the Athlete provides important Substantial Assistance (Article 10.5.3).

Application of Article 10:

1. *Because the Adverse Analytical Finding involved a Specified Substance and the Athlete has satisfied the other conditions of Article 10.4, the basic sanction would fall in the range between a reprimand and two years Ineligibility. The hearing panel would assess the Athlete's fault in imposing a sanction within that range. (Assume for illustration in this example that the panel would otherwise impose a period of Ineligibility of eight months.)*

2. *Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the eight months. (No less than two months.) [No Significant*

Fault (Article 10.2) would not be applicable because the Athlete's degree of fault was already taken into consideration in establishing the eight-month period of Ineligibility in step 1.]

3. *Article 10.5.5 does not apply.*

4. *Under Article 9.2, because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event, the Athlete would have to serve at least half of the Ineligibility period after the date of the hearing decision. (Minimum one month.)*

Example 4.

Facts: An Athlete who has never had an Adverse Analytical Finding or been confronted with an anti-doping rule violation spontaneously admits that he intentionally used multiple Prohibited Substances to enhance his performance. The Athlete also provides important Substantial Assistance (Article 10.5.3).

Application of Article 10:

1. *While the intentional Use of multiple Prohibited Substances to enhance performance would normally warrant consideration of aggravating circumstances (Article 10.6), the Athlete's spontaneous admission means that Article 10.6 would not apply. The fact that the Athlete's Use of Prohibited Substances was intentional would also eliminate the application of Article 10.4 regardless of whether the Prohibited Substances Used were Specified Substances. Thus, Article 10.2 would be applicable and the basic period of Ineligibility imposed would be two years.*
2. *Based on the Athlete's spontaneous admissions (Article 10.5.4) alone, the period of Ineligibility could be reduced up to one-half of the two years. Based on the Athlete's Substantial Assistance (Article 10.5.3) alone, the period of Ineligibility could be reduced up to three-quarters of the two years.*
3. *Under Article 10.5.5, in considering the spontaneous admission and Substantial Assistance together, the most the sanction could be reduced would be up to three-quarters of the two years. (The minimum period of Ineligibility would be six months.)*
4. *If Article 10.5.4 was considered by the hearing panel in arriving at the minimum six month period of Ineligibility at step 3, the period of Ineligibility would start on the date the hearing panel imposed the sanction. If, however, the hearing panel did not consider the application of Article 10.5.4 in reducing the period of Ineligibility in step 3, then under Article 10.9.2, the commencement of the period of Ineligibility could be started as early as the date the anti-doping rule violation was committed, provided that at least half of that period (minimum of three months) would have to be served after the date of the hearing decision.]*

WADC 10.6: Aggravating Circumstances Which May Increase the Period of Ineligibility

164. WADC 10.6: If the *Anti-Doping Organization* establishes in an individual case involving an anti-doping rule violation other than violations under Article 2.7 (*Trafficking or Attempted Trafficking*) and 2.8 (*Administration or Attempted Administration*) that aggravating circumstances are present which justify the imposition of a period of *Ineligibility* greater than the standard sanction, then the period of *Ineligibility* otherwise applicable shall be increased up to a maximum of four years unless the *Athlete* or other *Person* can prove to the comfortable satisfaction of the hearing panel that he did not knowingly violate the anti-doping rule.

An *Athlete* or other *Person* can avoid the application of this Article by admitting the anti-doping rule violation as asserted promptly after being confronted with the anti-doping rule violation by an *Anti-Doping Organization*.

[Comment to Article 10.6: Examples of aggravating circumstances which may justify the imposition of a period of Ineligibility greater than the standard sanction are: the Athlete or other Person committed the anti-doping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person used or possessed multiple Prohibited Substances or Prohibited Methods or used or possessed a Prohibited Substance or Prohibited Method on multiple occasions; a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility; the Athlete or Person engaged in deceptive or obstructing conduct to avoid the detection or adjudication of an anti-doping rule violation.

For the avoidance of doubt, the examples of aggravating circumstances described in this Comment to Article 10.6 are not exclusive and other aggravating factors may also justify the imposition of a longer period of Ineligibility. Violations under Article 2.7 (Trafficking or Attempted Trafficking) and 2.8 (Administration or Attempted Administration) are not included in the application of Article 10.6 because the sanctions for these violations (from four years to lifetime Ineligibility) already build in sufficient discretion to allow consideration of any aggravating circumstance.]

WADC 10.7: Multiple Violations**WADC 10.7.1: Second Anti-Doping Rule Violation.**

165. WADC 10.7.1: For an *Athlete's* or other *Person's* first anti-doping rule violation, the period of *Ineligibility* is set forth in Articles 10.2 and 10.3 (subject to elimination, reduction or suspension under Articles 10.4 or 10.5, or to an increase under Article 10.6). For a second anti-doping rule violation the period of *Ineligibility* shall be within the range set forth in the table below.

Second Violation First Violation	RS	FFMT	NSF	St	AS	TRA
RS	1-4	2-4	2-4	4-6	8-10	10-life
FFMT	1-4	4-8	4-8	6-8	10-life	life
NSF	1-4	4-8	4-8	6-8	10-life	life
St	2-4	6-8	6-8	8-life	life	life
AS	4-5	10-life	10-life	life	life	life
TRA	8-life	life	life	life	life	life

Definitions for purposes of the second anti-doping rule violation table:

RS (Reduced sanction for Specified Substance under Article 10.4): The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 10.4 because it involved a Specified Substance and the other conditions under Article 10.4 were met.

FFMT (Filing Failures and/or Missed Tests): The anti-doping rule violation was or should be sanctioned under Article 10.3.3 (Filing Failures and/or Missed Tests).

NSF (Reduced sanction for *No Significant Fault or Negligence*): The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 10.5.2 because *No Significant Fault or Negligence* under Article 10.5.2 was proved by the *Athlete*.

St (Standard sanction under Article 10.2 or 10.3.1): The anti-doping rule violation was or should be sanctioned by the standard sanction of two years under Article 10.2 or 10.3.1.

AS (Aggravated sanction): The anti-doping rule violation was or should be sanctioned by an aggravated sanction under Article 10.6 because the *Anti-Doping Organization* established the conditions set forth under Article 10.6.

TRA (*Trafficking* and Administration): The anti-doping rule violation was or should be sanctioned by a sanction under Article 10.3.2 for *Trafficking* or Administration.

[Comment to Article 10.7.1: The table is applied by locating the Athlete's or other Person's first anti-doping rule violation in the left-hand column and then moving across the table to the right to the column representing the second violation. By way of example, assume an Athlete receives the standard period of Ineligibility for a first violation under Article 10.2 and then commits a second violation for which he receives a reduced sanction for a Specified Substance under Article 10.4. The table is used to determine the period of Ineligibility for the second violation. The table is applied to this example by starting in the left-hand column and going down to the fourth row which is "St" for standard sanction, then moving across the table to the first column which is "RS" for reduced sanction for a Specified Substance, thus resulting in a 2-4 year range for the period of Ineligibility for the second violation. The Athlete's or other Person's degree of fault shall be the criterion considered in assessing a period of Ineligibility within the applicable range.]

[Comment to Article 10.7.1 RS Definition: See Article 25.4 with respect to application of Article 10.7.1 to pre-Code anti-doping rule violations.]

WADC 10.7.2: Application of Articles 10.5.3 and 10.5.4 to Second Violation.

166. WADC 10.7.2: Where an *Athlete* or other *Person* who commits a second anti-doping rule violation establishes entitlement to suspension or reduction of a portion of the period of *Ineligibility* under Article 10.5.3 or Article 10.5.4, the hearing panel shall first determine the otherwise applicable period of *Ineligibility* within the range established in the table in Article 10.7.1, and then apply the appropriate suspension or reduction of the period of *Ineligibility*. The remaining period of *Ineligibility*, after applying any suspension or reduction under Articles 10.5.3 and 10.5.4, must be at least one-fourth of the otherwise applicable period of *Ineligibility*.

