

# **Sports Anti-Doping Rules (2011)**

**Made under the Sports Anti-  
Doping Act 2006**

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## INTRODUCTION

The Board of Drug Free Sport New Zealand (*DFS*) has reviewed the Sports Anti-Doping Rules (2010) and has amended those Rules and made the Sports Anti-Doping Rules (2011) in order to implement the amendments to the World Anti-Doping Code and *International Standards*. It has made these *Rules* under section 16 of the Sports Anti-Doping Act 2006 (the *Act*). The *Code* seeks to protect the fundamental rights of *Athletes* to participate in doping-free sport and to bring about the harmonisation of core anti-doping elements across *Signatories* to the *Code*. It is intended that *National Sporting Organisations* will agree to the *Rules* so that the *Rules* apply to their members and all *Participants* as governing the conditions under which sport is played.

*DFS* is an independent Crown entity continued under the *Act* and is the *National Anti-Doping Organisation* responsible for implementing the *Code* in New Zealand, as provided in Article 20.5 of the *Code* and section 12 of the *Act*.

The *Rules* contain the core anti-doping Articles from the *Code* (Article 1 (Definition of Doping) Article 2 (*Anti-Doping Rule Violations*), Article 3 (Proof of Doping), Article 4.3.3 (WADA's Determination of the *Prohibited List*), Article 9 (Automatic *Disqualification* of Individual Results), Article 10 (Sanctions on Individuals), Article 11 (*Consequences* to Teams), Article 13 (Appeals) (with the exception of Article 13.2.2 and Article 13.5), Article 17 (Statute of Limitations), Article 24 (Interpretation of the *Code*) and Definitions, together with the corresponding comments from the *Code*. The *Rules* also provide for the application of *International Standards* established by WADA, in particular the *Prohibited List*, the *International Standard* for *Testing* (and applicable WADA Guidelines for *Sample* Collection), the *International Standard* for Laboratories and the *International Standard* for Therapeutic Use Exemptions and the *International Standard* for the Protection of Privacy and Personal Information.

The *Sports Tribunal* and any *NSO Anti-Doping Tribunal* established by a *National Sporting Organisation* to hear *Violation Proceedings* will function under the *Rules* when hearing *Violation Proceedings*.

It is intended that *National Sporting Organisations* will agree to the *Rules* as their anti-doping rules in order to implement the *Code*. By agreeing to the application of the *Rules*, *National Sporting Organisations* will agree that *DFS* and the *Sports Tribunal* (or any *NSO Anti-Doping Tribunal*) can exercise all the functions and powers in the *Act* and the *Rules*.

*National Sporting Organisations* that agree to the *Rules* will do so on the basis that they agree to the application of the *Rules* as amended from time to time. In accordance with its obligations under the *Act*, *DFS* will provide *National Sporting Organisations*, *Athletes* and the Privacy Commissioner a reasonable opportunity to comment before amending the *Rules*.

*National Sporting Organisations* that have agreed to the *Rules* will take all reasonable steps to ensure that *Participants* under their authority are informed of their obligations under the *Code* and the *Rules*.

*DFS* will continue to function and operate in accordance with the core obligations under the *Code*. *DFS* will carry out *Doping Control* under the provisions of the *Code* and follow the relevant mandatory *International Standards* as provided by *WADA*.

*DFS* will collect *Samples* or *Specimens* to test for the presence of substances or methods that are prohibited under the *WADA Prohibited List*. *Samples* will be collected in accordance with the *International Standard for Testing* and applicable *WADA Guidelines for the Collection of Blood and Urine Samples*. *DFS* will also carry out investigations in relation to *Anti-Doping Rule Violations* under Rules 3.2 to 3.8. *National Sporting Organisations* will refer all information relating to possible *Anti-Doping Rule Violations* to *DFS*. *DFS* will review information obtained in any investigation and decide whether the information supports the bringing of *Violation Proceedings*. *DFS* will bring *Violation Proceedings* and present the evidence in support of the proceedings before either the *Sports Tribunal* or an *NSO Anti-Doping Tribunal*. Subject to its various obligations to notify and report and present evidence under the *Rules*, and to certain exceptional circumstances, the process of investigating and hearing *Violation Proceedings* will be treated as a confidential process by *DFS* and all *National Sporting Organisations* and *Persons* subject to the *Rules* until a decision has been made in relation to the alleged *Violation*.

The terms in italics in this introduction and in the *Rules* are defined as set out in the Definitions section at the end of the *Rules*.

# 1 APPLICATION OF THESE RULES

1.1 The *Rules* apply to:

- (a) *DFS* and all *Doping Control* and any investigation into any *Anti-Doping Rule Violation* carried out by *DFS* (save where *DFS* carries out *Doping Control* or any investigation by agreement with foreign governments, other *Anti-Doping Organisations* or *Signatories* to the *Code* under the *Act*, in which case *Doping Control* or any investigation will be governed by the agreement entered into or the *Code*);
- (b) any *TUE Committee* established by *DFS*;
- (c) any *National Sporting Organisation* that agrees to the *Rules*;
- (d) any *club*, team, association, league or any other *Person* that either:
  - (i) is a member of a *National Sporting Organisation* that has agreed to the *Rules*; or
  - (ii) agrees to the application of the *Rules* with the *National Sporting Organisation*; or
  - (iii) otherwise agrees to the application of the *Rules*;
- (e) all *Persons* who:
  - (i) are members of a *National Sporting Organisation* that has agreed to the *Rules*, regardless of where the *Persons* reside or are situated; or
  - (ii) are members of any club, team, association, league or other organisation that has agreed to the application of the *Rules* with a *National Sporting Organisation*, regardless of where the *Persons* reside or are situated; or

- (iii) are *Participants* who agree to the *Rules* as part of the conditions of participation in any capacity in any activity organised, held, convened or authorised by a *National Sporting Organisation* or one or more of its member organisations, clubs, teams, associations, leagues or other organisations, regardless of whether the *Person* is a member of any such organisation; or
- (iv) otherwise agree to the *Rules*; and
- (f) the *Sports Tribunal* and any *NSO Anti-Doping Tribunal* established in accordance with the *Rules*;

## **1.2 Application to National Sporting Organisations**

- 1.2.1 A *National Sporting Organisation* may agree to the *Rules* by incorporating them by reference into its governing documents, constitution, rules or anti-doping policies so that the *Rules* form part of the rules of the *National Sporting Organisation* and govern the rights and obligations of all *Persons* who are subject to the *Rules* of the *National Sporting Organisation*. A *National Sporting Organisation* may also adopt the *Rules* as its anti-doping policy or anti-doping rules.
- 1.2.2 By agreeing to the *Rules*, *National Sporting Organisations*:
  - (a) recognise and accept the authority and responsibility of *DFS* as the sole *National Anti-Doping Organisation* in New Zealand for implementing the *Code*; and
  - (b) authorise *DFS* to carry out *Doping Control*, to investigate *Anti-Doping Rule Violations* under the *Rules* and to present evidence in support of *Anti-Doping Rule Violations* before the *Sports Tribunal* or an *NSO Anti-Doping Tribunal*.

Members of *National Sporting Organisations* and all *Persons* to whom the *Rules* apply also recognise and accept the authority and responsibility of *DFS*.

- 1.2.3 A *National Sporting Organisation* that has agreed to the *Rules* will take all reasonable steps to ensure that any *Person* who wishes to take part in any event, competition or activity organised or authorised by it who is not a member of the *National Sporting Organisation* or who has not otherwise agreed to be bound by the *Rules*, agrees to be bound by the *Rules*.
- 1.2.4 A *National Sporting Organisation* that has agreed to the *Rules* must ensure that any *Person* who is not a member of the *National Sporting Organisation* but who wishes to participate in *International Events* or *Events* organised, sanctioned or authorised by the *National Sporting Organisation* and who fulfils the requirements to be part of *DFS's Registered Testing Pool*, becomes either a member of the *National Sporting Organisation* and/or agrees to make himself or herself available for *Testing*, at least twelve (12) months before participating in any *International Event* or in any *Event*.
- 1.2.5 Nothing in the *Rules* shall be interpreted as limiting the functions of *DFS* under the *Act* and its obligations as a *Signatory* to the *Code*. Nothing in the *Rules* prevents *DFS* from collecting *Samples* from *Athletes* and arranging for *Testing* and reporting of the results of *Testing* or undertaking any other anti-doping activity or investigation in accordance with any agreement or arrangement with any other *Anti-Doping Organisation*, International Federation, *Signatory* to the *Code* or any *National Sporting Organisation* which has not agreed to the *Rules*, or in accordance with any obligation under the *Act* or *Code*.
- 1.2.6 *DFS* will encourage and assist *National Sporting Organisations* to agree to the *Rules*, and will encourage all *Participants* and *Persons* to agree to take part in sport on the basis of the *Rules*.
- 1.2.7 Where a *National Sporting Organisation* is a member of an International Federation and is bound by the *Rules* and the anti-doping rules of the International Federation and there is a conflict or inconsistency between

the *Rules* and the anti-doping rules of the International Federation, the rules of the International Federation will prevail, solely to the extent of any inconsistency or conflict. The anti-doping rules of the International Federation must comply with the *Code* if they are to prevail over the *Rules*.

1.2.8 The *Rules* are subject to the Regulations (Disallowance) Act 1989.

## **2 INTERNATIONAL STANDARDS INCORPORATED INTO THE RULES**

**2.1** The *Rules* incorporate the following *International Standards* by reference:

- (a) World Anti-Doping Agency The 2011 Prohibited List International Standard;
- (b) World Anti-Doping Agency International Standard for Therapeutic Use Exemptions, effective 1 January 2011;
- (c) World Anti-Doping Agency International Standard for Testing, effective 1 January 2009;
- (d) World Anti-Doping Agency International Standard for Laboratories, effective 1 January 2009; and
- (e) World Anti-Doping Agency International Standard for the Protection of Privacy and Personal Information, effective 1 June 2009.

**2.2** Where the *Rules* refer to any of the above *International Standards*, the reference is to the version of the *International Standard* dated as above.

### 3 **ANTI-DOPING RULE VIOLATIONS**

Doping is defined as the occurrence of one or more of the *Anti-Doping Rule Violations* set forth in Rules 3.1 to 3.8 of the *Rules*.

*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 "a" to Rule 3: The purpose of Rule 3 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*:

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

3.1.1 It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body. *Athletes* are responsible for any *Prohibited Substance* or its *Metabolites* or *Markers* found to be present in their *Samples*. Accordingly, it is not necessary that intent, fault, negligence or knowing *Use* on the *Athlete's* part be demonstrated in order to establish an *Anti-Doping Rule Violation* under 3.1.

*[Comment to Rule 3.1.1: 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 (Rule 14.1 (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 (Rule 14.5 (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 (Rule 14.4 (Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specific 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 emphasise 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.]*

3.1.2 Sufficient proof of an *Anti-Doping Rule Violation* under Rule 3.1 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 Rule 3.1.2: The Anti-Doping Organisation 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.]*

3.1.3 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*.

3.1.4 As an exception to the general rule of Rule 3.1, the *Prohibited List* or *International Standards* may establish special criteria for the evaluation of *Prohibited Substances* that can also be produced endogenously.

### **3.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method**

3.2.1 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*.

*[Comment to Rule 3.2: 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 Rule 4.2 (Methods of Establishing Facts and Presumptions), unlike the proof required to establish an Anti-Doping Rule Violation under Rule 3.1, 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 Rule 3.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organisation provides a satisfactory explanation for the lack of confirmation in the other Sample.]*

**3.2.2** The success or failure of the 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 Rule 3.2.2: 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 Rule 3.1 and violations of Article 3.2 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 Rule 3.1 (Presence of a Prohibited Substance or its Metabolites or Markers) regardless of when that substance might have been administered.)]*

**3.3 Refusing, or failing without compelling justification, to submit to Sample collection after notification under the Rules or any applicable International Standard or WADA guideline or otherwise evading Sample collection**

*[Comment to Rule 3.3: Failure or refusal to submit to Sample collection after notification was prohibited in almost all pre-Code anti-doping rules. This Rule 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.]*

**3.4 Violation of the requirements regarding Athlete availability for Out-of-Competition Testing including failure to provide whereabouts information**

required by *DFS* or any other *Anti-Doping Organisation* and missed tests which are declared by *DFS* under the *Rules*. Any combination of three missed tests and/or filing failures within an eighteen-month period as determined by *DFS* (or any other *Anti-Doping Organisation* with jurisdiction over the *Athlete*) shall constitute an *Anti-Doping Rule Violation*.

