

# Australian Football Anti-Doping Code

## **WARNING**

Under this Code the AFL prohibits the classes of substances and methods which are prohibited under the Prohibited List.

This Code also sets out various restrictions and requirements that apply in relation to the use and administration of certain substances and methods that are not prohibited under the Prohibited List but use of may breach AFL Rules.

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

It is the responsibility of each person to whom this Code applies to ensure that he or she understands and complies with this Code.

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## Introduction

This Code is adopted and implemented in accordance with AFL's responsibility as a Signatory to the WADC, and in furtherance of AFL's continuing efforts to eradicate doping in sport.

The AFL subscribes to a philosophy and adopts a stance that:

- (a) ensures that Australian football competitions are conducted upon the basis of athletic prowess and natural levels of fitness and development and not on any pharmacologically enhanced performance;
- (b) protects participants from using substances which may cause acute or long-term harm to their bodies;
- (c) educates the participants to understand the dangers and consequences of the use of performance enhancing substances; and
- (d) sets an example for all participants in the sport of Australian football by condemning the use of performance enhancing substances.

As provided in the WADC, AFL shall be responsible for conducting all aspects of Doping Control. Any aspect of Doping Control or anti-doping Education may be delegated by AFL to a Delegated Third Party, such as a Testing Authority, however, AFL shall require the Delegated Third Party to perform such aspects in compliance with the WADC, International Standards and this Code.

When AFL has delegated its responsibilities to implement part or all of Doping Control to the Delegated Third Party, any reference to AFL in this Code should be intended as a reference to that Delegated Third Party, where applicable and within the context of the delegation. AFL shall always remain fully responsible for ensuring that any delegated aspects are performed in compliance with the WADC.

Capitalised terms in this Code are defined terms in Article 1.

Unless otherwise specified, references to Articles are references to Articles of this Code.

# Part 1

## 1 Definitions<sup>1</sup>

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

**Administer:** For the purpose of Article 27 of this Code only, includes cause, encourage, assist, refer or recommend a person to use any Treatment.

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

**Adverse Analytical Finding:** A report from a WADA-accredited laboratory or other WADA-approved laboratory that, consistent with the International Standard for Laboratories, establishes in a Sample the presence of a Prohibited Substance or its Metabolites or Markers or evidence of the Use of a Prohibited Method.

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

**Affiliated State or Territory Body:** Any of:

- AFL (NSW/ACT) Commission Limited
- AFL Northern Territory Limited
- AFL Queensland Limited
- South Australian Football League Inc
- Football Tasmania Limited
- Australian Football League (Victoria) Limited
- West Australian Football Commission Inc

**AFL:** Australian Football League.

**AFL Competition:** The Competitions conducted pursuant to the Laws of Australian Football.

**AFL General Counsel:** The person appointed as such by the AFL from time to time.

**AFL Men's Competition:** The AFL's elite 18 Club men's competition, also known as the AFL.

**AFL Prohibited Treatment:** Any Treatment listed on the AFL Prohibited Treatment List from

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<sup>1</sup> Defined terms shall include their plural and possessive forms, as well as those terms used as other parts of speech.

time to time.

**AFL Prohibited Treatment List:** The list of AFL Prohibited Treatments published by the AFL from time to time in accordance with Article 27.

**AFL Rules:** The AFL Rules and AFL Regulations adopted by the AFL from time to time pursuant to its Constitution.

**AFL Treatment Rules:** The rules set out in Article 27.

**AFL Women's Competition:** The AFL's elite women's competition, also known as AFLW.

**Aggravating Circumstances:** Circumstances involving, or actions by, an Athlete or other Person which may justify the imposition of a period of Ineligibility greater than the standard sanction. Such circumstances and actions shall include, but are not limited to: the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods, Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions or committed multiple other anti-doping rule violations; 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 obstructive conduct to avoid the detection or adjudication of an anti-doping rule violation; or the Athlete or other Person engaged in Tampering during Results Management. For the avoidance of doubt, the examples of circumstances and conduct described herein are not exclusive and other similar circumstances or conduct may also justify the imposition of a longer period of Ineligibility.

**Anti-Doping Activities:** Anti-doping Education and information, test distribution planning, maintenance of a Registered Testing Pool, managing Athlete Biological Passports, conducting Testing, organising analysis of Samples, gathering of intelligence and conduct of investigations, processing of TUE applications, Results Management, monitoring and enforcing compliance with any Consequences imposed, and all other activities related to anti-doping to be carried out by or on behalf of an Anti-Doping Organisation, as set out in the WADC and/or the International Standards.

**Anti-Doping Organisation:** WADA or 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, International Federations, and National Anti-Doping Organisations. For the avoidance of doubt, AFL and SIA are Anti-Doping Organisations.

**Athlete:**

- (a) A person who competes, or is preparing to compete, in an AFL Competition; and
- (b) Any Person who competes in sport at the international level (as defined by each International Federation) or the national level (as defined by each National Anti-Doping Organisation). An Anti-Doping Organisation has discretion to apply anti-doping rules to an Athlete who is neither an International-Level Athlete nor a National-Level Athlete, and thus to bring them within the definition of "Athlete".

In relation to Athletes other than AFL Men's Competition or AFL Women's Competition Athletes, an Anti-Doping Organisation may elect to: conduct limited Testing or no Testing at all; analyse Samples for less than the full menu of Prohibited Substances; require limited or no whereabouts information; or not require advance TUEs. However, if an Article 2.1, 2.3 or 2.5

anti-doping rule violation is committed by any Athlete over whom an Anti-Doping Organisation has elected to exercise its authority to test and who competes below the international or national level, then the Consequences set forth in the WADC must be applied. For purposes of Article 2.8 and Article 2.9 and for purposes of anti-doping information and Education, any Person who participates in sport under the authority of any Signatory, government, or other sports Organisation accepting the WADC is an Athlete.<sup>2</sup>

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

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

**Athlete Support Personnel:** Any coach, trainer, manager, sport scientist, agent, club staff, official, medical, paramedical personnel, parent or any other Person working with, treating or assisting an Athlete participating in or preparing for an AFL 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 WADA-accredited laboratory or other WADA-approved laboratory which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an Adverse Analytical Finding.

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

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

**Club:** An entity from time to time licensed or authorised to field a team in an AFL Competition.

**Code:** This Anti-Doping Code.

**Competition:** A single match or game.

**Consequences of Anti-Doping Rule Violations (“Consequences”):** An Athlete's or other Person's violation of an anti-doping rule may result in one or more of the following:

- (a) Ineligibility means the Athlete or other Person is barred on account of an anti-doping rule violation for a specified period of time from participating in any Competition or other activity or funding as provided in Article 10.14;
- (b) Provisional Suspension means the Athlete or other Person is barred temporarily from participating in any Competition or activity prior to the final decision at a hearing

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<sup>2</sup> Individuals who participate in sport may fall in one of five categories: 1) International-Level Athlete, 2) National-Level Athlete, 3) individuals who are not International- or National-Level Athletes but over whom the International Federation or National Anti-Doping Organisation has chosen to exercise authority, 4) Recreational Athlete, and 5) individuals over whom no International Federation or National Anti-Doping Organisation has, or has chosen to, exercise authority. All International- and National-Level Athletes are subject to the anti-doping rules of the WADC, 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.

conducted under Article 8;

- (c) **Financial Consequences** means a financial sanction imposed for an anti-doping rule violation or to recover costs associated with an anti-doping rule violation; and
- (d) **Public Disclosure** means the dissemination or distribution of information to the general public or Persons beyond those Persons entitled to earlier notification in accordance with Article 14.

Teams in Team Sports may also be subject to Consequences as provided in Article 11.

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

**Controlled Treatment:** Any Treatment listed on the Controlled Treatments List from time to time.

**Controlled Treatments List:** The list of Controlled Treatments published by the AFL from time to time in accordance with Article 27.

**Controlled Treatments Register:** The online reporting system for AFL Men's Competition Players and Clubs to record the use of injections, supplements, medicines and update whereabouts information.

**Decision Limit:** The value of the result for a threshold substance in a Sample, above which an Adverse Analytical Finding shall be reported, as defined in the International Standard for Laboratories.

**Delegated Third Party:** Any Person to which AFL delegates any aspect of Doping Control or anti-doping Education programs including, but not limited to, third parties or other Anti-Doping Organisations that conduct Sample collection or other Doping Control services or anti-doping Educational programs for AFL, or individuals serving as independent contractors who perform Doping Control services for AFL (e.g., non-employee Doping Control officers or chaperones). This definition does not include CAS.

**Doping:** The occurrence of one or more of the anti-doping rule violations set out in Article 2.1 through Article 2.11 of this Code.

**Doping Control:** All steps and processes from test distribution planning through to ultimate disposition of any appeal and the enforcement of Consequences, including all steps and processes in between, including but not limited to Testing, investigations, whereabouts, TUEs, Sample collection and handling, laboratory analysis, Results Management and investigations or proceedings relating to violations of Article 10.14 (Status During Ineligibility or Provisional Suspension).

**Education:** The process of learning to instil values and develop behaviours that foster and protect the spirit of sport, and to prevent intentional and unintentional doping.

**Event:** A series of individual Competitions conducted together under one ruling body (e.g., the Olympic Games, World Championships of an International Federation, or Pan American Games).

**Fault:** Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete's or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other

Person is a Protected Person, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in a career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.6.1 or 10.6.2.<sup>3</sup>

**Financial Consequences:** See Consequences of Anti-Doping Rule Violations above.

**In-Competition:** The period commencing at 11:59pm on the day before a Competition in which the Athlete is scheduled to participate through the end of such Competition and the Sample collection process related to such Competition.<sup>4</sup>

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

**Institutional Independence:** Hearing panels on appeal shall be fully independent institutionally from the Anti-Doping Organisation responsible for Results Management. They must therefore not in any way be administered by, connected or subject to the Anti-Doping Organisation responsible for Results Management.

**International Event:** An Event or Competition 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 who compete in sport at the international level, as defined by each International Federation, consistent with the International Standard for Testing and Investigations. For the avoidance of doubt, the AFL does not have any International-Level Athletes.<sup>5</sup>

**International Standard:** A standard adopted by WADA in support of the WADC. 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.

**Laws of Australian Football:** The "Laws of Australian Football" published by the AFL from time

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3 The criterion for assessing an Athlete's degree of Fault is the same under all Articles where Fault is to be considered. However, under Article 10.6.2, no reduction of sanction is appropriate unless, when the degree of Fault is assessed, the conclusion is that No Significant Fault or Negligence on the part of the Athlete or other Person was involved.

4 Having a universally accepted definition for In-Competition provides greater harmonisation among Athletes across all sports, eliminates or reduces confusion among Athletes about the relevant timeframe for In-Competition Testing, avoids inadvertent Adverse Analytical Findings in between Competitions during an Event and assists in preventing any potential performance enhancement benefits from Substances prohibited Out-of-Competition being carried over to the Competition period.

5 Consistent with the International Standard for Testing and Investigations, AFL is free to determine the criteria it will use to classify Athletes as International-Level Athletes, e.g., by ranking, by participation in particular International Events, by type of license, etc. However, it must publish those criteria in clear and concise form, so that Athletes are able to ascertain quickly and easily when they will become classified as International-Level Athletes. For example, if the criteria include participation in certain International Events, then the International Federation must publish a list of those International Events.



to time.

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

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

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

**Minimum Reporting Level:** The estimated concentration of a Prohibited Substance or its Metabolite(s) or Marker(s) in a Sample below which WADA-accredited laboratories should not report that Sample as an Adverse Analytical Finding.

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

**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, manage test results and conduct Results Management at the national level. If this designation has not been made by the competent public authority(ies), the entity shall be the country's National Olympic Committee or its designee. The National Anti-Doping Organisation for Australia is SIA.

**National Anti-Doping (NAD) Scheme:** The National Anti-Doping scheme which is contained in Schedule 1 to the *Sport Integrity Australia Regulations 2020 (Cth)*.

**National-Level Athlete:** Athletes who compete in sport at the national level, as defined by each National Anti-Doping Organisation, consistent with the International Standard for Testing and Investigations. For the avoidance of doubt, Athletes participating in the AFL Men's Competition and AFL Women's Competition are National-Level Athletes.

**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.

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

**No Significant Fault or Negligence:** The Athlete or other Person's establishing that any 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. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system.

**NST:** The independent national sports tribunal established by the Commonwealth Government pursuant to the *National Sports Tribunal Act 2019 (Cth)* to provide sports dispute resolution.

**Officer:** An Officer as defined in the *Corporations Act 2001* and without limitation shall include

the president, chairman, vice president, vice chairman, board members, general manager, chief executive, football manager, coach, any board or committee member and any servant or agent who makes or participates in the making of decisions that affect the whole, or a substantial part, of the business of the Club.

**Operational Independence:** This means that (1) board members, staff members, commission members, consultants and officials of the Anti-Doping Organisation with responsibility for Results Management or its affiliates (e.g., member federation or confederation), as well as any Person involved in the investigation and pre-adjudication of the matter cannot be appointed as members and/or clerks (to the extent that such clerk is involved in the deliberation process and/or drafting of any decision) of hearing panels of that Anti-Doping Organisation with responsibility for Results Management and (2) hearing panels shall be in a position to conduct the hearing and decision-making process without interference from the Anti-Doping Organisation or any third party. The objective is to ensure that members of the hearing panel or individuals otherwise involved in the decision of the hearing panel, are not involved in the investigation of, or decisions to proceed with, the case.

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

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

**Person:** A natural Person or an Organisation or other entity.

**Player and Personnel Management or PPM:** The online reporting system for AFL Men's Competition and AFL Women's Competition Players to complete an annual registration process, provide up-to-date personal details and record accurate whereabouts information.

**Possession:** The actual, physical Possession, or the constructive Possession (which shall be found only if the Person has exclusive control or intends to exercise control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists); provided, however, that if the Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive Possession shall only be found if the Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it. Provided, however, there shall be no anti-doping rule violation based solely on Possession if, prior to receiving notification of any kind that the Person has committed an anti-doping rule violation, the Person has taken concrete action demonstrating that the Person never intended to have Possession and has renounced Possession by explicitly declaring it to an Anti-Doping Organisation. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a Prohibited Substance or Prohibited Method constitutes Possession by the Person who makes the purchase.<sup>6</sup>

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

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

**Prohibited Provider:** A Provider who is listed on the AFL Prohibited Providers List from time to

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<sup>6</sup> Under this definition, anabolic steroids found in an Athlete's car would constitute a violation unless the Athlete establishes that someone else used the car; in that event, AFL must establish that, even though the Athlete did not have exclusive control over the car, the Athlete knew about the anabolic steroids and intended to have control over them. Similarly, in the example of anabolic steroids found in a home medicine cabinet under the joint control of an Athlete and spouse, AFL must establish that the Athlete knew the anabolic steroids were in the cabinet and that the Athlete intended to exercise control over them. The act of purchasing a Prohibited Substance alone constitutes Possession, even where, for example, the product does not arrive, is received by someone else, or is sent to a third-party address.

time.

**Prohibited Providers List:** The list of Prohibited Providers published by the AFL from time to time in accordance with Article 27.

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

**Protected Person:** An Athlete or other natural Person who at the time of the anti-doping rule violation:

- (a) has not reached the age of sixteen years;
- (b) has not reached the age of eighteen years and is not included in any Registered Testing Pool and has never competed in any International Event in an open category; or
- (c) for reasons other than age has been determined to lack legal capacity under applicable national legislation.<sup>7</sup>

**Provider:** any Person who:

- (a) Administers a Treatment to an Athlete; or
- (b) supplies, prepares or manufactures a substance for the purpose of Administration of the substance to an Athlete as a Treatment.

**Provisional Hearing:** For purposes of Article 7.4.3, an expedited abbreviated hearing occurring prior to a hearing under Article 8 that provides the Athlete with notice and an opportunity to be heard in either written or oral form.<sup>8</sup>

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

**Publicly Disclose:** See Consequences of Anti-Doping Rule Violations above.

**Recreational Athlete:** A natural Person who competes in a Competition below State League Competition, provided, however, the term shall not include any Person who, within the five years prior to committing any anti-doping rule violation, has been an International-Level Athlete (as defined by each International Federation consistent with the International Standard for Testing and Investigations) or National-Level Athlete (as defined by each National Anti-Doping Organisation consistent with the International Standard for Testing and Investigations), has represented any country in an International Event in an open category or has been included within any Registered Testing Pool or other whereabouts information pool maintained by any International Federation or National Anti-Doping Organisation.<sup>9</sup>

**Register of Controlled Treatments:** The Register required to be maintained by each Club in

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<sup>7</sup> The WADC treats Protected Persons differently than other Athletes or Persons in certain circumstances based on the understanding that, below a certain age or intellectual capacity, an Athlete or other Person may not possess the mental capacity to understand and appreciate the prohibitions against conduct contained in the WADC. This would include, for example, a Paralympic Athlete with a documented lack of legal capacity due to an intellectual impairment. The term "open category" is meant to exclude competition that is limited to junior or age group categories.

<sup>8</sup> A Provisional Hearing is only a preliminary proceeding which may not involve a full review of the facts of the case. Following a Provisional Hearing, the Athlete remains entitled to a subsequent full hearing on the merits of the case. By contrast, an "expedited hearing", as that term is used in Article 7.4.3, is a full hearing on the merits conducted on an expedited time schedule.]