WADC 10.7.3: Third Anti-Doping Rule Violation.

167. WADC 10.7.3: 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 involves a violation of Article 2.4 (Filing Failures and/or and Missed Tests). In these particular cases, the period of *Ineligibility* shall be from eight years to life ban.

WADC 10.7.4: Additional Rules for Certain Potential Multiple Violations.

168. 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 Organization* 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 (Results Management), or after the *Anti-Doping Organization* made reasonable efforts to give notice, of the first anti-doping rule violation; if the *Anti-Doping Organization* 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; however, the occurrence of multiple violations may be considered as a factor in determining Aggravating Circumstances (Article 10.6).

169. If, after the resolution of a first anti-doping rule violation, an *Anti-Doping Organization* 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 *Anti-Doping Organization* shall impose an additional sanction based on the sanction that could have been imposed if the two violations would have 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. To avoid the possibility of a finding of Aggravating Circumstances (Article 10.6) on account of the earlier-in-time but later-discovered violation, the *Athlete* or other *Person* must voluntarily admit the earlier anti-doping rule violation on a timely basis after notice of the violation for which he or she is first charged. The same rule shall also apply when the *Anti-Doping Organization* discovers facts involving another prior violation after the resolution of a second anti-doping rule violation.

WADC 10.7.5: Multiple Anti-Doping Rule Violations During Eight-Year Period.

170. WADC 10.7.5: For purposes of WADC Article 10.7, each anti-doping rule violation must take place within the same eight (8) year period in order to be considered multiple violations.

[Comment to Article 10.7.5: In a hypothetical situation, an *Athlete* commits an anti-doping rule violation on January 1, 2008 which the *Anti-Doping Organization* does not discover until December 1, 2008. In the meantime, the *Athlete* commits another anti-doping rule violation on March 1, 2008 and the *Athlete* is notified of this violation by the *Anti-Doping*

Organization on March 30, 2008 and a hearing panel rules on June 30, 2008 that the Athlete committed the March 1, 2008 anti-doping rule violation. The later-discovered violation which occurred on January 1, 2008 will provide the basis for Aggravating Circumstances because the Athlete did not voluntarily admit the violation in a timely basis after the Athlete received notification of the later violation on March 30, 2008.]

WADC 10.8: Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation

171. WADC 10.8: In addition to the automatic *Disqualification* of the results in the *Competition* which produced the positive *Sample* under Article 9 (Automatic *Disqualification* of Individual Results), all other competitive results 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 consequences including forfeiture of any medals, points and prizes.

Our note: As to when fairness may require otherwise see eg the CAS decisions in relation to *Lund ats WADA CAS OG 06.001 10.2.06* (no results *Disqualified*) and *Karapetyn ats WADA CAS 2007.A.1283 15.11.7* (only one result *Disqualified*).

172. WADC 10.8.1: As a condition of regaining eligibility after being found to have committed an anti-doping rule violation, the *Athlete* must first repay all prize money forfeited under this Article.

173. WADC 10.8.2: Allocation of Forfeited Prize Money.

Unless the rules of the International Federation provide that forfeited prize money shall be reallocated to other *Athletes*, it shall be allocated first to reimburse the collection expenses of the *Anti-Doping Organization* that performed the necessary steps to collect the prize money back, then to reimburse the expenses of the *Anti-Doping Organization* that conducted results management in the case, with the balance, if any, allocated in accordance with the International Federation's rules.

[Comment to Article 10.8.2: Nothing in the Code 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.]

WADC 10.9: Commencement of Ineligibility Period

174. WADC 10.9: Except as provided below, the period of *Ineligibility* shall start on the date of the hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed. Any period of *Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* imposed.

175. WADC 10.9.1: 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.

176. WADC 10.9.2: Timely Admission.

Where the *Athlete* or other *Person* promptly (which, in all events, means before the *Athlete* competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by the *Anti-Doping Organization*, 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, however, 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 or the date of a hearing decision imposing a sanction or the date the sanction is otherwise imposed.

[Comment to Article 10.9.2: This Article shall not apply where the period of Ineligibility already has been reduced under Article 10.5.4 (Admission of an Anti-Doping Rule Violation in the absence of other Evidence).]

177. WADC 10.9.3: If a *Provisional Suspension* is imposed and respected by the *Athlete*, then the *Athlete* shall receive a credit for such period of *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed.
178. WADC 10.9.4: If an *Athlete* (or other person bound by this ADP) voluntarily accepts a *Provisional Suspension* in writing from an *Anti-Doping Organization* with results management authority and thereafter refrains from competing, the *Athlete* (or other person bound by this ADP) 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's* (or other person bound by this ADP) voluntary acceptance of a *Provisional Suspension* shall be provided promptly to each party entitled to receive notice of a potential anti-doping rule violation under WADC Article 14.1.

[Comment to Article 10.9.4: 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.]

Our note: This rule should not just be for the potential benefit of *Athletes* and has been made wider than the WADC in this ADP to also apply to other persons bound by this ADP. The rule is designed to complement rule **118** above which is based on WADC 7.5.2.

179. WADC 10.9.5: 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.

[Comment to Article 10.9: The text of Article 10.9 has been revised to make 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 hearing decision. This amendment corrects inconsistent interpretation and application of the previous text.]

No upward readjustment of results of opponent(s)

180. We are under no obligation whatsoever to make any adjustment of results, medals, points, prizes or other consequences for the opponent(s) of an *Athlete* (or the *Athlete's* team/club) found to have committed an ADRV.

Our note: This rule means that there is no right to a reallocation of results even when the winner is disqualified and the opponent(s) should have no such expectation. It does not prevent us doing so at our discretion.

WADC 10.10: Status During *Ineligibility*

181. WADC 10.10.1 Prohibition Against Participation During *Ineligibility*.
- (1) 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 authorized anti-doping education or rehabilitation programs) authorized or organized by any *Signatory*, *Signatory's* member organization, or a club or other member organization of a *Signatory's* member organization, or in *Competitions* authorized or

organized by any professional league or any international or national level *Event* organization.

- (2) 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 in local sport events in a sport other than the sport in which the *Athlete* or other *Person* committed the anti-doping rule violation, 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*.
- (3) An *Athlete* or other *Person* subject to a period of *Ineligibility* shall remain subject to *Testing*.

[Comment to Article 10.10.1: For example, an ineligible Athlete cannot participate in a training camp, exhibition or practice organized by his or her National Federation or a club which is a member of that National Federation. Further, an ineligible Athlete may not compete in a non-Signatory professional league (e.g., the National Hockey League, the National Basketball Association, etc.), Events organized by a non-Signatory International Event organization or a non-Signatory national-level event organization without triggering the consequences set forth in Article 10.10.2. Sanctions in one sport will also be recognized by other sports (see Article 15.4 Mutual Recognition).]

Our note: This rule has been interpreted in a manner such as to prohibit training with a team/club during the period of *Ineligibility*: see Lazaridis decision of FFA in August 2007.

182. WADC 10.10.2: 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 10.10.1, the results of such participation shall be *Disqualified* and the period of *Ineligibility* which was originally imposed shall start over again as of the date of the violation. The new period of *Ineligibility* may be reduced under Article 10.5.2 if the *Athlete* or other *Person* establishes he or she bears *No Significant Fault or Negligence* for violating the prohibition against participation. The determination of whether an *Athlete* or other *Person* has violated the prohibition against participation, and whether a reduction under Article 10.5.2 is appropriate, shall be made by the *Anti-Doping Organization* whose results management led to the imposition of the initial period of *Ineligibility*.