*[Comment to Rule 3.4: Separate whereabouts filing failures and missed tests declared under the rules of the Athlete's International Federation or any other Anti-Doping Organisation with authority to declare whereabouts filing failures and missed tests in accordance with the International Standard for Testing shall be combined in applying this Rule. In appropriate circumstances, missed tests or filing failures may also constitute an Anti-Doping Rule Violation under Rule 3.3 or Rule 3.5.]*

### **3.5 Tampering, or Attempted Tampering, with any part of Doping Control**

*[Comment to Rule 3.5: This Rule 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 Organisation.]*

### **3.6 Possession of Prohibited Substances and Methods**

3.6.1 *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 TUE granted in accordance with Rule 5.5 – 5.6 (TUEs) or other acceptable justification.*

3.6.2 *Possession by an Athlete Support Personnel In-Competition of any 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 TUE granted to an Athlete in accordance with Rule 5.5 – 5.6 (TUEs) or other acceptable justification.*

*[Comment to Rule 3.6.1 and 3.6.2: 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 Rule 3.6.2: Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.]*

**3.7      *Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method.***

**3.8      *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 Out-of-Competition, 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 'b' to Rule 3: 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 organisation may adopt its own rules which prohibit such conduct.]*

## **4            PROOF OF DOPING**

### **4.1        Burdens and Standards of Proof**

4.1.1      *DFS has the burden of establishing that an Anti-Doping Rule Violation has occurred. The standard of proof shall be whether DFS has established an Anti-Doping Rule Violation to the comfortable satisfaction of the Sports Tribunal or NSO Anti-Doping Tribunal, bearing in mind the seriousness of the allegation that 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.*

4.1.2      *Where these Rules place 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 Rules 14.4 and 14.6 where the *Athlete* must satisfy a higher burden of proof.

*[Comment to Rule 4.1: This standard of proof required to be met under this Rule 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 hearing panels in doping cases. See, for example, the CAS decision in N., J., Y., W. v. FINA, CAS 98/208, 22 December 1998.]*

## **4.2 Methods of Establishing Facts and Presumptions**

Facts related to *Anti-Doping Rule Violations* may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:

4.2.1 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 that a departure from the *International Standard for Laboratories* occurred which could reasonably have caused the *Adverse Analytical Finding*. If the *Athlete* or other *Person* rebuts the preceding presumption by showing that a departure from the *International Standard for Laboratories* occurred which could reasonably have caused the *Adverse Analytical Finding*, then *DFS* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*.

*[Comment to Rule 4.2.1: 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 Organisation to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]*

4.2.2 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 anti-doping rule or policy which could reasonably have caused the *Adverse Analytical Finding* or other *Anti-*

*Doping Rule Violation* occurred, then *DFS* shall have the burden to establish that such a departure did not cause the *Adverse Analytical Finding* or the factual basis for the *Anti-Doping Rule Violation*.

*[Comment to Rule 4.2: For example, an Anti-Doping Organisation may establish an Anti-Doping Rule Violation under Rule 3.2 (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 Rule 3.2, or conclusions drawn from the profile of a series of the Athlete's blood or urine Samples.]*

4.2.3 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.

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

*[Comment to Rule 4.2.4: Drawing an adverse inference under these circumstances has been recognised in numerous CAS decisions.]*

## **5 THE PROHIBITED LIST**

### **5.1 Incorporation of the *Prohibited List***

5.1.1 The *Rules* adopt and incorporate the *Prohibited List*.

5.1.2 It is the responsibility of each *National Sporting Organisation* to take all reasonable steps to ensure that the current *Prohibited List* is available to its members and *Participants*.

## **5.2 Prohibited Substances and Prohibited Methods Identified on the Prohibited List**

The *Prohibited List* identifies those *Prohibited Substances* and *Prohibited Methods* which are prohibited as doping at all times (both *In-Competition* and *Out-of-Competition*) and those substances and methods which are prohibited *In-Competition* only.

## **5.3 Specified Substances**

For purposes of the application of Rule 14 (Sanctions), 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 Rule 5.3: In drafting the Code there was considerable debate among stakeholders over the appropriate balance between inflexible sanctions which promote harmonisation 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 Rules 3.1 (Presence of a Prohibited Substance or its Metabolites or Markers) and 3.2 (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 Rule 5.2 and related changes to Rule 14 provide this additional flexibility for violations involving many Prohibited Substances. The rules set forth in Article 14.5 (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.]*

## **5.4 Substances and Methods on the Prohibited List**

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.

## **5.5 TUEs**

- 5.5.1 The *Rules* adopt and incorporate the *WADA International Standard for Therapeutic Use Exemptions*.
- 5.5.2 *Athletes* subject to the *Rules* with a medical condition requiring the Use of a *Prohibited Substance* or a *Prohibited Method*, shall obtain a *TUE* from *DFS* or an International Federation.
- 5.5.3 *DFS* shall at all times have policies and procedures for the application for *TUEs* and for consideration of such applications.

## **5.6 Therapeutic Use Exemption Committee (TUE Committee).**

- 5.6.1 *DFS* shall appoint a *TUE Committee* to consider applications for *TUEs*. The *TUE Committee* shall be established according to the requirements of the *International Standard for Therapeutic Use Exemptions*. Where members of the *TUE Committee* have an interest in individual *National Sporting Organisations* or International Federations, they are excluded from considering applications for *TUEs* from *Athletes* who are members of the same individual *National Sporting Organisations* or International Federations.
- 5.6.2 The *TUE Committee* member(s) shall promptly evaluate any request for a *TUE* in accordance with the *International Standard for TUEs* and render a decision on such request, which shall be the decision of *DFS*.
- 5.6.3 *DFS* and the *TUE Committee* shall conduct the administration and determination of applications for *TUEs* in strict confidence.

## **6 TESTING**

### **6.1 Incorporation of the *International Standard for Testing***

The *Rules* adopt and incorporate the *WADA International Standard for Testing*. *Testing* conducted by, or, on behalf of, *DFS* and *National Sporting Organisations* shall be in accordance with the *International Standard for Testing*.

## **6.2 Testing**

All *Athletes* subject to the *Rules* are subject to *In-Competition Testing* by their International Federation, *DFS* and any *Anti-Doping Organisation* responsible for *Testing* at a *Competition* or *Event* in which they participate. All *Athletes* subject to the *Rules* are also subject to *Out-of-Competition Testing* at any time or place, by their International Federation, *DFS*, *WADA*, the *National Anti-Doping Organisation* of any country where the *Athlete* is present, *Major Event Organisations*, the International Olympic Committee in connection with the Olympic Games and the International Paralympic Committee in connection with the Paralympic Games.

## **6.3 Testing at Events**

At *International Events*, the collection of *Doping Control Samples* shall be initiated and directed by the international organisation that is the ruling body for the *Event*. If the international organisation decides not to conduct any *Testing* at such an *Event*, *DFS* may, in co-ordination with and with the approval of the international organisation or *WADA*, initiate and conduct such *Testing*. At *National Events*, the collection of *Doping Control Samples* shall be initiated and directed by *DFS*.

## **6.4 Registered Testing Pool, Whereabouts information and Missed Tests**

### **6.4.1 Registered Testing Pool**

*DFS* shall identify a *Registered Testing Pool*, and shall revise its *Registered Testing Pool* from time to time as appropriate. Each *National Sporting Organisation* shall assist *DFS* in identifying and maintaining the *DFS Registered Testing Pool*. *National Sporting Organisations* shall take all reasonable steps to ensure that *Athletes*, who are not regular members and who seek to be selected in the New Zealand team for any Olympic, Paralympic or Commonwealth Games, agree to be bound by the *Rules* and to be available for inclusion in the *DFS Registered Testing Pool* for a year before the Games in which they seek to participate, as a condition of their selection for the Games.

### **6.4.2 Whereabouts Information**

*DFS* shall notify each *Athlete* of their inclusion in the *Registered Testing Pool* and advise each *Athlete* of their obligations under the *Rules*. Each *Athlete* in the *Registered Testing Pool* will be responsible

for providing whereabouts information to *DFS* in the manner and form required by *DFS* under the *International Standard for Testing*. Where an *Athlete* is required to provide whereabouts information to their International Federation, the *Athlete* shall provide a copy of that information to *DFS* at the same time.

6.4.3 Where an *Athlete* in the *DFS Registered Testing Pool* has failed to submit whereabouts information or has submitted inadequate whereabouts information on 3 occasions in a period of 18 months as determined by *DFS* in accordance with the *International Standard for Testing*, *DFS* will bring *Violation Proceedings* against the *Athlete*.

6.4.4 **Missed Tests**

Where *DFS* attends at a location given by the *Athlete* in whereabouts information provided by the *Athlete* to conduct *Testing* and the *Athlete* is not at the location, *DFS* will take all reasonable steps to locate the *Athlete* at the location. If the *Athlete* cannot be located the failure to be present for *Testing* will be reported to *DFS* as required by the *International Standard for Testing*, *DFS* will review the circumstances set out in the report in accordance with the *International Standard for Testing* and decide whether the failure to be present by the *Athlete* constitutes a missed test. Where *DFS* has determined that an *Athlete* has missed 3 tests in a period of 18 months, *DFS* will bring *Violation Proceedings* against the *Athlete*.

6.4.5 Where *DFS* has determined that an *Athlete* has failed to provide whereabouts information under Rule 6.4.2 and/or missed a test under Rule 6.4.4 on 3 occasions within a period of 18 months, *DFS* will bring *Violation Proceedings* against the *Athlete*.

**6.5 Selection of Athletes to be Tested**

*DFS* shall select *Athletes* for *Testing* through a process that complies with the *International Standard for Testing*. All *Out-of-Competition Testing* shall be on *No Advance Notice* except in exceptional circumstances and *DFS* will make *Target Testing* a priority. *DFS* will also conduct *Testing* on *Athletes* who are serving a period of *Ineligibility* or a *Provisional Suspension*.

## **6.6 Testing of Minors**

*Testing of Minors* will be carried out by *DFS* under the *Rules* in the manner set out in the *International Standard for Testing*. Where any *National Sporting Organisation* has members or is responsible for *Participants* or *Persons* who are *Minors*, the *National Sporting Organisation* will take all reasonable steps to ensure that the *Minor* and a *Person* with legal responsibility for the *Minor* has given consent to *Testing*. Where a *Minor* is a *Participant*, *DFS* will assume, in the absence of notice to the contrary, that consent to the *Testing* has been given by a *Person* with legal responsibility for the *Minor* and by the *Minor*. Where *DFS* intends to carry out *Testing* which may involve *Minors* it will, where considered appropriate by *DFS*, seek to review the position regarding consent to the *Testing* with the *National Sporting Organisation* concerned before carrying out *Testing*.

## **6.7 Retired Athletes Returning to Competition**

Where an *Athlete* retires from the sport at a time when he or she is in the *Registered Testing Pool* identified by *DFS* and is not *Ineligible*, and then seeks to return to competition the *Athlete* shall be subject to *Testing* for a period of 6 months by *DFS* or other *Anti-Doping Organisations*. In the period of testing the *Athlete* may not compete in any sport as an *International-Level Athlete* or a *National-Level Athlete* and no results obtained by the *Athlete* may be used for the purposes of qualification for an *International* or *National-Level Event* or *Competition*. In the period of testing the *Athlete* will remain subject to the provisions of these *Rules* and where any *Anti-Doping Rule Violation* is brought against the *Athlete*, the *Athlete* will remain subject to these *Rules* until the conclusion of *Doping Control*.

## **6.8 Independent Observer Program**

*DFS*, *National Sporting Organisations* and the organising committees for *Events* and their employees, contractors, officials and agents shall provide access to *Persons* participating in the *Independent Observers Program* at *Events*.

# **7 ANALYSIS OF SAMPLES**

## **7.1 Incorporation of the *International Standard for Laboratories***

The *Rules* adopt and incorporate the *WADA International Standard for Laboratories*.