<sup>9</sup> The term "open category" is meant to exclude competition that is limited to junior or age group categories.]

accordance with Article 27.

**Registered Testing Pool:** The pool of highest-priority Athletes established separately by the AFL, who are subject to focused In-Competition and Out-of-Competition Testing as part of the AFL's test distribution plan and therefore are required to provide whereabouts information as provided in Article 5.5 and the International Standard for Testing and Investigations.

**Results Management:** The process encompassing the timeframe between notification as per Article 5 of the International Standard for Results Management, or in certain cases (e.g., Atypical Finding, Athlete Biological Passport, whereabouts failure), such pre-notification steps expressly provided for in Article 5 of the International Standard for Results Management, through the charge until the final resolution of the matter, including the end of the hearing process at first instance or on appeal (if an appeal was lodged).

**Sample or Specimen:** Any biological material collected for the purposes of Doping Control.<sup>10</sup>

**SIA:** The body established under the SIA Act to oversee the Australian Government's efforts to strengthen anti-doping practices and engage with stakeholders, known as Sport Integrity Australia.

**SIA Act:** The *Sport Integrity Australia Act 2020 (Cth)* as amended from time to time and includes the SIA Regulations and any statutory or subordinate legislative instrument that replaces or supersedes the SIA Act or SIA Regulations from time to time.

**SIA Regulations:** The *Sport Integrity Australia Regulations 2020 (Cth)*.

**Signatories:** Those entities accepting the WADC and agreeing to implement the WADC, as provided in Article 23 of the WADC.

**Specified Method:** See Article 4.2.2

**Specified Substance:** See Article 4.2.2.

**State League Competition:** The most senior Australian football competitions in each State administered by the AFL or an Affiliated State or Territory Body, being South Australian National Football League, Tasmanian State League, Victorian Football League, West Australian Football League and North East Australian Football League, or any other such competitions as determined by the AFL as a State League Competition.

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

**Substance of Abuse:** See Article 4.2.3.

**Substantial Assistance:** For purposes of Article 10.7.1, a Person providing Substantial Assistance must:

- (a) fully disclose in a signed written statement or recorded interview all information he or she possesses in relation to anti-doping rule violations or other proceeding described in Article

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<sup>10</sup> It has sometimes been claimed that the collection of blood Samples violates the tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim.

10.7.1.1; and

- (b) fully cooperate with the investigation and adjudication of any case or matter related to that information, including, for example, presenting testimony at a hearing if requested to do so by the AFL or hearing panel.

Further, the information provided must be credible and must comprise an important part of any case or proceeding which is initiated or, if no case or proceeding is initiated, must have provided a sufficient basis on which a case or proceeding could have been brought.

**Tampering:** Intentional conduct which subverts the Doping Control process, but which would not otherwise be included in the definition of Prohibited Methods. Tampering shall include, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents submitted to an Anti-Doping Organisation or TUE committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the Anti-Doping Organisation or hearing body to affect Results Management or the imposition of Consequences, and any other similar intentional interference or Attempted interference with any aspect of Doping Control.<sup>11</sup>

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

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

**Technical Document:** A document adopted and published by WADA from time to time containing mandatory technical requirements on specific anti-doping topics as set forth in an International Standard.

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

**Testing Authority:** The testing agency or body appointed by the AFL from time to time to undertake Sample collection, Sample handling, and Sample transport to the laboratory.

**Testing Pool:** The tier below the Registered Testing Pool which includes Athletes from whom some whereabouts information is required in order to locate and Test the Athlete Out-of-Competition.

**Therapeutic Use Exemption (TUE):** A Therapeutic Use Exemption allows an Athlete with a medical condition to Use a Prohibited Substance or Prohibited Method, but only if the conditions set out in Article 4.4 and the International Standard for Therapeutic Use Exemptions are met.

**Trafficking:** Selling, giving, transporting, sending, delivering or distributing (or Possessing for any such purpose) a Prohibited Substance or Prohibited Method (either physically or by any electronic or other means) by an Athlete, Athlete Support Person or any other Person subject to the authority of an Anti-Doping Organisation to any third party; provided, however, this

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<sup>11</sup> For example, this Article would prohibit altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis, altering a Sample by the addition of a foreign substance, or intimidating or attempting to intimidate a potential witness or a witness who has provided testimony or information in the Doping Control process. Tampering includes misconduct which occurs during the Results Management process. See Article 10.9.3.3. However, actions taken as part of a Person's legitimate defence to an anti-doping rule violation charge shall not be considered Tampering. Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering shall be addressed in the disciplinary rules of sport organisations.

definition shall not include the actions of bona fide medical personnel involving a Prohibited Substance Used for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving Prohibited Substances which are not prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate such Prohibited Substances are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**Treatment:** For the purposes of Article 27, the provision of any:

- (a) substance;
- (b) treatment, method or service;
- (c) process or intervention,
- (d) remedy, or
- (e) conditioning, management or care practice;

for any one or more of the following purposes:

- (f) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons;
- (g) influencing, inhibiting or modifying a person's physiological process;
- (h) testing a person's susceptibility to a disease or ailment;
- (i) the replacement or modification of parts of a person's anatomy.

**Tribunal:** The body hearing any matter under this Code pursuant to Article 8 established under the AFL Rules.

**TUE Committee:** The committee appointed or recognised by the AFL to determine whether or not to grant a TUE. The TUE Committee for Australian sport is ASDMAC who will also act as the AFL's TUE Committee.

**Use:** The utilisation, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Substance or Prohibited Method or pursuant to Article 27, the utilisation, application, ingestion, injection or consumption by any means whatsoever of any AFL Prohibited Treatment.

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

**Without Prejudice Agreement:** For purposes of Articles 10.7.1.1 and 10.8.2, a written agreement between an Anti-Doping Organisation and an Athlete or other Person that allows the Athlete or other Person to provide information to the Anti-Doping Organisation in a defined time-limited setting with the understanding that, if an agreement for Substantial Assistance or a case resolution agreement is not finalised, the information provided by the Athlete or other Person in this particular setting may not be used by the Anti-Doping Organisation against the Athlete or other Person in any Results Management proceeding under the WADC, and that the information provided by the Anti-Doping Organisation in this particular setting may not be used by the Athlete or other Person against the Anti-Doping Organisation in any Results Management proceeding under the WADC. Such an agreement shall not preclude the Anti-Doping Organisation, Athlete or other Person from using any information or evidence gathered from

any source other than during the specific time-limited setting described in the agreement.

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

## **2 Anti-Doping Rule Violations**

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

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

The following constitute anti-doping rule violations:

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

**2.1.1** It is the Athlete's personal duty to ensure that no Prohibited Substance enters their body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.<sup>12</sup>

**2.1.2** Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following:

**2.1.2.1** 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

**2.1.2.2** where the Athlete's B Sample is analysed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample; or

**2.1.2.3** where the Athlete's A or B Sample is split into two parts and the analysis of the confirmation part of the split Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first part of the split Sample or the Athlete waives analysis of the confirmation part of the split Sample.<sup>13</sup>

**2.1.3** Excepting those substances for which a Decision Limit is specifically identified in the Prohibited List or a Technical Document, the presence of any reported quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample shall constitute an anti-doping rule violation.

**2.1.4** As an exception to the general rule of Article 2.1, the Prohibited List, International Standards or Technical Documents may establish special criteria for reporting or the

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

**13** The Anti-Doping Organisation with Results Management responsibility may, at its discretion, choose to have the B Sample analysed even if the Athlete does not request the analysis of the B Sample.

evaluation of certain Prohibited Substances.

## **2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method <sup>14</sup>**

**2.2.1** It is the Athlete's personal duty to ensure that no Prohibited Substance enters their body and that no Prohibited Method is Used. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.

**2.2.2** The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.<sup>15</sup>

## **2.3 Evading, Refusing or Failing to Submit to Sample Collection by an Athlete**

Evading Sample collection; or refusing or failing to submit to Sample collection without compelling justification after notification by a duly authorised Person.<sup>16</sup>

## **2.4 Whereabouts Failures by an Athlete**

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

## **2.5 Tampering or Attempted Tampering**

Tampering or Attempted Tampering with any part of Doping Control by an Athlete or Other Person.

## **2.6 Possession of a Prohibited Substance or a Prohibited Method by an Athlete or Athlete Support Person**

**2.6.1** Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited

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**14** It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2, unlike the proof required to establish an anti-doping rule violation under Article 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Athlete Biological Passport, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Article 2.1.

For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organisation provides a satisfactory explanation for the lack of confirmation in the other Sample.

**15** Demonstrating the "Attempted Use" of a Prohibited Substance or a Prohibited Method requires proof of intent on the Athlete's part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the Strict Liability principle established for violations of Article 2.1 and violations of Article 2.2 in respect of Use of a Prohibited Substance or Prohibited Method.

An Athlete's Use of a Prohibited Substance constitutes an anti-doping rule violation unless such Substance is not prohibited Out-of-Competition and the Athlete's Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of Article 2.1 regardless of when that Substance might have been administered).

**16 Error! Main Document Only.** For example, it would be an anti-doping rule violation of "evading Sample collection" if it were established that an Athlete was deliberately avoiding a Doping Control official to evade notification or Testing. A violation of "failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Athlete, while "evading" or "refusing" Sample collection contemplates intentional conduct by the Athlete.



Substance or any Prohibited Method which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a Therapeutic Use Exemption granted in accordance with Article 4.4 or other acceptable justification.

**2.6.2** Possession by an Athlete Support Person In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Support Person Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition in connection with an Athlete, Competition or training, unless the Athlete Support Person establishes that the Possession is consistent with a TUE granted to an Athlete in accordance with Article 4.4 or other acceptable justification.<sup>17</sup>

## **2.7 Trafficking or Attempted Trafficking**

Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method by an Athlete or Other Person.

## **2.8 Administration or Attempted Administration**

Administration or Attempted Administration by an Athlete or Other Person to any Athlete In-Competition of any Prohibited Substance or Prohibited Method, or Administration or Attempted Administration to any Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method that is Prohibited Out-of-Competition.

## **2.9 Complicity or Attempted Complicity by an Athlete or Other Person**

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity or Attempted complicity involving an anti-doping rule violation, Attempted anti-doping rule violation or violation of Article 10.14.1 by another Person.<sup>18</sup>

## **2.10 Prohibited Association by an Athlete or Other Person**

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

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

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

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<sup>17</sup> 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.

Acceptable justification may include, for example, (a) an Athlete or a team doctor carrying Prohibited Substances or Prohibited Methods for dealing with acute and emergency situations (e.g., an epinephrine auto-injector), or (b) an Athlete Possessing a Prohibited Substance or Prohibited Method for therapeutic reasons shortly prior to applying for and receiving a determination on a TUE.

<sup>18</sup> Complicity or Attempted Complicity may include either physical or psychological assistance.

professional or disciplinary decision or the duration of the criminal, disciplinary or professional sanction imposed; or

**2.10.1.3** Is serving as a front or intermediary for an individual described in Article 2.10.1.1 or 2.10.1.2.

**2.10.2** To establish a violation of Article 2.10, an Anti-Doping Organisation must establish that the Athlete or other Person knew of the Athlete Support Person's disqualifying status.

The burden shall be on the Athlete or other Person to establish that any association with an Athlete Support Person described in Article 2.10.1.1 or 2.10.1.2 is not in a professional or sport-related capacity and/or that such association could not have been reasonably avoided.

Anti-Doping Organisations that are aware of Athlete Support Personnel who meet the criteria described in Article 2.10.1.1, 2.10.1.2, or 2.10.1.3 shall submit that information to WADA.<sup>19</sup>

## **2.11 Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting to Authorities**

Where such conduct does not otherwise constitute a violation of Article 2.5:

**2.11.1** Any act which threatens or seeks to intimidate another Person with the intent of discouraging the Person from the good-faith reporting of information that relates to an alleged anti-doping rule violation or alleged non-compliance with the WADC to WADA, an Anti-Doping Organisation, law enforcement, regulatory or professional disciplinary body, hearing body or Person conducting an investigation for WADA or an Anti-Doping Organisation.

**2.11.2** Retaliation against a Person who, in good faith, has provided evidence or information that relates to an alleged anti-doping rule violation or alleged non-compliance with the WADC to WADA, an Anti-Doping Organisation, law enforcement, regulatory or professional disciplinary body, hearing body or Person conducting an investigation for WADA or an Anti-Doping Organisation.

For purposes of Article 2.11, retaliation, threatening and intimidation include an act taken against such Person either because the act lacks a good faith basis or is a disproportionate response.<sup>20</sup>

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<sup>19</sup> Athletes and other Persons must not work with coaches, trainers, physicians or other Athlete Support Personnel who are Ineligible on account of an anti-doping rule violation or who have been criminally convicted or professionally disciplined in relation to doping. This also prohibits association with any other Athlete who is acting as a coach or Athlete Support Person while serving a period of Ineligibility. Some examples of the types of association which are prohibited include: obtaining training, strategy, technique, nutrition or medical advice; obtaining therapy, treatment or prescriptions; providing any bodily products for analysis; or allowing the Athlete Support Person to serve as an agent or representative. Prohibited association need not involve any form of compensation.

While Article 2.10 does not require the Anti-Doping Organisation to notify the Athlete or other Person about the Athlete Support Person's disqualifying status, such notice, if provided, would be important evidence to establish that the Athlete or other Person knew about the disqualifying status of the Athlete Support Person.

<sup>20</sup> This Article is intended to protect Persons who make good faith reports and does not protect Persons who knowingly make false reports. Retaliation would include, for example, actions that threaten the physical or mental well-being or economic interests of the reporting Persons, their families or associates. Retaliation would not include an Anti-Doping Organisation asserting in good faith an anti-doping rule violation against the reporting Person. For purposes of Article 2.11, a report is not made in good faith where the Person making the report knows the report to be false.

### **3 Proof of Doping**

#### **3.1 Burdens and Standards of Proof**

AFL shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether AFL has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where this Code places the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, except as provided in Articles 3.2.2 and 3.2.3, the standard of proof shall be by a balance of probability.<sup>21</sup>

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

Facts related to anti-doping rule violations may be established by any reliable means, including admissions.<sup>22</sup> The following rules of proof shall be applicable in doping cases:

**3.2.1** Analytical methods or Decision Limits approved by WADA after consultation within the relevant scientific community or which have been the subject of peer review are presumed to be scientifically valid. Any Athlete or other Person seeking to challenge whether the conditions for such presumption have been met or to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge. The initial hearing body, appellate body or CAS, on its own initiative, may also inform WADA of any such challenge. Within ten (10) days of WADA's receipt of such notice and the case file related to such challenge, WADA shall also have the right to intervene as a party, appear as amicus curiae or otherwise provide evidence in such proceeding. In cases before CAS, at WADA's request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge.<sup>23</sup>

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

If the Athlete or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then AFL shall have the burden

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21 This standard of proof required to be met by AFL is comparable to the standard which is applied in most countries to cases involving professional misconduct.

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

23 For certain Prohibited Substances, WADA may instruct WADA-accredited laboratories not to report Samples as an Adverse Analytical Finding if the estimated concentration of the Prohibited Substance or its Metabolites or Markers is below a Minimum Reporting Level. WADA's decision in determining that Minimum Reporting Level or in determining which Prohibited Substances should be subject to Minimum Reporting Levels shall not be subject to challenge. Further, the laboratory's estimated concentration of such Prohibited Substance in a Sample may only be an estimate. In no event shall the possibility that the exact concentration of the Prohibited Substance in the Sample may be below the Minimum Reporting Level constitute a defence to an anti-doping rule violation based on the presence of that Prohibited Substance in the Sample.

to establish that such departure did not cause the Adverse Analytical Finding.<sup>24</sup>

**3.2.3** Departures from any other International Standard or other anti-doping rule or policy set forth in the WADC or this Code shall not invalidate analytical results or other evidence of an anti-doping rule violation, and shall not constitute a defence to an anti-doping rule violation;<sup>25</sup> provided, however, if the Athlete or other Person establishes that a departure from one of the specific International Standard provisions listed below could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding or whereabouts failure, then AFL shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the whereabouts failure:

- (ii) a departure from the International Standard for Testing and Investigations related to Sample collection or Sample handling which could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding, in which case AFL shall have the burden to establish that such departure did not cause the Adverse Analytical Finding;
- (iii) a departure from the International Standard for Results Management or International Standard for Testing and Investigations related to an Adverse Passport Finding which could reasonably have caused an anti-doping rule violation, in which case AFL shall have the burden to establish that such departure did not cause the anti-doping rule violation;
- (iv) a departure from the International Standard for Results Management related to the requirement to provide notice to the Athlete of the B Sample opening which could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding, in which case AFL shall have the burden to establish that such departure did not cause the Adverse Analytical Finding;<sup>26</sup>
- (v) a departure from the International Standard for Results Management related to Athlete notification which could reasonably have caused an anti-doping rule violation based on a whereabouts failure, in which case AFL shall have the burden to establish that such departure did not cause the whereabouts failure.

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

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<sup>24</sup> **Error! Main Document Only.** 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. Thus, once the Athlete or other Person establishes the departure by a balance of probability, the Athlete or other Person's burden on causation is the somewhat lower standard of proof – "could reasonably have caused." If the Athlete or other Person satisfies these standards, the burden shifts to AFL to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.

<sup>25</sup> Departures from an International Standard or other rule unrelated to Sample collection or handling, Adverse Passport Finding, or Athlete notification relating to whereabouts failure or B Sample opening – e.g., the International Standard for Education, International Standard for the Protection of Privacy and Personal Information or International Standard for Therapeutic Use Exemptions – may result in compliance proceedings by WADA but are not a defence in an anti-doping rule violation proceeding and are not relevant on the issue of whether the Athlete committed an anti-doping rule violation. Similarly, AFL's violation of the document referenced in Article 20.7.7 of the WADC shall not constitute a defence to an anti-doping rule violation.

<sup>26</sup> AFL would meet its burden to establish that such departure did not cause the Adverse Analytical Finding by showing that, for example, the B Sample opening and analysis were observed by an independent witness and no irregularities were observed.

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

## **4 The Prohibited List**

### **4.1 Incorporation of the Prohibited List**

This Code incorporates the Prohibited List, which is published and revised by WADA as described in Article 4.1 of the WADC.

Unless provided otherwise in the Prohibited List or a revision, the Prohibited List and revisions shall go into effect under this Code three months after publication by WADA, without requiring any further action by AFL. All Athletes and other Persons shall be bound by the Prohibited List, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all Athletes and other Persons to familiarise themselves with the most up-to-date version of the Prohibited List and all revisions thereto.<sup>27</sup>

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

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

The Prohibited List shall identify those Prohibited Substances and Prohibited Methods which are prohibited as doping at all times (both In-Competition and Out-of-Competition) because of their potential to enhance performance in future Competitions or their masking potential, and those substances and methods which are prohibited In-Competition only. The Prohibited List may be expanded by WADA for a particular sport. Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (e.g., anabolic agents) or by specific reference to a particular substance or method.<sup>28</sup>

#### **4.2.2 Specified Substances or Specified Methods**

For purposes of the application of Article 10, all Prohibited Substances shall be Specified Substances except as identified on the Prohibited List. No Prohibited Method shall be a Specified Method unless it is specifically identified as a Specified Method on the Prohibited List.<sup>29</sup>

#### **4.2.3 Substances of Abuse**

For purposes of applying Article 10, Substances of Abuse shall include those Prohibited Substances which are specifically identified as Substances of Abuse on the Prohibited

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27 The current Prohibited List is available on WADA's website at <https://www.wada-ama.org>. The Prohibited List will be revised and published on an expedited basis whenever the need arises. However, for the sake of predictability, a new Prohibited List will be published every year whether or not changes have been made.

28 Out-of-Competition Use of a Substance which is only prohibited In-Competition is not an anti-doping rule violation unless an Adverse Analytical Finding for the Substance or its Metabolites or Markers is reported for a Sample collected In-Competition.

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

List because they are frequently abused in society outside of the context of sport.

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

WADA's determination of the Prohibited Substances and Prohibited Methods that will be included on the Prohibited List, the classification of substances into categories on the Prohibited List, the classification of a substance as prohibited at all times or In-Competition only, the classification of a substance or method as a Specified Substance, Specified Method or Substance of Abuse is final and shall not be subject to any challenge by an Athlete or other Person including, but not limited to, any challenge 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.

### **4.4 Therapeutic Use Exemptions ("TUEs")**

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

#### **4.4.2 TUE Applications**

Athletes shall apply to the TUE Committee for a TUE.

#### **4.4.3 TUE Recognition**

Where the Athlete already has a TUE granted pursuant to Article 4.4 of the WADC by ASDMAC for the Prohibited Substances or Prohibited Methods, and provided that such TUE has been reported in accordance with Article 5.5 of the International Standard for Therapeutic Use Exemptions, AFL will recognise it.

#### **4.4.4 TUE Application Process <sup>30</sup>**

**4.4.4.1** If the Athlete does not already have a TUE pursuant to Article 4.4.3 for the substance or method in question, the Athlete must apply directly to the TUE Committee.

**4.4.4.2** An application to AFL for grant or recognition of a TUE must be made as soon as possible, save where Articles 4.1 or 4.3 of the International Standard for Therapeutic Use Exemptions apply. The application shall be made in accordance with Article 6 of the International Standard for Therapeutic Use Exemptions as posted on AFL's website.

**4.4.4.3** The TUE Committee shall promptly evaluate and decide upon the application in accordance with the relevant provisions of the International Standard for Therapeutic Use Exemptions and usually (i.e.,

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<sup>30</sup> The submission of falsified documents to a TUE Committee or AFL, offering or accepting a bribe to a Person to perform or fail to perform an act, procuring false testimony from any witness, or committing any other fraudulent act or any other similar intentional interference or Attempted interference with any aspect of the TUE process shall result in a charge of Tampering or Attempted Tampering under Article 2.5.

An Athlete should not assume that their application for the grant or recognition of a TUE (or for renewal of a TUE) will be granted. Any Use or Possession or Administration of a Prohibited Substance or Prohibited Method before an application has been granted is entirely at the Athlete's own risk.

unless exceptional circumstances apply) within no more than twenty-one days of receipt of a complete application.

**4.4.4.4** The TUE Committee decision shall be the final decision and may be appealed in accordance with Article 4.4.7. TUE Committee decision shall be notified in writing to the Athlete, AFL, SIA and to WADA and other Anti-Doping Organisations in accordance with the International Standard for Therapeutic Use Exemptions. It shall also promptly be reported into ADAMS.

#### **4.4.5** Retroactive TUE Applications

If AFL chooses to collect a Sample from an Athlete, and that Athlete is Using a Prohibited Substance or Prohibited Method for therapeutic reasons, AFL must permit that Athlete to apply for a retroactive TUE.

#### **4.4.6** Expiration, Withdrawal or Reversal of a TUE

**4.4.6.1** A TUE granted pursuant to this Code:

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

**4.4.6.2** In such event, the Athlete shall not be subject to any Consequences based on their Use or Possession or Administration of the Prohibited Substance or Prohibited Method in question in accordance with the TUE prior to the effective date of expiry, withdrawal, or reversal of the TUE. The review pursuant to Article 5.1.1.1 of the International Standard for Results Management of an Adverse Analytical Finding, reported shortly after the TUE expiry, withdrawal or reversal, shall include consideration of whether such finding is consistent with Use of the Prohibited Substance or Prohibited Method prior to that date, in which event no anti-doping rule violation shall be asserted.

#### **4.4.7** Reviews and Appeals of TUE Decisions

**4.4.7.1** If the TUE Committee denies the application, the Athlete may appeal exclusively to the NST.

**4.4.7.2** WADA must review AFL's decision not to recognise a TUE granted by the National Anti-Doping Organization that is referred to WADA by the Athlete or the Athlete's National Anti-Doping Organisation. In addition, WADA must review AFL's decision to grant a TUE that is referred to WADA

by the Athlete's National Anti-Doping Organisation.

- 4.4.7.3** WADA may review any other TUE decision at any time, whether upon request by those affected or on its own initiative. If the TUE decision being reviewed meets the criteria set out in the International Standard for Therapeutic Use Exemptions, WADA will not interfere with it. If the TUE decision does not meet those criteria, WADA will reverse it.<sup>31</sup>
- 4.4.7.4** Any TUE decision by the TUE Committee that is not reviewed by WADA, or that is reviewed by WADA but is not reversed upon review, may be appealed by the Athlete and/or the Athlete's National Anti-Doping Organisation, exclusively to the CAS.<sup>32</sup>
- 4.4.7.5** A decision by WADA to reverse a TUE decision may be appealed by the Athlete, an ADO with a right to appeal, SIA and/or AFL, exclusively to the CAS.
- 4.4.7.6** A failure to render a decision within a reasonable time on a properly submitted application for grant/recognition of a TUE or for review of a TUE decision shall be considered a denial of the application thus triggering the applicable rights of review/appeal.

## **5 Testing and Investigations**

### **5.1 Purpose of Testing and Investigations<sup>33</sup>**

- 5.1.1** Testing and investigations may be undertaken for any anti-doping purpose. They shall be conducted in conformity with the provisions of the International Standard for Testing and Investigations and the AFL Rules, which may supplement that International Standard.
- 5.1.2** Testing shall be undertaken to obtain analytical evidence as to whether the Athlete has violated Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample) or Article 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method).
- 5.1.3** All Athletes must comply with any request for Testing by a Testing Authority or the AFL.
- 5.1.4** The AFL or any other Anti-Doping Organisation may obtain, assess and process anti-doping intelligence from all available sources, to inform the development of an effective, intelligent and proportionate test distribution plan, to plan Target Testing, and/or to form the basis of an investigation into a possible anti-doping rule violation(s).

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31 WADA shall be entitled to charge a fee to cover the costs of: (a) any review it is required to conduct in accordance with Article 4.4.7; and (b) any review it chooses to conduct, where the decision being reviewed is reversed.

32 In such cases, the decision being appealed is the AFL's TUE decision, not WADA's decision not to review the TUE decision or (having reviewed it) not to reverse the TUE decision. However, the time to appeal the TUE decision does not begin to run until the date that WADA communicates its decision. In any event, whether the decision has been reviewed by WADA or not, WADA shall be given notice of the appeal so that it may participate if it sees fit.

33 Where Testing is conducted for anti-doping purposes, the analytical results and data may be used for other legitimate purposes under the Anti-Doping Organisation's rules.



- 5.1.5** The AFL may refer all information and intelligence relating to instances of possible anti-doping rule violations under this Code to an Anti-Doping Organisation and jointly work with any investigation by another Anti-Doping Organisation as required.

## **5.2 Authority to Test**

- 5.2.1** AFL shall have In-Competition and Out-of-Competition Testing authority over all Athletes specified in this Code.
- 5.2.2** AFL may require any Athlete over whom it has Testing authority (including any Athlete serving a period of Ineligibility) to provide a Sample at any time and at any place.<sup>34</sup>
- 5.2.3** WADA shall have In-Competition and Out-of-Competition Testing authority as set out in Article 20.7.10 of the WADC.
- 5.2.4** If AFL delegates or contracts any part of Testing to a National Anti-Doping Organisation, that National Anti-Doping Organisation may collect additional Samples or direct the laboratory to perform additional types of analysis at the National Anti-Doping Organisation's expense. If additional Samples are collected or additional types of analysis are performed, AFL shall be notified.

## **5.3 Event Testing**

Not applicable

## **5.4 Testing Requirements**

- 5.4.1** AFL shall conduct test distribution planning and Testing as required by the International Standard for Testing and Investigations.
- 5.4.2** Where reasonably feasible, Testing shall be coordinated through ADAMS to maximise the effectiveness of the combined Testing effort and to avoid unnecessary repetitive Testing.

## **5.5 Athlete Whereabouts Information**

- 5.5.1** The AFL may establish a Registered Testing Pool of those Athletes who are required to provide whereabouts information in the manner specified in the International Standard for Testing and Investigations and who shall be subject to Consequences for Article 2.4 violations as provided in Article 10.3.2.
- 5.5.2** AFL shall make available through ADAMS a list which identifies those Athletes included in its Registered Testing Pool by name.
- 5.5.3** Athletes shall be notified before they are included in the Registered Testing Pool and when they are removed from that pool. The notification shall contain the information set out in the International Standard for Testing and Investigations.
- 5.5.4** In accordance with the International Standard for Testing and Investigations, each Athlete in the Registered Testing Pool shall do the following:

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<sup>34</sup> AFL may obtain additional authority to conduct Testing by means of bilateral or multilateral agreements with other Signatories.

- 5.5.4.1 advise AFL of his/her whereabouts on a quarterly basis;
  - 5.5.4.2 update that information as necessary so that it remains accurate and complete at all times; and
  - 5.5.4.3 make himself or herself available for Testing at such whereabouts.
- 5.5.5 For purposes of Article 2.4, an Athlete's failure to comply with the requirements of the International Standard for Testing and Investigations shall be deemed a filing failure or a missed test, as defined in Annex B of the International Standard for Results Management, where the conditions set out in Annex B are met.
- 5.5.6 An Athlete in AFL's Registered Testing Pool shall continue to be subject to the obligation to comply with the whereabouts requirements set in the International Standard for Testing and Investigations unless and until:
- 5.5.6.1 the Athlete gives written notice to AFL that he or she has retired; or
  - 5.5.6.2 AFL has informed him or her that he or she no longer satisfies the criteria for inclusion in AFL's Registered Testing Pool.
- 5.5.7 Whereabouts information provided by an Athlete while in the Registered Testing Pool will be accessible through ADAMS to WADA and to other Anti-Doping Organisations having authority to test that Athlete as provided in Article 5.2. Whereabouts information shall be maintained in strict confidence at all times; it shall be used exclusively for purposes of planning, coordinating or conducting Doping Control, providing information relevant to the Athlete Biological Passport or other analytical results, to support an investigation into a potential anti-doping rule violation, or to support proceedings alleging an anti-doping rule violation; and shall be destroyed after it is no longer relevant for these purposes in accordance with the International Standard for the Protection of Privacy and Personal Information.
- 5.5.8 In accordance with the International Standard for Testing and Investigations, AFL has established a Testing Pool, which includes Athletes who are subject to less stringent whereabouts requirements than Athletes included in AFL's Registered Testing Pool.
- 5.5.9 Each Athlete in the AFL Men's Competition and the AFL Women's Competition will be included in the Testing Pool unless otherwise advised by the AFL.
- 5.5.10 Each Athlete in the Testing Pool must ensure that they maintain accurate and up to date whereabouts information as required in the PPM or CTR, including their address, telephone numbers, email address and relevant whereabouts information so as to permit Out-of-Competition testing.
- 5.5.11 The applicable requirements for the purposes of Article 5.5.10 are that Athletes must:
- 5.5.11.1 provide and maintain accurate and up to date whereabouts information via the PPM or CTR;
  - 5.5.11.2 not deliberately or recklessly provide incorrect whereabouts information;
  - 5.5.11.3 not fail on more than three occasions in any twelve-month period to update the whereabouts information within forty eight hours of the

whereabouts information previously provided via the PPM or CTR becoming out of date;

**5.5.11.4** not refuse to update the whereabouts information previously provided via the PPM or CTR within three days of being requested to do so;

**5.5.11.5** not be unavailable for Out-of-Competition Testing on a total of three (or more) occasions during any twelve-month period.

**5.5.12** An Athlete's failure to comply with Article 5.5.11 will be dealt with as the AFL General Counsel deems fit, however any penalty must not be greater than Consequences for Article 2.4 violations as provided in Article 10.3.2.

**5.5.13** An Athlete's failure to provide whereabouts information on or before the date required by AFL or the Athlete's failure to provide accurate whereabouts information in accordance with Article 5.5.10 may result in AFL elevating the Athlete to AFL's Registered Testing Pool.

## **5.6 Retired Athletes Returning to Competition**

**5.6.1** An Athlete who wants to retire from AFL Competition must do so by notifying the AFL as required under the AFL Rules.

**5.6.2** Retirement does not:

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

**5.6.2.2** excuse an Athlete from assisting, cooperating and liaising with the AFL or any other Anti-Doping Organisation in relation to conduct of any investigation or hearing into an alleged anti-doping rule violation;

**5.6.2.3** prevent analysis of a Sample given by the Athlete on or before their retirement date;

**5.6.2.4** exempt the Athlete from this Code in relation to an anti-doping rule violation committed on or before their retirement date; or

**5.6.2.5** affect the AFL's power to conduct Results Management.

**5.6.3** An Athlete who has retired in accordance with this Article and who wishes to return to AFL Competition must do so by notifying the AFL in accordance with the AFL Rules. The Athlete's reinstatement request date will be the date the AFL approves the Athlete's return to AFL Competition.

**5.6.4** If reinstatement is granted, then this Code will apply to the Athlete from the date of their reinstatement.

**5.6.5** An Athlete who is reinstated pursuant to this Article may not compete in the AFL Competition for a period of six months from the date of reinstatement.

**5.6.6** Subject to consultation with WADA, the AFL may reduce or extend the time period stated in Article 5.6.5, at its absolute discretion, in circumstances where the AFL

considers special treatment is required.

**5.6.7** A Player must be available for Out of Competition Testing in accordance with this Code from the date of their reinstatement.

## **6 Analysis of Samples**

Samples shall be analysed in accordance with the following principles:

### **6.1 Use of Accredited, Approved Laboratories and Other Laboratories**

**6.1.1** For purposes of directly establishing an Adverse Analytical Finding under Article 2.1, Samples shall be analysed only in WADA-accredited laboratories or laboratories otherwise approved by WADA. The choice of the WADA-accredited or WADA-approved laboratory used for the Sample analysis shall be determined exclusively by AFL.<sup>35</sup>

**6.1.2** As provided in Article 3.2, facts related to anti-doping rule violations may be established by any reliable means. This would include, for example, reliable laboratory or other forensic testing conducted outside of WADA-accredited or approved laboratories.

### **6.2 Purpose of Analysis of Samples and Data**

Samples and related analytical data or Doping Control information 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 WADC, or to assist AFL in profiling relevant parameters in an Athlete's urine, blood or other matrix, including for DNA or genomic profiling, or for any other legitimate anti-doping purpose.<sup>36</sup>

### **6.3 Research on Samples and Data**

Samples, related analytical data and Doping Control information may be used for anti-doping research purposes, although no Sample may be used for research without the Athlete's written consent. Samples and related analytical data or Doping Control information used for research purposes shall first be processed in such a manner as to prevent Samples and related analytical data or Doping Control information being traced back to a particular Athlete. Any research involving Samples and related analytical data or Doping Control information shall adhere to the principles set out in Article 19 of the WADC.<sup>37</sup>

### **6.4 Standards for Sample Analysis and Reporting**

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<sup>35</sup> Violations of Article 2.1 may be established only by Sample analysis performed by a WADA-accredited laboratory or another laboratory approved by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.

<sup>36</sup> For example, relevant Doping Control-related information could be used to direct Target Testing or to support an anti-doping rule violation proceeding under Article 2.2, or both.

<sup>37</sup> As is the case in most medical or scientific contexts, use of Samples and related information for quality assurance, quality improvement, method improvement and development or to establish reference populations is not considered research. Samples and related information used for such permitted non-research purposes must also first be processed in such a manner as to prevent them from being traced back to the particular Athlete, having due regard to the principles set out in Article 19 of the WADC, as well as the requirements of the International Standard for Laboratories and International Standard for the Protection of Privacy and Personal Information.

In accordance with Article 6.4 of the WADC, AFL shall ask laboratories to analyse Samples in conformity with the International Standard for Laboratories and Article 4.7 of the International Standard for Testing and Investigations.

Laboratories at their own initiative and expense may analyse Samples for Prohibited Substances or Prohibited Methods not included on the standard Sample analysis menu, or as requested by AFL. Results from any such analysis shall be reported to AFL and have the same validity and Consequences as any other analytical result.<sup>38</sup>

#### **6.5 Further Analysis of a Sample Prior to or During Results Management**

There shall be no limitation on the authority of a laboratory to conduct repeat or additional analysis on a Sample prior to the time AFL notifies an Athlete that the Sample is the basis for an Article 2.1 anti-doping rule violation charge. If after such notification AFL wishes to conduct additional analysis on that Sample, it may do so with the consent of the Athlete or approval from a hearing body.

#### **6.6 Further Analysis of a Sample After it has been Reported as Negative or has Otherwise not Resulted in an Anti-Doping Rule Violation Charge**

After a laboratory has reported a Sample as negative, or the Sample has not otherwise resulted in an anti-doping rule violation charge, it may be stored and subjected to further analyses for the purpose of Article 6.2 at any time exclusively at the direction of either the Anti-Doping Organisation that initiated and directed Sample collection or WADA. Any other Anti-Doping Organisation with authority to test the Athlete that wishes to conduct further analysis on a stored Sample may do so with the permission of the Anti-Doping Organisation that initiated and directed Sample collection or WADA, and shall be responsible for any follow-up Results Management. Any Sample storage or further analysis initiated by WADA or another Anti-Doping Organisation shall be at WADA's or that Organisation's expense. Further analysis of Samples shall conform with the requirements of the International Standard for Laboratories.

#### **6.7 Split of A or B Sample**

Where WADA, an Anti-Doping Organisation with Results Management authority, and/or a WADA-accredited laboratory (with approval from WADA or the Anti-Doping Organisation with Results Management authority) wishes to split an A or B Sample for the purpose of using the first part of the split Sample for an A Sample analysis and the second part of the split Sample for confirmation, then the procedures set forth in the International Standard for Laboratories shall be followed.

#### **6.8 WADA's Right to Take Possession of Samples and Data**

WADA may, in its sole discretion at any time, with or without prior notice, take physical possession of any Sample and related analytical data or information in the possession of a laboratory or Anti-Doping Organisation. Upon request by WADA, the laboratory or Anti-Doping Organisation in possession of the Sample or data shall immediately grant access to and enable WADA to take physical possession of the Sample or data. If WADA has not provided prior notice to the laboratory or Anti-Doping Organisation before taking possession of a Sample or data, it shall provide such notice to the laboratory and each Anti-Doping Organisation whose Samples or data have been taken by WADA within a reasonable time after taking possession. After

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<sup>38</sup> The objective of this Article is to extend the principle of "Intelligent Testing" to the Sample analysis menu so as to most effectively and efficiently detect doping. It is recognised that the resources available to fight doping are limited and that increasing the Sample analysis menu may, in some sports and countries, reduce the number of Samples which can be analysed.

analysis and any investigation of a seized Sample or data, WADA may direct another Anti-Doping Organisation with authority to test the Athlete to assume Results Management responsibility for the Sample or data if a potential anti-doping rule violation is discovered.<sup>39</sup>

## **7 Results Management: Responsibility, Initial Review, Notice and Provisional Suspensions**

Results Management under this Code establishes a process designed to resolve anti-doping rule violation matters in a fair, expeditious and efficient manner.

### **7.1 Responsibility for Conducting Results Management**

**7.1.1** Except as otherwise provided in Articles 6.6, 6.8, 26 and WADC Article 7.1, Results Management shall be the responsibility of, and shall be governed by, the procedural rules of the AFL where the AFL initiated and directed Sample collection (or, if no Sample collection is involved, if the AFL first provides notice to an Athlete or other Person of a potential anti-doping rule violation and then diligently pursues that anti-doping rule violation).

**7.1.2** Results Management in relation to a potential whereabouts failure (a filing failure or a missed test) shall be administered by AFL. If AFL determines a filing failure or a missed test, it shall submit that information to WADA through ADAMS, where it will be made available to other relevant Anti-Doping Organisations.

**7.1.3** Other circumstances in which AFL shall take responsibility for conducting Results Management in respect of anti-doping rule violations involving Athletes and other Persons under its authority shall be determined by reference to and in accordance with Article 7 of the WADC.

**7.1.4** WADA may direct AFL to conduct Results Management in particular circumstances. If AFL refuses to conduct Results Management within a reasonable deadline set by WADA, such refusal shall be considered an act of non-compliance, and WADA may direct another Anti-Doping Organisation with authority over the Athlete or other Person, that is willing to do so, to take Results Management responsibility in place of AFL or, if there is no such Anti-Doping Organisation, any other Anti-Doping Organisation that is willing to do so. In such case, AFL shall reimburse the costs and attorney's fees of conducting Results Management to the other Anti-Doping Organisation designated by WADA, and a failure to reimburse costs and attorney's fees shall be considered an act of non-compliance.

### **7.2 Review and Notification Regarding Potential Anti-Doping Rule Violations**

AFL shall carry out the review and notification with respect to any potential anti-doping rule violation in accordance with the International Standard for Results Management.

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<sup>39</sup> Resistance or refusal to WADA taking physical possession of Samples or data could constitute Tampering, Complicity or an act of non-compliance as provided in the International Standard for WADC Compliance by Signatories, and could also constitute a violation of the International Standard for Laboratories. Where necessary, the laboratory and/or the Anti-Doping Organisation shall assist WADA in ensuring that the seized Sample or data are not delayed in exiting the applicable country.

WADA would not, of course, unilaterally take possession of Samples or analytical data without good cause related to a potential anti-doping rule violation, non-compliance by a Signatory or doping activities by another Person. However, the decision as to whether good cause exists is for WADA to make in its discretion and shall not be subject to challenge. In particular, whether there is good cause or not shall not be a defence against an anti-doping rule violation or its Consequences.

### **7.3 Identification of Prior Anti-Doping Rule Violations**

Before giving an Athlete or other Person notice of a potential anti-doping rule violation as provided above, AFL shall refer to ADAMS and contact WADA and other relevant Anti-Doping Organisations to determine whether any prior anti-doping rule violation exists.

### **7.4 Provisional Suspensions <sup>40</sup>**

#### **7.4.1 Mandatory Provisional Suspension after an Adverse Analytical Finding or Adverse Passport Finding**

If AFL receives an Adverse Analytical Finding or an Adverse Passport Finding (upon completion of the Adverse Passport Finding review process) for a Prohibited Substance or a Prohibited Method that is not a Specified Substance or a Specified Method, it shall impose a Provisional Suspension on the Athlete promptly upon or after the review and notification required by Article 7.2.

A mandatory Provisional Suspension may be eliminated if:

- 7.4.1.1** the Athlete demonstrates to the Tribunal that the violation is likely to have involved a Contaminated Product; or
- 7.4.1.2** the violation involves a Substance of Abuse and the Athlete establishes entitlement to a reduced period of Ineligibility under Article 10.2.4.1.

The Tribunal's decision not to eliminate a mandatory Provisional Suspension on account of the Athlete's assertion regarding a Contaminated Product shall not be appealable.

#### **7.4.2 Discretionary Provisional Suspension Based on an Adverse Analytical Finding for Specified Substances, Specified Methods, Contaminated Products, or Other Anti-Doping Rule Violations**

AFL may impose a Provisional Suspension for anti-doping rule violations not covered by Article 7.4.1 prior to either the analysis of the Athlete's B Sample or final hearing as described in Article 8.

An discretionary Provisional Suspension may be lifted at the discretion of AFL at any time prior to the Tribunal's decision under Article 8, unless provided otherwise in the International Standard for Results Management.

#### **7.4.3 Opportunity for Hearing or Appeal**

Notwithstanding Articles 7.4.1 and 7.4.2, a Provisional Suspension may not be imposed unless the Athlete or other Person is given:

- 7.4.3.1** an opportunity for a Provisional Hearing, either before or on a timely basis after the imposition of the Provisional Suspension; or
- 7.4.3.2** an opportunity for an expedited hearing in accordance with Article 8 on a timely basis after the imposition of the Provisional Suspension.

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<sup>40</sup> Before a Provisional Suspension can be unilaterally imposed by AFL, the internal review specified in this Code and the International Standard for Results Management must first be completed.

The imposition of a Provisional Suspension, or the decision not to impose a Provisional Suspension, may be appealed in an expedited process in accordance with Article 13.2.

#### **7.4.4 Voluntary Acceptance of Provisional Suspension**

Athletes on their own initiative may voluntarily accept a Provisional Suspension if done so prior to the later of: (i) the expiration of ten (10) days from the report of the B Sample (or waiver of the B Sample), or ten (10) days from the notice of any other anti-doping rule violation, or the date on which the Athlete first competes after such report of notice.

Other Persons on their own initiative may voluntarily accept a Provisional Suspension if done so within ten (10) days from the notice of the anti-doping rule violation.

Upon such voluntary acceptance, the Provisional Suspension shall have the full effect and be treated in the same manner as if the Provisional Suspension had been imposed under Article 7.4.1 or 7.4.2; provided, however, at any time after voluntarily accepting a Provisional Suspension, the Athlete or other Person may withdraw such acceptance, in which event the Athlete or other Person shall not receive any credit for time previously served during the Provisional Suspension.

**7.4.5** If a Provisional Suspension is imposed based on an A Sample Adverse Analytical Finding and a subsequent B Sample analysis (if requested by the Athlete or AFL) does not confirm the A Sample analysis, then the Athlete shall not be subject to any further Provisional Suspension on account of a violation of Article 2.1.

**7.4.6** The General Counsel may impose additional obligations on an Athlete or Person under a Provisional Suspension as they, in their absolute discretion, deem fit.

### **7.5 Results Management Decisions**

Results Management decisions or adjudications by AFL must not purport to be limited to a particular geographic area or the AFL's sport and shall address and determine without limitation the following issues:

**7.5.1** whether an anti-doping rule violation was committed or a Provisional Suspension should be imposed, the factual basis for such determination, and the specific Articles that have been violated; and

**7.5.2** all Consequences flowing from the anti-doping rule violation(s), including any forfeiture of medals or prizes, any period of Ineligibility (and the date it begins to run) and any Financial Consequences.<sup>41</sup>

### **7.6 Notification of Results Management Decisions**

AFL shall notify Athletes, other Persons, Signatories and WADA of Results Management decisions as provided in Article 14 and in the International Standard for Results Management.

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<sup>41</sup> Results Management decisions include Provisional Suspensions.

Each decision by AFL should address whether an anti-doping rule violation was committed and all Consequences flowing from the violation. Pursuant to Article 15, such decision and its imposition of Consequences shall have automatic effect in every sport in every country.



## **7.7 Retirement from Sport<sup>42</sup>**

If an Athlete or other Person retires while the AFL's Results Management process is underway, AFL retains authority to complete its Results Management process. If an Athlete or other Person retires before any Results Management process has begun, and AFL would have had Results Management authority over the Athlete or other Person at the time the Athlete or other Person committed an anti-doping rule violation, AFL has authority to conduct Results Management.

## **8 Results Management: Right to a Fair Hearing and Notice of Hearing Decision**

For any Person who is asserted to have committed an anti-doping rule violation, AFL shall provide a fair hearing within a reasonable time by a fair, impartial and Operationally Independent hearing panel in compliance with the WADC and the International Standard for Results Management.

### **8.1 Fair Hearings**

#### **8.1.1 Fair, Impartial and Operationally Independent Hearing Panel**

- 8.1.1.1** The Tribunal will hear and determine whether an Athlete or other Person, subject to this Code, has committed an anti-doping rule violation and, if applicable, to impose relevant Consequences.
- 8.1.1.2** AFL shall ensure that the Tribunal is free of conflict of interest and that its composition, professional experience, Operational Independence and adequate financing comply with the requirements of the International Standard for Results Management.
- 8.1.1.3** Board members, staff members, AFL Commission members, consultants and officials of AFL or its affiliates, as well as any Person involved in the investigation and pre-adjudication of the matter, cannot be appointed as members and/or clerks (to the extent that such clerk is involved in the deliberation process and/or drafting of any decision) of the Tribunal. In particular, no member shall have previously considered any TUE application, Results Management decision, or appeals in the same given case.
- 8.1.1.4** Unless Articles 8.4, 8.5 or 8.6 apply, any suitably qualified persons shall be appointed to the Tribunal to hear any matter and shall consist of an independent Chair and two other independent members.
- 8.1.1.5** Each member shall be appointed by taking into consideration their requisite anti-doping experience including their legal, sports, medical and/or scientific expertise.
- 8.1.1.6** The Tribunal shall be in a position to conduct the hearing and decision-making process without interference from AFL or any third party.

#### **8.1.2 Hearing Process**

- 8.1.2.1** When AFL sends a notice to an Athlete or other Person notifying them of

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<sup>42</sup> Conduct by an Athlete or other Person before the Athlete or other Person was subject to the authority of any Anti-Doping Organisation would not constitute an anti-doping rule violation but could be a legitimate basis for denying the Athlete or other Person membership in a sports organisation.

a potential anti-doping rule violation, and the Athlete or other Person does not waive a hearing in accordance with Article 8.3.1 or Article 8.3.2, then the case shall be referred to the Tribunal for hearing and adjudication, which shall be conducted in accordance with the principles described in Articles 8 and 9 of the International Standard for Results Management.

- 8.1.2.2** Upon appointment, each member must sign a declaration that there are no facts or circumstances known to him or her which might call into question their impartiality in the eyes of any of the parties, other than those circumstances disclosed in the declaration.
- 8.1.2.3** A Person may appear in person or by a Players' advocate, an Officer of a Club or a legal practitioner. The AFL may be represented by a legal practitioner. The costs and expenses of any such advocate (including a legal practitioner) will be borne by the Person on whose behalf they appear.
- 8.1.2.4** Subject to Article 8.8(e) of the International Standard for Results Management, all hearings before the Tribunal in relation to this Code will be conducted in private unless otherwise authorised by the Tribunal Chair.
- 8.1.2.5** All hearings and appeals conducted will respect in principle the rules applicable to the Tribunal.
- 8.1.2.6** WADA and SIA may attend the hearing as observers. In any event, AFL shall keep them fully apprised as to the status of pending cases and the result of all hearings.

### **8.1.3 Fair, Impartial and Operationally Independent Hearing Panel**

AFL may delegate its Article 8 responsibilities (first instance hearings, waiver of hearings and decisions) to the NST. The procedural rules of the NST pertaining to the hearing of first instance shall apply. The NST will always ensure that the Athlete or other Person is provided with a fair hearing within a reasonable time by a fair, impartial and Operationally Independent hearing panel in compliance with the WADC and the International Standard for Results Management.

## **8.2 Notice of Decisions**

- 8.2.1** At the end of the hearing, or promptly thereafter, the Tribunal shall issue a written decision that conforms with Article 9 of the International Standard for Results Management and which includes the full reasons for the decision, the period of Ineligibility imposed and, if applicable, a justification for why the greatest potential Consequences were not imposed.
- 8.2.2** AFL shall notify that decision to the Athlete or other Person and to other Anti-Doping Organisations with a right to appeal under Article 13.2.3, including WADA and SIA, and shall promptly report it into ADAMS. The decision may be appealed as provided in Article 13.

## **8.3 Waiver of Hearing**

- 8.3.1** An Athlete or other Person against whom an anti-doping rule violation is asserted may waive a hearing expressly and agree with the Consequences proposed by AFL.
- 8.3.2** However, if the Athlete or other Person against whom an anti-doping rule violation is asserted fails to dispute that assertion within the deadline otherwise specified in the notice sent by the AFL asserting the violation, then they shall be deemed to have waived a hearing, to have admitted the violation, and to have accepted the proposed Consequences.
- 8.3.3** In cases where Article 8.3.1 or 8.3.2 applies, a hearing before the Tribunal shall not be required. Instead AFL shall promptly issue a written decision that conforms with Article 9 of the International Standard for Results Management and which includes the full reasons for the decision, the period of Ineligibility imposed and, if applicable, a justification for why the greatest potential Consequences were not imposed.
- 8.3.4** AFL shall notify that decision to the Athlete or other Person and to other Anti-Doping Organisations with a right to appeal under Article 13.2.3, and shall promptly report it into ADAMS. AFL shall Publicly Disclose that decision in accordance with Article 14.3.2.

#### **8.4 Single Arbitrator**

Anti-doping rule violations asserted against any Persons subject to this Code may, with the consent of the Athlete or other Person and the Anti-Doping Organisation with Results Management responsibility, be heard by a single suitably qualified arbitrator at the Tribunal or at the NST.

#### **8.5 Single Hearing Before CAS**

Anti-doping rule violations asserted against International Level Athlete, National-Level Athletes or other Persons may, with the consent of the Athlete or other Person, the Anti-Doping Organisation with Results Management responsibility, and WADA, be heard in a single hearing directly at CAS.

#### **8.6 Hearing at NST in first instance**

Notwithstanding Article 8.1, the AFL may refer any matter to be heard by the NST at first instance rather than such matters be before the Tribunal.

### **9 Automatic Disqualification of Individual Results**

Not applicable

### **10 Sanctions on Individuals**

#### **10.1 Disqualification of Results in the event during which an Anti-Doping Rule Violation Occurs**

- 10.1.1** An anti-doping rule violation occurring during, or in connection with, an AFL Competition may, upon the decision of the AFL Commission, lead to disqualification of all of the Player's individual results obtained in that event with all Consequences, including forfeiture of any medals, points and prizes.

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

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

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

The period of Ineligibility for a violation of Article 2.1 (Presence), 2.2 (Use or Attempted Use) or 2.6 (Possession) shall be as follows, subject to potential elimination, reduction or suspension pursuant to Article 10.5, 10.6 or 10.7:

**10.2.1** The period of Ineligibility, subject to Article 10.2.4, shall be four years where:

**10.2.1.1** The anti-doping rule violation does not involve a Specified Substance or a Specified Method, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional.<sup>43</sup>

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

**10.2.2** If Article 10.2.1 does not apply, subject to Article 10.2.4.1, the period of Ineligibility shall be two years.

**10.2.3** As used in Article 10.2, the term "intentional" is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.<sup>44</sup>

**10.2.4** Notwithstanding any other provision in Article 10.2, where the anti-doping rule violation involves a Substance of Abuse:

**10.2.4.1** If the Athlete can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, then the period of Ineligibility shall be three months Ineligibility.

In addition, the period of Ineligibility calculated under this Article 10.2.4.1 may be reduced to one month if the Athlete or other Person satisfactorily

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43 While it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance.

44 Article 10.2.3 provides a special definition of "intentional" which is to be applied solely for purposes of Article 10.2.

completes a Substance of Abuse treatment program approved by AFL. The period of Ineligibility established in this Article 10.2.4.1 is not subject to any reduction based on any provision in Article 10.6.<sup>45</sup>

- 10.2.4.2** If the ingestion, Use or Possession occurred In-Competition, and the Athlete can establish that the context of the ingestion, Use or Possession was unrelated to sport performance, then the ingestion, Use or Possession shall not be considered intentional for purposes of Article 10.2.1 and shall not provide a basis for a finding of Aggravating Circumstances under Article 10.4.

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

The period of Ineligibility for anti-doping rule violations other than as provided in Article 10.2 shall be as follows, unless Article 10.6 or 10.7 are applicable:

- 10.3.1** For violations of Article 2.3 (Evading) or 2.5 (Tampering or Attempted Tampering), the period of Ineligibility shall be four years except:
- 10.3.1.1** in the case of failing to submit to Sample collection, if the Athlete can establish that the commission of the anti-doping rule violation was not intentional, the period of Ineligibility shall be two years;
  - 10.3.1.2** in all other cases, if the Athlete or other Person can establish exceptional circumstances that justify a reduction of the period of Ineligibility, the period of Ineligibility shall be in a range from two years to four years depending on the Athlete or other Person's degree of Fault; or
  - 10.3.1.3** in a case involving a Protected Person or Recreational Athlete, the period of Ineligibility shall be in a range between a maximum of two years and, at a minimum, a reprimand and no period of Ineligibility, depending on the Protected Person or Recreational Athlete's degree of Fault.
- 10.3.2** For violations of Article 2.4 (Whereabouts), the period of Ineligibility shall be two years, subject to reduction down to a minimum of one year, depending on the Athlete's degree of Fault. The flexibility between two years and one year of Ineligibility in this Article is not available to Athletes where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the Athlete was trying to avoid being available for Testing.
- 10.3.3** For violations of Article 2.7 (Trafficking or Attempted Trafficking) or 2.8 (Administration or Attempted Administration), the period of Ineligibility shall be a minimum of four years up to lifetime Ineligibility, depending on the seriousness of the violation. An Article 2.7 or Article 2.8 violation involving a Protected Person shall be considered a particularly serious violation and, if committed by Athlete Support Personnel for violations other than for Specified Substances, shall result in lifetime Ineligibility for Athlete Support Personnel. In addition, significant violations of Article 2.7 or 2.8 which may also violate non-sporting laws and regulations, shall be reported

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<sup>45</sup> The determinations as to whether the treatment program is approved and whether the Athlete or other Person has satisfactorily completed the program shall be made in the sole discretion of AFL. This Article is intended to give AFL the leeway to apply their own judgment to identify and approve legitimate and reputable, as opposed to "sham", treatment programs. It is anticipated, however, that the characteristics of legitimate treatment programs may vary widely and change over time such that it would not be practical for WADA to develop mandatory criteria for acceptable treatment programs.

to the competent administrative, professional or judicial authorities.<sup>46</sup>

**10.3.4** For violations of Article 2.9 (Complicity and Attempted Complicity), the period of Ineligibility imposed shall be a minimum of two years, up to lifetime Ineligibility, depending on the seriousness of the violation.

**10.3.5** For violations of Article 2.10 (Prohibited Association), the period of Ineligibility shall be two years, subject to reduction down to a minimum of one year, depending on the Athlete or other Person's degree of Fault and other circumstances of the case.<sup>47</sup>

**10.3.6** For violations of Article 2.11 (Discourage/Retaliate), the period of Ineligibility shall be a minimum of two years, up to lifetime Ineligibility, depending on the seriousness of the violation by the Athlete or other Person.<sup>48</sup>

#### **10.4 Aggravating Circumstances which may Increase the Period of Ineligibility**

If AFL establishes in an individual case involving an anti-doping rule violation other than violations under Article 2.7 (Trafficking or Attempted Trafficking), 2.8 (Administration or Attempted Administration), 2.9 (Complicity or Attempted Complicity) or 2.11 (Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting) 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 by an additional period of Ineligibility of up to two years depending on the seriousness of the violation and the nature of the Aggravating Circumstances, unless the Athlete or other Person can establish that he or she did not knowingly commit the anti-doping rule violation.<sup>49</sup>

#### **10.5 Elimination of the Period of Ineligibility where there is No Fault or Negligence**

If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.<sup>50</sup>

#### **10.6 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence**

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46 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 accreditation, membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.

47 Where the "other Person" referenced in Article 2.10 is an entity and not an individual, that entity may be disciplined as provided in Article 12.

48 Conduct that is found to violate both Article 2.5 (Tampering) and Article 2.11 (Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting to Authorities) shall be sanctioned based on the violation that carries the more severe sanction.

49 Violations under Articles 2.7 (Trafficking or Attempted Trafficking), 2.8 (Administration or Attempted Administration), 2.9 (Complicity or Attempted Complicity) and 2.11 (Acts by an Athlete or Other Person to Discourage or Retaliate Against Reporting to Authorities) are not included in the application of Article 10.4 because the sanctions for these violations already build in sufficient discretion up to a lifetime ban to allow consideration of any Aggravating Circumstance.

50 This Article and Article 10.6.2 apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. They will only apply in exceptional circumstances, for example, where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, No Fault or Negligence would not apply in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1) and have been warned against the possibility of supplement contamination); (b) the Administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Article 10.6 based on No Significant Fault or Negligence.

**10.6.1** Reduction of Sanctions in Particular Circumstances for Violations of Article 2.1 (Presence), 2.2 (Use or Attempted Use) or 2.6 (Possession).

All reductions under Article 10.6.1 are mutually exclusive and not cumulative.

**10.6.1.1** Specified Substances or Specified Methods

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

**10.6.1.2** Contaminated Products

In cases where the Athlete or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance (other than a Substance of Abuse) came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years Ineligibility, depending on the Athlete or other Person's degree of Fault.<sup>51</sup>

**10.6.1.3** Protected Persons or Recreational Athletes

Where the anti-doping rule violation not involving a Substance of Abuse is committed by a Protected Person or Recreational Athlete, and the Protected Person or Recreational Athlete can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years Ineligibility, depending on the Protected Person or Recreational Athlete's degree of Fault.

**10.6.2** Application of No Significant Fault or Negligence beyond the Application of Article 10.6.1

If an Athlete or other Person establishes in an individual case where Article 10.6.1 is not applicable that he or she bears No Significant Fault or Negligence, then, subject to further reduction or elimination as provided in Article 10.7, the otherwise applicable period of Ineligibility may be reduced based on the Athlete or other Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than

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51 In order to receive the benefit of this Article, the Athlete or other Person must establish not only that the detected Prohibited Substance came from a Contaminated Product, but must also separately establish No Significant Fault or Negligence. It should be further noted that Athletes are on notice that they take nutritional supplements at their own risk. The sanction reduction based on No Significant Fault or Negligence has rarely been applied in Contaminated Product cases unless the Athlete has exercised a high level of caution before taking the Contaminated Product. In assessing whether the Athlete can establish the source of the Prohibited Substance, it would, for example, be significant for purposes of establishing whether the Athlete actually Used the Contaminated Product, whether the Athlete had declared the product which was subsequently determined to be contaminated on the Doping Control form.

This Article should not be extended beyond products that have gone through some process of manufacturing. Where an Adverse Analytical Finding results from environment contamination of a "non-product" such as tap water or lake water in circumstances where no reasonable person would expect any risk of an anti-doping rule violation, typically there would be No Fault or Negligence under Article 10.5.

eight years.<sup>52</sup>

## **10.7 Elimination, Reduction, or Suspension of Period of Ineligibility or Other Consequences for Reasons Other than Fault**

### **10.7.1 Substantial Assistance in Discovering or Establishing WADC Violations<sup>53</sup>**

**10.7.1.1** AFL may, prior to an appellate decision under Article 13 or the expiration of the time to appeal, suspend a part of the Consequences (other than mandatory Public Disclosure) imposed in an individual case where the Athlete or other Person has provided Substantial Assistance to an Anti-Doping Organisation, criminal authority or professional disciplinary body which results in: (i) the Anti-Doping Organisation discovering or bringing forward an anti-doping rule violation by another Person; or (ii) which results in a criminal or disciplinary body discovering or bringing forward a criminal offence or the breach of professional rules committed by another Person and the information provided by the Person providing Substantial Assistance is made available to AFL or other Anti-Doping Organisation with Results Management responsibility; or (iii) which results in WADA initiating a proceeding against a Signatory, WADA-accredited laboratory, or Athlete passport management unit (as defined in the International Standard for Laboratories) for non-compliance with the WADC, International Standard or Technical Document; or (iv) with the approval by WADA, which results in a criminal or disciplinary body bringing forward a criminal offense or the breach of professional or sport rules arising out of a sport integrity violation other than doping. After an appellate decision under Article 13 or the expiration of time to appeal, AFL may only suspend a part of the otherwise applicable Consequences with the approval of WADA.

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, non-compliance with the WADC and/or sport integrity violations. No more than three-quarters of the otherwise applicable period of Ineligibility may be suspended. If the otherwise applicable period of Ineligibility is a lifetime, the non-suspended period under this Article must be no less than eight years. For purposes of this paragraph, the otherwise applicable period of Ineligibility shall not include any period of Ineligibility that could be added under Article 10.9.3.2 of this Code.

If requested by an Athlete or other Person who seeks to provide Substantial Assistance, AFL shall allow the Athlete or other Person to provide the information to it subject to a Without Prejudice Agreement.

If the Athlete or other Person fails to continue to cooperate and to

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<sup>52</sup> Article 10.6.2 may be applied to any anti-doping rule violation except those Articles where intent is an element of the anti-doping rule violation (e.g., Article 2.5, 2.7, 2.8, 2.9 or 2.11) or an element of a particular sanction (e.g., Article 10.2.1) or a range of Ineligibility is already provided in an Article based on the Athlete or other Person's degree of Fault.

<sup>53</sup> *[Comment to Article 10.7.1: The cooperation of Athletes, Athlete Support Personnel and other Persons who acknowledge their mistakes and are willing to bring other anti-doping rule violations to light is important to clean sport.]*



provide the complete and credible Substantial Assistance upon which a suspension of Consequences was based, AFL shall reinstate the original Consequences. If AFL decides to reinstate suspended Consequences or decides not to reinstate suspended Consequences, that decision may be appealed by any Person entitled to appeal under Article 13.

**10.7.1.2** To further encourage Athletes and other Persons to provide Substantial Assistance to Anti-Doping Organisations, at the request of AFL or at the request of the Athlete or other Person who has, or has been asserted to have, committed an anti-doping rule violation, or other violation of the WADC, WADA may agree at any stage of the Results Management process, including after an appellate decision under Article 13, to what it considers to be an appropriate suspension of the otherwise-applicable period of Ineligibility and other Consequences. In exceptional circumstances, WADA may agree to suspensions of the period of Ineligibility and other Consequences for Substantial Assistance greater than those otherwise provided in this Article, or even no period of Ineligibility, no mandatory Public Disclosure and/or no return of prize money or payment of fines or costs. WADA's approval shall be subject to reinstatement of Consequences, as otherwise provided in this Article. Notwithstanding Article 13, WADA's decisions in the context of this Article 10.7.1.2 may not be appealed.

**10.7.1.3** If AFL suspends any part of an otherwise applicable sanction because of Substantial Assistance, then notice providing justification for the decision shall be provided to the other Anti-Doping Organisations with a right to appeal under Article 13.2.3 as provided in Article 14. In unique circumstances where WADA determines that it would be in the best interest of anti-doping, WADA may authorise AFL to enter into appropriate confidentiality agreements limiting or delaying the disclosure of the Substantial Assistance agreement or the nature of Substantial Assistance being provided.

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

Where an Athlete or other Person voluntarily admits the commission of an anti-doping rule violation before having received notice of a Sample collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of Ineligibility may be reduced, but not below one-half of the period of Ineligibility otherwise applicable.<sup>54</sup>

## **10.7.3** Application of Multiple Grounds for Reduction of a Sanction

Where an Athlete or other Person establishes entitlement to reduction in sanction under more than one provision of Article 10.5, 10.6 or 10.7, before applying any reduction or suspension under Article 10.7, the otherwise applicable period of

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<sup>54</sup> This Article is intended to apply when an Athlete or other Person comes forward and admits to an anti-doping rule violation in circumstances where no Anti-Doping Organisation is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Athlete or other Person believes he or she is about to be caught. The amount by which Ineligibility is reduced should be based on the likelihood that the Athlete or other Person would have been caught had he or she not come forward voluntarily.

Ineligibility shall be determined in accordance with Articles 10.2, 10.3, 10.5, and 10.6. If the Athlete or other Person establishes entitlement to a reduction or suspension of the period of Ineligibility under Article 10.7, then the period of Ineligibility may be reduced or suspended, but not below one-fourth of the otherwise applicable period of Ineligibility.

## **10.8 Results Management Agreements**

### **10.8.1 One-Year Reduction for Certain Anti-Doping Rule Violations Based on Early Admission and Acceptance of Sanction**

Where an Athlete or other Person, after being notified by AFL of a potential anti-doping rule violation that carries an asserted period of Ineligibility of four or more years (including any period of Ineligibility asserted under Article 10.4), admits the violation and accepts the asserted period of Ineligibility no later than twenty days after receiving notice of an anti-doping rule violation charge, the Athlete or other Person may receive a one-year reduction in the period of Ineligibility asserted by AFL. Where the Athlete or other Person receives the one-year reduction in the asserted period of Ineligibility under this Article 10.8.1, no further reduction in the asserted period of Ineligibility shall be allowed under any other Article.<sup>55</sup>

### **10.8.2 Case Resolution Agreement**

Where the Athlete or other Person admits an anti-doping rule violation after being confronted with the anti-doping rule violation by AFL and agrees to Consequences acceptable to AFL and WADA, at their sole discretion, then:

**10.8.2.1** the Athlete or other Person may receive a reduction in the period of Ineligibility based on an assessment by AFL and WADA of the application of Articles 10.1 through 10.7 to the asserted anti-doping rule violation, the seriousness of the violation, the Athlete or other Person's degree of Fault and how promptly the Athlete or other Person admitted the violation; and

**10.8.2.2** the period of Ineligibility may start as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred.

In each case, however, where this Article is applied, the Athlete or other Person shall serve at least one-half of the agreed-upon period of Ineligibility going forward from the earlier of the date the Athlete or other Person accepted the imposition of a sanction or a Provisional Suspension which was subsequently respected by the Athlete or other Person. The decision by WADA and AFL to enter or not enter into a case resolution agreement, and the amount of the reduction to, and the starting date of, the period of Ineligibility are not matters for determination or review by a hearing body and are not subject to appeal under Article 13.

If so requested by an Athlete or other Person who seeks to enter into a case resolution agreement under this Article, AFL shall allow the Athlete or other Person to discuss

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<sup>55</sup> For example, if AFL alleges that an Athlete has violated Article 2.1 for Use of an anabolic steroid and asserts the applicable period of Ineligibility is four (4) years, then the Athlete may unilaterally reduce the period of Ineligibility to three (3) years by admitting the violation and accepting the three-year period of Ineligibility within the time specified in this Article, with no further reduction allowed. This resolves the case without any need for a hearing.

an admission of the anti-doping rule violation with it subject to a Without Prejudice Agreement.<sup>56</sup>

## **10.9 Multiple Violations**

### **10.9.1 Second or Third Anti-Doping Rule Violation**

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

- (a) A six-month period of Ineligibility; or
- (b) A period of Ineligibility in the range between:
  - (i) the sum of the period of Ineligibility imposed for the first anti-doping rule violation plus the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation; and
  - (ii) twice the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation.

The period of Ineligibility within this range shall be determined based on the entirety of the circumstances and the Athlete or other Person's degree of Fault with respect to the second violation.

**10.9.1.2** A third anti-doping rule violation will always result in a lifetime period of Ineligibility, except if the third violation fulfills the condition for elimination or reduction of the period of Ineligibility under Article 10.5 or 10.6, or involves a violation of Article 2.4. In these particular cases, the period of Ineligibility shall be from eight years to lifetime Ineligibility.

**10.9.1.3** The period of Ineligibility established in Articles 10.9.1.1 and 10.9.1.2 may then be further reduced by the application of Article 10.7.

**10.9.2** An anti-doping rule violation for which an Athlete or other Person has established No Fault or Negligence shall not be considered a violation for purposes of this Article 10.9. In addition, an anti-doping rule violation sanctioned under Article 10.2.4.1 (Substance of Abuse Out of Competition) shall not be considered a violation for purposes of Article 10.9.

### **10.9.3 Additional Rules for Certain Potential Multiple Violations**

**10.9.3.1** For purposes of imposing sanctions under Article 10.9, except as provided in Articles 10.9.3.2 and 10.9.3.3, an anti-doping rule violation will only be considered a second violation if AFL can establish that the Athlete or other Person committed the additional anti-doping rule violation after the Athlete or other Person received notice pursuant to Article 7, or after AFL made reasonable efforts to give notice of the first anti-doping rule violation. If AFL cannot establish this, the violations shall be considered

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<sup>56</sup> Any mitigating or aggravating factors set forth in this Article 10 shall be considered in arriving at the Consequences set forth in the case resolution agreement, and shall not be applicable beyond the terms of that agreement.

together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction, including the application of Aggravating Circumstances.<sup>57</sup>

**10.9.3.2** If AFL establishes that an Athlete or other Person committed an additional anti-doping rule violation prior to notification, and that the additional violation occurred twelve months or more before or after the first-noticed violation, then the period of Ineligibility for the additional violation shall be calculated as if the additional violation were a stand-alone first violation and this period of Ineligibility is served consecutively, rather than concurrently, with the period of Ineligibility imposed for the earlier-noticed violation. Where this Article 10.9.3.2 applies, the violations taken together shall constitute a single violation for purposes of Article 10.9.1.

**10.9.3.3** If AFL establishes that an Athlete or other Person committed a violation of Article 2.5 (Tampering or Attempted Tampering) in connection with the Doping Control process for an underlying asserted anti-doping rule violation, the violation of Article 2.5 shall be treated as a stand-alone first violation and the period of Ineligibility for such violation shall be served consecutively, rather than concurrently, with the period of Ineligibility, if any, imposed for the underlying anti-doping rule violation. Where this Article 10.9.3.3 is applied, the violations taken together shall constitute a single violation for purposes of Article 10.9.1.

**10.9.3.4** If AFL establishes that an Athlete or other Person has committed a second or third anti-doping rule violation during a period of Ineligibility, the periods of Ineligibility for the multiple violations shall run consecutively, rather than concurrently.

#### **10.9.4 Multiple Anti-Doping Rule Violations during Ten-Year Period**

For purposes of Article 10.9, each anti-doping rule violation must take place within the same ten-year period in order to be considered multiple violations.

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

Not applicable.

### **10.11 Forfeited Prize Money**

If AFL recovers prize money forfeited as a result of an anti-doping rule violation, it may allocate and distribute this prize money to the Athletes who would have been entitled to it had the forfeiting Athlete not competed.

### **10.12 Financial Consequences**

**10.12.1** Where an Athlete or other Person commits an anti-doping rule violation, AFL may, in its discretion and subject to the principle of proportionality, recover from the Athlete

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<sup>57</sup> The same rule applies where, after the imposition of a sanction, AFL discovers facts involving an anti-doping rule violation that occurred prior to notification for a first anti-doping rule violation – e.g., AFL shall impose a sanction based on the sanction that could have been imposed if the two violations had been adjudicated at the same time, including the application of Aggravating Circumstances.

or other Person costs associated with the anti-doping rule violation, regardless of the period of Ineligibility imposed.

**10.12.2** The AFL's recovery of costs shall not be considered a basis for reducing the Ineligibility or other sanction which would otherwise be applicable under this Code.

### **10.13 Commencement of Ineligibility Period**

Where an Athlete is already serving a period of Ineligibility for an anti-doping rule violation, any new period of Ineligibility shall commence on the first day after the current period of Ineligibility has been served. Otherwise, except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed.

#### **10.13.1 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, and the Athlete or other Person can establish that such delays are not attributable to the Athlete or other Person, AFL or the Tribunal, if applicable, may start the period of Ineligibility at an earlier date commencing as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. All competitive results achieved during the period of Ineligibility, including retroactive Ineligibility, shall be Disqualified.<sup>58</sup>

#### **10.13.2 Credit for Provisional Suspension or Period of Ineligibility Served**

**10.13.2.1** If a Provisional Suspension is respected by the Athlete or other Person, then the Athlete or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If the Athlete or other Person does not respect a Provisional Suspension, then the Athlete or other Person shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal.

**10.13.2.2** If an Athlete or other Person voluntarily accepts a Provisional Suspension in writing from AFL and thereafter respects the Provisional Suspension, the Athlete or other Person shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed. A copy of the Athlete or other Person's voluntary acceptance of a Provisional Suspension shall be provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation under Article 14.1.<sup>59</sup>

**10.13.2.3** No credit against a period of Ineligibility shall be given for any time period

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<sup>58</sup> In cases of anti-doping rule violations other than under Article 2.1, the time required for an Anti-Doping Organisation to discover and develop facts sufficient to establish an anti-doping rule violation may be lengthy, particularly where the Athlete or other Person has taken affirmative action to avoid detection. In these circumstances, the flexibility provided in this Article to start the sanction at an earlier date should not be used.

<sup>59</sup> An Athlete's voluntary acceptance of a Provisional Suspension is not an admission by the Athlete and shall not be used in any way to draw an adverse inference against the Athlete.]

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 a team.

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

## **10.14 Status During Ineligibility**

### **10.14.1 Prohibition Against Participation During Ineligibility or Provisional Suspension**

- 10.14.1.1** No Athlete or other Person who has been declared Ineligible or is subject to a Provisional Suspension may, during a period of Ineligibility or Provisional Suspension, participate in any capacity in a Competition or activity (other than authorised anti-doping Education or rehabilitation programs) authorised or organised by any Signatory, Signatory's member Organisation, or a club or other member Organisation of a Signatory's member Organisation, or in Competitions authorised or organised by any professional league or any international- or national-level Event Organisation or any elite or national-level sporting activity funded by a governmental agency.
- 10.14.1.2** An Athlete or other Person subject to a period of Ineligibility longer than four years may, after completing four years of the period of Ineligibility, participate as an Athlete in local sport events not sanctioned or otherwise under the authority of a WADC Signatory or member of a WADC Signatory, but only so long as the local sport event is not at a level that could otherwise qualify such Athlete or other Person directly or indirectly to compete in (or accumulate points toward) a national championship or International Event, and does not involve the Athlete or other Person working in any capacity with Protected Persons.
- 10.14.1.3** An Athlete or other Person subject to a period of Ineligibility shall remain subject to Testing and any requirement by AFL to provide whereabouts information.<sup>60</sup>

### **10.14.2 Return to Training**

As an exception to Article 10.14.1, an Athlete may return to train with a team or to

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<sup>60</sup> For example, subject to Article 10.14.2 below, Ineligible Athletes cannot participate in a training camp, exhibition or practice organised by their National Federation or a club which is a member of that National Federation or which is funded by a governmental agency. 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 Article 10.14.3. The term "activity" also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organisation described in this Article. Ineligibility imposed in one sport shall also be recognised by other sports (see Article 15.1, Automatic Binding Effect of Decisions). An Athlete or other Person serving a period of Ineligibility is prohibited from coaching or serving as an Athlete Support Person in any other capacity at any time during the period of Ineligibility, and doing so could also result in a violation of Article 2.10 by another Athlete. Any performance standard accomplished during a period of Ineligibility shall not be recognized by AFL or its National Federations for any purpose.

use the facilities of a team or other Signatory's member Organisation during the shorter of:

**10.14.2.1** the last two months of the Athlete's period of Ineligibility; or

**10.14.2.2** the last one-quarter of the period of Ineligibility imposed.<sup>61</sup>

**10.14.3** Violation of the Prohibition of Participation During Ineligibility or Provisional Suspension

**10.14.3.1** Where an Athlete or other Person who has been declared Ineligible violates the prohibition against participation during Ineligibility described in Article 10.14.1, the results of such participation shall be disqualified and a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. The new period of Ineligibility, including a reprimand and no period of Ineligibility, may be adjusted based on the Athlete or other Person's degree of Fault and other circumstances of the case. The determination of whether an Athlete or other Person has violated the prohibition against participation, and whether an adjustment is appropriate, shall be made by the AFL (if its Results Management led to the imposition of the initial period of Ineligibility). This decision may be appealed under Article 13.

**10.14.3.2** An Athlete or other Person who violates the prohibition against participation during a Provisional Suspension described in Article 10.14.1 shall receive no credit for any period of Provisional Suspension served.

**10.14.3.3** Where an Athlete Support Person or other Person assists a Person in violating the prohibition against participation during Ineligibility or a Provisional Suspension, AFL shall impose sanctions for a violation of Article 2.9 for such assistance.

**10.14.4** Withholding of Financial Support during Ineligibility

In addition, for any anti-doping rule violation not involving a reduced sanction as described in Article 10.5 or 10.6, some or all sport-related financial support or other sport-related benefits received by such Person will be withheld by AFL and their AFL Club.

**10.15 Automatic Publication of Sanction**

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

**11 Consequences to Teams**

**11.1 Testing of Team Sports**

Where more than one member of a team in a Team Sport has been notified of an anti-doping rule violation under Article 7 in any one season, the AFL shall conduct appropriate Target Testing of the team for the remainder of the season.

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<sup>61</sup> In many Team Sports and some individual sports (e.g., ski jumping and gymnastics), Athletes cannot effectively train on their own so as to be ready to compete at the end of the Athlete's period of Ineligibility. During the training period described in this Article, an Ineligible Athlete may not compete or engage in any activity described in Article 10.14.1 other than training.

## 11.2 Consequences for Team Sports

If more than two members of a team are found to have committed an anti-doping rule violation during a season, the AFL may impose an appropriate sanction on the team (e.g. loss of points, disqualification from a Competition or other sanction) in addition to any Consequences imposed upon the individual Athletes committing the anti-doping rule violation.

## 12 Sanctions by AFL Against Other Sporting Bodies

Not applicable

## 13 Results Management: Appeals<sup>62</sup>

### 13.1 Decisions Subject to Appeal

Decisions made under the WADC or this Code, other than in relation to any breach of Article 27 of this Code, may be appealed as set forth below in Articles 13.2 through 13.6 or as otherwise provided in the WADC or International Standards. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise.

#### 13.1.1 Scope of Review Not Limited

The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker. Any party to the appeal may submit evidence, legal arguments and claims that were not raised in the first instance hearing so long as they arise from the same cause of action or same general facts or circumstances raised or addressed in the first instance hearing.<sup>63</sup>

#### 13.1.2 CAS or NST Shall Not Defer to the Findings Being Appealed

In making its decision, CAS or the NST shall not give deference to the discretion exercised by the body whose decision is being appealed.<sup>64</sup>

#### 13.1.3 WADA Not Required to Exhaust Internal Remedies

Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within AFL's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in AFL's process.<sup>65</sup>

## 13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, Provisional

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<sup>62</sup> The object of the WADC 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 Article 14. 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 Article 13 does not include Athletes, or their National federations, who might benefit from having another competitor Disqualified.

<sup>63</sup> The revised language is not intended to make a substantive change to the 2015 WADC, but rather for clarification. For example, where an Athlete was charged in the first instance hearing only with Tampering but the same conduct could also constitute Complicity, an appealing party could pursue both Tampering and Complicity charges against the Athlete in the appeal.

<sup>64</sup> CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.

<sup>65</sup> Where a decision has been rendered before the final stage of AFL's process (for example, a first hearing) and no party elects to appeal that decision to the next level of AFL's process (e.g., the NST), then WADA may bypass the remaining steps in AFL's internal process and appeal directly to CAS.



## **Suspensions, Implementation of Decisions and Authority**

A decision that an anti-doping rule violation was committed, a decision imposing Consequences or not imposing Consequences for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision by WADA not to grant an exception to the notice requirement for a retired Athlete to return to competition under Article 5.6.1; a decision by WADA assigning Results Management under Article 7.1 of the WADC; a decision by AFL 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 in accordance with the International Standard for Results Management; a decision to impose, or lift, a Provisional Suspension as a result of a Provisional Hearing; AFL's failure to comply with Article 7.4; a decision that AFL lacks authority to rule on an alleged anti-doping rule violation or its Consequences; a decision to suspend, or not suspend, Consequences or to reinstate, or not reinstate, Consequences under Article 10.7.1; failure to comply with Articles 7.1.4 and 7.1.5 of the WADC; failure to comply with Article 10.8.1; a decision under Article 10.14.3; a decision by AFL not to implement another Anti-Doping Organisation's decision under Article 15; and a decision under Article 27.3 of the WADC may be appealed exclusively as provided in this Article 13.2.

### **13.2.1 Appeal body**

Unless otherwise provided in this Code all appeals from:

**13.2.1.1** the Tribunal or NST at first instance shall be to the NST appeals division; and

**13.2.1.2** the NST shall be to CAS.

### **13.2.2 Appeals Involving Athletes or Persons**

The rules for such appeal shall respect the following principles: a timely hearing; a fair, impartial, Operationally Independent and Institutionally Independent hearing panel; the right to be represented by counsel at the Person's own expense; and a timely, written, reasoned decision.

### **13.2.3 Persons Entitled to Appeal**

The parties having the right to appeal to the NST or CAS shall include the following parties:

**13.2.3.1** the Athlete or other Person who is the subject of the decision being appealed;

**13.2.3.2** the other party to the case in which the decision was rendered;

**13.2.3.3** AFL;

**13.2.3.4** SIA; and

**13.2.3.5** WADA.

Any party filing an appeal shall be entitled to assistance from the NST or CAS to obtain all relevant information from the Anti-Doping Organisation whose decision is being

appealed and the information shall be provided if the NST or CAS so directs.

#### **13.2.3.6** Duty to Notify

All parties to any appeal must ensure that WADA and all other parties with a right to appeal have been given timely notice of the appeal.

#### **13.2.3.7** Appeal from Imposition of Provisional Suspension

Notwithstanding any other provision in this Code, the only Person who may appeal from the imposition of a Provisional Suspension is the Athlete or other Person upon whom the Provisional Suspension is imposed.

#### **13.2.4** Cross Appeals and other Subsequent Appeals Allowed

Cross appeals and other subsequent appeals by any respondent named in cases brought to the NST or CAS under the WADC are specifically permitted. Any party with a right to appeal under this Article 13 must file a cross appeal or subsequent appeal at the latest with the party's answer.<sup>66</sup>

### **13.3 Failure to Render a Timely Decision by AFL**

Where, in a particular case, AFL 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 AFL had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines that an anti-doping rule violation was committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorney fees in prosecuting the appeal shall be reimbursed to WADA by AFL.<sup>67</sup>

### **13.4 Appeals Relating to TUEs**

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

### **13.5 Notification of Appeal Decisions**

AFL shall promptly provide the appeal decision to the Athlete or other Person and to the other Anti-Doping Organisations that would have been entitled to appeal under Article 13.2.3 as provided under Article 14.

### **13.6 Time for Filing Appeals<sup>68</sup>**

#### **13.6.1** Appeals to the NST or CAS

The time to file an appeal to the NST or CAS shall be twenty-one days from the date of receipt of the relevant decision by the appealing party. The above notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal

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66 This provision is necessary because since 2011, CAS rules no longer permit an Athlete the right to cross appeal when an Anti-Doping Organisation appeals a decision after the Athlete's time for appeal has expired. This provision permits a full hearing for all parties.

67 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 AFL to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with AFL and give AFL an opportunity to explain why it has not yet rendered a decision.

68 Whether governed by CAS rules or these Anti-Doping Rules, a party's deadline to appeal does not begin running until receipt of the decision. For that reason, there can be no expiration of a party's right to appeal if the party has not received the decision.

but which was not a party to the proceedings that led to the decision being appealed:

**13.6.1.1** Within fifteen days from the notice of the decision, such party/ies shall have the right to request a copy of the full case file pertaining to the decision from the AFL;

**13.6.1.2** If such a request is made within the fifteen-day period, then the party making such request shall have twenty-one days from receipt of the file to file an appeal to the NST or CAS, as applicable.

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

**13.6.1.3** Twenty-one days after the last day on which any other party having a right to appeal could have appealed; or

**13.6.1.4** Twenty-one days after WADA's receipt of the complete file relating to the decision.

## **14 Confidentiality and Reporting**

### **14.1 Information Concerning Adverse Analytical Findings, Atypical Findings, and other Asserted Anti-Doping Rule Violations**

#### **14.1.1 Notice of Anti-Doping Rule Violations to Athletes and other Persons**

Notice to Athletes or other Persons of anti-doping rule violations asserted against them shall occur as provided under Articles 7 and 14.

If at any point during Results Management up until the anti-doping rule violation charge, AFL decides not to move forward with a matter, it must notify the Athlete or other Person, (provided that the Athlete or other Person had been already informed of the ongoing Results Management).

#### **14.1.2 Notice of Anti-Doping Rule Violations to SIA and WADA**

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

If at any point during Results Management up until the anti-doping rule violation charge, AFL decides not to move forward with a matter, it must give notice (with reasons) to the Anti-Doping Organisations with a right of appeal under Article 13.2.3.

#### **14.1.3 Content of an Anti-Doping Rule Violation Notice**

Notification of an anti-doping rule violation shall include: the Athlete's or other Person's name, the Athlete's competitive level, whether the test was In-Competition or Out-of-Competition, the date of Sample collection, the analytical result reported by the laboratory, and other information as required by the International Standard for Results Management.

Notification of anti-doping rule violations other than under Article 2.1 shall also include the rule violated and the basis of the asserted violation.

#### **14.1.4 Status Reports**

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

#### **14.1.5 Confidentiality**

The recipient Organisations shall not disclose this information beyond those Persons with a need to know (which would include the appropriate personnel at the AFL and the relevant league and Club) until AFL has made Public Disclosure as permitted by Article 14.3.

### **14.2 Notice of Anti-Doping Rule Violation or Violations of Ineligibility or Provisional Suspension Decisions and Request for Files**

**14.2.1** Anti-doping rule violation decisions or decisions related to violations of Ineligibility or Provisional Suspension rendered pursuant to Article 7.6, 8.2, 10.5, 10.6, 10.7, 10.14.3 or 13.5 shall include the full reasons for the decision, including, if applicable, a justification for why the maximum potential sanction was not imposed.

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

### **14.3 Public Disclosure**

**14.3.1** After notice has been provided to the Athlete or other Person in accordance with Article 14.1.2, the identity of any Athlete or other Person who is notified of a potential anti-doping rule violation, the Prohibited Substance or Prohibited Method and the nature of the violation involved, and whether the Athlete or other Person is subject to a Provisional Suspension may be Publicly Disclosed by AFL.

**14.3.2** No later than twenty days after it has been determined in an appellate decision under Article 13.2.2, or such appeal has been waived, or a hearing in accordance with Article 8 has been waived, or the assertion of an anti-doping rule violation has not otherwise been timely challenged, or the matter has been resolved under Article 10.8, or a new period of Ineligibility, or reprimand, has been imposed under Article 10.14.3, AFL must Publicly Disclose the disposition of the anti-doping matter, including the sport, the anti-doping rule violated, the name of the Athlete or other Person committing the violation, the Prohibited Substance or Prohibited Method involved (if any) and the Consequences imposed. AFL must also Publicly Disclose within twenty days the results of appellate decisions concerning anti-doping rule violations, including the information described above.<sup>69</sup>

**14.3.3** After an anti-doping rule violation has been determined to have been committed in an appellate decision under Article 13.2.2 or such appeal has been waived, or in a hearing in accordance with Article 8 or where such hearing has been waived, or the

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<sup>69</sup> Where Public Disclosure as required by Article 14.3.2 would result in a breach of other applicable laws, AFL's failure to make the Public Disclosure will not result in a determination of non-compliance with WADC as set forth in Article 4.1 of the International Standard for the Protection of Privacy and Personal Information.

assertion of an anti-doping rule violation has not otherwise been timely challenged, or the matter has been resolved under Article 10.8, AFL may make public such determination or decision and may comment publicly on the matter.

- 14.3.4** In any case where it is determined, after a hearing or appeal, that the Athlete or other Person did not commit an anti-doping rule violation, the fact that the decision has been appealed may be Publicly Disclosed. However, the decision itself and the underlying facts may not be Publicly Disclosed except with the consent of the Athlete or other Person who is the subject of the decision. AFL shall use reasonable efforts to obtain such consent, and if consent is obtained, shall Publicly Disclose the decision in its entirety or in such redacted form as the Athlete or other Person may approve.
- 14.3.5** Publication shall be accomplished at a minimum by placing the required information on the AFL's website and leaving the information up for the longer of one month or the duration of any period of Ineligibility.
- 14.3.6** Except as provided in Articles 14.3.1 and 14.3.3, no Anti-Doping Organisation or WADA-accredited laboratory, or any official of any such body, shall publicly comment on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to, or based on information provided by, the Athlete, other Person or their entourage or other representatives.
- 14.3.7** The mandatory Public Disclosure required in Article 14.3.2 shall not be required where the Athlete or other Person who has been found to have committed an anti-doping rule violation is a Minor, Protected Person or Recreational Athlete. Any optional Public Disclosure in a case involving a Minor, Protected Person or Recreational Athlete shall be proportionate to the facts and circumstances of the case.

#### **14.4 Statistical Reporting**

AFL shall, at least annually, publish publicly a general statistical report of its Doping Control activities, with a copy provided to WADA. AFL may also publish reports showing the name of each Athlete tested and the date of each Testing.

#### **14.5 Doping Control Information Database and Monitoring of Compliance**

To enable WADA to perform its compliance monitoring role and to ensure the effective use of resources and sharing of applicable Doping Control information among Anti-Doping Organisations, AFL shall report to WADA through ADAMS Doping Control-related information, including, in particular:

- (a) Whereabouts information for Athletes in the Registered Testing Pool;
- (b) TUE decisions; and
- (c) Results Management decisions;

as required under the applicable International Standard(s).

- 14.5.1** AFL shall report all In-Competition and Out-of-Competition tests to WADA by entering the Doping Control forms into ADAMS in accordance with the requirements and timelines contained in the International Standard for Testing and Investigations.

- 14.5.2** To facilitate WADA’s oversight and appeal rights for TUEs, AFL shall report all TUE applications, decisions and supporting documentation using ADAMS in accordance with the requirements and timelines contained in the International Standard for Therapeutic Use Exemptions.
- 14.5.3** To facilitate WADA’s oversight and appeal rights for Results Management, AFL shall report the following information into ADAMS in accordance with the requirements and timelines outlined in the International Standard for Results Management:
- 14.5.3.1** notifications of anti-doping rule violations and related decisions for Adverse Analytical Findings;
  - 14.5.3.2** notifications and related decisions for other anti-doping rule violations that are not Adverse Analytical Findings;
  - 14.5.3.3** whereabouts failures; and
  - 14.5.3.4** any decision imposing, lifting or reinstating a Provisional Suspension.
- 14.5.4** The information described in this Article will be made accessible, where appropriate and in accordance with the applicable rules, to the Athlete, the Athlete’s National Anti-Doping Organisation, and any other Anti-Doping Organisations with Testing authority over the Athlete.

## **14.6 Data Privacy**

- 14.6.1** AFL may collect, store, process or disclose personal information relating to Athletes and other Persons where necessary and appropriate to conduct its Anti-Doping Activities under the WADC, the International Standards (including specifically the International Standard for the Protection of Privacy and Personal Information), this Code, and in compliance with applicable law.
- 14.6.2** Without limiting the foregoing, AFL shall:
- 14.6.2.1** only process personal information in accordance with a valid legal ground;
  - 14.6.2.2** notify any Participant or Person subject to this Code, in a manner and form that complies with applicable laws and the International Standard for the Protection of Privacy and Personal Information, that their personal information may be processed by AFL and other Persons for the purpose of the implementation of this Code;
  - 14.6.2.3** ensure that any third-party agents (including any Delegated Third Party) with whom AFL shares the personal information of any Participant or Person is subject to appropriate technical and contractual controls to protect the confidentiality and privacy of such information.

## **15 Implementation of Decisions**

### **15.1 Automatic Binding Effect of Decisions by Signatory Anti-Doping Organisations**

- 15.1.1** A decision of an anti-doping rule violation made by a Signatory Anti-Doping Organisation, an appellate body (Article 13.2.2 of the WADC) or CAS shall, after the

parties to the proceeding are notified, automatically be binding beyond the parties to the proceeding upon AFL, as well as every Signatory in every sport with the effects described below:

- 15.1.1.1** A decision by any of the above-described bodies imposing a Provisional Suspension (after a Provisional Hearing has occurred or the Athlete or other Person has either accepted the Provisional Suspension or has waived the right to a Provisional Hearing, expedited hearing or expedited appeal offered in accordance with Article 7.4.3) automatically prohibits the Athlete or other Person from participation (as described in Article 10.14.1) in all sports within the authority of any Signatory during the Provisional Suspension.
- 15.1.1.2** A decision by any of the above-described bodies imposing a period of Ineligibility (after a hearing has occurred or been waived) automatically prohibits the Athlete or other Person from participation (as described in Article 10.14.1) in all sports within the authority of any Signatory for the period of Ineligibility.
- 15.1.1.3** A decision by any of the above-described bodies accepting an anti-doping rule violation automatically binds all Signatories.
- 15.1.2** AFL shall recognise and implement a decision and its effects as required by Article 15.1.1, without any further action required, on the earlier of the date AFL receives actual notice of the decision or the date the decision is placed into ADAMS.
- 15.1.3** A decision by an Anti-Doping Organisation, an appellate body or CAS to suspend, or lift, Consequences shall be binding upon AFL without any further action required, on the earlier of the date AFL receives actual notice of the decision or the date the decision is placed into ADAMS.
- 15.1.4** Notwithstanding any provision in Article 15.1.1, however, a decision of an anti-doping rule violation by a Major Event Organisation made in an expedited process during an Event shall not be binding on AFL unless the rules of the Major Event Organisation provide the Athlete or other Person with an opportunity to an appeal under non-expedited procedures.<sup>70</sup>

## **15.2 Implementation of Other Decisions by Anti-Doping Organisations**

AFL may decide to implement other anti-doping decisions rendered by Anti-Doping Organisations not described in Article 15.1.1 above, such as a Provisional Suspension prior to a Provisional Hearing or acceptance by the Athlete or other Person.<sup>71</sup>

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<sup>70</sup> By way of example, where the rules of the Major Event Organisation give the Athlete or other Person the option of choosing an expedited CAS appeal or a CAS appeal under normal CAS procedure, the final decision or adjudication by the Major Event Organisation is binding on other Signatories regardless of whether the Athlete or other Person chooses the expedited appeal option.

<sup>71</sup> Anti-Doping Organisation decisions under Article 15.1 are implemented automatically by other Signatories without the requirement of any decision or further action on the Signatories' part. For example, when a National Anti-Doping Organisation decides to Provisionally Suspend an Athlete, that decision is given automatic effect at the International Federation level. To be clear, the "decision" is the one made by the National Anti-Doping Organisation, there is not a separate decision to be made by the International Federation. Thus, any claim by the Athlete that the Provisional Suspension was improperly imposed can only be asserted against the National Anti-Doping Organisation. Implementation of Anti-Doping Organisations' decisions under Article 15.2 is subject to each Signatory's discretion. A Signatory's implementation of a decision under Article 15.1 or Article 15.2 is not appealable separately from any appeal of the underlying decision. The extent of recognition of TUE decisions of other Anti-Doping Organisations shall be determined by Article 4.4 and the

### **15.3 Implementation of Decisions by Body that is not a Signatory**

An anti-doping decision by a body that is not a Signatory to the WADC shall be implemented by AFL, if AFL finds that the decision purports to be within the authority of that body and the anti-doping rules of that body are otherwise consistent with the WADC.<sup>72</sup>

### **16 Statute of Limitations**

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

### **17 Education**

AFL shall plan, implement, evaluate and promote Education in line with the requirements of Article 18.2 of the WADC and the International Standard for Education.

### **18 Additional Roles and Responsibilities of Clubs**

Each Club must:

**18.1** notify its Athletes that they are liable for selection to provide Samples whether In-Competition or Out-of-Competition;

**18.2** educate its Athletes, Officers and Athlete Support Person in respect of:

**18.2.1** the dangers and consequences of the use of Prohibited Substances and Prohibited Methods and to this end will ensure that all such persons attend all drug awareness Education and will maintain and keep a written record of all such attendees which will be signed by all attendees and certified by the Club's Chief Executive Officer. This record will be provided upon request to the AFL;

**18.2.2** their respective obligations under this Code; and

**18.2.3** the sanctions which are applicable for a breach of this Code.

**18.3** upon request, advise the AFL in writing of all steps, actions and other matters undertaken by it pursuant to Article 18.2;

**18.4** permit and assist the Testing Authority to attend Matches and training sessions in order to obtain Samples from Athletes for Testing and provide the facilities required to enable the Testing Authority to obtain such Samples;

**18.5** permit the Testing Authority to obtain Samples from Athletes for Testing other than at Matches and training sessions and provide all necessary assistance and allow the Testing Authority

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International Standard for Therapeutic Use Exemptions.

<sup>72</sup> Where the decision of a body that has not accepted the WADC is in some respects WADC compliant and in other respects not WADC compliant, AFL, other Signatories and National Federations should attempt to apply the decision in harmony with the principles of the WADC. For example, if in a process consistent with the WADC a non-Signatory has found an Athlete to have committed an anti-doping rule violation on account of the presence of a Prohibited Substance in the Athlete's body but the period of Ineligibility applied is shorter than the period provided for in the WADC, then AFL and all other Signatories should recognise the finding of an anti-doping rule violation and the Athlete's National Anti-Doping Organisation should conduct a hearing consistent with Article 8 to determine whether the longer period of Ineligibility provided in the WADC should be imposed. AFL or other Signatory's implementation of a decision, or their decision not to implement a decision under Article 15.3, is appealable under Article 13.



representatives unlimited access to the training and changing rooms and other Match facilities for this purpose;

- 18.6** require and cause its Athletes, Officers and Athlete Support Person to permit the Testing Authority to collect Samples for Testing and provide all necessary assistance for this purpose;
- 18.7** arrange for completion and return of forms required for the purposes of the Testing Authority at the request of the Testing Authority or the AFL;
- 18.8** promptly notify the AFL General Counsel of any circumstances which may be or are a breach of this Code;
- 18.9** upon request promptly provide to the AFL such information and assistance as they may request concerning the application of this Code, any alleged breach of this Code or any practice concerning the use of drugs in Australian football;
- 18.10** permit and assist the AFL to access the Athletes' room at each Match, the facility provided by the Club for the collection of Samples by the Testing Authority and to any other information required;
- 18.11** ensure that its Athletes and Club Medical Officers comply with their obligations under this Code;
- 18.12** upon request, promptly provide to the Testing Authority and the AFL the names, addresses and telephone numbers of their Athletes;
- 18.13** provide to the AFL the Club's current and up to date training schedule via the PPM, inclusive of the date, time and place where the Athletes of the Club will train; and
- 18.14** promptly advise the Testing Authority and the AFL of any change to the information provided by the Club under Articles 18.12 and 18.13.

## **19 Additional Roles and Responsibilities of AFL**

- 19.1** In addition to the roles and responsibilities described in Article 20.3 of the WADC for International Federations, AFL shall report to WADA on AFL's compliance with the WADC and the International Standards in accordance with Article 24.1.2 of the WADC.

## **20 Additional Roles and Responsibilities of Athletes**

Each Athlete must:

- 20.1** be knowledgeable of and comply with this Code;
- 20.2** be available for Sample collection as required under this Code;<sup>73</sup>
- 20.3** take responsibility, in the context of anti-doping, for what they ingest and Use;
- 20.4** inform medical personnel of their obligation not to Use Prohibited Substances and Prohibited Methods and to take responsibility to make sure that any medical treatment received does not violate this Code;

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<sup>73</sup> With due regard to an Athlete's human rights and privacy, legitimate anti-doping considerations sometimes require Sample collection late at night or early in the morning. For example, it is known that some Athletes Use low doses of EPO during these hours so that it will be undetectable in the morning.

- 20.5** disclose to AFL and SIA any decision by a non-Signatory finding that the Athlete committed an anti-doping rule violation within the previous ten years;
- 20.6** cooperate with Anti-Doping Organisations investigating anti-doping rule violations. Failure by any Athlete to cooperate in full with Anti-Doping Organisations investigating anti-doping rule violations may be dealt with under the AFL Rules;
- 20.7** disclose the identity of their Athlete Support Personnel upon request by AFL or any other Anti-Doping Organisation with authority over the Athlete.

## **21 Additional Roles and Responsibilities of Athlete Support Personnel**

Each Athlete Support Personnel must:

- 21.1** be knowledgeable of and comply with this Code;
- 21.2** cooperate with the Athlete Testing program;
- 21.3** use their influence on Athlete values and behaviour to foster anti-doping attitudes;
- 21.4** disclose to AFL and SIA any decision by a non-Signatory finding that they committed an anti-doping rule violation within the previous ten years;
- 21.5** cooperate with Anti-Doping Organisations investigating anti-doping rule violations. Failure by any Athlete Support Personnel to cooperate in full with Anti-Doping Organisations investigating anti-doping rule violations may be dealt with under the AFL Rules;
- 21.6** not Use or Possess any Prohibited Substance or Prohibited Method without valid justification.

## **22 Additional Roles and Responsibilities of Other Persons Subject to this Code**

Each other Person must:

- 22.1** be knowledgeable of and comply with this Code;
- 22.2** disclose to AFL and their National Anti-Doping Organisation any decision by a non-Signatory finding that they committed an anti-doping rule violation within the previous ten years;
- 22.3** cooperate with Anti-Doping Organisations investigating anti-doping rule violations. Failure by any Person to cooperate in full with Anti-Doping Organisations investigating anti-doping rule violations may be dealt with under the AFL Rules;
- 22.4** not to Use or Possess any Prohibited Substance or Prohibited Method without valid justification.

## **23 Interpretation of the WADC**

- 23.1** The official text of the WADC shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.
- 23.2** The comments annotating various provisions of the WADC shall be used to interpret the WADC.
- 23.3** The WADC shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the Signatories or governments.

- 23.4** The headings used for the various Parts and Articles of the WADC are for convenience only and shall not be deemed part of the substance of the WADC or to affect in any way the language of the provisions to which they refer.
- 23.5** Where the term “days” is used in the WADC or an International Standard, it shall mean calendar days unless otherwise specified.
- 23.6** Any word or phrase not defined in this Code but defined in the AFL Rules will, where applicable, have a corresponding meaning unless the context requires otherwise.
- 23.7** A reference to any statute, proclamation, rule, regulation or ordinance includes any amendments, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, regulation or ordinance replacing it. A reference to a specified section, Article, paragraph, schedule or item of any statute, proclamation, rule, regulation or ordinance means a reference to the equivalent replacement section of the statute, proclamation, rule, regulation or ordinance which may come into force.
- 23.8** The provision set out in Part 2 of this Code only apply to the AFL Men’s Competition and the relevant Clubs.
- 23.9** This Code has been adopted pursuant to the applicable provisions of the WADC and the International Standards and shall be interpreted in a manner that is consistent with applicable provisions of the WADC and the International Standards. The WADC and the International Standards shall be considered integral parts of this Code and shall prevail in case of conflict.
- 23.10** The comments annotating various provisions of this Code shall be used to interpret this Code.
- 23.11** This Code shall enter into force on 1 January 2021 (**Effective Date**). They repeal any previous version of AFL’s Anti-Doping Code.
- 23.12** This Code shall not apply retroactively to matters pending before the Effective Date. However:
- 23.12.1** Anti-doping rule violations taking place prior to the Effective Date count as "first violations" or "second violations" for purposes of determining sanctions under Article 10 for violations taking place after the Effective Date.
- 23.12.2** 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, shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, and not by the substantive anti-doping rules set out in this Code, unless the panel hearing the case determines the principle of “lex mitior” appropriately applies under the circumstances of the case. For these purposes, the retrospective periods in which prior violations can be considered for purposes of multiple violations under Article 10.9.4 and the statute of limitations set forth in Article 16 are procedural rules, not substantive rules, and should be applied retroactively along with all of the other procedural rules in this Code (provided, however, that Article 16 shall only be applied retroactively if the statute of limitations period has not already expired by the Effective Date).
- 23.12.3** Any Article 2.4 whereabouts failure (whether a filing failure or a missed test, as those terms are defined in the International Standard for Results Management) prior to the Effective Date shall be carried forward and may be relied upon, prior to expiry, in accordance with the International Standard for Results Management, but it shall be

deemed to have expired twelve months after it occurred.

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

**23.12.5** For purposes of assessing the period of Ineligibility for a second violation under Article 10.9.1, where the sanction for the first violation was determined based on rules in force prior to the Effective Date, the period of Ineligibility which would have been assessed for that first violation had this Code been applicable, shall be applied.<sup>74</sup>

**23.12.6** Changes to the Prohibited List and Technical Documents relating to substances or methods on the Prohibited List shall not, unless they specifically provide otherwise, be applied retroactively. As an exception, however, when a Prohibited Substance or a Prohibited Method has been removed from the Prohibited List, an Athlete or other Person currently serving a period of Ineligibility on account of the formerly Prohibited Substance or Prohibited Method may apply to AFL or other Anti-Doping Organisation which had Results Management responsibility for the anti-doping rule violation to consider a reduction in the period of Ineligibility in light of the removal of the substance or method from the Prohibited List.

## **24 Delegation**

**24.1** The AFL General Counsel may delegate any of his or her obligations and powers under this Code in writing to any corporation, person or entity as he or she deems appropriate, and in which instance references to "AFL General Counsel" in this Code will be deemed to include the corporation, person or entity to whom the obligations and powers have been so delegated.

**24.2** For the avoidance of doubt, the AFL may delegate any of its rights and obligations under this Anti-Doping Policy to any Affiliated State or Territory Body. In such case, any reference to the AFL General Counsel will be deemed a reference to the General Manager or CEO of that Affiliated State or Territory Body.

**24.3** This Code is deemed to form part of the AFL Rules, where applicable.

## **25 Application of Code**

**25.1** This Code applies to:

**25.1.1** Athletes, whether in or out of competition;

**25.1.2** Clubs and their Officers and employees;

**25.1.3** AFL Officers and employees;

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<sup>74</sup> Other than the situation described in Article 24.7.5, where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date and the period of Ineligibility imposed has been completely served, these Anti-Doping Rules may not be used to re-characterize the prior violation.]

- 25.1.4** Athlete Support Persons;
  - 25.1.5** Delegated Third Parties and their employees and Officers; and
  - 25.1.6** any other Person who is required to comply with this Code from time to time.
- 25.2** Any Athlete, Club, Officer, Athlete Support Person or other Person to whom this Code applies who commits an anti-doping rule violation or otherwise breaches the provisions of this Code is liable to the sanctions provided by this Code.
- 25.3** A Club will be deemed to have breached this Code should any of its Officers or Athlete Support Persons breach this Code and the Club may be sanctioned by the AFL in addition to the Officers or Athlete Support Persons concerned.
- 25.4** This Code shall apply to the AFL and all its member or affiliate organisations, including competitions conducted by or under the auspice of an Affiliated State or Territory Body.

## **26 Powers of AFL and SIA**

- 26.1** As recognised in this Code, under the SIA Act and the NAD Scheme, SIA has the legislative authority to:
- 26.1.1** initiate and conduct Sample collection of AFL Athletes at SIA's cost;
  - 26.1.2** investigate possible violations of the anti-doping rules under the SIA Act and the NAD Scheme for Athlete and Athlete Support Persons under the jurisdiction of the AFL; and
  - 26.1.3** present its findings and its recommendations as to consequences at hearings of the Tribunal, the NST or CAS, either at the AFL's request or on its own initiative.
- 26.2** The AFL has a responsibility to encourage and promote competition free from Prohibited Substances and Methods and to prevent doping practices in sport.
- 26.3** SIA agrees, unless advised otherwise by the AFL, that the AFL retains all functions and powers relating to this Code, including all functions and powers relating to investigations, the issuing of an infraction notice, the convening of hearings, the presentation of allegations of any anti-doping rule violations at a hearing and all matters incidental thereto. For the avoidance of doubt, the CEO of SIA delegates results management responsibility to the AFL pursuant to clause 1.02(f) of the NAD Scheme.
- 26.4** The AFL recognises that SIA may carry out its own investigations of possible anti-doping rule violations.
- 26.5** In recognising SIA's charter to conduct its own investigations pursuant to article 26.4, the AFL and SIA agree that:
- 26.5.1** any investigations undertaken by SIA will be at no cost to the AFL;
  - 26.5.2** the AFL will act on SIA's findings on such investigations in good faith in accordance with this Code;
  - 26.5.3** SIA will as soon as reasonably practicable inform the AFL of any intention to conduct an investigation that might reasonably be expected to result in an anti-doping rule violation under this Code and will provide regular reports to the AFL on SIA's conduct

of the anti-doping functions subject to SIA's enabling legislation.

## Part 2

### 27 AFL Treatment Rules

#### 27.1 Application of This Article

- 27.1.1** This Article 27 sets out the AFL's rules in relation to the Use of Treatments by, and Administration of Treatments to, various persons and is a key component of the AFL's integrity program.
- 27.1.2** This Article operates independently from the Anti-Doping Rule Violations set out in Article 2 and the sanctions that may be imposed by the AFL in accordance with Article 27.10 in relation to any contravention of this Article 27 are separate and independent from the sanctions which apply under Article 10.
- 27.1.3** For the avoidance of doubt, the AFL is responsible for implementation of, and monitoring compliance with, this Article 27 including issuing any sanctions for non-compliance and neither an Anti-Doping Organisation nor WADA has any power, function or jurisdiction in relation to the matters set out in this Article 27.
- 27.1.4** For the purposes of this Article 27, if an Athlete, Club or Official assists, encourages, aids, abets, covers up or is complicit in a breach of this Article, the relevant Athlete, Club or Official will be in breach of the relevant Article and liable to be sanctioned by the AFL in accordance with Article 27.10.
- 27.1.5** In the event of a possible Anti-Doping Rule Violation, the Athlete or Athlete Support Person will be subject to the provisions of Part 1 of this Code, in addition to the provisions of Part 2 of this Code.

#### 27.2 Certain Treatments and Providers Prohibited or Controlled

- 27.2.1** The General Counsel may determine from time to time, in its sole discretion and subject to such conditions as it deems fit, that:
  - 27.2.1.1** a Treatment or class of Treatment is to be an AFL Prohibited Treatment by including the relevant Treatment or class of Treatment on the AFL Prohibited Treatments List;
  - 27.2.1.2** a person or class of person is a Prohibited Provider by including the relevant person or class of person on the Prohibited Providers List;
  - 27.2.1.3** a Treatment or class of Treatment is a Controlled Treatment by including the relevant Treatment or class of Treatment on the Controlled Treatments List;
- 27.2.2** The General Counsel may amend the AFL Prohibited Treatments List, the Controlled Treatments List and the Prohibited Providers List from time to time by giving notice in writing to each Club and the AFL.

#### 27.3 Offence to Use AFL Prohibited Treatments or Prohibited Providers

- 27.3.1** No Athlete may Use, and no Official or Club by itself or its Officers, servants or agents, may permit or allow any Athlete to be Administered any AFL Prohibited Treatment.

**27.3.2** No Athlete, and no Official or Club by itself or its Officers, servants or agents, may permit or allow a Prohibited Provider to act as a Provider with respect to a Athlete.

**27.4** Offence to possess AFL Prohibited Treatments and Prohibited Substances

**27.4.1** An Athlete must not have in his Possession or control at any time an AFL Prohibited Treatment without the prior written approval of the General Counsel.

**27.4.2** A Club must not have on its premises any Prohibited Substance or AFL Prohibited Treatment at any time without the prior written approval of the General Counsel.

**27.4.3** No Person may permit a Prohibited Substance or AFL Prohibited Treatment to be brought onto the premises of the Club or to any AFL Venue without the prior written approval of the General Counsel.

**27.4.4** A Club must take reasonable steps to ensure that all substances to be provided to Athletes as a Treatment are stored in a central, secure location, access to which is limited to authorised persons and that a proper inventory system for such substances is maintained. The General Counsel may issue minimum standards with respect to this requirement.

**27.5** No Needles Policy

**27.5.1** Subject to Article 27.5.2, no Athlete may Use, and no Official or Club by itself or its Officers, servants or agents, may permit or allow any Athlete to be Administered any substance by injection without the prior approval of the General Counsel.

**27.5.2** Article 27.5.1 does not apply to an injection that is:

**27.5.2.1** administered by an appropriately qualified medical professional in accordance with this Article 27; and

**27.5.2.2** necessary to treat a legitimate medical condition – meaning that there is no reasonable alternative way of treating the legitimate medical condition other than by injection.

**27.5.3** Save for the Club Medical Officer, no Person may have in their Possession any object or material used for an injection or any injectable substance without the prior approval of the General Counsel.

**27.5.4** For the purpose of this Article 27, “injection” includes any type of injection including intravenous, intra-articular, subcutaneous, peri-articular, peri-tendinous, epidural, intradermal, etc., but does not include “dry needling”.

**27.6** Approval of Controlled Treatments by Club Medical Officer

**27.6.1** Subject to Article 27.6.3, 27.6.4 and 27.6.5, no Athlete may use, and no Official, or Club by itself or its Officers, servants or agents, may, fund, permit or allow any Athlete to be Administered any Controlled Treatment, unless the Controlled Treatment is recorded on the Controlled Treatments Register.

**27.6.2** The General Counsel may prescribe the form of approval referred to in Article 27.6.1 in respect of certain Treatments or classes of Treatments.



- 27.6.3** Article 27.6.1 does not apply to a medical emergency situation where it is not possible to first seek the approval of the Club Medical Officer.
- 27.6.4** Where it is not reasonably practicable for the Club Medical Officer to provide his prior approval in writing under Article 27.6.1, the Club Medical Officer may initially provide his approval verbally, with recording on the Controlled Treatment Register to follow as soon as reasonably practicable and no later than 24 hours after the verbal approval is given.
- 27.6.5** The General Counsel may declare further exceptions to Article 27.6.1 by notice in the Controlled Treatments List.

## **27.7** Controlled Treatments Register

- 27.7.1** Each Club must keep and maintain a complete, accurate and up to date Controlled Treatments Register.
- 27.7.2** Each Athlete must ensure and accept that their Controlled Treatment Register is accurate on a weekly basis.
- 27.7.3** The Controlled Treatments Register shall include:
  - 27.7.3.1** a record of all Controlled Treatments Administered to the Athlete which the Club funds or authorises.
  - 27.7.3.2** such details as are prescribed by the General Counsel with respect to such Treatments.
- 27.7.4** A Club must provide the necessary support and information to enable each Athlete to complete the Controlled Treatments Register from time to time.
- 27.7.5** A Club must procure from relevant Providers such details as are required to be maintained in the Controlled Treatments Register.

## **27.8** Doping Control Form Declarations

Each Athlete must record all Treatments used by or administered to him on the doping control form at the time of providing a Sample.

## **27.9** Conduct Unbecoming

No Person may engage in conduct in relation to any AFL Prohibited Treatment, Prohibited Substance or Prohibited Method that is unbecoming or likely to prejudice the interests or reputation of the AFL or bring the game of football into disrepute.

## **27.10** Sanctions for AFL Treatment Rules

Where the AFL Commission or General Counsel determines that a Club or Person has committed a breach of this Article 27, the Club or Person will be sanctioned as the AFL Commission or General Counsel deems appropriate in their sole and absolute discretion, unless the AFL Commission or General Counsel determines such breach should be referred to the Tribunal for determination, in which case the Tribunal may determine the sanction in its sole and absolute discretion. For the avoidance of doubt, Article 10 of this Code will not apply to breaches of this Article 27.

### **27.11 Appeals Regarding Contravention of AFL Treatment Rules**

An Athlete, Club or other person to whom the AFL Treatment Rules apply may appeal a decision of the AFL General Counsel in respect of a breach of the AFL Treatment Rules to the Appeals Board on a question of law only. For the avoidance of doubt, neither WADA nor SIA shall have any right of appeal with respect to any matters involving the AFL Treatment Rules unless the conduct also falls under the Anti-Doping Violation section. For the avoidance of doubt, Article 13 of this Code will not apply to breaches of this Article 27.

### **28 AFL Screening and Risk Analysis**

Notwithstanding any other provision of this Code, the AFL may conduct its own sample collection from Athletes and the screening/analysis of such samples for intelligence purposes and developing the strategic direction of the AFL's anti-doping program.

### **29 Statistical Analysis**

The Testing Authority may screen all Samples provided by Athletes for the presence of substances not prohibited under this Code at the request of the AFL from time to time. This screening will be for statistical and research purposes. The Testing Authority will notify the AFL General Counsel of the results of the screening and the Athlete's Club. The Testing Authority must not notify any other person of the name of any Athlete, or details from which the identity of the Athlete might reasonably be determined, whose sample is found to have contained such substances or to take any other steps arising from the presence of such substances.

### **30 Notification of approach to engage in prohibited conduct**

**30.1** Any person who directly or indirectly, formally or informally receives an approach or invitation from any other person to engage in any conduct prohibited by this Code, must as soon as practicable, advise and provide a written statement containing full details of such approach or invitation to the General Counsel.

**30.2** A person must as soon as practicable advise and provide full details to the General Counsel of any incident, fact, or matter that comes to their attention that may evidence an offence under this Code by another party, including, without limitation, approaches or invitations that have been received by any other party engaged in conduct that may amount to a breach of this Code.

### **31 Drug Rehabilitation Program**

An Athlete who is found to have returned an Adverse Analytical Finding for Doping may be required by the Tribunal to undergo a drug rehabilitation programme in addition to any other sanction imposed. A first-time offending Athlete who refuses or fails to undertake any required drug rehabilitation programme will automatically receive a 22 Match suspension in addition to any other sanction already imposed by the Tribunal. Any subsequent refusal or failure by a first-time offending Athlete, or a refusal by a second time offending Athlete, will automatically incur a lifetime suspension.