[Comment to Article 10.10.2: If an Athlete or other Person is alleged to have violated the prohibition against participation during a period of Ineligibility, the Anti-Doping Organization which had results management responsibility for the anti-doping rule violation which resulted in the period of Ineligibility shall determine whether the Athlete or other Person violated the prohibition and, if so, whether the Athlete or other Person has established grounds for a reduction in the restarted period of Ineligibility under Article 10.5.2. Decisions rendered by Anti-Doping Organizations under this Article may be appealed pursuant to Article 13.2.]

Where an Athlete Support Personnel or other Person substantially assists an Athlete in violating the prohibition against participation during Ineligibility, an Anti-Doping Organization with jurisdiction over such Athlete Support Personnel or other Person may appropriately impose sanctions under its own disciplinary rules for such assistance.]

183. WADC 10.10.3: Withholding of Financial Support during *Ineligibility*.

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

Our note: Sport-related financial support or other sport-related benefits may only be withheld in accordance with a legal right to do so.

WADC 10.11: Reinstatement Testing.

184. WADC 10.11: As a condition to regaining eligibility at the end of a specified period of *Ineligibility*, an *Athlete* must, during any period of *Provisional Suspension* or *Ineligibility*, make him or herself available for *Out-of-Competition Testing* by any *Anti-Doping Organization* having *Testing* jurisdiction, and must, if requested, provide current and accurate whereabouts information. If an *Athlete* subject to a period of *Ineligibility* retires from sport and is removed from *Out-of-Competition Testing* pools and later seeks reinstatement, the *Athlete* shall not be eligible for reinstatement until the *Athlete* has notified relevant *Anti-Doping Organizations* and has been subject to *Out-of-Competition Testing* for a period of time equal to the period of *Ineligibility* remaining as of the date the *Athlete* had retired.

WADC 10.12: Imposition of Financial Sanctions.

185. WADC 10.12 allows us to make rules that provide for financial sanctions on account of anti-doping rule violations. However, no financial sanction may be considered a basis for reducing the period of *Ineligibility* or other sanction which would otherwise be applicable under the *Code*.

[Comment to Article 10.12: For example, if a panel were to find in a case that the cumulative effect of the sanction applicable under the Code and a financial sanction provided in the rules of an Anti-Doping Organization would result in too harsh a consequence, then the financial sanction, not the other Code sanctions (e.g., Ineligibility and loss of results), would give way.]

186. Any such rules we have made or may make will be available from the Anti-Doping Co-ordinator and only affect an *Athlete* or other person bound by this ADP if made prior to the conduct that constitutes the ADRV.

WADC ARTICLE 11: CONSEQUENCES TO TEAMS

187. WADC 11.1: *Testing of Team Sports*.

Where more than one member of a team in a *Team Sport* has been notified of a possible 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*.

188. WADC 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 (e.g., loss of points, *Disqualification* from a *Competition* or *Event*, or other sanction) in addition to any *Consequences* imposed upon the individual *Athlete(s)* committing the anti-doping rule violation.

189. Where we are the ruling body of an *Event* the following shall apply:

- (1) If more than two *Athletes* in a team are found to have committed an Anti-Doping Rule Violation during an *Event*, the team may be subject to disqualification or other disciplinary action as set below.
- (2) If it is established that two or more *Athletes* in the same team have committed More Serious ADRVs in respect of the same *Competition* in the one *Event*, we have a discretion¹² to impose a sanction on the team, which sanction may include:
 - (a) loss of competition points in respect that particular *Competition* if that particular *Competition* was in the equivalent of a round robin phase, or

¹² We would have regard to relevant factors such as whether the *Athletes* played only a minimal part in the *Competition*

- (b) cancellation of the result of that particular *Competition*, if that particular *Competition* was during a knock-out phase (eg quarter final).
- (3) If it is established that three or more *Athletes* in the same team have committed More Serious ADRVs in respect of the same *Event*, we have a discretion¹³ to impose a sanction on the team, which sanction may include:
- (a) loss of competition points equal to what would be earned in a win in a single *Competition* in that *Event* multiplied by the number of *Athletes* exceeding two found to have committed More Serious ADRVs¹⁴, and
- (b) in a most extreme case, *Disqualification* from the *Event*.
- (4) In exercising the discretion, we may have regard to such factors as we consider appropriate but shall at least have regard to the total number of *Athletes* comprising the team. This is because it is necessary to consider the ramifications to innocent *Athletes* in the team of any sanction; thus a high proportion of innocent *Athletes* in the team will militate in favour of a lower team sanction (and vice versa).
- (5) Before a sanction can be imposed on a team under the above rules, we must afford the team natural justice and at a minimum must:
- (a) afford the team a hearing that accords with the principles in WADC 8 (see rule **132**), adapted to the extent necessary to accommodate the fact that it is a team sanction hearing and not a hearing of an ADRV against an individual;
- (b) afford the team a right of appeal; and
- (c) comply with any appropriate procedural rules of our sport relating to team sanctions.
- (6) In the absence of existing procedural rules the procedural rules of the Tribunal (and failing that CAS) shall be deemed to apply *mutatis mutandis*.
- (7) In this rule '**More Serious ADRV**' – means an ADRV where the period of *Ineligibility* actually imposed was longer than one year.

Sanction where no sanction elsewhere stipulated

190. Where an ADRV or other breach of this ADP is found to have occurred but this ADP does not elsewhere stipulate a sanction, the Tribunal may apply such sanction as it sees fit in the reasonable exercise of discretion.

Special orders

191. In addition to the sanctions outlined above, the Tribunal may, at its discretion, require an *Athlete* to be available for *Testing* at intervals as determined by the Tribunal and/or refer the *Athlete* involved to a drug rehabilitation program.

Outcome of hearing to be notified to the *Athlete* or other person

192. The Anti-Doping Co-ordinator shall provide formal notification, in writing, of the outcome of the hearing and any sanction imposed, to the person concerned, and will include the following:

- (1) the decision of the Tribunal and a copy of the reasons for its decision;

¹³ We would have regard to relevant factors such as whether in an *Event* (that takes place over a season made up of *Competitions* over many months) say 2 ADRVs were in the early *Competitions* and the 3rd ADRV was in the 'final' ie the last *Competition* of the *Event*.

¹⁴ So if say 4 *Athletes* were involved and a win was worth 2 points there would be a loss of 2 points x (4-2) *Athletes* = 4 points.

- (2) the details of the sanction imposed; and
- (3) a statement that there are rights of appeal and review in **Part 10 – Appeals and review of sanctions** of this ADP.

If there is an available appeal then notwithstanding any other rule or provision to the contrary, the commencement of the time period in which to file an appeal does not start until 2 business days after the formal notification under this rule is sent to the last known address of the person or is in fact communicated to the person.

Other notifications

193. We:

- (1) will notify the relevant NADO (or other applicable Drug Testing Authority), our International Federation and
- (2) may notify any other sporting organisation or body which we believe should be informed

of the decision of the Tribunal and any sanctions imposed, if any, and subsequently notify the outcome of any appeal or review of sanctions.

Media releases

194. We have the right (via the Anti-Doping Co-ordinator or otherwise) to issue media releases regarding any final decisions of the Tribunal.

PART 10 – APPEALS AND REVIEW OF SANCTIONS

WADC ARTICLE 13: APPEALS

WADC 13.1: Decisions Subject to Appeal

195. WADC 13.1: Decisions made under the *Code* or rules adopted pursuant to the *Code* may be appealed as set forth below in Articles 13.2 through 13.4 or as otherwise provided in the *Code*. 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 Organization's* rules must be exhausted, provided that such review respects the principles set forth in Article 13.2.2 below (except as provided in Article 13.1.1).