## **7.2 Use of Approved Laboratories**

For the purposes of Rule 3.1 (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 used for the *Sample* analysis shall be determined exclusively by DFS. Laboratories shall analyse *Samples* and report results in conformity with the *International Standard for Laboratories*.

## **7.3 Substances Subject to Detection**

*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 the Monitoring Program described in Article 4.5 of the *Code*, or to assist an *Anti-Doping Organisation* in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling, for anti-doping purposes.

## **7.4 Research on Samples**

No *Sample* may be used for any purpose other than as set out in Rule 7.3, without the *Athlete's* written consent. *Samples* used for purposes other than Rule 7.3 shall have any means of identification removed such that they cannot be traced back to a particular *Athlete*.

## **7.5 Retesting Samples**

Where DFS has collected a *Sample*, the *Sample* may be reanalysed for the purposes of Rule 7.3 at any time exclusively at the direction of DFS or WADA. The circumstances and conditions for retesting *Samples* shall conform with the requirements of the *International Standard for Laboratories*.

## **8 OBTAINING INFORMATION AT SAMPLE COLLECTION**

Where DFS carries out or attempts to carry out *Sample* collection it will obtain all relevant information and complete all appropriate documentation to support any possible allegation that there has been a refusal to submit to *Sample* collection contrary to Rule 3.3 or any other *Anti-Doping Rule Violation* under Rules 3.2. to

3.8. Information obtained before, during, or after *Sample* collection and completed documentation will be forwarded to *DFS* by the Doping Control Officer for further consideration and investigation by *DFS*.

## **9 MANAGING RESULTS**

### **9.1 Laboratory results and possible refusal or failure to submit to *Sample* collection reports**

9.1.1 *DFS* will undertake *Testing* for *Anti-Doping Rule Violations* under Rule 3.1 according to the *International Standard for Testing*.

9.1.2 *DFS* shall receive the analytical results of *Doping Control Samples* from the laboratory. *DFS* shall receive any Doping Control Officer Reports indicating a possible refusal or failure to submit to *Sample* collection under Rule 3.3 or other information relating to any possible *Anti-Doping Rule Violation* from the relevant Doping Control Officer along with other documentation from the *Sample* collection.

### **9.2 *Negative Analytical Findings***

9.2.1 *DFS* shall identify from the Doping Control Form all *Athletes* whose *Samples* have resulted in a *Negative Analytical Finding*.

9.2.2 *DFS* will notify *Athletes* or any representative of *Negative Analytical Findings*.

9.2.3 All documentation from the *Sample* collection and the notification of *Negative Analytical Findings* shall be retained by *DFS* for a minimum of eight (8) years.

### **9.3 *Adverse Analytical Findings***

9.3.1 Initial Review

9.3.1.1 Upon receipt of an *A Sample Adverse Analytical Finding*, *DFS* will review the laboratory report and decide whether there is any applicable *TUE* in effect or whether an applicable *TUE* will be granted as provided in the *International Standard for TUE*. If *DFS* decides that there is an applicable *TUE* in effect, or an applicable

*TUE* will be granted, it will take no further action in relation to the *Adverse Analytical Finding*.

9.3.1.2 Upon receipt of an *Adverse Analytical Finding*, *DFS* shall review the documentation relating to the *Sample Collection Session* (including the *Doping Control Form*, *Doping Control Officer Report* and other *Records*), and the laboratory analysis for any departure from the *International Standard for Testing* that caused the *Adverse Analytical Finding*.

9.3.1.3 If there is any departure shown by the documentation, *DFS* shall decide whether the departure can be considered to have caused the *Adverse Analytical Finding*.

9.3.1.4 If *DFS* considers that any departure has caused the *Adverse Analytical Finding*, *DFS* shall declare the test result void.

9.3.1.5 Where the laboratory reports the presence of a *Prohibited Substance* in circumstances where, under the *Prohibited List*, further investigation may be required, *DFS* will conduct any further investigation as may be required under the *Prohibited List* to decide whether an *Adverse Analytical Finding* is confirmed.

## 9.3.2 Review of *Atypical Findings*

9.3.2.1 Where a laboratory reports the presence of a *Prohibited Substance* as an *Atypical Finding* as provided in the *International Standards*, *DFS* will complete a review to determine whether any applicable *TUE* has been granted or whether there is any departure from the *International Standard for Testing* or *International Standard for Laboratories* that caused the *Atypical Finding*. If the review does not find that there is an applicable *TUE* or

any departure that caused the *Atypical Finding*, DFS will carry out the required investigation into the *Atypical Finding*.

9.3.2.2 After the investigation into the *Atypical Finding* has been completed, DFS will, where it decides as a result of the further investigation that there is an *Adverse Analytical Finding*, give notice to the *Athlete* and other *Anti-Doping Organisations* that the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding*, as provided for by Rule 9.3.3.

9.3.2.3 DFS will give no notice of an *Atypical Finding* until it has completed its investigation and decided whether to bring the *Atypical Finding* forward as an *Adverse Analytical Finding* unless:

- (a) DFS determines that the B Sample shall be analysed before the conclusion of its investigation into the *Atypical Finding*. Where DFS so determines, DFS will notify the *Athlete* giving a description of the *Atypical Finding* and the information in relation to the B Sample analysis in Rules 9.3.3.1 – 9.3.3.2.
- (b) DFS receives a request from a *Major Event Organisation* shortly before one of its *International Events* or a request from a *National Sporting Organisation* or other sport organisation responsible for meeting an imminent deadline for selecting a team for an *International Event* to disclose whether any *Athlete* on a list provided by the *Major Event Organiser* or national or other sport organisation is the subject of an *Atypical Finding* which is awaiting or under investigation. Upon receipt of such a request, DFS will identify any *Athlete* subject to an *Atypical Finding* after first

providing notice of the *Atypical Finding* to the *Athlete*.

### 9.3.3 Notification After Initial Review

9.3.3.1 When *DFS* has decided, after the initial review and any further investigation required under the *Prohibited List*, that there is an *Adverse Analytical Finding*, *DFS* will give notice to the *Athlete* of the *Adverse Analytical Finding*. The notice will identify the *Athlete*, by name, state the *Athlete's* country, sport and discipline, the date of *Sample* collection, whether the collection was *In-Competition* or *Out-Of-Competition*, the details of the *Prohibited Substance* identified in the *A Sample*, the *Anti-Doping Rule Violation* which it is alleged the *Athlete* has committed and the possible *Consequences* of a *Violation*.

9.3.3.2 The notice will further set out the *Athlete's* right to request the analysis of the *B Sample* within 5 working days of service of the notice and that, if the *Athlete* fails to make a request within the time limit, the *B Sample* analysis will be deemed waived and the *A Sample* finding used. The notice will set out the right of the *Athlete* to attend the *B Sample* opening and analysis if such analysis is requested, whether in person or by a representative, the other parties that will be notified of the *A Sample Adverse Analytical Finding*, and the *Athlete's* right to request copies of the *A and B Sample* Laboratory report including the information required by the *International Standard* for Laboratories.

9.3.3.3 *DFS* will give notice of the *Adverse Analytical Finding* to the *Athlete's National Anti-Doping Organisation* (where applicable), the relevant *National Sporting Organisation*, the relevant *International Federation*, *WADA* and any other relevant *Anti-Doping Organisation* not later than the

end of the process of the initial review of the *Adverse Analytical Finding*. The notice will contain the information set out in Rule 9.3.3.1.

- 9.3.3.4 Where the *Athlete* requests that the B *Sample* be analysed, *DFS* will contact the laboratory to establish the date and timing of the testing of the B *Sample*, and will notify the *Athlete* of that date no later than 5 working days after the *Athlete's* request for the analysis of the B *Sample*. The time for analysis of the B *Sample* may be extended by agreement. *DFS* will also notify the *Athlete* of the *Athlete's* right to attend, whether in person or by a representative, on the identification, opening and analysis of the B *Sample*. Where the *Athlete* or a representative does not attend on the identification, opening and analysis of the B *Sample*, *DFS* will appoint an independent person to attend at the identification and opening of the B *Sample*.
- 9.3.3.5 Where the *Athlete* requests a B *Sample* analysis, *DFS* shall report the result of such an analysis to the relevant *National Sporting Organisation*, the relevant International Federation, *WADA* and any other relevant *Anti-Doping Organisation*.
- 9.3.3.6 If the B *Sample* analysis does not confirm the A *Sample* analysis, *DFS* will notify the *Athlete* that there has been a negative test and no further steps will be taken. If the B *Sample* analysis confirms the A *Sample* analysis, *DFS* will proceed under these *Rules* in relation to the *Adverse Analytical Finding*.
- 9.3.3.7 Where *DFS* is aware that the *Athlete* may be subject to the imposition of a *Provisional Suspension* under the rules of a *National Sporting Organisation*, International Federation, *Major Event Organisation* or other *Signatory*

to the *Code*, it may, where notice has to be given to the *Athlete* as a matter of urgency, give verbal notice of the *Adverse Analytical Finding* to the *Athlete* and the other *Persons* under Rule 9.3.3.3 and any other relevant *Persons*. Where notice is given verbally, notice will be confirmed in writing as soon as possible after the verbal notice.

#### **9.4 Review relating to Other *Anti-Doping Rule Violations***

- 9.4.1 In addition to carrying out *Testing* under the *International Standard* for *Testing* in relation to *Violations* under Rule 3.1, *DFS* will carry out such investigations as it sees fit (whether arising from *Sample* collection or otherwise) into all matters which may be relevant to the commission of any possible *Anti-Doping Rule Violation* under Rules 3.2 to 3.8.
- 9.4.2 Where *DFS* has obtained documentation or information from *Sample* collection carried out under the *Rules* or from any other investigation which it has carried out, or from any other source, which may support an allegation that a *Violation* under Rules 3.2 to 3.8 has occurred, *DFS* will review that information and carry out any such further investigation as it sees fit, to decide whether, in its view, a *Violation* has occurred.
- 9.4.3 At any time during the course of an investigation *DFS* may ask to interview any *Participant* or any other *Person* who it believes may assist in the investigation. Where *DFS* requests such an interview, *DFS* will inform the *Participant* or *Person* who it wishes to interview that they can be accompanied by a representative to any interview if they wish.
- 9.4.4 *National Sporting Organisations, Participants* and any *Person* bound by these *Rules* shall refer to *DFS* all documentation, materials and *information* they receive or are made aware of, concerning any possible *Anti-Doping Rule Violation*, for investigation by *DFS*, regardless of whether or not such documentation, materials or

information have been referred to an International Federation or any other organisation.

9.4.5 *National Sporting Organisations* and *Participants* shall take all reasonable steps to support any investigation conducted by *DFS* into the commission of any *Anti-Doping Rule Violation*. *National Sporting Organisations* shall take all reasonable steps to ensure that all *Participants* under their authority assist *DFS* in any investigation which it carries out under the *Rules*.

9.4.6 Where *DFS* decides that, as a result of any investigation, it has material which supports an allegation that a *Participant* or other *Person* has committed a *Violation* under Rules 3.2 to 3.8 and *DFS* intends to make such an allegation, *DFS* will give notice in writing of its intention to make the allegation to the *Participant* or *Person*. The notice will set out the matters which *DFS* believes support the allegation that the *Violation* has been committed, and ask whether the *Participant* or *Person* wishes to provide any statement or comment on the allegation or provide any further information to *DFS*, whether at an interview or in writing. The notice will also set out the possible *Consequences* of the *Violation* if it is proven before the *Sports Tribunal*, recommend that the *Participant* or *Person* obtains advice and will also provide that the *Participant* or *Person* may, if they wish, admit the *Violation* in writing. *DFS* will, in its notification to the *Participant* or *Person* provide for a reply to be received in seven (7) days. If no reply has been received by *DFS* within that time, *DFS* will review any further information and proceed to make its final decision whether to bring *Violation Proceedings*. Where the *Participant* or *Person* provides a statement or comment or further information to *DFS* in relation to the alleged *Violation*, *DFS* will consider any material provided before making its decision to bring *Violation Proceedings*. *DFS* may decide that it will not give notice under this *Rule* where it considers that it is inappropriate to do so. Where *DFS* does not give notice under this *Rule*, it will proceed to make a decision whether to bring *Violation Proceedings* on the basis of the material which it has obtained in any investigation.