196. WADC 13.1.1: *WADA* 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 Organization's* process, *WADA* may appeal such decision directly to *CAS* without having to exhaust other remedies in the *Anti-Doping Organization* process.

[Comment to Article 13.1.1: Where a decision has been rendered before the final stage of an Anti-Doping Organization's process (for example, a first hearing) and no party elects to appeal that decision to the next level of the Anti-Doping Organization's process (e.g., the Managing Board), then WADA may bypass the remaining steps in the Anti-Doping Organization's internal process and appeal directly to CAS.]

WADC 13.2: Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, and Provisional Suspensions

197. WADC 13.2: A decision that an anti-doping rule violation was committed, a decision 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 under Article 10.10.2 (Violation of the Prohibition of Participation during Ineligibility); a decision that an *Anti-Doping Organization* lacks jurisdiction to rule on an alleged anti-doping rule violation or its *Consequences*; a decision by an *Anti-Doping Organization* 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 7.4; and a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing* or in violation of Article 7.5, may be appealed exclusively as provided in this Article 13.2.

198. WADC 13.2.1: Appeals Involving *International-Level Athletes*.

In cases arising from participation in an *International Event* or in cases involving *International-Level Athletes*, the decision may be appealed exclusively to *CAS* in accordance with the provisions applicable before such court.

[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.]

199. WADC 13.2.2: Appeals Involving National-Level *Athletes*.

(1) In cases involving national-level *Athletes*, as defined by each *National Anti-Doping Organization*, that do not have a right to appeal under Article 13.2.1, the decision may be appealed to an independent and impartial body in accordance with rules established by the *National Anti-Doping Organization* (which in Australia is ASADA). The rules for such appeal shall respect the following principles:

- a timely hearing;

- fair, impartial and independent hearing panel;
- the right to be represented by counsel at the Person's own expense; and
- a timely, written, reasoned decision.

[Comment to Article 13.2.2: An Anti-Doping Organization may elect to comply with this Article by giving its national-level Athletes the right to appeal directly to CAS.]

- (2) ASADA as the relevant *National Anti-Doping Organization* has established this rule for our sport: In cases involving national-level *Athletes*, as defined by each *National Anti-Doping Organization*, that do not have a right to appeal under Article 13.2.1, the decision may be appealed exclusively to CAS in accordance with such of its own provisions as are not inconsistent with the provisions in **Part 8 – Hearings** and provided:
- (a) no person other than those identified in WADC 13.2.3 is entitled to appeal; and
 - (b) such appeals are true appeals where the appellant must establish error by the first instance tribunal; they are not a rehearing.

The establishment of this rule was confirmed by ASADA's approval of this ADP.

200. WADC 13.2.3: Persons Entitled to Appeal.

- (1) In cases under WADC 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 relevant International Federation;
 - (d) the *National Anti-Doping Organization* of the Person's country of residence or countries where the Person is a national or license holder; the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and
 - (e) WADA.
- (2) In cases under WADC 13.2.2, the parties having the right to appeal to the national-level reviewing body shall be as provided in the *National Anti-Doping Organization's* rules but, at a minimum, shall include the following parties:
- (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 relevant International Federation;
 - (d) the *National Anti-Doping Organization* of the Person's country of residence; and
 - (e) WADA.
- (3) For cases under WADC 13.2.2, WADA, ASADA and our International Federation shall also have the right to appeal to CAS with respect to the decision of the national-level reviewing body.
- (4) Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the *Anti-Doping Organization* whose decision is being appealed and the information shall be provided if CAS so directs.

- (5) The filing deadline for an appeal or intervention filed by *WADA* shall be the later of:
 - (a) Twenty-one (21) days after the last day on which any other party in the case could have appealed, or
 - (b) Twenty-one (21) days after *WADA*'s receipt of the complete file relating to the decision.
- (6) Notwithstanding any other provision herein, the only *Person* that may appeal from a *Provisional Suspension* is the *Athlete* or other *Person* upon whom the *Provisional Suspension* is imposed.

WADC 13.3: Failure to Render a Timely Decision by an *Anti-Doping Organization*

201. WADC 13.3: Where, in a particular case, an *Anti-Doping Organization* 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 the *Anti-Doping Organization* 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 attorneys fees in prosecuting the appeal shall be reimbursed to *WADA* by the *Anti-Doping Organization*.

[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 Organization 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 Organization and give the Anti-Doping Organization an opportunity to explain why it has not yet rendered a decision. Nothing in this rule prohibits an International Federation from also having rules which authorize it to assume jurisdiction for matters in which the results management performed by one of its National Federations has been inappropriately delayed.]

WADC 13.4: Appeals from Decisions Granting or Denying a Therapeutic Use Exemption¹⁵

202. Decisions by *WADA* granting or denying a therapeutic use exemption may be appealed exclusively to *CAS* by the *Athlete* or the *Anti-Doping Organization* who is adversely affected. Decisions by *Anti-Doping Organizations* other than *WADA* denying therapeutic use exemptions, where there is no review by *WADA* under the equivalent of WADC 4.4, may be appealed

- (1) by *International-Level Athletes* to *CAS* and
- (2) by other *Athletes* as follows:
 - (a) to an independent and impartial body in accordance with rules established by the *National Anti-Doping Organization* (which in Australia is ASADA). The rules for such appeal shall respect the following principles:
 - a timely hearing;
 - fair, impartial and independent hearing panel;
 - the right to be represented by counsel at the *Person*'s own expense; and
 - a timely, written, reasoned decision.
 - (b) ASADA as the relevant *National Anti-Doping Organization* has established the following rule for our sport: the decision may be appealed to the *Anti-Doping Tribunal*.

¹⁵ This is based on WADC 13.4 but modified to suit our sport.

- (c) If the Anti-Doping Tribunal reverses the decision to deny a therapeutic use exemption, that decision may be appealed to CAS by WADA.

203. When an *Anti-Doping Organization* fails to take action on a properly submitted therapeutic use exemption application within a reasonable time, the *Anti-Doping Organization's* failure to decide may be considered a denial for purposes of the appeal rights provided in this Article.

[Comment to Article 13: The object of the Code is to have anti-doping matters resolved through fair and transparent internal processes with a final appeal. Anti-doping decisions by Anti-Doping Organizations are made transparent in Article 14. Specified Persons and organizations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested Persons and organizations with a right to appeal under Article 13 does not include Athletes, or their federations, who might benefit from having another competitor disqualified.]

The time limits to file an appeal

204. The time within which an appeal may be filed is twenty-one (21) days from the date of receipt of the decision by the appealing party.

205. Notwithstanding rule **204**:

- (1) the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings having led to the decision subject to appeal:
 - (a) Within ten (10) days from notice of the decision, such party/ies shall have the right to request from the body having issued the decision a copy of the file on which such body relied;
 - (b) If such a request is made within the ten-day period, then the party making such request shall have twenty-one (21) days from receipt of the file to file an appeal.
- (2) an *Athlete* adversely affected by a decision may file an appeal within three months from the date of receipt of the decision, and if an appeal is filed by an *Athlete*, other persons with a right of appeal shall have a period of 21 days thereafter to lodge a cross appeal.

Substances and methods removed from the *Prohibited List*

206. In the event that a substance or method is in the future removed from the *Prohibited List* during the period of a continuing sanction which has been imposed in respect of that substance or method, then the *Athlete* is entitled to have the Tribunal reconvened to review the sanction, insofar as it relates to that substance or method.

Application for review in the Tribunal

Where a sanction has been imposed under this ADP, written application may be made before the sanction expires to the Anti-Doping Co-ordinator setting out the grounds for a review of the continuation of the sanction. If the Anti-Doping Co-ordinator forms the opinion that there are good grounds for review of the continuation of the sanction he/she *may* (not shall), in his/her absolute discretion, reconvene the Tribunal for a review of the continuation of the sanction. If the Tribunal is reconvened to review the continuation of a sanction, it has an unfettered power to so review its continuation and to impose such lesser sanction as it deems fit. If the Tribunal determines that a sanction should be reduced as a result of the review, written notification of the lesser sanction will be forwarded by us to the person concerned, the relevant NADO and any other organisation or body which we believe should be informed. Unless and until any reduction is made to the sanction originally imposed, it will remain in force.

PART 11 – CONFIDENTIALITY, REPORTING & OTHER MATTERS

WADC ARTICLE 14: CONFIDENTIALITY AND REPORTING

207. WADC 14: The principles of coordination of anti-doping results, public transparency and accountability and respect for the privacy interests of individuals alleged to have violated anti-doping rules are:

208. WADC 14.1: Information Concerning *Adverse Analytical Findings, Atypical Findings, and Other Potential Anti-Doping Rule Violations* 14.1.1 Notice to *Athletes* and *Other Persons*.

An *Athlete* whose *Sample* is brought forward as an *Adverse Analytical Finding* after the initial review under Article 7.1 or 7.3, or an *Athlete* or other *Person* who is alleged to have violated an anti-doping rule after the initial review under Article 7.4, shall be notified by the *Anti-Doping Organization* with results management responsibility as provided in Article 7 (Results Management).

Our note: In this ADP that is done by way of a notice of an alleged ADRV (or other breach) under rule **108**.

209. WADC 14.1.2: Notice to *National Anti-Doping Organizations, International Federations and WADA*.

The same *Anti-Doping Organization* shall also notify the *Athlete's National Anti-Doping Organization* (in our case ASADA), International Federation and *WADA* not later than the completion of the process described in Articles 7.1 and 7.4.

Our note: We have delegated to ASADA the function of notification to *WADA*.

210. WADC 14.1.3: Content of Notification.

Notification shall include: the *Athlete's* name, country, sport and discipline within the sport, the *Athlete's* competition level, whether the test was *In-Competition* or *Out-of-Competition*, the date of *Sample* collection and the analytical result reported by the laboratory.

211. WADC 14.1.4: Status Reports.

The same *Persons* and *Anti-Doping Organizations* shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to Articles 7 (Results Management), 8 (Right to a Fair Hearing) or 13 (Appeals) and shall be provided with a prompt written reasoned explanation or decision explaining the resolution of the matter.

Our note: We have delegated to ASADA the function of providing status reports to *WADA*.

212. WADC 14.1.5: Confidentiality.

The recipient organizations shall not disclose this information beyond those persons with a need to know (which would include the appropriate personnel at the applicable National Olympic Committee, National Federation, and team in a *Team Sports*) until the *Anti-Doping Organization* with results management responsibility has made public disclosure or has failed to make public disclosure as required in Article 14.2 below.

[Comment to Article 14.1.5: Each Anti-Doping Organization shall provide, in its own anti-doping rules, procedures for the protection of confidential information and for investigating and disciplining improper disclosure of confidential information by any employee or agent of the Anti-Doping Organization.]

WADC 14: Public Disclosure

213. WADC 14.2.1: The identity of *Athletes* or other *Persons* who are alleged by an *Anti-Doping Organization* to have violated an anti-doping rule, may be publicly disclosed by the *Anti-doping Organization* with results management responsibility only after notice has been provided to the *Athlete* or other *Person* in accordance with Article 7.2, 7.3 or 7.4, and to the applicable *Anti-Doping Organizations* in accordance with Article 14.1.2.
214. WADC 14.2.2: No later than twenty days after it has been determined in a hearing in accordance with Article 8 that an anti-doping rule violation has occurred, or such hearing has been waived, or the assertion of an anti-doping rule violation has not been timely challenged, the *Anti-Doping Organization* responsible for results management must publicly report the disposition of the anti-doping 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 and the *Consequences* imposed. The same *Anti-Doping Organization* must also report within twenty (20) days appeal decisions on an anti-doping rule violation. The *Anti-Doping Organization* shall also, within the time period for publication, send all hearing and appeal decisions to WADA.
215. WADC 14.2.3: 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 disclosed publicly only with the consent of the *Athlete* or other *Person* who is the subject of the decision. The *Anti-Doping Organization* with results management responsibility shall use reasonable efforts to obtain such consent, and if consent is obtained, shall publicly disclose the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.
216. WADC 14.2.4: For purposes of this Article, publication shall be accomplished at a minimum by placing the required information on the *Anti-Doping Organization's* website and leaving the information up for at least one (1) year.
217. WADC 14.2.5: No *Anti-Doping Organization* or WADA accredited laboratory, or official of either, shall publicly comment on the specific facts of a pending case (as opposed to general description of process and science) except in response to public comments attributed to the *Athlete*, other *Person* or their representatives.

WADC 14.3: Athlete Whereabouts Information

218. WADC 14.3: As further provided in the *International Standard for Testing*, *Athletes* who have been identified by their International Federation or *National Anti-Doping Organization* for inclusion in a *Registered Testing Pool* shall provide accurate, current location information. The International Federations and *National Anti-Doping Organizations* shall coordinate the identification of *Athletes* and the collecting of current location information and shall submit it to WADA. This information will be accessible, through ADAMS where reasonably feasible, to other *Anti-Doping Organizations* having jurisdiction to test the *Athlete* as provided in Article 15. This information shall be maintained in strict confidence at all times; shall be used exclusively for purposes of planning, coordinating or conducting *Testing*; and shall be destroyed after it is no longer relevant for these purposes.

WADC 14.4: Statistical Reporting

219. WADC 14.4: *Anti-Doping Organizations* shall, at least annually, publish publicly a general statistical report of their *Doping Control* activities with a copy provided to WADA. *Anti-Doping Organizations* may also publish reports showing the name of each *Athlete* tested and the date of each *Testing*.

WADC 14.5: Doping Control Information Clearinghouse

220. WADA shall act as a central clearinghouse for *Doping Control Testing* data and results for *International-Level Athletes* and national-level *Athletes* that have been included in their *National Anti-Doping Organization's Registered Testing Pool*. To facilitate coordinated test distribution planning and to avoid unnecessary duplication in *Testing* by the various *Anti-Doping Organizations*, each *Anti-Doping Organization* shall report all *In-Competition* and *Out-of-Competition* tests on such *Athletes* to the WADA clearinghouse as soon as possible after such tests have been conducted. This information will be made accessible to the *Athlete*, the *Athlete's National Federation*, *National Olympic Committee* or *National Paralympic Committee*, *National Anti-Doping Organization*, *International Federation*, and the *International Olympic Committee* or *International Paralympic Committee*.
221. To enable it to serve as a clearinghouse for *Doping Control Testing* data, WADA has developed a database management tool, *ADAMS*, that reflects emerging data privacy principles. In particular, WADA has developed *ADAMS* to be consistent with data privacy statutes and norms applicable to WADA and other organizations using *ADAMS*. Private information regarding an *Athlete*, *Athlete Support Personnel*, or others involved in anti-doping activities shall be maintained by WADA, which is supervised by Canadian privacy authorities, in strict confidence and in accordance with the *International Standard* for the protection of privacy. WADA shall, at least annually, publish statistical reports summarizing the information that it receives, ensuring at all times that the privacy of *Athletes* is fully respected and makes itself available for discussions with national and regional data privacy authorities.