9.4.7 Where *DFS* is conducting an investigation into a possible *Violation* under Rules 3.2 to 3.8, *DFS* may notify the *National Sporting Organisation*, *International Federation*, *Major Event Organisation* or other relevant *Signatory* to the *Code* of the investigation and the information which it has obtained and the identity of the *Participant* or any other *Person* under investigation at any time before it has reached a decision on whether to bring *Violation Proceedings*, where *DFS* considers that such notification is necessary to allow for the consideration of the imposition of a *Provisional Suspension* under Rule 12 or otherwise. In the course of an investigation, *DFS* may inform any other third party of the investigation where it considers that this is required in order to carry out the investigation effectively. Where *DFS* informs such a third party of any aspect of an investigation, it will give notice to the third party of the confidential nature of the investigation as set out in Rule 17.

9.4.8 At any stage in an investigation *DFS* may decide that it will bring *Violation Proceedings*. Where *DFS* so decides, it will proceed to notify its decision and bring the *Violation Proceedings* as set out in Rule 10.

## **9.5 Retirement from Sport**

If an *Athlete* or other *Person* retires while a results management process is underway, *DFS* continues to have jurisdiction under these *Rules* to complete its results management process. If an *Athlete* or other *Person* retires before any results management process has begun, *DFS* shall continue to have jurisdiction to conduct results management under these *Rules*. In both cases, the *Athlete* or other *Person* remains subject to the *Rules* until the conclusion of *Doping Control*.

## **10 NOTIFICATION AND REFERRAL TO THE SPORTS TRIBUNAL**

### **10.1 Notice to *Participant* or *Person***

Where:

- (a) there has been an *Adverse Analytical Finding* and, after *DFS* has carried out the steps under Rule 9.3 which are applicable, *DFS*

considers that an *Anti-Doping Rule Violation* has been committed under Rule 3.1; or

- (b) after considering and assessing documentation or information obtained or provided during any investigation under Rule 9.4 and any further matters which it considers relevant, *DFS* considers that an *Anti-Doping Rule Violation* under Rules 3.2. to 3.8 has occurred and decides that it will bring *Violation Proceedings* against any *Participant* or other *Person*,

*DFS* will notify the *Participant* or *Person* in writing who is alleged to have committed the *Violation*, setting out the *Violation* which *DFS* alleges has been committed. The notice will give particulars of the alleged *Violation* and the possible sanctions which may apply if the *Violation* is established. *DFS* will also notify the *Person* of the other parties who will be notified of the allegation under Rule 10.2. The notice will also provide that the *Participant* or *Person* who is the subject of the *Violation Proceeding* may admit the *Violation* in writing.

## **10.2 Notice to Organisations**

When *DFS* has determined as a result of any investigation that it will bring *Violation Proceedings*, in addition to giving the notice under Rule 10.1, *DFS* will notify the *Participant's* or *Person's National Anti-Doping Organisation* (where applicable), the relevant *National Sporting Organisation(s)*, the relevant *International Federation(s)*, any other relevant *Signatory* to the *Code* and *WADA*, of the alleged *Violation*, identifying the *Participant* or *Person* who it alleges has committed the *Violation* and providing the details which are given to the *Participant* or *Person* under Rule 10.1.

## **10.3 Provisional Suspension**

After a *Participant* or other *Person* has been notified of an alleged *Anti-Doping Rule Violation* under the *Rules*, whether under Rule 9.3.3.7, 9.4.7 or Rule 10.1, the *National Sporting Organisation* will take steps under Rule 12 to initiate consideration of whether to impose a *Provisional Suspension*.

## **10.4 Notice to Sports Tribunal or NSO Anti-Doping Tribunal**

Where *DFS* has determined that it will bring *Violation Proceedings* against any *Participant* or *Person*, it will notify the *Sports Tribunal* or the relevant *NSO Anti-Doping Tribunal* of the alleged *Violation* and bring *Violation Proceedings* before the *Sports Tribunal* or relevant *NSO Anti-Doping Tribunal*. Where *DFS* is not aware of the position in relation to the existence of any relevant *NSO Anti-Doping Tribunal* it will notify the *Sports Tribunal*. *DFS* will file and serve the documents required to commence *Violation Proceedings* under the rules of the *Sports Tribunal* or *NSO Anti-Doping Tribunal*.

- 10.5** *DFS* will take all necessary steps to bring and progress *Violation Proceedings* in a timely manner before the *Sports Tribunal* or *NSO Anti-Doping Tribunal* and will present evidence relevant to the alleged *Anti-Doping Rule Violation* before the *Sports Tribunal* or *NSO Anti-Doping Tribunal*.

## **11 RIGHT TO INFORMATION**

Subject to the provisions of sections 27 to 30 of the Privacy Act 1993, and subject to any other good reason to withhold information under statute, any *Person* who is notified by *DFS* under these *Rules* that they may be the subject of *Violation Proceedings*, will be entitled to copies of the documentation relevant to the allegation that there has been an *Anti-Doping Rule Violation*, and *DFS* shall provide this to the *Person* or their representative upon request.

## **12 PROVISIONAL HEARINGS AND SUSPENSIONS**

- 12.1** Where a *National Sporting Organisation* has received notice of an alleged *Anti-Doping Rule Violation* under Rules 9.3.3.3, 9.3.3.7, 9.4.7 or 10.2 from *DFS* against a *Person* who is subject to the *Rules*, the *National Sporting Organisation* shall refer the question whether to impose a *Provisional Suspension* under the *Rules* to the *Sports Tribunal*, and *DFS* and the *National Sporting Organisation* will provide the *Sports Tribunal* with the information relevant to the alleged *Anti-Doping Rule Violation*. Where a *National Sporting Organisation* has established an *NSO Anti-Doping Tribunal*, the *National Sporting Organisation* shall refer the question of whether to impose a *Provisional Suspension* to that Tribunal for consideration in

accordance with the rules of the *NSO Anti-Doping Tribunal*. Every reference to the *Sports Tribunal* in Rule 12 shall apply to any *NSO Anti-Doping Tribunal* dealing with the question whether to impose a *Provisional Suspension*.

- 12.2** Where a *National Sporting Organisation* has referred the question whether to impose a *Provisional Suspension* to the *Sports Tribunal*, the *Sports Tribunal* will either notify the *Person* who may be subject to a *Provisional Suspension* that it will hold an urgent provisional hearing before deciding whether to impose a *Provisional Suspension*, or will decide whether to impose a *Provisional Suspension* on the material before it, without hearing from the *Person* upon whom a *Provisional Suspension* may be imposed.
- 12.3** Where the *Sports Tribunal* decides to proceed without holding an urgent provisional hearing, it will, in the event that it decides to impose a *Provisional Suspension*, either hold an expedited hearing on whether the *Provisional Suspension* should be maintained, or hold an expedited hearing in relation to the *Anti-Doping Rule Violation*, as soon as possible after the imposition of the *Provisional Suspension*. The *Person* who is subject to the *Provisional Suspension* will be notified of the date and timing of the hearing which is to be held. It will be for the *Sports Tribunal* to decide which form of hearing it will adopt. It may, in reaching a decision on the form of hearing, hear representations on the appropriate process.
- 12.4** The *Sports Tribunal* will, wherever possible, seek to hold an urgent provisional hearing before imposing a *Provisional Suspension*, but the choice of procedure to be followed will be a matter for the *Sports Tribunal* in the particular circumstances.
- 12.5** The *Sports Tribunal* will adopt such procedures for any hearing in relation to a *Provisional Suspension* (whether held before or after the imposition of a *Provisional Suspension* under the *Rules*) as the *Sports Tribunal* considers will provide the parties with a fair hearing in the matter in accordance with the principles of set out in Articles 7.5 and 8 of the *Code*.

- 12.6** In considering whether to impose a *Provisional Suspension*, the *Sports Tribunal* may request further information or material from *DFS*, the *National Sporting Organisation* or the *Person* who may be subject to the *Provisional Suspension*. *DFS*, the *National Sporting Organisation* and the *Person* who may be the subject of the *Provisional Suspension* will take all reasonable steps to comply with any request for information or material.
- 12.7** A decision by the *Sports Tribunal* in relation to a *Provisional Suspension* will be notified to the *Participants* or *Persons* who have been notified of the alleged *Violation* under these *Rules*, but will otherwise remain confidential until publication of the final decision on the *Anti-Doping Rule Violation*, unless the *Sports Tribunal* considers that it is in the interests of the *National Sporting Organisation* and its members that the decision in relation to the *Provisional Suspension* be *Publicly Reported*.
- 12.8** Where there has been an *A Sample Adverse Analytical Finding* other than for a Specified Substance, a *Provisional Suspension* shall be promptly imposed provided the *Athlete* is given a provisional hearing or an expedited hearing. Where there has been an *A Sample Adverse Analytical Finding* for a Specified Substance or notice has been given of another *Anti-Doping Rule Violation* under Rules 3.2 to 3.8, a *Provisional Suspension* may be imposed where the *Sports Tribunal* considers that there is a *prima facie* case that a *Violation* has been committed and it is appropriate to impose a *Provisional Suspension*.
- 12.9** A *Person* who is subject to a *Provisional Suspension* may not take part in any way in any event or activity, organised, sanctioned or authorised by the *National Sporting Organisation* or any member organisation or club of the *National Sporting Organisation* or by any *Person* in any way connected with the *National Sporting Organisation*. A person subject to a *Provisional Suspension* shall be *Ineligible* as set out in Rule 14.10.1. The *National Sporting Organisation* shall take all necessary steps to have the *Provisional Suspension* recognised by other *Anti-Doping Organisations*.

- 12.10** All provisional hearings or expedited hearings by the *Sports Tribunal* must be conducted in accordance with Articles 7.5 and 8 of the *Code* and in accordance with the rules and procedures of the *Sports Tribunal*.
- 12.11** Where a *Provisional Suspension* has been imposed after an *A Sample Adverse Analytical Finding*, the *Athlete* has requested that the *B Sample* analysis be conducted and the *B Sample* analysis does not confirm the *A Sample* analysis, then the *Provisional Suspension* shall be rescinded by the *Sports Tribunal* or *NSO Anti-Doping Tribunal* immediately upon receiving notice from *DFS* that the *B Sample* analysis does not confirm the *A Sample* analysis.
- 12.12** Where the *Athlete* or the *Athlete's* team has been removed from a *Competition* or *Event* following a *Provisional Suspension* and the *Provisional Suspension* is then rescinded, and it is still possible for the *Athlete* or team to be reinstated without otherwise affecting the *Competition* or *Event*, the *Athlete* or team shall be allowed to continue to take part in the *Competition* or *Event*.
- 12.13** If *DFS* declares that there has been no *Anti-Doping Rule Violation*, at a time when a *Provisional Suspension* is in effect, it shall immediately inform the *Athlete's* International Federation, *National Sporting Organisation*, any relevant *Signatory* to the *Code*, the *Sports Tribunal* or any *NSO Anti-Doping Tribunal* (where appropriate) and *WADA*.
- 12.14** When the *Sports Tribunal* or *NSO Anti-Doping Tribunal* receives notification from *DFS* of a declaration under Rule 12.13 that there has been no *Anti-Doping Rule Violation*, the *Sports Tribunal* or *NSO Anti-Doping Tribunal* shall immediately rescind any *Provisional Suspension*.

## **13 DISCIPLINARY PROCEDURE**

### **13.1 Role of *Sports Tribunal***

- 13.1.1 Subject to Rule 13.1.2, the *Sports Tribunal* established under the *Act* is the body responsible for hearing and determining *Anti-Doping Rule*

*Violations* referred to it by *DFS* under the *Rules*. In particular, the *Sports Tribunal* will determine whether an *Anti-Doping Rule Violation* has been committed and if so, the *Consequences* of the *Violation* for the *Athlete* or any other *Person* who has committed the *Violation*. The *Sports Tribunal* will regulate its own procedures and will provide a hearing which respects the principles in Article 8 of the *Code*.