WADC 14.6: Data Privacy

222. WADC 14.6: When performing obligations under the Code, *Anti-Doping Organizations* may collect, store, process or disclose personal information relating to *Athletes* and third parties. Each *Anti-Doping Organization* shall ensure that it complies with applicable data protection and privacy laws with respect to their handling of such information, as well as the *International Standard* for the protection of privacy that WADA shall adopt to ensure *Athletes* and non-*Athletes* are fully informed of and, where necessary, agree to the handling of their personal information in connection with anti-doping activities arising under the Code.

WADC 15.4: Mutual Recognition

223. WADC 15.4.1: Subject to the right to appeal provided in Article 13, the *Testing*, therapeutic use exemptions and hearing results or other final adjudications of any *Signatory* which are consistent with the Code and are within that *Signatory's* authority, shall be recognized and respected by all other *Signatories*.

[Comment to Article 15.4.1: There has been some confusion in the interpretation of this Article with regard to TUEs. Unless provided otherwise by the rules of an International Federation or an agreement with an International Federation, National Anti-Doping Organizations do not have "authority" to grant TUEs to International-Level Athletes.]

224. WADC 15.4.2: *Signatories* shall recognize the same actions of other bodies which have not accepted the Code if the rules of those bodies are otherwise consistent with the Code.

[Comment to Article 15.4.2: Where the decision of a body that has not accepted the Code is in some respects Code compliant and in other respects not Code compliant, Signatories should attempt to apply the decision in harmony with the principles of the Code. For example, if in a process consistent with the Code a non-Signatory has found an Athlete to have committed an anti-doping rule violation on account of the presence of a Prohibited Substance in his body but the period of Ineligibility applied is shorter than the period provided for in the Code, then all Signatories should recognize the finding of an anti-doping rule violation and the Athlete's National Anti-Doping Organization should conduct a hearing

consistent with Article 8 to determine whether the longer period of Ineligibility provided in the Code should be imposed.]

WADC ARTICLE 17: STATUTE OF LIMITATIONS

225. WADC 17: No action may be commenced against an *Athlete* or other *Person* for an anti-doping rule violation contained in the *Code* unless such action is commenced within eight years from the date the violation is asserted to have occurred.

PART 12 – OBLIGATIONS OF ATHLETES AND OTHERS PERSONS**WADC ARTICLE 21: ADDITIONAL ROLES AND RESPONSIBILITIES OF ATHLETES AND OTHER PERSONS****WADC 21.1: Roles and Responsibilities of Athletes**

226. WADC 21.1.1: To be knowledgeable of and comply with all applicable anti-doping policies and rules adopted pursuant to the *Code*.
227. WADC 21.1.2: To be available for *Sample* collection.
228. WADC 21.1.3: To take responsibility, in the context of anti-doping, for what they ingest and use.
229. WADC 21.1.4: 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 anti-doping policies and rules adopted pursuant to the *Code*.

Further obligations of Athletes

230. All *Athletes* to whom this ADP applies:
- (1) must not use any *Prohibited Substances* or any *Prohibited Methods*;
 - (2) must be available for and submit to *Sample* collection at any time both *In-Competition* and *Out-of-Competition* and be liable to any number of drug tests in any year;
 - (3) must make themselves aware of the procedures for ASADA and Drug Testing Authorities' Sampling and *Testing* procedures, and their rights during the *Sample* collection and *Testing* process;
 - (4) must cooperate with Drug Testing Authorities in relation to the provision of a *Sample*;
 - (5) must set a responsible example on the issue of doping in sport to members of the public especially children interested in our sport;
 - (6) must attend all drug education programs conducted by ASADA and other Drug Testing Authorities;
 - (7) must obtain, keep and be familiar with the latest publications of ASADA affecting *Athletes*;
 - (8) submit to authority of WADA, ASADA and us, to apply, police and enforce this ADP;
 - (9) provide all reasonable assistance to WADA, ASADA and us, in the application, policing and enforcement of this ADP, including (without limitation) cooperating fully with any investigation or proceeding being conducted pursuant to this ADP in relation to any suspected ADRV;
 - (10) agree to their private data being disseminated as required or authorised by the WADC, the NAD scheme and this ADP;¹⁶
 - (11) submit to the jurisdiction of any Tribunal convened under this ADP to hear and determine allegations and appeals brought pursuant to this ADP;
 - (12) submit to the jurisdiction of CAS to hear allegations and appeals where applicable under this ADP; and

¹⁶ See WADC last para of 'Introduction'.

- (13) must comply with all sanctions which may be imposed under this ADP in the event an ADRV is found to have occurred.

WADC 21.2: Roles and Responsibilities of Athlete Support Personnel

231. WADC 21.2.1: To be knowledgeable of and comply with all anti-doping policies and rules adopted pursuant to the *Code* and which are applicable to them or the *Athletes* whom they support.
232. WADC 21.2.2: To cooperate with the *Athlete Testing* program.
233. WADC 21.2.3: To use their influence on *Athlete* values and behaviour to foster anti-doping attitudes.

Further obligations of Event organisers, teams (or clubs as the case may be) and persons who are part of such entities

234. Each *Event* organiser, team (or club as the case may be) and each person who is part of such an entity shall comply with this ADP and in addition specifically shall:

- (1) in the case of teams that compete in the NRL competition, appoint an anti-doping officer;
- (2) ensure that all *Athletes* participating in our sport via them are informed of this ADP, have access to it and will be provided with a copy on request;

Note: The ARL usually has a current version of the ADP on its internet site in a link relating to rules.

- (3) upon our request advise the Anti-Doping Co-ordinator in writing of the steps taken:
 - (a) to make *Athletes*, relevant team officials and ancillary staff familiar with the content of this ADP, the *Prohibited List* and the sanctions which are applicable to ADRVs,
 - (b) to educate its *Athletes* in respect of the dangers and consequences of the use of prohibited drugs and doping methods;
- (4) support and participate in drug education programs conducted by ASADA and other Drug *Testing* Authorities and record the attendance of its *Athletes* at such programs;
- (5) give all reasonable assistance to drug *Testing* personnel to enable them to carry out their *Testing* duties efficiently and effectively;
- (6) ensure that team coaches are aware that *Athletes* may be tested immediately following a *Competition* and that every assistance is to be given to *Testing* personnel in carrying out their duties;
- (7) ensure that appropriate travel arrangements are made to allow sufficient time for *Testing* personnel to carry out their *Testing* duties following a *Competition*;
- (8) upon request take reasonable steps to provide an adequate facility, available to the *Testing* personnel, to enable the *Testing* of *Athletes* to be undertaken in private;
- (9) provide all reasonable assistance to WADA, ASADA and us, in the application, policing and enforcement of this ADP, including (without limitation) cooperating fully with any investigation or proceeding being conducted pursuant to this ADP in relation to any suspected ADRV;

- (10) arrange for team officials and other relevant staff to attend meetings arranged by us, ASADA or other Drug *Testing* Authorities to discuss any problems in relation to drug *Testing*;
- (11) take all reasonably available steps to ensure that sanctions are enforced;
- (12) treat people who are not or have not been bound by this ADP as follows:
 - (a) Subject to (b), in relation to a person who is alleged to have committed conduct which would or allegedly would amount to a breach of this ADP if the person was bound by this ADP and the person has not been sanctioned under this ADP or at all by any tribunal because the person is not bound by any anti-doping policy, it will:
 - (i) if the person is an *Athlete*, prevent that person from competing with them;
 - (ii) if the person is not an *Athlete*, prevent that person (so far as reasonably possible) from having any involvement with them; and
 - (iii) not employ, engage or register that person;for 2 years from the date the conduct is alleged to have been committed.
 - (b) Sub-paragraph (a) does not apply if the person:
 - (i) agrees to be bound by this ADP as if always bound by the rules,
 - (ii) submits to a hearing, and
 - (iii) agrees to abide by any sanction imposed as a result of such hearing.

Responsibilities of anti-doping officers and team managers

235. The anti-doping officer of each team (or in the case of a team which does not have an anti-doping officer, the team manager) shall:
- (1) be responsible for ensuring the team's compliance with this ADP and, in particular, rule **234**;
 - (2) liaise with us and Drug Testing Authorities in relation to Testing, including providing Drug Testing Authorities with *Athlete* whereabouts information, training times and venues; and
 - (3) maintain accurate written records of the attendance of all *Athletes* at anti-doping education seminars conducted by ASADA and others.

Team exemptions for teams not in the NRL

A team that does not participate in the NRL may make a written application to us for an exemption from compliance with one or more of its obligations in rules **234** and **235**.

PART 13 – INTERPRETATION & TRANSITIONAL PROVISIONS

WADC ARTICLE 24: INTERPRETATION OF THE CODE

236. WADC 24.1: 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.
237. WADC 24.2: The comments annotating various provisions of the *Code* shall be used to interpret the *Code*.
238. WADC 24.3: 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.
239. WADC 24.4: 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.
240. WADC 24.5: The *Code* shall not apply retrospectively 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 purposes of determining sanctions under Article 10 for subsequent post-*Code* violations.
241. WADC 24.6: The Purpose, Scope and Organization of the World Anti-Doping Program and the *Code* and APPENDIX 1 DEFINITIONS shall be considered integral parts of the *Code*.
242. A reference to:
- (1) a rule is to a rule of this ADP;
 - (2) a law, the NAD Scheme or the WADC (or to any provision thereof) includes any modification, amendment, consolidation or re-enactment thereof or any provision substituted therefore and all statutory instruments issued thereunder; and
 - (3) any organisation or entity of any nature includes any subsequent organisation or entity that replaces the original organisation or entity.

WADC ARTICLE 25: TRANSITIONAL PROVISIONS

243. WADC 25.1: General Application of 2009 *Code*

The 2009 *Code* shall apply in full after January 1, 2009 (the **Effective Date**).

244. WADC 25.2: Non-Retroactive Unless Principle of *Lex Mitior* Applies.

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 tribunal hearing the case determines the principle of *lex mitior* appropriately applies under the circumstances of the case.

245. WADC 25.3: Application to Decisions Rendered Prior to *Code* Amendments.

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 Organization* which had results management responsibility for the anti-doping rule violation to consider a reduction in the period of *Ineligibility* in light of the 2009 *Code*. Such application must be made before the period of *Ineligibility* has expired. The decision

rendered by the *Anti-Doping Organization* may be appealed pursuant to Article 13.2. The 2009 *Code* shall have no application to any anti-doping rule violation case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.

246. WADC 25.4: Application to Specific Pre-Code Violations.

For purposes of applying Article 10.7.1, a pre-*Code* anti-doping rule violation where the violation involved a substance which is categorized as a Specified Substance under the 2009 *Code* and the period of *Ineligibility* imposed was less than two (2) years, the pre-*Code* violation shall be considered a Reduced Sanction (RS).

[Comment to Article 25.4: Other than the situation described in Article 25.4, where a final decision finding an anti-doping rule violation has been rendered prior to the Code or under the Code before the 2009 Code and the period of Ineligibility imposed has been completely served, the 2009 Code may not be used to re-characterize the prior violation.]

247. WADC 25.5: Additional Code Amendments.

Any additional *Code* Amendments shall go into effect as provided in Article 23.6.

Definitions

248. In this ADP the following definitions shall apply (those in italics are from the WADC and those in bold we have added):

- (1) **AAT** – means the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act, 1975* (Cth);
- (2) **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.
- (3) **ADRV** – is short for Anti-Doping Rule Violation.
- (4) **ADRVP** – is the Anti-Doping Rule Violation Panel under the ASADA Act and NAD scheme.
- (5) *Adverse Analytical Finding*: A report from a laboratory or other *WADA*-approved entity that, consistent with the International Standard for Laboratories and 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*.
- (6) **Anti-Doping Co-ordinator** – means the person we appoint from time to time to hold that position and failing an express appointment will be our chief executive officer (and if no chief executive officer, our chairperson).
- (7) *Anti-Doping Organization*: A *Signatory* that is responsible for adopting rules for initiating, implementing or enforcing any part of the *Doping Control* process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other *Major Event Organizations* that conduct *Testing* at their *Events*, *WADA*, International Federations, and *National Anti-Doping Organizations*.
- (8) **Anti-Doping Tribunal** - means the body established by **Part 7 – The Anti-Doping Tribunal**;
- (9) **ASADA** - means the Australian Sports Anti-Doping Authority under the ASADA Act and includes the CEO of ASADA; ASADA is the *National Anti-Doping Organization* in Australia;

- (10) **ASDMAC** - means the Australian Sports Drug Agency Medical Advisory Committee referred to in the ASADA Act;
- (11) **ASADA Act** - means the *Australian Sports Anti-Doping Authority Act 2006* as amended;
- (12) **ASADA Regulations** - means the *Australian Sports Anti-Doping Authority Regulations 2006*, as amended;
- (13) *Athlete*: Any *Person* who participates in our sport in one or other of the classifications in rule **26**;
- (14) *Athlete Support Personnel*: 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.
- (15) *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.
- (16) *Atypical Finding*: A report from a laboratory or other WADA-approved entity 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*.
- (17) CAS: The Court of Arbitration for Sport.
- (18) *Code*: The World Anti-Doping *Code*.
- (19) *Competition*: A single race, match, game or singular athletic contest. For example, a basketball game or the finals of the Olympic 100-meter race in athletics. For stage races and other athletic contests where prizes are awarded on a daily or other interim basis the distinction between a *Competition* and an *Event* will be as provided in the rules of the applicable International Federation.
- Our note: See Schedule "**Item 3 – A typical Competition**"
- (20) *Consequences of Anti-Doping Rules Violations*: 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 for a specified period of time from participating in any *Competition* or other activity or funding as provided in Article 10.10; and
 - (c) *Provisional Suspension* means the *Athlete* or other *Person* is barred temporarily from participating in any *Competition* prior to the final decision at a hearing conducted under Article 8 (Right to a Fair Hearing).
- (21) *Disqualification*: See *Consequences of Anti-Doping Rules Violations* above.
- (22) **Doping** – has the meaning given to it by rule **30**;
- (23) *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, therapeutic use exemptions, results management and hearings.

- (24) **Drug Testing Authority** – means any organisation which conducts Sampling or *Testing* where the methods of Sampling and *Testing* are substantially in accordance with the WADC and WADA International Standards and includes each relevant NADO (eg for Australia = ASADA and for UK = UK Sport).
- (25) **Drug Testing Form** - means the form used by a Drug Testing Authority be signed by an *Athlete* undergoing a drug test;
- (26) **Endogenous** - refers to a substance which is capable of being produced by the body naturally;
- (27) *Event*: A series of individual *Competitions* conducted together under one ruling body (e.g., the Olympic Games, FINA World Championships, or Pan American Games).
- Our note: See Schedule "**Item 4 – A typical Event**"
- (28) *Event Period*: The time between the beginning and end of an *Event*, as established by the ruling body of the *Event*.
- (29) *In-Competition*: Unless provided otherwise in the rules of an International Federation or other relevant *Anti-Doping Organization*, "*In-Competition*" means the period commencing twelve hours before a *Competition* in which the *Athlete* is scheduled, registered or intending to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*.
- (30) *Independent Observer Program*: A team of observers, under the supervision of WADA, who observe and may provide guidance on the *Doping Control* process at certain *Events* and report on their observations.
- (31) *Ineligibility*: See Consequences of Anti-Doping Rules Violations above.
- (32) *Individual Sport*: Any sport that is not a *Team Sport*.
- (33) *International Event*: An *Event* where the International Olympic Committee, the International Paralympic Committee, an International Federation, a *Major Event Organization*, or another international sport organization is the ruling body for the *Event* or appoints the technical officials for the *Event*.
- (34) **International Federation**: In our sport this is specified in Schedule "**Item 5 – Our International Federation**".
- (35) *International-Level Athlete*: *Athletes* designated by our International Federation as being within the *Registered Testing Pool* for our International Federation.
- (36) *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*.
- (37) *Major Event Organizations*: This term refers to the continental associations of *National Olympic Committees* and other international multi-sport organizations that function as the ruling body for any continental, regional or other *International Event*.
- (38) *Marker*: A compound, group of compounds or biological parameter(s) that indicates the *Use of a Prohibited Substance or Prohibited Method*.
- (39) *Metabolite*: Any substance produced by a biotransformation process.
- (40) *Minor*: A natural *Person* who has not reached the age of majority as established by the applicable laws of his or her country of residence.