13.1.2 A *National Sporting Organisation* may establish and nominate an *NSO Anti-Doping Tribunal* to hear *Anti-Doping Rule Violations* brought by *DFS* provided that the *NSO Anti-Doping Tribunal* complies with all the requirements of the *Rules* (including all the requirements relating to the *Sports Tribunal*) and the *Code* in all aspects of its consideration of an alleged *Violation*. Any *NSO Anti-Doping Tribunal* established under the *Rules* shall, by its rules, accept the authority of *DFS* to notify and bring *Violation Proceedings* and to appear before it to present the evidence in support of such *Violation Proceedings*. Where a *National Sporting Organisation* establishes an *NSO Anti-Doping Tribunal* it will immediately notify *DFS* and provide *DFS* with all relevant rules relating to the operation of the *NSO Anti-Doping Tribunal*.

13.1.3 Where the *Rules* refer to the *Sports Tribunal*, the reference shall be read as also referring to any *NSO Anti-Doping Tribunal* established by a *National Sporting Organisation* under Rule 13.1.2.

## **13.2 Hearing Procedure**

13.2.1 Proceedings under the *Rules* must be completed in a timely manner, and should normally be completed within three (3) months of the date of notification of the *Violation Proceedings* to the *Sports Tribunal* by *DFS*.

13.2.2 Proceedings in connection with *Events* may be conducted on an expedited basis. Decisions may be given orally in the first instance but, in every case, written reasons for the decision will be given.

## **13.3 Confidentiality of Hearings and reporting of Decisions**

- 13.3.1 All hearings and deliberations before the *Sports Tribunal* in relation to *Anti-Doping Rule Violations* will be held in private and be confidential save where the parties otherwise agree.
- 13.3.2 Written decisions of the *Sports Tribunal* that an *Anti-Doping Rule Violation* has been committed shall be *Publicly Reported* by the *Sports Tribunal* within 20 days of the time when the written decision is given in relation to the *Anti-Doping Rule Violation*. Interim rulings of the *Sports Tribunal* will remain confidential until a final decision in relation to the *Anti-Doping Rule Violation* has been given by the *Sports Tribunal* unless the *Sports Tribunal* considers that such a decision should be *Publicly Reported*. Decisions of the *Sports Tribunal* shall be advised to the parties to the proceedings, WADA, the relevant International Federation, any relevant *Anti-Doping Organisation* (and to the *National Olympic Committee* and *National Sporting Organisation* if not a party to the proceedings), by the *Sports Tribunal* as soon as practicable after the decision has been given.
- 13.3.3 Where the *Sports Tribunal* decides that no *Anti-Doping Rule Violation* has been committed, the decision of the *Sports Tribunal* will be notified to the parties and the organisations set out under Rule 13.3.2. The decision of the *Sports Tribunal* will be *Publicly Reported* only with the consent of the *Athlete* or other *Person* who is the subject of the decision. *DFS* and the *Sports Tribunal* shall use all reasonable efforts to obtain such consent. Where consent is obtained, the decision shall be publicly disclosed in full or in such form as the *Athlete* or other *Person* approves.
- 13.3.4 Decisions will be published under Rules 13.3.2 and 13.3.3 by posting the required information on the website of the *Sports Tribunal*. Information posted on the website of the *Sports Tribunal* must remain in place for at least one year.

#### **13.4 Appeals**

- 13.4.1 Appeals from the decisions of the *Sports Tribunal* are exclusively to CAS as set out in Rule 15 of the *Rules*.

## **13.5 Other Matters**

13.5.1 Subject to the application of Rule 4.2.2. of the *Rules* in relation to departures from the *International Standard for Testing*, no failure to follow, or departure from, the procedures provided for by the *Rules* by *DFS* or any *National Sporting Organisation* will provide a ground to exclude evidence which is relevant to the determination whether an *Anti-Doping Rule Violation* has been committed from being considered by the *Sports Tribunal* or otherwise provide a ground for the *Sports Tribunal* to find that an *Anti-Doping Rule Violation* has not been committed. Nor will any such failure or departure provide a ground to invalidate a decision by the *Sports Tribunal* on an appeal to CAS, save where CAS, in the exercise of its jurisdiction on appeal, considers that there has been a miscarriage of justice as a direct consequence of the failure or departure.

## **14 SANCTIONS**

### **14.1 Automatic Disqualification of Individual Results**

14.1.1 Where the *Sports Tribunal* finds that an *Anti-Doping Rule Violation* has been established, it will consider what sanction to impose on the *Person* who has committed the *Violation* in accordance with these *Rules*.

14.1.2 An *Anti-Doping Rule Violation* in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the individual result obtained in that *Competition* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.

*[Comment to Rule 14.1.2: 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 Rule 14.12 (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.]*

- 14.1.3 An *Anti-Doping Rule Violation* occurring during or in connection with an *Event* may, upon the decision of the ruling body of the *Event*, lead to *Disqualification* of all of the *Athlete's* individual results obtained in that *Event* with all *Consequences*, including forfeiture of all medals, points and prizes, except as provided in Rule 14.1.4.
- 14.1.4 If the *Athlete* establishes that they bear *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*.

[Comment to Rule 14.1.3: Whereas Rule 14.1.2 (Automatic Disqualification of Results) Disqualifies the result in a single Competition in which the Athlete tested positive (e.g. the 100 metre backstroke), this Rule 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.]

## **14.2 *Ineligibility for Presence, Use or Attempted Use, or Possession of Prohibited Substances and Prohibited Methods***

The period of *Ineligibility* imposed for a *Violation* of Rule 3.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*), Rule 3.2 (*Use or Attempted Use of Prohibited Substance or Prohibited Method*) and Rule 3.6 (*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 Rules 14.4 and 14.5, or the conditions for increasing the period of *Ineligibility*, as in Rule 14.6 are met:

First Violation: Two (2) years' *Ineligibility*.

[Comment to Rule 14.2: Harmonisation of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonisation means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonisation of sanctions are based on differences between sports including, for example, the following: in some sports the Athletes are professionals making a sizable income from the sport and in others the Athletes are true amateurs; in those sports where an Athlete's career is short (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 harmonisation is that it is simply not right that two Athletes from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organisations to be more lenient with dopers. The lack of harmonisation of sanctions has also frequently been the source of jurisdictional conflicts between International Federations and National Anti-Doping Organisations.]*

### **14.3 *Ineligibility for Other Anti-Doping Rule Violations***

The period of *Ineligibility* for other *Anti-Doping Rule Violations* other than as provided in Rule 14.2 shall be:

- 14.3.1 For *Violations* of Rule 3.3 (Refusing or Failing to Submit to Sample Collection) or Rule 3.5 (*Tampering with Doping Control*), the *Ineligibility* period shall be two (2) years unless the conditions provided in Rule 14.5, or the conditions provided in Rule 14.6, are met.
- 14.3.2 For *Violations* of Rule 3.7 (*Trafficking or Attempted Trafficking*), or Rule 3.8 (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 Rule 14.5 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 Rule 5.3, shall result in lifetime *Ineligibility* for such *Athlete Support Personnel*. In addition, significant *Violations* of Rules 3.7 or 3.8 also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.

*[Comment to Rule 14.3.2: 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 organisations 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.]*

14.3.3 For *Violations* of Rule 3.4 (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 Rule 14.3.3: The sanction under Rule 14.3.3 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.]*

#### **14.4 Elimination or Reduction of the Period of *Ineligibility* for Specified Substances under Specific Circumstances**

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 Rule 14.2 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 of *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 criterion considered in assessing any reduction of the period of *Ineligibility*.

*[Comment to Rule 14.4: 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 Rule 14.6. 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 Rule 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 Rule. It is anticipated that the period of Ineligibility will be eliminated entirely in only the most exceptional cases.]*

## **14.5 Elimination or Reduction of Period of *Ineligibility* Based on Exceptional Circumstances**

### **14.5.1 *No Fault or Negligence***

If the *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 its *Metabolites* is detected in an *Athlete's Sample* in *Violation* of Rule 3.1 (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 that this *Rule* 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 Rules 14.7.

### **14.5.2 *No Significant Fault or Negligence***

If an *Athlete* or other *Person* establishes in an individual case involving such *Violations* 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 minimum period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this *Rule* may be no less than eight [8] years. When a *Prohibited Substance* or its *Markers* or *Metabolites* is detected in an *Athlete's Sample* in *Violation* of Rule 3.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*), 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 Rules 14.5.1 and 14.5.2: 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 Organisations 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 Rules apply only to the imposition of sanctions; they are not applicable to the determination of whether an Anti-Doping Rule Violation has occurred. Rule 14.5.2 may be applied to any Anti-Doping Rule 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.]*

*Rules 14.5.1 and 14.5.2 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 Rule 14.5.1, 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 (Rule 3.1.1) 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's or other Person's fault under Rules 14.5.1 and 14.5.2, the evidence 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 Rule. 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's or other Person's fault under Rule 14.5.2, as well as Rules 14.3.3, 14.4 and 14.5.1. Rule 14.5.2 should not be applied in cases where Rule 14.3.3 or 14.4 apply, as those Rules already take into consideration the Athlete's or other Person's degree of fault for purposes of establishing the applicable period of Ineligibility.]*

#### 14.5.3 *Substantial Assistance* in Discovering or Establishing *Anti-Doping Rule Violations*

Prior to a final appellate decision under Rule 15 or the expiration of the time to appeal, a part of the period of *Ineligibility* imposed in an individual case may be suspended where the *Athlete* or other *Person* has provided *Substantial Assistance* to *DFS*, a criminal authority or professional disciplinary body which results in 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 offence or the breach of professional rules by another *Person*. After a final appellate decision under Rule 15 or the expiration of time to appeal, part of the otherwise applicable period of *Ineligibility* may only be suspended 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 eight (8)

years. If any part of the otherwise applicable period of *Ineligibility* under this Rule is suspended, *DFS* shall promptly provide the written decision relating to the suspension of the period of ineligibility to each *Anti-Doping Organisation* having a right to appeal the decision. If any part of the suspended period of *Ineligibility* is reinstated 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 Rule 15.2.

*[Comment to Rule 14.5.3: 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 Rule 3.7 or administration under Rule 3.8 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 otherwise applicable 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 Rule where the Athlete or other Person waives their right to a hearing the Anti-Doping Organisation shall determine whether a suspension of a portion of the period of Ineligibility is appropriate under this Rule. If the Athlete or other Person claims entitlement to a suspended period of Ineligibility before the conclusion of a hearing under Rule 13 on the Anti-Doping Rule Violation, the hearing panel shall determine whether a suspension of a portion of the otherwise applicable period of Ineligibility is appropriate under this Rule 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 offence. 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 Rule 15, but the Athlete or other Person is still serving the period of Ineligibility, the Athlete or other Person may apply to the Anti-Doping Organisation which had results management responsibility for the Anti-Doping Rule Violation to consider a suspension in the period of Ineligibility under this Rule. Any such suspension of the otherwise applicable 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 Organisation with results management authority shall reinstate*

*the period of Ineligibility which would otherwise be applicable. Decisions rendered by Anti-Doping Organisations under this Rule may be appealed pursuant to Rule 15.2.*

*This is the only circumstance under the Code where the suspension of an otherwise applicable period of ineligibility is authorised.]*

**14.5.4 Admission of an *Anti-Doping Rule Violation* in the Absence of Other Evidence**

Where an *Athlete* or other *Person* voluntarily admits the commission of an *Anti-Doping Rule Violation* before having received notice of a *Sample* collection which could establish an *Anti-Doping Rule Violation* (or, in the case of an *Anti-Doping Rule Violation* other than Rule 3.1, before receiving first notice of the admitted *Violation* pursuant to Rule 9) 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 Rule 14.5.4: This Rule is intended to apply when an Athlete or other Person comes forward and admits to an Anti-Doping Rule Violation in circumstances where no Anti-Doping Organisation is aware that an Anti-Doping Rule Violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Athlete or other Person believes he or she is about to be caught.]*

**14.5.5 Where an *Athlete* or Other *Person* Establishes Entitlement to Reduction in Sanction Under More than One Provision of this *Rule***

Before applying any reduction or suspension under Rules 14.5.2, 14.5.3 or 14.5.4, the otherwise applicable period of *Ineligibility* shall be determined in accordance with Rules 14.2, 14.3, 14.4 and 14.6. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under two or more of the Rules 14.5.2, 14.5.3 or 14.5.4, then the period of *Ineligibility* may be reduced or suspended, but not below one-fourth of the otherwise applicable period of *Ineligibility*.

*[Comment to Rule 14.5.5: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions (Rule 14.2, Rule 14.3, Rule 14.4 or Rule 14.6) applies to the particular Anti-Doping Rule Violation. In a second step, the hearing panel establishes whether there is a basis for suspension, elimination or reduction of the sanction (Rules 14.5.1 through 14.5.4). Note, however, not all grounds for suspension, elimination or reduction may be combined with the provisions on basic sanctions. For example, Rule 14.5.2 does not apply in cases involving Rules 14.3.3 or 14.4, since the hearing panel, under Rules 14.3.3 and 14.4, will already have determined the period of Ineligibility based on the Athlete's or other Person's degree of fault. In a third step, the hearing panel determines under Rule 14.5.5 whether the Athlete or other Person is entitled to elimination, reduction or suspension under more than one provision of Rule 14.5. Finally, the hearing panel decides on the commencement of the period of Ineligibility under Rule 14.9.]*

*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 asserted; the Athlete establishes No Significant Fault (Rule 14.5.2); and the Athlete provides Substantial Assistance (Rule 14.5.3).*

*Application of Rule 14:*

- 1. The basic sanction would be two years under Rule 14.2. (Aggravating Circumstances (Rule 14.6) would not be considered because the Athlete promptly admitted the Violation. Rule 14.4 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 Rule 14.5.5, 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 Rule 14.9.2, 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 Substantial Assistance (Rule 14.5.3).*

*Application of Rule 14:*

1. *The basic sanction would be between two and four years Ineligibility as provided in Rule 14.6.*
2. *Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the maximum four years.*
3. *Rule 14.5.5 does not apply.*
4. *Under Rule 14.9.2, 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 Substantial Assistance (Rule 14.5.3).*

*Application of Rule 14:*

1. *Because the Adverse Analytical Finding involved a Specified Substance and the Athlete has satisfied the other conditions of Rule 14.4, 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 (Rule 14.2) 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. *Rule 14.5.5 does not apply.*
4. *Under Rule 14.9.2, 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 Substantial Assistance (Rule 14.5.3).*

*Application of Rule 14.:*

1. While the intentional Use of multiple Prohibited Substances to enhance performance would normally warrant consideration of aggravating circumstances (Rule 14.6), the Athlete's spontaneous admission means that Rule 14.6 would not apply. The fact that the Athlete's Use of Prohibited Substances was intended to enhance performance would also eliminate the application of Rule 14.4 regardless of whether the Prohibited Substances Used were Specified Substances. Thus, Rule 14.2 would be applicable and the basic period of Ineligibility imposed would be two years.

2. Based on the Athlete's spontaneous admissions (Rule 14.5.4) alone, the period of Ineligibility could be reduced up to one-half of the two years. Based on the Athlete's Substantial Assistance (Rule 14.5.3) alone, the period of Ineligibility could be reduced up to three-quarters of the two years.

3. Under Rule 14.5.5, 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 Rule 14.5.4 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 Rule 14.5.4 in reducing the period of Ineligibility in step 3, then under Rule 14.9.2, 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.]

## **14.6 Aggravating Circumstances Which May Increase the Period of *Ineligibility***

If DFS establishes in an individual case involving an *Anti-Doping Rule Violation* other than under Rules 3.7 (*Trafficking or Attempted Trafficking*) and 3.8 (*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 (4) years unless the *Athlete* or other *Person* can prove to the comfortable satisfaction of the hearing panel that he or she did not knowingly commit the *Anti-Doping Rule Violation*.

An *Athlete* or other *Person* can avoid the application of this Rule by admitting the *Anti-Doping Rule Violation* as asserted promptly after being confronted with the *Anti-Doping Rule Violation* by an *Anti-Doping Organisation*.

[Comment to Rule 14.6: 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 Rule 14.6 are not exclusive and other aggravating factors may also justify the imposition of a longer period of Ineligibility. Violations under Rule 3.7 (Trafficking or Attempted Trafficking) and 3.8 (Administration or Attempted Administration) are not included in the application of Rule 14.6 because the sanctions for these Violations (from four years to lifetime Ineligibility) already build in sufficient discretion to allow consideration of any aggravating circumstance.]*

## **14.7 Multiple Violations**

### **14.7.1 Second Anti-Doping Rule Violation**

For an Athlete's or other Person's first *Anti-Doping Rule Violation*, the period of *Ineligibility* is set forth in Rules 14.2 and 14.3 (subject to elimination, reduction or suspension under Rules 14.4 or 14.5, or to an increase under Rule 14.6). For a second *Anti-Doping Rule Violation* the period of *Ineligibility* shall be within the range set forth in the table below.

<i>Second Violation</i> <i>First Violation</i>	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

[Comment to Rule 14.7.1: 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 Rule 14.2 and then commits a second Violation for which he receives a reduced sanction for a Specified Substance under Rule 14.4. 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.]

Definitions for purposes of the second *Anti-Doping Rule Violation* table:

**RS** (Reduced sanction for Specified Substance under Rule 14.4): The *Anti-Doping Rule Violation* was or should be sanctioned by a reduced sanction under Rule 14.4 because it involved a Specified Substance and the other conditions under Rule 14.4 were met.

**FFMT** (Filing Failures and/or Missed Tests): The *Anti-Doping Rule Violation* was or should be sanctioned under Rule 14.3.3 (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 Rule 14.5.2 because *No Significant Fault or Negligence* under Rule 14.5.2 was proved by the Athlete.

**St** (Standard sanction under Rule 14.2 or 14.3.1): The *Anti-Doping Rule Violation* was or should be sanctioned by the standard sanction of two (2) years under Rules 14.2 or 14.3.1.

**AS** (Aggravated sanction): The *Anti-Doping Rule Violation* was or should be sanctioned by an aggravated sanction under Rule 14.6 because the *Anti-Doping Organisation* established the conditions set forth under Rule 14.6.

**TRA** (*Trafficking or Attempted Trafficking* and administration or *Attempted* administration): The *Anti-Doping Rule Violation* was or should be sanctioned by a sanction under Rule 14.3.2.

[Comment to Rule 14.7.1: RS Definition: See Rule 22.1.4 with respect to application of Rule 14.7.1 to pre-Code Anti-Doping Rule Violations.]

14.7.2 Application of Rules 14.5.3 and 14.5.4 to Second *Anti-Doping Rule Violation*

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 Rule 14.5.3 or Rule 14.5.4, the hearing panel shall first determine the otherwise applicable period of *Ineligibility* within the range established in the table in Rule 14.7.1, 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 Rules 14.5.3 and 14.5.4, must be at least one-fourth of the otherwise applicable period of *Ineligibility*.

14.7.3 *Third Anti-Doping Rule Violation*

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 Rule 14.4 or involves a *Violation* of Rule 3.4 (Filing Failures and/or and Missed Tests). In these particular cases, the period of *Ineligibility* shall be from eight (8) years to life ban.

14.7.4 *Additional Rules for Certain Potential Multiple Violations*

- For purposes of imposing sanctions under Rule 14.7 an *Anti-Doping Rule Violation* will only be considered a second *Violation* if *DFS* can establish that the *Athlete* or other *Person* committed the second *Anti-Doping Rule Violation* after the *Athlete* or other *Person* received notice under Rule 9 (Managing Results), or after *DFS* made a reasonable *Attempt* to give notice, of the first *Anti-Doping Rule Violation*; if *DFS* cannot establish this, the *Violations* shall be considered 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 (Rule 14.6).
- If, after the resolution of a first *Anti-Doping Rule Violation*, facts are discovered involving an *Anti-Doping Rule Violation* by the *Athlete* or other *Person* which occurred prior to notification

regarding the first *Violation*, then an additional sanction shall be imposed 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 Rule 14.8. To avoid the possibility of a finding of aggravating circumstances (Rule 14.6) 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 facts are discovered involving another prior *Violation* after the resolution of a second *Anti-Doping Rule Violation*.

*[Comment to Rule 14.7.4: In a hypothetical situation, an Athlete commits an Anti-Doping Rule Violation on January 1, 2008, which the Anti-Doping Organisation 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 Organisation 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.]*

#### 14.7.5 Multiple *Anti-Doping Rule Violations* During an Eight-Year Period

For purposes of Rule 14.7, each *Anti-Doping Rule Violation* must take place within the same eight year period in order to be considered multiple *Violations*.

### 14.8 ***Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation***

In addition to the automatic *Disqualification* of the results in the *Competition* which produced the positive *Sample* under Rule 14.1 (*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.

14.8.1 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 *Rule*.

14.8.2 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 Organisation* that performed the necessary steps to collect the prize money back, then to reimburse the expenses of the *Anti-Doping Organisation* that conducted results management in the case, with the balance, if any, allocated in accordance with the International Federation's rules.

*[Comment to Rule 14.8.2: Nothing in the Rules 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.]*

## **14.9 Commencement of *Ineligibility* Period**

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* to be served.

14.9.1 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.

14.9.2 Timely Admission

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

14.9.3 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.

14.9.4 If an *Athlete* voluntarily accepts a *Provisional Suspension* in writing from an *Anti-Doping Organisation* with results management authority and thereafter refrains from competing, the *Athlete* 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* 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 Rule 9.

[Comment to Rule 14.9.4: 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*.]

14.9.5 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 Rule 14.9: The text of Rule 14.9 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.]

## **14.10 Status During *Ineligibility***

### **14.10.1 Prohibition Against Participation During *Ineligibility***

No *Athlete* or other *Person* who has been declared *Ineligible* may, during the period of *Ineligibility*, participate in any capacity in a Competition or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organised by, any *Signatory* or *Signatory's* member organisation, or a club or other member organisation of a *Signatory's* member organisation, or in *Competitions* authorised or organised by any professional league or any international- or national-level *Event* organisation. In addition, for any *Anti-Doping Rule Violation* not involving Specified Substances described in Rule 5.3 (Specified Substances), some or all sport-related financial support or other sport-related benefits received by such *Person* shall be withheld by the *Signatories*, *Signatories'* member organisations, National Sporting Organisations and the New Zealand government.

An *Athlete* or other *Person* subject to a period of *Ineligibility* longer than four (4) years may, after completing four (4) 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 Event* or *International Event*.

An *Athlete* or other *Person* subject to a period of *Ineligibility* shall remain subject to *Testing* (and all the provisions of the *Rules*).

[Comment to Rule 14.10.1: For example, an *Ineligible Athlete* cannot participate in a training camp, exhibition or practice organised 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 organised by a non-Signatory International Event organisation or a non-Signatory national-level event organisation without triggering the Consequences set forth in Rule 14.10.2. Sanctions in one sport will also be recognised by other sports (see Rule 19 Mutual Recognition).]*

#### 14.10.2 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 Rule 14.10.1, 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 Rule 14.5.2 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 Rule 14.5.2 is appropriate, shall be referred by *DFS* to the *Sports Tribunal* under Rule 10.

*[Comment to Rule 14.10.2: If an Athlete or other Person is alleged to have violated the prohibition against participation during a period of Ineligibility, the Anti-Doping Organisation 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 Rule 14.5.2. Decisions rendered by Anti-Doping Organisations under this Rule may be appealed pursuant to Rule 15.2. Where an Athlete Support Personnel or other Person substantially assists an Athlete in violating the prohibition against participation during Ineligibility, an Anti-Doping Organisation with jurisdiction over such Athlete Support Personnel or other Person may appropriately impose sanctions under its own disciplinary rules for such assistance.]*

#### 14.10.3 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 Rule 14.4, some or all sport-related financial support or other sport-related benefits received by such *Person* will be withheld by *Signatories*, *Signatories'* member organisations and governments.

## **14.11 Reinstatement Testing**

- 14.11.1 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 *DFS*, and any other *Anti-Doping Organisation* having *Testing* jurisdiction, and must, if requested, provide current and accurate whereabouts information as provided in Rule 6.4 (Whereabouts Information) or otherwise by any other *Anti-Doping Organisation* with jurisdiction over the *Athlete*.
- 14.11.2 If an *Athlete*, subject to a period of *Ineligibility*, retires from sport and is removed from *Out-of-Competition Registered Testing Pools* and later seeks reinstatement, the *Athlete* shall not be eligible for reinstatement until the *Athlete* has notified *DFS*, the New Zealand Olympic Committee, where applicable, the applicable *National Sporting Organisation* and other relevant *Anti-Doping Organisations* 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. During such remaining period of *Ineligibility*, the *Athlete* shall be subject to *Out-of-Competition Testing* and these *Rules*. *DFS* shall determine the number and frequency of *Testing*.
- 14.11.3 *DFS* shall be responsible for conducting the *Out-of-Competition Testing* required under this Rule, but *Testing* by any *Anti-Doping Organisation* may be used to satisfy the requirement.
- 14.11.4 Once the period of an *Athlete's* suspension has expired, and the *Athlete* has fulfilled the conditions of reinstatement then the *Athlete* shall become automatically re-eligible and no application by the *Athlete* or by the *Athlete's National Sporting Organisation* shall then be necessary.

## **14.12 Consequences to Teams**

14.12.1 *Testing of Team Sports*

Where more than one team member in a *Team Sport* has been notified of a possible *Anti-Doping Rule Violation* in connection with an *Event* under Rule 9, the ruling body for the *Event* shall conduct appropriate *Target Testing* of the team during the *Event*.

14.12.2 *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 *Athletes* committing the *Anti-Doping Rule Violation*.

14.12.3 *Event Ruling Body May Establish Stricter Consequences for Team Sports*

The ruling body for an *Event* may elect to establish rules for the *Event* which impose *Consequences for Team Sports* stricter than those in Rule 14.12.2 for purposes of the *Event*.

*[Comment to Rule 14.12.3: For example, the International Olympic Committee could establish rules which would require Disqualification of a team from the Games of the Olympiad based on a lesser number of Anti-Doping Rule Violations during the period of the Games of the Olympiad.]*

## **15 APPEALS**

### **15.1 Decisions Subject to Appeal**

Decisions made by the *Sports Tribunal* or any *NSO Anti-Doping Tribunal* under the *Rules* may be appealed as set out in this *Rule*. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise.

15.1.1 *WADA Not Required to Exhaust Internal Remedies*

Where *WADA* has a right to appeal under Rule 15 and no other party has appealed a final decision within the *Anti-Doping Organisation's* process, *WADA* may appeal such decision directly to *CAS* without

having to exhaust other remedies in the *Anti-Doping Organisation* process.

[Comment to Rule 15.1.1: Where a decision has been rendered before the final stage of an *Anti-Doping Organisation's* process (e.g., a first hearing) and no party elects to appeal that decision to the next level of the *Anti-Doping Organisation's* process (e.g., the *Managing Board*), then WADA may bypass the remaining steps in the *Anti-Doping Organisation's* internal process and appeal directly to CAS.]

## **15.2 Appeals from Decisions Regarding *Anti-Doping Rule Violations*, *Consequences* and *Provisional Suspensions***

A decision that an *Anti-Doping Rule Violation* was committed, a decision imposing *Consequences* for an *Anti-Doping Rule Violation*, 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 Rule 14.10.2 (*Violation* of the Prohibition of Participation during *Ineligibility*); a decision that the *Sports Tribunal* lacks jurisdiction to rule on an alleged *Anti-Doping Rule Violation* or its *Consequences*; a decision by an *Anti-Doping Organisation* not to bring forward an *Adverse Analytical Finding* or an *Atypical Finding* as an *Anti-Doping Rule Violation*, or a decision not to go forward with an *Anti-Doping Rule Violation* after an investigation under Rule 9; and a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing* or in *Violation* of the principles referred to in Rule 12 may be appealed exclusively as provided in this Rule.

15.2.1 A decision of *the Sports Tribunal* under these Rules may be appealed exclusively to CAS in accordance with the provisions applicable before CAS.

### **15.2.2 *Persons Entitled to Appeal***

In cases under Rule 15.2.1, 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 or parties to the case in which the decision was rendered;
- (c) the relevant International Federation;
- (d) the *National Anti-Doping Organisation* of the *Person's* country of residence or countries where the *Person* is a national or license holder;
- (e) 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
- (f) WADA.

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.

Notwithstanding any other provision herein, the only *Person* who may appeal from a *Provisional Suspension* is the *Athlete* or other *Person* upon whom the *Provisional Suspension* is imposed.

### **15.3 Failure to Render a Timely Decision by an *Anti-Doping Organisation***

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

reimbursed to WADA by the *Anti-Doping Organisation*.

*[Comment to Rule 15.3: Given the different circumstances of each Anti-Doping Rule Violation investigation and results management process, it is not feasible to establish a fixed time period for an Anti-Doping Organisation to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the Anti-Doping Organisation and give the Anti-Doping Organisation an opportunity to explain why it has not yet rendered a decision. Nothing in this Article prohibits an International Federation from also having rules which authorise it to assume jurisdiction for matters in which the results management performed by one of its National Federations has been inappropriately delayed.]*

## **15.4 Appeals from Decisions Granting or Denying a TUE**

15.4.1 Decisions by DFS denying TUEs, which are not reversed following a review by WADA, may be appealed by *International-Level Athletes* exclusively to CAS and by other *Athletes* to the *Sports Tribunal* or an *NSO Anti-Doping Tribunal* which has been established by a *National Sporting Organisation* to hear such appeals.

15.4.2 Decisions by WADA reversing the grant or denial of a TUE may be appealed exclusively to CAS by the *Athlete* or DFS.

15.4.3 When an *Anti-Doping Organisation* fails to take action on a properly submitted TUE application within a reasonable time, the *Anti-Doping Organisation's* failure to decide may be considered a denial for purposes of the appeal rights provided in this *Rule*.

*[Comment to Rule 15: 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 Organisations are made transparent in Rule 16. Specified Persons and organisations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested Persons and organisations with a right to appeal under Rule 15 does not include Athletes, or their federations, who might benefit from having another competitor disqualified.]*

## **16 REPORTING**

### **16.1 Reporting of TUEs**

*DFS* shall promptly report any *TUE* granted to an *Athlete* (except those *Athletes* not in the *DFS Registered Testing Pool*), to the applicable International Federation, to the *Athlete's National Sporting Organisation* and to *WADA*.

## **16.2 Reporting of Testing**

*DFS* shall submit to *WADA* current *Athlete* whereabouts information. *WADA* shall make this information accessible to other *Anti-Doping Organisations* having authority to test the *Athlete*.

16.2.1 *DFS* shall report all *In-Competition* and *Out-of-Competition* tests to *WADA* as soon as possible after such tests have been conducted.

16.2.2 All information shall be maintained in strict confidence at all times. It shall be used exclusively for purposes of planning, co-ordinating or conducting *Testing* and shall be destroyed after it is no longer relevant for these purposes.

## **16.3 Reporting Regarding Results Management**

16.3.1 In addition to providing the notices and reports set out in Rules 9.3.3 and 10.2, *DFS* will provide regular reports to the parties notified under the *Rules* on the status of the *Violation Proceedings* including results management, hearings and appeals.

16.3.2 In any case in which the period of *Ineligibility* is eliminated under Rule 14.5.1 (*No Fault or Negligence*) or reduced under Rule 14.5.2 (*No Significant Fault or Negligence*) *DFS* shall provide the relevant International Federation, *National Sporting Organisation* and *WADA* and any other relevant *Anti-Doping Organisation* with a copy of the written decision where the decision has not been provided by the *Sports Tribunal* or *NSO Anti-Doping Tribunal*.

## **16.4 Reporting Under the Code**

*DFS* shall publish annually, a general statistical report of its *Doping Control* activities during the calendar year with a copy provided to *WADA*.

## **17 CONFIDENTIALITY AND PUBLIC DISCLOSURE**

- 17.1** *DFS will give notices, provide reports and present evidence as set out in the Rules. Subject to its obligations under the Rules, DFS will operate under the Rules on a confidential basis. Where it gives notices or reports under the Rules to parties not subject to the Rules, it will request that the parties notified keep the information confidential in accordance with the Rules. DFS, National Sporting Organisations, Participants and Persons which agree to the Rules shall not Publicly Disclose or Publicly Report the identity of Athletes whose Samples have resulted in Adverse Analytical Findings, or of Persons who are alleged to have committed a Violation under the Rules nor Publicly Disclose or Publicly Report any information concerning Adverse Analytical Findings or Violation Proceedings, until such time as a final decision that an Anti-Doping Rule Violation has been committed, or has not been committed, has been given by the Sports Tribunal or the NSO Anti-Doping Tribunal and the final decision has been Publicly Reported or Publicly Disclosed by the Sports Tribunal, NSO Anti-Doping Tribunal or DFS under these Rules .*
- 17.2** *Where a Provisional Suspension is imposed, the Sports Tribunal or the NSO Anti-Doping Tribunal may Publicly Report or Publicly Disclose the outcome of proceedings relating to a Provisional Suspension as provided by Rule 12.7. Where the Sports Tribunal or the NSO Anti-Doping Tribunal does this, the National Sporting Organisation and DFS may Publicly Report or Publicly Disclose the outcome of such proceedings.*
- 17.3** *DFS may, notwithstanding the provisions of Rule 17.1, Publicly Report or Publicly Disclose information relating to an alleged Anti-Doping Rule Violation or investigation under the Rules where an Athlete or other Person, who it is alleged has committed a Violation under the Rules, or is the subject of an investigation under these Rules, or any party notified under the Rules, has made public comment or comment to any third party concerning the allegation or investigation which, in DFS's view, requires that it Publicly Discloses or Publicly Reports matters concerning the alleged Violation or the investigation under the Rules. Where the Sports Tribunal or the NSO Anti-Doping Tribunal fails to Publicly Report on a*

decision on an *Anti-Doping Rule Violation* as required under Rule 13. *DFS* shall *Publicly Report* the decision in the *Violation Proceedings* in the manner provided by Rule 13.

#### **17.4 Athlete Whereabouts Information**

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

### **18 LIMITATION PERIOD**

No action may be commenced under these *Rules* against an *Athlete* or other *Person* in respect of an *Anti-Doping Rule Violation* under the *Rules* unless such action is commenced within eight (8) years from the date on which the *Violation* is asserted to have occurred.

### **19 MUTUAL RECOGNITION**

**19.1** Subject to the right of appeal in Rule 15, *Testing*, *TUEs* and hearing results or other final adjudications of any *Signatory* which are consistent with the *Code* and are within the authority of the *Signatory*, shall be recognised and respected by *DFS*, the *Sports Tribunal*, any *NSO Anti-Doping Tribunal*, and all *National Sporting Organisations* and *Persons* who are subject to the *Rules*.

**19.2** *DFS* shall recognise the same actions of other bodies which have not accepted the *Rules* if the rules of those bodies are otherwise consistent with the *Code*.

## **20 AMENDMENT AND INTERPRETATION**

### **20.1 Amendment**

20.1.1 *DFS* shall be responsible for monitoring and reviewing the operation of the *Rules* and considering any amendment to the *Rules* under the *Act*. From time to time *National Sporting Organisations* and *Participants* will be asked by *DFS* to provide comment in relation to the operation of the *Rules*.

### **20.2 Interpretation**

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

20.2.2 The INTRODUCTION and the APPENDIX 1 DEFINITIONS shall be considered integral parts of the *Rules*.

20.2.3 The *Rules* have been adopted pursuant to the applicable provisions of the *Act* and *Code* and shall be interpreted in a manner that is consistent with applicable provisions of the *Code*. The comments annotating various provisions of the *Code* shall be used to interpret the *Rules*, where applicable, to assist in the understanding and interpretation of the *Rules*.

20.2.4 The *Rules* shall be interpreted as an independent and autonomous text implementing the *Code*.

20.2.5 The *Rules* shall not apply retrospectively to matters pending before the date they entered into effect. However, *Anti-Doping Rule Violations* committed before the *Rules* came into effect will continue to count as “*First Violations*” or “*Second Violations*” for purposes of determining sanctions under Rule 14 for the purposes of determining sanctions where *Anti-Doping Rule Violations* have been committed under these *Rules*. Determinations in relation to anti-doping matters made before the *Sports Anti-Doping Rules (2007)* came into effect by the *Sports Tribunal* or by *National Sporting Organisations* which are consistent with the *Code* will be relevant to the determination of sanctions for *Anti-Doping Rule Violations* committed under these

*Rules.*

## **21 INFORMATION AND NOTICES**

### **21.1 Information**

Any *Person* who submits information including data or medical information to any *Person* in accordance with the *Rules* shall be deemed to have agreed that such information may be utilised by such *Person* for the purposes set out in the *Rules*.

### **21.2 Notices**

21.2.1 All notices referred to in the *Rules* shall be governed by the provisions of this Rule 21.2 (Notices).

21.2.2 Each *Athlete* in *DFS Registered Testing Pool* shall provide *DFS* with an address to which notice may be delivered and in the event of a change of address it is the responsibility of the *Athlete* to provide *DFS* with such amended details. Where no address is provided any notice may be given to the *Athlete* by giving notice to the relevant *National Sporting Organisation*, *International Federation* or *Anti-Doping Organisation*.

21.2.3 All notices relating to allegations or potential allegations that an *Anti-Doping Rule Violation* has occurred shall be delivered by courier, registered post or other method which provides proof of delivery. Proof of delivery by courier, registered post or other method providing proof of delivery shall be conclusive. Where there is no proof of delivery available, notice shall, in any event, be deemed to have been received upon the expiry of three (3) working days after the date of despatch.

21.2.4 Any other notice to an *Athlete* or other *Person* shall be given by posting the notice to the address provided by that *Athlete* or *Person* or to the address of the relevant *National Sporting Organisation* or *International Federation* or *Anti-Doping Organisation* under Rule 21.2. Such notice shall be deemed to have been received upon the expiry of three (3) working days after the date of posting.

21.2.5 *DFS* may, with the prior agreement of the intended recipient, as an

alternative to, or in conjunction with, notice by registered post, use any other method of communication available, including, but not limited to, facsimile, email, and telephone.

## **22 COMMENCEMENT, TRANSITIONAL PROVISIONS, VALIDITY**

### **22.1 Commencement**

- 22.1.1 The *Sports Anti-Doping Rules 2011* shall come into full force and effect, on 1 January 2011 (the “Effective Date”).
- 22.1.2 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 *Sports Tribunal* hearing the case determines the principle of “*lex mitior*” as applied by CAS should be applied in the circumstances of the case.
- 22.1.3 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 DFS for the *Anti-Doping Rule Violation* to consider a reduction in the period of *Ineligibility* in light of the 2011 *Rules*. Such application must be made before the period of *Ineligibility* has expired. The application will be referred by DFS to the *Sports Tribunal*. The decision on the application by the *Sports Tribunal* rendered may be appealed pursuant to Rule 15.2. The 2011 *Rules* 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.
- 22.1.4 For purposes of applying Rule 14.7.1, an *Anti-Doping Rule Violation* committed before the Effective Date where the *Violation* involved a substance which is categorised as a Specified Substance under these *Rules* and the period of *Ineligibility* imposed was less than two (2)

years, the *Anti-Doping Rule Violation* shall be considered a Reduced Sanction (RS).

**22.2 Validity**

22.2.1 If any Rule in the *Rules* is held invalid, unenforceable or illegal for any reason, the *Rules* shall remain otherwise in full force apart from such *Rule* which shall be deemed deleted insofar as it is invalid, unenforceable or illegal.

22.2.2 All acts done *bona fide* by any *Person* in the implementation of the *Rules*, notwithstanding that it be afterwards discovered that there was some defect in the appointment, qualification or authority of such *Person* so acting, shall be as valid as if every such *Person* had been duly appointed, qualified or authorised.

## 23 DEFINITIONS

**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.

**Act:** Sports Anti-Doping Act 2006

**Adverse Analytical Finding:** A report from a laboratory or other WADA-approved entity that, consistent with the *International Standard for Laboratories* and related Technical Documents, identifies in a *Sample* the presence of a *Prohibited Substance* or its *Metabolites* or *Markers* (including elevated quantities of endogenous substances) or evidence of the *Use of a Prohibited Method*.

**Anti-Doping Organisation:** 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 Organisations* that conduct *Testing* at their *Events*, WADA, International Federations, and *National Anti-Doping Organisations*.

**Anti-Doping Rule Violation or Violation:** A violation of the provisions of Rule 3 of the *Rules*.

**Athlete:** Any *Person* who participates in sport at the international level (as defined by each International Federation) the national level (as defined by each *National Anti-Doping Organisation*, including but not limited to those *Persons* in its *Registered Testing Pool*), and any other competitor in sport who is otherwise subject to the jurisdiction of any *Signatory* or other sports organisation accepting the *Code* and or these *Rules*. All provisions of the *Code*, including, for example, *Testing* and *TUE's*, must be applied to international- and national-level competitions. Some *National Anti-Doping Organisations* may elect to test and apply anti-doping rules to recreational-level or masters competitors who are not current or potential national calibre competitors. *National Anti-Doping Organisations* are not required, however, to apply all aspects of the *Code* to such *Persons*, Specific national rules may be established for *Doping Control* for non-international-level or non-national-level competitors without being in conflict with the *Code*. Thus, a country could elect to test recreational-level competitors but not require *TUE's* or whereabouts information. In the same manner, a *Major Event*

*Organisation* holding an *Event* only for masters-level competitors could elect to test the competitors but not require advance *TUE*'s or whereabouts information. For purposes of Rule 3.8 (Administration or *Attempted* Administration) and for purposes of anti-doping information and education, any *Person* who participates in sport under the authority of any *Signatory*, government, or other sports organisation accepting the *Code* is an *Athlete*.

*[Comment to Athlete: This definition makes it clear that all international and national-calibre athletes are subject to the anti-doping rules of the Code, with the precise definitions of international- and national-level sport to be set forth in the anti-doping rules of the International Federations and National Anti-Doping Organisations, respectively. At the national level, anti-doping rules adopted pursuant to the Code shall apply, at a minimum, to all persons on national teams and all persons qualified to compete in any national championship in any sport. That does not mean, however, that all such Athletes must be included in a National Anti-Doping Organisation's Registered Testing Pool. The definition also allows each National Anti-Doping Organisation, if it chooses to do so, to expand its anti-doping program beyond national-calibre athletes to competitors at lower levels of competition. Competitors at all levels of competition should receive the benefit of anti-doping information and education.]*

***Athlete Support Personnel:*** Any coach, trainer, manager, agent, team staff, official, medical, para-medical personnel, parent or any other *Person* working with, treating or assisting an *Athlete* participating in or preparing for sports *Competition*.

***Attempt:*** Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an *Anti-Doping Rule Violation*. Provided, however, there shall be no *Anti-Doping Rule Violation* based solely on an *Attempt* to commit a *Violation* if the *Person* renounces the *Attempt* prior to it being discovered by a third party not involved in the *Attempt*.

***Atypical Finding:*** A report from a 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*.

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

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

***Competition:*** A single race, match, game or singular athletic contest. For example, a basketball game or the finals of the Olympic 100-metre 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.

**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 Rule 14.9; 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 Rule 13.

**DFS:** Drug Free Sport New Zealand established under the Sports Anti-Doping Act 2006 formerly the New Zealand Sports Drug Agency under the New Zealand Sports Drug Agency Act 1994.

**Disqualification:** See *Consequences of Anti-Doping Rules Violations* above.

**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 provisions of whereabouts information, *Sample* collection and handling, laboratory analysis, *TUE's*, results management and hearings.

**Event:** A series of individual *Competitions* conducted together under one ruling body (eg., the Olympic Games, FINA World Championships, or Pan American Games).

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

**In-Competition:** Unless provided otherwise in the rules of an International Federation or other relevant *Anti-Doping Organisation*, "*In-Competition*" means the period commencing twelve hours before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*.

**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.

**Ineligibility:** See *Consequences of Anti-Doping Rules Violations* above.

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

**International Event:** An *Event* where the International Olympic Committee, the International Paralympic Committee, an International Federation, a *Major Event Organisation*, or another international sport organisation is the ruling body for the *Event* or appoints the technical officials for the *Event*.

**International-Level Athlete:** *Athletes* designated by one or more International Federations as being within the *Registered Testing Pool* for an International Federation.

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

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

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

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

**Minor:** A natural *Person* who has not reached the age of majority as established by the applicable laws of their country of residence.

**National Anti-Doping Organisation:** The entity(ies) designated by each country as possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of *Samples*, the management of test results, and the conduct of hearings, all at the national level. This includes an entity which may be designated by multiple countries to serve as regional *Anti-Doping Organisation* 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 the purposes of the *Rules*, *DFS* will be the designated entity.

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

**National-Level Athlete:** An *Athlete*, other than an *International-Level Athlete*, who is designated by *DFS* as being within *DFS Registered Testing Pool*.

**National Olympic Committee:** The organisation recognised 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. In New Zealand the *National Olympic Committee* is the New Zealand Olympic Committee Incorporated.

**National Sporting Organisation:** A body that represents members involved in a particular type of sporting event or activity in New Zealand and, if a national organisation does not exist for a sport, includes local, regional or other sporting organisations.

**Negative Analytical Finding:** An analysis of a *Sample* by a laboratory that does not identify or indicate the presence of a *Prohibited Substance* or the *Use of a Prohibited Method*.

**NSO Anti-Doping Tribunal:** A Tribunal established under the *Rules* by a *National Sporting Organisation* to hear and determine *Violation Proceedings*.

**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.

**NOC Team:** Any National Olympic Team or other team selected by the New Zealand Olympic Committee.

**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*.

**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*.

**NSO:** See *National Sporting Organisation* above.

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

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

**Person:** A natural person or an organisation or other entity.

**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 Organisation*. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a *Prohibited Substance* or *Prohibited Method* constitutes *Possession* by the *Person* who makes the purchase.

*[Comment to Possession: Under this definition, steroids found in an Athlete's car would constitute a violation unless the Athlete establishes that someone else used the car; in that event, the Anti-Doping Organisation must establish that, even though the Athlete did not have exclusive control over the car, the Athlete knew about the steroids and intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of an Athlete and spouse, the Anti-Doping Organisation must establish that the Athlete knew the steroids were in the cabinet and that the Athlete intended to exercise control over the steroids.]*

**Prohibited List:** The WADA Prohibited List 2011 identifying the *Prohibited Substances* and *Prohibited Methods*.

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

**Prohibited Substance:** Any substance so described on the *Prohibited List*.

**Provisional Suspension:** See *Consequences of Anti-Doping Rules Violations* above.

**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 Rule 17 (Confidentiality and Public Disclosure).

**Registered Testing Pool:** The pool of top-level *Athletes* established separately by each International Federation and *DFS* who are subject to both *In-Competition* and *Out-of-Competition Testing* as part of that International Federation's or *DFS*' 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.

**Rules:** The Sports Anti-Doping Rules 2011 made under the Sports Anti-Doping Act 2006.

**Sample or Specimen:** Any biological material collected for the purposes of *Doping Control*.

**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 Organisations*, *National Anti-Doping Organisations*, and WADA.

**Substantial Assistance:** For purposes of Rule 14.5.3, 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 co-operate with the investigation and adjudication of any case related to that information, including, for example, presenting testimony at a hearing if requested to do so by an *Anti-Doping Organisation* or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

**SPARC:** Sport and Recreation New Zealand.

**Sports Tribunal:** The Sports Tribunal of New Zealand continued under the Sports Anti-Doping Act 2006.

**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 Organisation*.

**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.

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

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

**Trafficking:** Selling, giving, transporting, sending, delivering or distributing 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 Organisation* to any third party; provided, however, this definition shall not include the actions of “*bona fide*” medical personnel involving a *Prohibited Substance* used for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes.

**TUE:** Therapeutic use exemption.

**TUE Committee:** The *TUE* Committee established by *DFS*.

**UNESCO Convention:** The International Convention against Doping in Sport adopted by the 33<sup>rd</sup> session of the UNESCO General Conference on October 19, 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.

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

**Violation Proceedings:** Proceedings in respect of an alleged breach of the *Violations* in Rule 3 of the *Rules*.

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