- (41) **NAD scheme** – means the National Anti-Doping scheme.
- (42) *National Anti-Doping Organization*: 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, all at the national level. This includes an entity which may be designated by multiple countries to serve as regional *Anti-Doping Organization* for such countries. 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. For Australia this is ASADA.
- (43) *National Event*: A sport *Event* involving international or national-level *Athletes* that is not an *International Event*.
- (44) *National Olympic Committee*: The organization recognized by the International Olympic Committee. The term *National Olympic Committee* shall also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical *National Olympic Committee* responsibilities in the anti-doping area.
- (45) *No Advance Notice*: A *Doping Control* which takes place with no advance warning to the *Athlete* and where the *Athlete* is continuously chaperoned from the moment of notification through *Sample* provision.
- (46) *No Fault or Negligence*: The *Athlete'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*.
- (47) *No Significant Fault or Negligence*: The *Athlete's* establishing that his or her fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the anti-doping rule violation.
- (48) *Out-of-Competition*: Any *Doping Control* which is not *In-Competition*.
- (49) *Participant*: Any *Athlete* or *Athlete Support Personnel*.
- (50) *Person*: A natural *Person* or an organization or other entity.
- (51) *Possession*: The actual, physical *Possession*, or the constructive *Possession* (which shall be found only if the person has exclusive control over the *Prohibited Substance* or *Prohibited Method* or the premises in which a *Prohibited Substance* or *Prohibited Method* exists); 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 Organization*. 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.

[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 Organization 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 Organization must establish that the Athlete knew the steroids were in the cabinet and that the Athlete intended to exercise control over the steroids.]

- (52) *Prohibited List*: The List identifying the *Prohibited Substances* and *Prohibited Methods*.
- (53) *Prohibited Method*: Any method so described on the *Prohibited List*.
- (54) *Prohibited Substance*: Any substance so described on the *Prohibited List*.
- (55) *Provisional Hearing*: For purposes of Article 7.5, an expedited abbreviated hearing occurring prior to a hearing under Article 8 (Right to a Fair Hearing) that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form.
- (56) *Provisional Suspension*: See *Consequences* above.
- (57) *Publicly Disclose or Publicly Report*: To disseminate or distribute information to the general public or persons beyond those persons entitled to earlier notification in accordance with Article 14.
- (58) **Register** - means the "Register of Findings" maintained by ASADA and/or the ADRVP (as the case may be from time to time) under the NAD scheme;
- (59) *Registered Testing Pool*: The pool of top level *Athletes* established separately by each International Federation and *National Anti-Doping Organization* who are subject to both *In-Competition* and *Out-of-Competition Testing* as part of that International Federation's or Organization's test distribution plan. Each International Federation shall publish a list which identifies those *Athletes* included in its *Registered Testing Pool* either by name or by clearly defined, specific criteria.
- (60) *Sample/Specimen*: Any biological material collected for the purposes of *Doping Control*.
[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.]
- (61) *Signatories*: Those entities signing the *Code* and agreeing to comply with the *Code*, including the International Olympic Committee, International Federations, International Paralympic Committee, *National Olympic Committees*, National Paralympic Committees, *Major Event Organizations*, *National Anti-Doping Organizations*, and WADA.
- (62) *Substantial Assistance*: For purposes of Article 10.5.3, 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 Organization* 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.
- (63) *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; or providing fraudulent information to an *Anti-Doping Organization*.
- (64) *Target Testing*: Selection of *Athletes* for *Testing* where specific *Athletes* or groups of *Athletes* are selected on a non-random basis for *Testing* at a specified time.
- (65) **team** - includes a club if the context permits.

- (66) *Team Sport*: A sport in which the substitution of players is permitted during a *Competition*.
- (67) *Testing*: The parts of the *Doping Control* process involving test distribution planning, *Sample* collection, *Sample* handling, and *Sample* transport to the laboratory.
- (68) *Trafficking*: Selling, giving, transporting, sending, delivering or distributing a *Prohibited Substance* or *Prohibited Method* (either physically or by any electronic or other means) by an *Athlete*, *Athlete Support Personnel* or any other *Person* subject to the jurisdiction of an *Anti-Doping Organization* 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.
- (69) **Tribunal** – means the hearing body established by **Part 7 – The Anti-Doping Tribunal** or CAS as the case may be. References in this ADP to a tribunal or the tribunal shall be taken to be to the Tribunal unless the context indicates otherwise.
- (70) **TUE** - means a Therapeutic Use Exemption referred to in **Part 4 – The Prohibited List & Therapeutic Use Exemptions**;
- (71) **TUEC** – means a Therapeutic Use Exemption Committee that complies with the relevant WADA International Standard.
- (72) *UNESCO Convention*: The International Convention against Doping in Sport adopted by the 33rd session of the UNESCO General Conference on 19 October 2005 including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport.
- (73) *Use*: The utilization, application, ingestion, injection or consumption by any means whatsoever of any *Prohibited Substance* or *Prohibited Method*.
- (74) *WADA*: The World Anti-Doping Agency.
- (75) **WADA List** – means the “*Prohibited List*” promulgated by WADA from time to time.
- (76) **WADC** – means the World Anti-Doping Code promulgated by WADA.
- (77) **Whereabouts Form** – means the form set out in **Appendix 1 – Whereabouts Form**.

Word Usage

249. Words in the singular include the plural and vice versa. Words in the masculine include the feminine and vice versa.

WADC interpretation relevant

250. This ADP recognises and has been adopted in accordance with the mandatory provisions of the WADC and shall be interpreted in a manner that is consistent with those provisions. The comments sections annotating various provisions of the WADC shall be used, where applicable, to assist in the understanding and interpretation of this ADP.¹⁷

¹⁷ See WADC 24.2.

APPENDIX 1 – WHEREABOUTS FORM(Referred to in rule **88**)Notes when completing this form:**An Athlete must lodge this form duly completed with us unless**

- 1) (if the *Athlete* is a member of a team with an Anti-Doping Officer), it is lodged with the team's Anti-Doping Officer; or
- 2) (if the *Athlete* is a member of a team which does not have an Anti-Doping Officer), it is lodged with the team manager.

The information provided must be current and provide a current telephone number of the *Athlete*. It is not acceptable to provide a telephone number that is just for the purposes of the form. The current telephone number most frequently used by the *Athlete* to receive telephone calls is the telephone number which must be included in the form.

The information must be up dated when details change.

Athlete's Contact Details:

Athlete's Name:

Team:

Address during the season/International Event (whichever is applicable):

.....

.....

.....

.....

Telephone home:

Mobile telephone:

Email:

If I am or become a member of a team I hereby authorise my team manager to provide details of my whereabouts, including match/training venues, schedules and times, to all relevant Drug Testing Authorities.

Athlete's signature:

Date: