

# **Sports Anti-Doping Rules (2007)**

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

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## INTRODUCTION

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

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

The *Rules* contain the core anti-doping Articles from the *Code* (Article 1 (Definition of Doping), Article 2 (*Anti-Doping Rule Violations*), Article 3 (Proof of Doping), Article 9 (Automatic *Disqualification* of Individual Results), Article 10 (Sanctions on Individuals), Article 11 (*Consequences* to Teams), Article 13 (Appeals) with the exception of Article 13.2.2, Article 17 (Statute of Limitations) and Definitions. The *Rules* also provide for the application of *International Standards* established by *WADA*, in particular the *Prohibited List*, the *International Standard* for *Testing* (and applicable *WADA* Guidelines for *Sample* Collection), the *International Standard* for Laboratories and the *International Standard* for therapeutic use exemptions.

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

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

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

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

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

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

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

# 1 APPLICATION OF THESE RULES

1.1 The *Rules* apply to:

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

the *Rules* with a *National Sporting Organisation*, regardless of where the *Persons* reside or are situated; or

(iii) are *Participants* who agree to the *Rules* as part of the conditions of participation in any capacity in any activity organised, held, convened or authorised by a *National Sporting Organisation* or one or more of its member organisations, clubs, teams, associations, leagues or other organisations, regardless of whether the *Person* is a member of any such organisation; or

(iv) otherwise agree to the *Rules*; and

(f) the *Sports Tribunal* and any *NSO Anti-Doping Tribunal* established in accordance with the *Rules*;

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

1.2.1 A *National Sporting Organisation* may agree to the *Rules* by incorporating them by reference into its governing documents, constitution, rules or anti-doping policies so that the *Rules* form part of the rules of the *National Sporting Organisation* and govern the rights and obligations of all *Persons* who are subject to the *Rules* of the *National Sporting Organisation*. A *National Sporting Organisation* may also adopt the *Rules* as its anti-doping policy or anti-doping rules.

1.2.2 By agreeing to the *Rules*, *National Sporting Organisations*:

(a) recognise and accept the authority and responsibility of *DFS* as the sole *National Anti-Doping Organisation* in New Zealand for implementing the *Code*; and

(b) authorise *DFS* to carry out *Doping Control*, to investigate *Anti-Doping Rule Violations* under the

*Rules* and to present evidence in support of *Anti-Doping Rule Violations* before the *Sports Tribunal* or an *NSO Anti-Doping Tribunal*.

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

1.2.3 A *National Sporting Organisation* that has agreed to the *Rules* will take all reasonable steps to ensure that any *Person* who wishes to take part in any event, competition or activity organised or authorised by it who is not a member of the *National Sporting Organisation* or who has not otherwise agreed to be bound by the *Rules*, agrees to be bound by the *Rules*.

1.2.4 A *National Sporting Organisation* that has agreed to the *Rules* must ensure that any *Person* who is not a member of the *National Sporting Organisation* but who wishes to participate in *International Events* or *Events* organised, sanctioned or authorised by the *National Sporting Organisation* and who fulfills the requirements to be part of *DFS's Registered Testing Pool*, becomes either a member of the *National Sporting Organisation* and/or agrees to make himself or herself available for *Testing*, at least twelve (12) months before participating in any *International Event* or in any *Event*.

1.2.5 Nothing in the *Rules* shall be interpreted as limiting the functions of *DFS* under the *Act* and its obligations as a *Signatory* to the *Code*. Nothing in the *Rules* prevents *DFS* from collecting *Samples* from *Athletes* and arranging for *Testing* and reporting of the results of *Testing* or undertaking any other anti-doping activity or

investigation in accordance with any agreement or arrangement with any other *Anti-Doping Organisation*, International Federation, *Signatory* to the *Code* or any *National Sporting Organisation* which has not agreed to the *Rules*, or in accordance with any obligation under the *Act* or *Code*.

1.2.6 *DFS* will encourage and assist *National Sporting Organisations* to agree to the *Rules*, and will encourage all *Participants* and *Persons* to agree to take part in sport on the basis of the *Rules*.

1.2.7 Where a *National Sporting Organisation* is a member of an International Federation and is bound by the *Rules* and the anti-doping rules of the International Federation and there is a conflict or inconsistency between the *Rules* and the anti-doping rules of the International Federation, the rules of the International Federation will prevail, solely to the extent of any inconsistency or conflict. The anti-doping rules of the International Federation must comply with the *Code* if they are to prevail over the *Rules*.

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

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

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

- (a) World Anti-Doping Agency Prohibited List 2007;
- (b) World Anti-Doping Agency International Standard for Therapeutic Use Exemptions that came into effect on 1 January 2005;
- (c) World Anti-Doping Agency International Standard for Testing, version 3.0, June 2003;
- (d) World Anti-Doping Agency Guidelines for Blood Sample Collection, version 5.0, January 2006;
- (e) World Anti-Doping Agency Guidelines for Urine Sample Collection, version 4.0, June 2004;
- (f) World Anti-Doping Agency International Standard for Laboratories, version 4.0, August 2004; and
- (g) Addendum to the World Anti-Doping Agency International Standard for Laboratories, version 1.0, July 2004.

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

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

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

#### **3.1 The presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Bodily Specimen*.**

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

*Violation* under 3.1.

3.1.2 Excepting those substances for which a quantitative reporting threshold is specifically identified in the *Prohibited List*, the detected presence of any quantity of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample* shall constitute an *Anti-Doping Rule Violation*.

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

**3.2 *Use or Attempted Use of a Prohibited Substance or a Prohibited Method***

3.2.1 The success or failure of the *Use* of a *Prohibited Substance* or *Prohibited Method* is not material. It is sufficient that the *Prohibited Substance* or *Prohibited Method* was *Used* or *Attempted* to be *Used* for an *Anti-Doping Rule Violation* to be committed.

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

**3.4 Violation of the requirements regarding *Athlete* availability for *Out-of-Competition Testing* including failure to provide whereabouts information required by *DFS* or any other *Anti-Doping Organisation* and missed tests which are declared by *DFS* under the *Rules*.**

**3.5 *Tampering*, or *Attempting* to tamper, with any part of *Doping Control*.**

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

3.6.1 *Possession* by an *Athlete* at any time or place of a *Prohibited Substance* that is prohibited in *Out-of-Competition Testing* or a *Prohibited Method* unless the

*Athlete* establishes that the *Possession* is pursuant to a *TUE* granted in accordance with Rule 5.4 (TUEs) or other acceptable justification.

3.6.2 *Possession of a Prohibited Substance* that is prohibited in *Out-of-Competition Testing* or a *Prohibited Method* by *Athlete Support Personnel* in connection with an *Athlete*, *Competition* or training, unless the *Athlete Support Personnel* establishes that the *Possession* is pursuant to a *TUE* granted to an *Athlete* in accordance with Rule 5.4 (TUEs) or other acceptable justification.

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

**3.8 *Administration or Attempted administration of a Prohibited Substance or Prohibited Method to any Athlete, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an Anti-Doping Rule Violation or any Attempted Violation.***

## **4 PROOF OF DOPING**

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

4.1.1 *DFS* has the burden of establishing that an *Anti-Doping Rule Violation* has occurred. The standard of proof shall be whether *DFS* has established an *Anti-Doping Rule Violation* to the comfortable satisfaction of the *Sports Tribunal* or *NSO Anti-Doping Tribunal*, bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.

4.1.2 Where these *Rules* place the burden of proof upon the *Athlete* or other *Person* alleged to have committed an *Anti-Doping Rule Violation* to rebut a presumption or establish specified facts or circumstances, the standard of

proof shall be by a balance of probability.

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

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

4.2.1 WADA-accredited laboratories are presumed to have conducted *Sample* analysis and custodial procedures in accordance with the *International Standard for Laboratories*. The *Athlete* may rebut this presumption by establishing that a departure from the *International Standard* occurred. If the *Athlete* rebuts the preceding presumption by showing that a departure from the *International Standard* occurred, then *DFS* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*.

4.2.2 Departures from the *International Standard for Testing* which did not cause an *Adverse Analytical Finding* or other *Anti-Doping Rule Violation* shall not invalidate such results. If the *Athlete* establishes that departures from the *International Standard* occurred during *Testing* then *DFS* shall have the burden to establish that such departures did not cause the *Adverse Analytical Finding* or the factual basis for the *Anti-Doping Rule Violation*.

## **5 THE PROHIBITED LIST**

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

5.1.1 The Rules adopt and incorporate the *Prohibited List 2007*.

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

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

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

**5.3 *Substances and Methods on the Prohibited List***

WADA's determination of the *Prohibited Substances* and *Prohibited Methods* that shall be included on the *Prohibited List* shall be final and shall not be subject to challenge by an *Athlete* or other *Person*.

**5.4 *TUEs***

5.4.1 The Rules adopt and incorporate the *WADA International Standard* for Therapeutic Use Exemptions.

5.4.2 *Athletes* subject to the *Rules* with a medical condition requiring the *Use* of a *Prohibited Substance* or a *Prohibited Method*, shall obtain a *TUE* from *DFS* or an International Federation.

5.4.3 *DFS* shall at all times have policies and procedures for the application for *TUEs* and for consideration of such applications.

**5.5 *Therapeutic Use Exemption Committee (TUE Committee)***

5.5.1 *DFS* shall appoint a *TUE Committee* to consider applications for *TUEs*. The *TUE Committee* shall be established according to the requirements of the *International Standard* for Therapeutic Use Exemptions. Where members of the *TUE Committee* have an interest in individual *National Sporting Organisations* or International Federations, they are excluded from considering applications for *TUEs* from *Athletes* who are members of the same individual *National Sporting Organisations* or International Federations.

5.5.2 The *TUE Committee* member(s) shall promptly evaluate

any request for a *TUE* in accordance with the *International Standard* for *TUEs* and render a decision on such request, which shall be the decision of *DFS*.

5.5.3 *DFS* and the *TUE Committee* shall conduct the administration and determination of applications for *TUEs* in strict confidence.

## 6 TESTING

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

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

### 6.2 Testing

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

### 6.3 Testing at Events

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

*Control Samples* shall be initiated and directed by *DFS*.

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

##### **6.4.1 Registered Testing Pool**

*DFS* shall identify a *Registered Testing Pool*, and shall revise its *Registered Testing Pool* from time to time as appropriate. Each *National Sporting Organisation* shall assist *DFS* in identifying and maintaining the *DFS Registered Testing Pool*. *National Sporting Organisations* shall take all reasonable steps to ensure that *Athletes* who seek to be selected in the New Zealand team of a *National Sporting Organisation* for any Olympic, Paralympic or Commonwealth Games agree to be bound by the *Rules* and who meet any additional criteria set out by *DFS* are included in the *DFS Registered Testing Pool* for at least a year before the date of the commencement of the Games for which they seek selection.

##### **6.4.2 Whereabouts Information**

*DFS* shall notify each *Athlete* of their inclusion in the *Registered Testing Pool* and advise each *Athlete* of their obligations under the *Rules*. Each *Athlete* in the *Registered Testing Pool* will be responsible for providing whereabouts information to *DFS* in the manner and form required by *DFS*. Each *Athlete* will ensure that the information is kept current and complete at all times. Where an *Athlete* is required to provide whereabouts information to their International Federation, the *Athlete* shall provide a copy of that information to *DFS* at the same time.

6.4.3 Where an *Athlete* in the *DFS Registered Testing Pool* has failed to submit whereabouts information or has submitted inadequate whereabouts information and has been given a written warning on 2 occasions by *DFS* in a period of 12 months, *DFS* will review the failures under Rule 9.4 in

order to determine whether to bring *Violation Proceedings* against the *Athlete*.

#### 6.4.4 **Missed Tests**

Where *DFS* attends at a location given by the *Athlete* in whereabouts information provided by the *Athlete* to conduct *Testing* and the *Athlete* is not at the location, *DFS* will take all reasonable steps to locate the *Athlete* at the location. If the *Athlete* cannot be located the failure to be present for *Testing* will be reported as a missed test. Where there is a report of a missed test, *DFS* will review the circumstances set out in the report and may issue a written warning to the *Athlete* in relation to the missed test. Where an *Athlete* has been the subject of 2 written warnings in relation to missed tests in a period of 12 months, *DFS* will review the information concerning the missed tests under Rule 9.4 to determine whether to bring *Violation Proceedings* against the *Athlete*.

6.4.5 Where an *Athlete* has been given 1 written warning for a failure to provide whereabouts information under Rule 6.4.2 and has also been given 1 written warning for a missed test under Rule 6.4.4 within a period of 12 months, *DFS* will review the matter under Rule 9.4 in order to determine whether to bring *Violation Proceedings* against the *Athlete*.

#### 6.5 **Selection of Athletes to be Tested**

*DFS* shall select *Athletes* for *Testing* through a process that complies with the *International Standard for Testing*. In this regard, *No Advance Notice* shall be the preferred method of notification for *Out-of-Competition Testing*.

#### 6.6 **Testing of Minors**

*Testing* of *Minors* will be carried out by *DFS* under the *Rules* in the

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

#### **6.7 Independent Observer Program**

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

## **7 ANALYSIS OF SAMPLES**

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

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

### **7.2 Utilisation of Approved Laboratories**

*DFS* shall send *Doping Control Samples* collected under the *Rules* for analysis to *WADA*-accredited laboratories or to laboratories which have been otherwise approved by *WADA*. The choice of the *WADA*-accredited laboratory used for the *Sample* analysis shall be determined exclusively by *DFS*. Laboratories shall analyse *Doping Control Samples* and report results in conformity with the *International Standard* for Laboratories.

### **7.3 Substances Subject to Detection**

*Doping Control Samples* shall be analysed to detect *Prohibited Substances* and *Prohibited Methods* identified on the *Prohibited List* and

other substances as may be directed by WADA pursuant to the Monitoring Program described in Article 4.5 of the *Code*.

#### **7.4 Research on *Samples***

No *Sample* may be used for any purpose other than the detection of substances (or classes of substances) or methods on the *Prohibited List*, or as otherwise identified by WADA pursuant to its Monitoring Program, without the *Athlete's* written consent.

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

Where *DFS* carries out or attempts to carry out *Sample* collection it will obtain all relevant information and complete all appropriate documentation to support any possible allegation that there has been a refusal to submit to *Sample* collection contrary to Rule 3.3 or any other *Anti-Doping Rule Violation* under Rules 3.2. to 3.8. Information obtained before, during, or after *Sample* collection and completed documentation will be forwarded to *DFS* by the Doping Control Officer for further consideration and investigation by *DFS*.

### **9. MANAGING RESULTS**

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

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

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

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

- 9.2.1 *DFS shall identify from the Doping Control Form all Athletes whose Samples have resulted in a Negative Analytical Finding.*
- 9.2.2 *DFS will notify Athletes or any representative of Negative Analytical Findings.*
- 9.2.3 All documentation from the *Sample* collection and the notification of *Negative Analytical Findings* shall be retained by *DFS* for a minimum of eight (8) years.

### **9.3 Adverse Analytical Findings**

- 9.3.1 Initial Review
  - 9.3.1.1 Upon receipt of an *Adverse Analytical Finding*, *DFS* will review the laboratory report and decide whether there is any applicable *TUE* in effect. If *DFS* decides that there is an applicable *TUE* in effect, it will take no further action in relation to the *Adverse Analytical Finding*.
  - 9.3.1.2 Upon receipt of an *Adverse Analytical Finding*, *DFS* shall review the documentation relating to the *Sample Collection Session* (including the *Doping Control Form*, *Doping Control Officer Report* and other Records), and the laboratory analysis for any departure from the *International Standard for Testing*.
  - 9.3.1.3 If there is any departure shown by the documentation, *DFS* shall decide whether the departure can be considered to undermine the validity of the *Adverse Analytical Finding*.
  - 9.3.1.4 If *DFS* considers that departures undermine the validity of the *Adverse Analytical*

*Finding*, DFS shall declare the test result void.

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

### 9.3.2 Notification After Initial Review

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

9.3.2.2 The notice will further set out the *Athlete's* right to request the analysis of the B *Sample* within 5 working days of service of the notice and that, if the *Athlete* fails to make a request within the time limit, the B *Sample* analysis will be deemed waived and the A *Sample* finding used. The notice will set out

the right of the *Athlete* to attend the B *Sample* opening and analysis if such analysis is requested, whether in person or by a representative, the other parties that will be notified of the A *Sample Adverse Analytical Finding*, and the *Athlete's* right to request copies of the A and B *Sample* Laboratory report including the information required by the *International Standard for Laboratories*.

9.3.2.3 *DFS* will give notice of the *Adverse Analytical Finding* to the *Athlete's National Anti-Doping Organisation* (where applicable), the relevant *National Sporting Organisation*, the relevant International Federation, *WADA* and any other relevant *Anti-Doping Organisation* not later than the end of the process of the initial review of the *Adverse Analytical Finding*. The notice will contain the information set out in Rule 9.3.2.1.

9.3.2.4 Where the *Athlete* requests that the B *Sample* be analysed, *DFS* will contact the laboratory to establish the date and timing of the testing of the B *Sample*, and will notify the *Athlete* of that date no later than 5 working days after the *Athlete's* request for the analysis of the B *Sample*. The time for analysis of the B *Sample* may be extended by agreement. *DFS* will also notify the *Athlete* of the *Athlete's* right to attend, whether in person or by a representative, on the identification, opening and analysis of the B *Sample*. Where the *Athlete* or a

representative does not attend on the identification, opening and analysis of the B Sample, DFS will appoint an independent person to attend at the identification and opening of the B Sample.

9.3.2.5 Where the Athlete requests a B Sample analysis, DFS shall report the result of such an analysis to the relevant National Sporting Organisation, the relevant International Federation, WADA and any other relevant Anti-Doping Organisation.

9.3.2.6 If the B Sample analysis does not confirm the A Sample analysis, DFS will notify the Athlete that there has been a negative test and no further steps will be taken. If the B Sample analysis confirms the A Sample analysis, DFS will proceed under these Rules in relation to the Adverse Analytical Finding.

9.3.2.7 Where *DFS* is aware that the *Athlete* may be subject to the imposition of a *Provisional Suspension* under the rules of a *National Sporting Organisation*, *International Federation*, *Major Event Organisation* or other *Signatory* to the *Code*, it may, where notice has to be given to the *Athlete* as a matter of urgency, give verbal notice of the *Adverse Analytical Finding* to the *Athlete* and the other *Persons under Rule 9.3.2.3* and any other relevant *Persons*. Where notice is given verbally, notice will be confirmed in writing as soon as possible after the verbal notice.

#### **9.4 Other Anti-Doping Rule Violations**

9.4.1 In addition to carrying out *Testing* under the *International Standard for Testing* in relation to *Violations* under 3.1, *DFS* will carry out such investigations as it sees fit (whether arising from *Sample* collection or otherwise) into all matters which may be relevant to the commission of any *Violation* under Rules 3.2 to 3.8.

9.4.2 Where *DFS* has obtained documentation or information from *Sample* collection carried out under the *Rules* or from any other investigation which it has carried out, or from any other source, which may support an allegation that a *Violation* under Rule 3.2 to 3.8 has occurred, *DFS* will review that information and carry out any such further investigation as it sees fit, to decide whether, in its view, a *Violation* has occurred.

- 9.4.3 At any time during the course of an investigation *DFS* may ask to interview any *Participant* or any other *Person* who it believes may assist in the investigation. Where *DFS* requests such an interview, *DFS* will inform the *Participant* or *Person* who it wishes to interview that they can be accompanied by a representative to any interview if they wish.
- 9.4.4 *National Sporting Organisations, Participants* and any *Person* bound by these *Rules* shall refer to *DFS* all documentation, materials and information they receive or are made aware of, concerning any possible *Anti-Doping Rule Violation*, for investigation by *DFS*, regardless of whether or not such documentation, materials or information have been referred to a International Federation or any other organisation.
- 9.4.5 *National Sporting Organisations* and *Participants* shall take all reasonable steps to support any investigation conducted by *DFS* into the commission of any *Anti-Doping Rule Violation*. *National Sporting Organisations* shall take all reasonable steps to ensure that all *Participants* under their authority assist *DFS* in any investigation which it carries out under the *Rules*.

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

- 9.4.7 Where *DFS* is conducting an investigation into a possible *Violation* under Rules 3.2 to 3.8, *DFS* may notify the *National Sporting Organisation*, *International Federation*, *Major Event Organisation* or other relevant *Signatory* to the *Code* of the investigation and the information which it has obtained and the identity of the *Participant* or any other *Person* under investigation at any time before it has reached a decision on whether to bring *Violation Proceedings*, where *DFS* considers that such notification is necessary to allow for the consideration of the imposition of a *Provisional Suspension* under Rule 12 or otherwise.
- 9.4.8 At any stage in an investigation *DFS* may decide that it will bring *Violation Proceedings*. Where *DFS* so decides, it will proceed to notify its decision and bring the *Violation Proceedings* as set out in Rule 10.

## 10 NOTIFICATION AND REFERRAL TO THE SPORTS TRIBUNAL

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

Where:

- (a) there has been an *Adverse Analytical Finding* and, after *DFS* has carried out the steps under Rule 9.3 which are applicable, *DFS* considers that an Anti-Doping Rule Violation has been committed under Rule 3.1; or
- (b) after considering and assessing documentation or information obtained or provided during any investigation under Rule 9.4 and any further matters which it considers relevant, *DFS* considers that an *Anti-Doping Rule Violation* under Rules 3.2. to 3.8 has occurred and decides that it will bring *Violation Proceedings* against any *Participant* or other *Person*,

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

### 10.2 Notice to Organisations

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

*Violation* and providing the details which are given to the *Participant* or *Person* under Rule 10.1.

### **10.3 Provisional Suspension**

After a *Participant* or other *Person* has been notified of an alleged *Anti-Doping Rule Violation* under the *Rules*, whether under Rule 9.3.2.7, 9.4.7 or Rule 10.1, the *National Sporting Organisation* will take steps under Rule 12 to initiate consideration of whether to impose a *Provisional Suspension*.

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

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

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

## 11 RIGHT TO INFORMATION

Subject to the provisions of sections 27 to 29 of the Privacy Act 1993 and subject to any other good reason to withhold information under statute or the common law, any *Person* who is notified by *DFS* under these *Rules* that they may be the subject of *Violation Proceedings*, will be entitled to copies of all of the documentation relevant to the allegation that there has been an *Anti-Doping Rule Violation*, and *DFS* shall provide this to the *Person* or their representative upon request.

## 12 PROVISIONAL HEARINGS AND SUSPENSIONS

12.1 Where a *National Sporting Organisation* has received notice of an alleged *Anti-Doping Rule Violation* under Rules 9.3.2.7, 9.4.7 or 10.2 from *DFS* against a *Person* who is subject to the *Rules*, the *National Sporting Organisation* shall refer the question whether to impose a *Provisional Suspension* under the *Rules* to the *Sports Tribunal*, and *DFS* and the *National Sports Organisation* will provide the *Sports Tribunal* with the information relevant to the alleged *Anti-Doping Rule Violation*. Where a *National Sporting Organisation* has established an *NSO Anti-Doping Tribunal*, the *National Sporting Organisation* shall refer the question of whether to impose a *Provisional Suspension* to that *Tribunal* for consideration in accordance with the rules of the *NSO Anti-Doping Tribunal*. Every reference to the *Sports Tribunal* in Rule 12 shall apply to any *NSO Anti-Doping Tribunal* dealing with the question whether to impose a *Provisional Suspension*.

12.2 Where a *National Sporting Organisation* has referred the question whether to impose a *Provisional Suspension* to the *Sports Tribunal*, the *Sports Tribunal* will either notify the *Person* who may be subject to a *Provisional Suspension* that it will hold an urgent provisional hearing before deciding whether to impose a *Provisional Suspension*, or will decide whether to impose a *Provisional Suspension* on the material before it, without hearing from the *Person* upon whom a *Provisional Suspension* may be imposed.

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

- 12.7 A decision by the *Sports Tribunal* in relation to a *Provisional Suspension* will be notified to the *Participants* or *Persons* who have been notified of the alleged *Violation* under these *Rules*, but will otherwise remain confidential until publication of the final decision on the *Anti-Doping Rule Violation*, unless the *Sports Tribunal* considers that it is in the interests of the *National Sporting Organisation* and its members that the decision in relation to the *Provisional Suspension* be *Publicly Reported*.
- 12.8 A *Provisional Suspension* may be imposed where the *Sports Tribunal* is satisfied that there is a *prima facie* case that a *Violation* has been committed and that it is appropriate in the circumstances to impose a *Provisional Suspension*.
- 12.9 A *Person* who is subject to a *Provisional Suspension* may not take part in any way in any event or activity, organised, sanctioned or authorised by the *National Sporting Organisation* or any member organisation or club of the *National Sporting Organisation* or by any *Person* in any way connected with the *National Sporting Organisation*. The *National Sporting Organisation* shall take all necessary steps to have the *Provisional Suspension* recognised by other *Anti-Doping Organisations*.
- 12.10 All provisional hearings or expedited hearings by the *Sports Tribunal* must be conducted in accordance with Articles 7.5 and 8 of the *Code* and in accordance with the rules and procedures of the *Sports Tribunal*.
- 12.11 Where a *Provisional Suspension* has been imposed after an *A Sample Adverse Analytical Finding*, the *Athlete* has requested that the *B Sample* analysis be conducted and the *B Sample* analysis does not confirm the *A Sample* analysis, then the *Provisional Suspension* shall be rescinded by the *Sports Tribunal* or *NSO Anti-Doping Tribunal* immediately upon receiving notice from *DFS* that the *B Sample* analysis does not confirm the *A Sample* analysis.

- 12.12 Where the *Athlete* or the *Athlete's* team has been removed from a *Competition* or *Event* following a *Provisional Suspension* and the *Provisional Suspension* is then rescinded, and it is still possible for the *Athlete* or team to be reinstated without otherwise affecting the *Competition* or *Event*, the *Athlete* or team shall be allowed to continue to take part in the *Competition* or *Event*.
- 12.13 If *DFS* declares that there has been no *Anti-Doping Rule Violation*, at a time when a *Provisional Suspension* is in effect, it shall immediately inform the *Athlete's* International Federation, *National Sporting Organisation*, any relevant *Signatory* to the *Code*, the *Sports Tribunal* or any *NSO Anti-Doping Tribunal* (where appropriate) and *WADA*.
- 12.14 When the *Sports Tribunal* or *NSO Anti-Doping Tribunal* receives notification from *DFS* of a declaration under Rule 12.13 that there has been no *Anti-Doping Rule Violation*, the *Sports Tribunal* or *NSO Anti-Doping Tribunal* shall immediately rescind any *Provisional Suspension*.

## 13 DISCIPLINARY PROCEDURE

### 13.1 Role of *Sports Tribunal*

- 13.1.1 Subject to Rule 13.1.2, the *Sports Tribunal* established under the *Act* is the body responsible for hearing and determining *Anti-Doping Rule Violations* referred to it by *DFS* under the *Rules*. In particular, the *Sports Tribunal* will determine whether an *Anti-Doping Rule Violation* has been committed and if so, the *Consequences* of the *Violation* for the *Athlete* or any other *Person* who has committed the *Violation*. The *Sports Tribunal* will regulate its own procedures and will provide a hearing which respects the principles in Article 8 of the *Code*.
- 13.1.2 A *National Sporting Organisation* may establish and nominate an *NSO Anti-Doping Tribunal* to hear *Anti-Doping Rule Violations* brought by *DFS* provided that the

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

## **13.2 Hearing Procedure**

- 13.2.1 Proceedings under the *Rules* must be completed in a timely manner, and should normally be completed within three (3) months of the date of notification of the *Violation Proceedings* to the *Sports Tribunal* by *DFS*.
- 13.2 Proceedings in connection with *Events* may be conducted on an expedited basis. Decisions may be given orally in the first instance but, in every case, written reasons for the decision will be given.

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

- 13.3.1 All hearings and deliberations before the *Sports Tribunal* in relation to *Anti-Doping Rule Violations* will be held in private and be confidential save where the parties otherwise agree.
- 13.3.2 Written decisions of the *Sports Tribunal* that an *Anti-Doping Rule Violation* has been committed shall be

*Publicly Reported* by the *Sports Tribunal* within 20 days of the time when the written decision is given in relation to the *Anti-Doping Rule Violation*. Interim rulings of the *Sports Tribunal* will remain confidential until a final decision in relation to the *Anti-Doping Rule Violation* has been given by the *Sports Tribunal* unless the *Sports Tribunal* considers that such a decision should be *Publicly Reported*. Decisions of the *Sports Tribunal* shall be advised to the parties to the proceedings, WADA, the relevant International Federation, any relevant *Anti-Doping Organisation* (and to the National Olympic Committee and *National Sporting Organisation* if not a party to the proceedings), by the *Sports Tribunal* as soon as practicable after the decision has been given.

13.3.3. Where the *Sports Tribunal* decides that no *Anti-Doping Rule Violation* has been committed, the decision of the *Sports Tribunal* will be notified to the parties and the organisations set out under Rule 13.3.2. The decision of the *Sports Tribunal* will be *Publicly Reported* in a summary form in a manner which does not identify the *Person* who was the subject of the allegation. Where the *Person* consents, or the *Sports Tribunal* considers that such a report of the decision is necessary in the circumstances of the particular proceedings, the *Sports Tribunal* may order that the decision be *Publicly Reported* in full identifying the *Person* who was the subject of the allegation.

## **13.4 Appeals**

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

## 13.5 Other Matters

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

## 14 SANCTIONS

### 14.1 Automatic Disqualification of Results

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

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

14.1.3 An *Anti-Doping Rule Violation* occurring during or in connection with an *Event* may, upon the decision of the

ruling body of the *Event*, lead to *Disqualification* of all of the *Athlete's* individual results obtained in that *Event* with all *Consequences*, including forfeiture of all medals, points and prizes, except as provided in Rule 14.1.4.

14 1.4 If the *Athlete* establishes that they bear *No Fault or Negligence* for the *Violation*, the *Athlete's* individual results in the other *Competitions* shall not be *Disqualified* unless the *Athlete's* results in *Competitions* other than the *Competition* in which the *Anti-Doping Rule Violation* occurred were likely to have been affected by the *Athlete's Anti-Doping Rule Violation*.

#### **14.2 Imposition of *Ineligibility* for *Prohibited Substances* and *Prohibited Methods***

Except for the specified substances identified in Rule 14.3, the period of *Ineligibility* imposed for a *Violation* of Rule 3.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*), Rule 3.2 (*Use* or *Attempted Use* of *Prohibited Substance* or *Prohibited Method*) and Rule 3.6 (*Possession* of *Prohibited Substances* and *Prohibited Methods*) shall be:

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

Second Violation: Lifetime *Ineligibility*.

However, the *Athlete* or other *Person* shall have the opportunity in each case, before a period of *Ineligibility* is imposed, to establish the basis for eliminating or reducing this sanction as provided in Rule 14.5 (*Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances*).

#### **14.3 Specified Substances**

The *Prohibited List* may identify specified substances which are particularly susceptible to unintentional *Anti-Doping Rule Violations*

because of their general availability in medicinal products or which are less likely to be successfully abused as doping agents. Where an *Athlete* can establish that the *Use* of such a specified substance was not intended to enhance sport performance, the period of *Ineligibility* found in Rule 14.2 (Imposition of *Ineligibility* for *Prohibited Substances* and *Prohibited Methods*) shall be replaced with the following:

First Violation: At a minimum, a warning and reprimand and no period of *Ineligibility* from future *Events*, and at a maximum, one (1) year's *Ineligibility*.

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

Third Violation: Lifetime *Ineligibility*.

However, the *Athlete* or other *Person* shall have the opportunity in each case, before a period of *Ineligibility* is imposed, to establish the basis for eliminating or reducing (in the case of a second or third Violation) this sanction as provided in Rule 14.5 (Elimination or Reduction of Period of *Ineligibility* Based on Exceptional Circumstances).

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

The period of *Ineligibility* for other *Anti-Doping Rule Violations* shall be:

14.4.1 For *Violations* of Rule 3.3 (Refusing or Failing to Submit to Sample Collection) or Rule 3.5 (*Tampering with Doping Control*), the *Ineligibility* periods set forth in Rule 14.2 (Imposition of *Ineligibility* for *Prohibited Substances* and *Prohibited Methods*) shall apply.

14.4.2 For *Violations* of Rule 3.7 (*Trafficking*), or Rule 3.8 (Administration of *Prohibited Substance* or *Prohibited Method*) the period of *Ineligibility* imposed shall be a minimum of four (4) years up to lifetime *Ineligibility*. An *Anti-Doping Rule Violation* involving a *Minor* shall be considered a particularly serious *Violation*, and, if committed by *Athlete Support Personnel* for *Violations*

other than specified substances referenced in Rule 14.3, shall result in lifetime *Ineligibility* for such *Athlete Support Personnel*. In addition, *Violations* of the *Rules* that also violate non-sporting laws and regulations, may be reported to the competent administrative, professional or judicial authorities.

14.4.3 For *Violations* of Rule 3.4 (whereabouts *Violation* or missed test), the period of *Ineligibility* shall be:

First Violation: A minimum of three (3) months to a maximum of two (2) years *Ineligibility*;

Second and Subsequent Violations: *Ineligibility* for a period of two (2) years.

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

14.5.1 *No Fault or Negligence*

If the *Athlete* establishes in an individual case involving an *Anti-Doping Rule Violation* under Rule 3.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*) or under Rule 3.2 (*Use of a Prohibited Substance* or *Prohibited Method*) that they bear *No Fault or Negligence* for the *Violation*, the otherwise applicable period of *Ineligibility* shall be eliminated. When a *Prohibited Substance* or its *Markers* or its *Metabolites* is detected in an *Athlete's Specimen* in *Violation* of Rule 3.1 (Presence of *Prohibited Substance*), the *Athlete* shall also establish how the *Prohibited Substance* entered their system in order to have the period of *Ineligibility* eliminated.

In the event that this Rule is applied and the period of *Ineligibility* otherwise applicable is eliminated, the *Anti-*

*Doping Rule Violation* shall not be considered a *Violation* for the limited purpose of determining the period of *Ineligibility* for multiple *Violations* under Rules 14.2 (Imposition of *Ineligibility* for *Prohibited Substances* and *Prohibited Methods*), 14.3 (Specified Substances) and 14.6 (Rules for Certain Multiple *Violations*).

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

This Rule 14.5.2 applies only to *Anti-Doping Rule Violations* involving Rule 3.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*), Use of a *Prohibited Substance* or *Prohibited Method* under Rule 3.2, failing to submit to *Sample* collection under Rule 3.3, administration of a *Prohibited Substance* or *Prohibited Method* under Rule 3.8. If an *Athlete* establishes in an individual case involving such *Violations* that they bear *No Significant Fault or Negligence*, then the period of *Ineligibility* may be reduced, but the reduced period of *Ineligibility* may not be less than one-half of the minimum period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this section may be no less than 8 years. When a *Prohibited Substance* or its *Markers* or *Metabolites* is detected in an *Athlete's Specimen* in violation of Rule 3.1 (Presence of *Prohibited Substance*), the *Athlete* shall also establish how the *Prohibited Substance* entered their system in order to have the period of *Ineligibility* reduced.

14.5.3 *Athlete's Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations by Athlete Support Personnel and Others*

The *Sports Tribunal* may also reduce the period of *Ineligibility* in an individual case where the *Athlete* has provided substantial assistance to an *Anti-Doping Organisation* which results in the *Anti-Doping Organisation* discovering or establishing an *Anti-Doping Rule Violation* by another *Person* involving *Possession* under Rule 3.6.2 (*Possession by Athlete Support Personnel*), Rule 3.7 (*Trafficking*), or Rule 3.8 (*Administration to an Athlete*). The reduced period of *Ineligibility* may not, however, be less than one-half of the minimum period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this section may be no less than 8 years.

**14.6 Rules for Certain Potential Multiple Violations**

14.6.1 For purposes of imposing sanctions under Rules 14.2 (*Imposition of Ineligibility for Prohibited Substances and Prohibited Methods*), 14.3 (*Specified Substances*) and 14.4 (*Ineligibility for Other Anti-Doping Rule Violations*), a second *Anti-Doping Rule Violation* may be considered for purposes of imposing sanctions only if *DFS* can establish that the *Athlete* or other *Person* committed the second *Anti-Doping Rule Violation* after the *Athlete* or other *Person* received notice, or after *DFS* made a reasonable *Attempt* to give notice, of the first *Anti-Doping Rule Violation*. If *DFS* cannot establish this, the *Violations* shall be considered as one single first *Violation*, and the sanction imposed shall be based on the *Violation* that carries the more severe sanction.

14.6.2 Where an *Athlete*, based on the same *Doping Control*, is found to have committed an *Anti-Doping Rule Violation* involving both a specified substance under Rule 14.3 (Specified Substances) and another *Prohibited Substance* or *Prohibited Method*, the *Athlete* shall be considered to have committed a single *Anti-Doping Rule Violation*, but the sanction imposed shall be based on the *Prohibited Substance* or *Prohibited Method* that carries the most severe sanction.

14.6.3 Where an *Athlete* is found to have committed two separate *Anti-Doping Rule Violations*, one involving a specified substance governed by the sanctions set forth in Rule 14.3 (Specified Substances) and the other involving a *Prohibited Substance* or *Prohibited Method* governed by the sanctions set forth in Rule 14.2 (Imposition of *Ineligibility* for *Prohibited Substances* and *Prohibited Methods*) or a *Violation* governed by the sanctions in Rule 14.4.1, the period of *Ineligibility* imposed for the second offence shall be at a minimum two years' *Ineligibility* and at a maximum three years' *Ineligibility*. Any *Athlete* found to have committed a third *Anti-Doping Rule Violation* involving any combination of specified substances under Rule 14.3 (Specified Substances) and any other *Anti-Doping Rule Violation* under Rule 14.2 (Imposition of *Ineligibility* for *Prohibited Substances* and *Prohibited Methods*) or Rule 14.4.1 shall receive a sanction of lifetime *Ineligibility*.

#### **14.7 Disqualification of Results in Competitions Subsequent to Sample Collection**

In addition to the automatic *Disqualification* of the results in the *Competition* which produced the positive *Sample* under Rule 14.1.2 or 14.1 (Automatic *Disqualification* of Individual Results), all other

competitive results obtained from the date a positive *Sample* was collected (whether *In-Competition* or *Out-of-Competition*), or other *Anti-Doping Rule Violation* occurred, through the commencement of any *Provisional Suspension* or *Ineligibility* period, shall, unless fairness requires otherwise, be *Disqualified* with all of the resulting *Consequences* including forfeiture of any medals, points and prizes.

#### **14.8 Commencement of *Ineligibility* Period**

14.8.1 The period of *Ineligibility* shall start on the date of the hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed.

14.8.2 Any period of *Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* to be served.

14.8.3 Where required by fairness, such as delays in the hearing process or other aspects of *Doping Control* not attributable to the *Athlete*, the *Sports Tribunal* may start the period of *Ineligibility* at an earlier date commencing as early as the date of *Sample* collection.

## 14.9 Status During *Ineligibility*

- 14.9.1 No *Person* who has been declared *Ineligible* may, during the period of *Ineligibility*, participate in any capacity in any *NOC Team* or *National Sporting Team*, *Competition*, *Event*, or activity, whether local or national (other than authorised anti-doping education or rehabilitation programs) organised, authorised or sanctioned by, any *Signatory* or *Signatory's* member organisations or any *National Sporting Organisation* (whether a member of a *Signatory* or not) or any member organisations or *Persons*, or organisation in any way connected with a *National Sporting Organisation*. In addition, for any *Anti-Doping Rule Violation* not involving specified substances described in Rule 14.3 (Specified Substances), some or all sport-related financial support or other sport-related benefits received by such *Person* shall be withheld by the *Signatories*, *Signatories' member Organisations*, *National Sporting Organisations* and the New Zealand government.
- 14.9.2 A *Person* subject to a period of *Ineligibility* longer than four years may, after completing four years of the period of *Ineligibility*, participate in local sport *Events* in a sport other than the sport in which the *Person* committed the *Anti-Doping Rule Violation*, but only so long as the local sport *Event* is not at a level that could otherwise qualify such *Person* directly or indirectly to compete in (or accumulate points toward) a *National Event* or *International Event*.

## 14.10 Reinstatement Testing

- 14.10.1 As a condition to regaining eligibility at the end of a specified period of *Ineligibility*, an *Athlete* must, during any period of *Provisional Suspension* or *Ineligibility*, make him or herself available for *Out-of-Competition Testing* by *DFS*, and any other *Anti-Doping Organisation* having *Testing* jurisdiction, and shall, if requested, provide current and accurate whereabouts information as provided in Rule 6.4 (Whereabouts Information).
- 14.10.2 If an *Athlete*, subject to a period of *Ineligibility*, retires from sport and is removed from *Out-of-Competition Registered Testing Pools* and later seeks reinstatement, the *Athlete* shall not be eligible for reinstatement until the *Athlete* has notified *DFS*, the New Zealand Olympic Committee, where applicable, the applicable *National Sporting Organisation* and relevant *Anti-Doping Organisations* and has been subject to *Out-of-Competition Testing* for a period of time equal to the period of *Ineligibility* remaining as of the date the *Athlete* had retired. During such remaining period of *Ineligibility*, the *Athlete* shall be subject to *Out-of-Competition Testing*. *DFS* shall determine the number and frequency of *Testing*.
- 14.10.3 *DFS* shall be responsible for conducting the *Out-of-Competition Testing* required under this Rule, but *Testing* by any *Anti-Doping Organisation* may be used to satisfy the requirement.
- 14.10.4 Once the period of an *Athlete's* suspension has expired, and the *Athlete* has fulfilled the conditions of reinstatement then the *Athlete* shall become automatically re-eligible and no application by the *Athlete* or by the *Athlete's National Sporting Organisation* shall then be necessary.

#### **14.11 Consequences to Team Sports**

Where more than one team member in a *Team Sport* has been notified of a possible *Anti-Doping Rule Violation* in connection with an *Event*, the team shall be subject to *Target Testing* for the *Event*. If more than one team member in a *Team Sport* is found to have committed an *Anti-Doping Rule Violation* during the *Event*, the team may be subject to *Disqualification* or other disciplinary action under the rules of the relevant *National Sporting Organisation*, International Federation, *Major Event Organiser*, *Anti-Doping Organisation* or other organisation responsible for the *Event*. In sports which are not *Team Sports* but where awards are given to teams, *Disqualification* or other disciplinary action against the team when one or more team members have committed an *Anti-Doping Rule Violation* shall be as provided for in the applicable rules of the *National Sporting Organisation*, International Federation, *Major Event Organiser*, *Anti-Doping Organisation* or other organisation responsible for the awards.

### **15 APPEALS**

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

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

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

A decision that an *Anti-Doping Rule Violation* was committed, a decision imposing *Consequences* for an *Anti-Doping Rule Violation*, a decision that no *Anti-Doping Rule Violation* was committed, a decision that the *Sports Tribunal* lacks jurisdiction to rule on an alleged *Anti-Doping Rule Violation* or its *Consequences*, and a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing* or in violation of the

principles referred to in Rule 12.5 may be appealed exclusively as provided in this Rule.

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

15.2.2 *Persons Entitled to Appeal*

In cases under Rule 15.2.1, the following parties shall have the right to appeal to CAS:

- a) the *Athlete* or other *Person* who is the subject of the decision being appealed;
- b) the other party or parties to the case in which the decision was rendered;
- c) the relevant International Federation and/or *National Sporting Organisation* and any other *Anti-Doping Organisation* under whose rules a sanction could have been imposed;
- d) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and
- e) WADA.

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

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

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

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

## **16 REPORTING**

### **16.1 Reporting of TUEs**

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

### **16.2 Reporting of Testing**

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

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

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

### **16.3 Reporting Regarding Results Management**

16.3.1 In addition to providing the notices and reports set out in Rules 9.3.2 and 10.2, *DFS* will provide regular reports to the parties notified under the *Rules* on the status of the *Violation Proceedings* including results management, hearings and appeals.

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

### **16.4 Reporting Under the Code**

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

## **17 CONFIDENTIALITY AND PUBLIC DISCLOSURE**

17.1 *DFS* will give notices, provide reports and present evidence as set out in the *Rules*. Subject to its obligations under the *Rules*, *DFS* will operate under the *Rules* on a confidential basis. Where it gives notices or reports under the *Rules* to parties not subject to the *Rules*, it will request that the parties notified keep the information confidential in accordance with the *Rules*. *DFS*, *National Sporting Organisations*, *Participants* and *Persons* which agree to the *Rules* shall not *Publicly Disclose* or *Publicly Report* the identity of *Athletes* whose *Samples* have resulted in *Adverse Analytical Findings*, or of *Persons* who are alleged to have committed a *Violation* under the *Rules* nor *Publicly Disclose* or *Publicly Report* any information concerning *Adverse Analytical Findings* or *Violation Proceedings*, until such time as a final decision that an *Anti-Doping Rule Violation* has been committed, or has not been committed,

has been given by the *Sports Tribunal* or the *NSO Anti-Doping Tribunal* and the final decision has been *Publicly Reported* or *Publicly Disclosed* by the *Sports Tribunal*, *NSO Anti-Doping Tribunal* or *DFS* under these *Rules* .

17.2 Where a *Provisional Suspension* is imposed, the *Sports Tribunal* or the *NSO Anti-Doping Tribunal* may *Publicly Report* or *Publicly Disclose* the outcome of proceedings relating to a *Provisional Suspension* as provided by Rule 12.7. Where the *Sports Tribunal* or the *NSO Anti-Doping Tribunal* does this, the *National Sporting Organisation* and *DFS* may *Publicly Report* or *Publicly Disclose* the outcome of such proceedings.

17.3 *DFS* may, notwithstanding the provisions of Rule 17.1, *Publicly Report* or *Publicly Disclose* information relating to an alleged *Anti-Doping Rule Violation* or investigation under the *Rules* where an *Athlete* or other *Person*, who it is alleged has committed a *Violation* under the *Rules*, or is the subject of an investigation under these *Rules*, or any party notified under the *Rules*, has made public comment or comment to any third party concerning the allegation or investigation which, in *DFS*'s view, requires that it *Publicly Discloses* or *Publicly Reports* matters concerning the alleged *Violation* or the investigation under the *Rules*. Where the *Sports Tribunal* or the *NSO Anti-Doping Tribunal* fails to *Publicly Report* on a decision on an *Anti-Doping Rule Violation* as required under Rule 13. *DFS* shall *Publicly Report* the decision in the *Violation Proceedings* in the manner provided by Rule 13.

## **18 LIMITATION PERIOD**

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

## 19 MUTUAL RECOGNITION

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

## 20 AMENDMENT AND INTERPRETATION

### 20.1 Amendment

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

### 20.2 Interpretation

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

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

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

## 21 INFORMATION AND NOTICES

### 21.1 Information

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

### 21.2 Notices

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

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

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

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

(3) working days after the date of posting.

21.2.5 *DFS* may, with the prior agreement of the intended recipient, as an alternative to, or in conjunction with, notice by registered post, use any other method of communication available, including, but not limited to, facsimile, email, and telephone.

## **22 COMMENCEMENT AND VALIDITY**

### **22.1 Commencement**

22.1.1 The *Rules* shall come into full force and effect, on 1 July 2007. The *Rules* will apply to a *National Sporting Organisation* and its members from the date when the *National Sporting Organisation* agrees to the application of the *Rules*.

22.1.2 Subject to Rule 22.1.3 the *Rules* shall not apply retrospectively to matters pending before the date the *Rules* come into effect. Determinations in relation to *Violation Proceedings* made by the *Sports Tribunal* or by *National Sporting Organisations* before the *Rules* come into effect which are consistent with the provisions of the *Code* will be relevant in relation to the imposition of sanctions for *Violations* under these *Rules*.

22.1.3 Where *DFS* exercises its functions under section 48A of the *Act* in relation to the gathering of information and evidence in support of potential *Anti-Doping Rule Violations* before the *Rules* come in force, *DFS* may use any information or evidence obtained in exercising its functions for the purposes of investigating *Violations* and bringing *Violation Proceedings* under the *Rules*.

### **22.2 Validity**

22.2.1 If any Rule in the *Rules* is held invalid, unenforceable or

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

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

## DEFINITIONS

Act: Sports Anti-Doping Act 2006

*Adverse Analytical Finding:* A report from a laboratory or other approved *Testing* entity that identifies in a *Specimen* the presence of a *Prohibited Substance* or its *Metabolites* or *Markers* (including elevated quantities of endogenous substances) or evidence of the *Use* of a *Prohibited Method*.

*Anti-Doping Organisation:* A *Signatory* that is responsible for adopting rules for initiating, implementing or enforcing any part of the *Doping Control* process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other *Major Event Organisations* that conduct *Testing* at their *Events*, WADA, International Federations, and *National Anti-Doping Organisations*.

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

*Athlete:* For purposes of *Doping Control*, any *Person* who participates in sport at the international level (as defined by each International Federation) or national level (as defined by each *National Anti-Doping Organisation*) and any additional *Person* who participates in sport at a lower level if designated by the *Person's National Anti-Doping Organisation*. For purposes of anti-doping information and education, any *Person* who participates in sport under the authority of any *Signatory*, government, or other sports organisation accepting the *Code*.

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

*Attempt:* Engaging in conduct that constitutes a substantial step in a course of conduct which could or did culminate in the commission of an *Anti-Doping Rule Violation*. Provided, however, there must 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.

CAS: The Court of Arbitration for Sport.

*Code:* The World Anti-Doping Code first adopted by WADA on 5 March 2003, and any subsequent amendments.

*Competition*: A single race, match, game or singular athletic contest. For example, the finals of the Olympic 100-meter dash. For stage races and other athletic contests where prizes are awarded on a daily or other interim basis the distinction between a *Competition* and an *Event* will be as provided in the rules of the relevant International Federation.

*Consequences of Anti-Doping Rules Violations or Consequences*: An *Athlete's* or other *Person's* violation of an anti-doping rule may result in one or more of the following: (a) *Disqualification* means the *Athlete's* results in a particular *Competition* or *Event* are invalidated, with all resulting consequences including forfeiture of any medals, points and prizes; (b) *Ineligibility* means the *Athlete* or other *Person* is barred for a specified period of time from participating in any *Competition* or other activity or funding as provided in Rule 14.9 (Status During *Ineligibility*); and (c) *Provisional Suspension* means the *Athlete* or other *Person* is barred temporarily from participating in any *Competition* prior to the final decision at a hearing conducted under Rule 12.5.

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

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

*Doping Control*: The process including test distribution planning, *Sample* collection and handling, laboratory analysis, results management, hearings and appeals.

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

*In-Competition*: For purposes of differentiating between *In-Competition* and *Out-of-Competition Testing*, unless provided otherwise in the rules of an International Federation or other relevant *Anti-Doping Organisation*, an *In-Competition* test is a test where an *Athlete* is selected for *Testing* in connection with a specific *Competition*.

*Independent Observer Program*: A team of observers, under the supervision of WADA, who observe the *Doping Control* process at certain *Events* and report on observations. If WADA is *Testing In-Competition* at an *Event*, the observers must be supervised by an independent Organisation.

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

*International Event*: An *Event* where the International Olympic Committee, the International Paralympic Committee, an International Federation, a *Major Event Organisation*, or another

international sport organisation is the ruling body for the *Event* or appoints the technical officials for the *Event*.

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

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

*Major Event Organisations*: This term refers to 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 parameters that indicates the *Use of a Prohibited Substance or Prohibited Method*.

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

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

*National Anti-Doping Organisation*: The entity(ies) designated by each country as possessing the primary authority and responsibility to adopt and implement Anti-Doping Rules, direct the collection of *Samples*, the management of test results, and the conduct of hearings, all at the national level. If this designation has not been made by the competent public authority(ies), the entity must be the country's *National Olympic Committee* or its designee. For the purposes of the *Rules*, *DFS* will be the designated entity.

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

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

*National Olympic Committee*: The organisation recognised by the International Olympic Committee. The term *National Olympic Committee* must also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical *National Olympic Committee* responsibilities in the anti-doping area. In New Zealand the *National Olympic Committee* is the New Zealand Olympic Committee Incorporated.

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

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

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

*No Advance Notice:* A *Doping Control* which takes place with no advance warning to the *Athlete* and where the *Athlete* is continuously chaperoned from the moment of notification through *Sample* provision.

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

*No Fault or Negligence:* The *Athlete's* establishing that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they had *Used* or been administered the *Prohibited Substance* or *Prohibited Method*.

*No Significant Fault or Negligence:* The *Athlete's* establishing that their fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the *Anti-Doping Rule Violation*.

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

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

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

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

*Possession:* The actual, physical possession, or the constructive *Possession* (which must be found only if the *Person* has exclusive control over the *Prohibited Substance/Method* or the premises or property in which a *Prohibited Substance/Method* exists); provided, however, that if the *Person* does not have exclusive control over the *Prohibited Substance/Method* or the premises in which a *Prohibited Substance/Method* exists, constructive *Possession* must only be found if the *Person* knew about the presence of the *Prohibited Substance/Method* and intended to exercise control over it. Provided, however, there must 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* no longer intends to have *Possession* and has renounced the *Person's* previous *Possession*.

*Prohibited List*: The WADA List identifying the *Prohibited Substances* and *Prohibited Methods* 2007.

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

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

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

*Publicly Disclose or Publicly Report*: To disseminate or distribute information to the general public or persons beyond those persons entitled to earlier notification in accordance with Rule 17 (Confidentiality and Public Disclosure).

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

*Rules*: The Sports Anti-Doping Rules 2007 made under the Sports Anti-Doping Act 2006.

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

*Signatories*: Those entities signing the *Code* and agreeing to comply with the *Code*, including the International Olympic Committee, International Federations, International Paralympic Committee, *National Olympic Committees*, National Paralympic Committees, *Major Event Organisations*, *National Anti-Doping Organisations*, and WADA.

*SPARC*: Sport and Recreation New Zealand.

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

*Tampering*: Altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly to alter results or prevent normal procedures from occurring.

*Target Testing*: Selection of *Athletes* for *Testing* where specific *Athletes* or groups of *Athletes* are selected on a non-random basis for *Testing* at a specified time.

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

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

*Trafficking*: To sell, give, administer, transport, send, deliver or distribute a *Prohibited Substance* or *Prohibited Method* to an *Athlete* either directly or indirectly or through one or more third parties, but excluding the prescription, dispensing, sale or distribution of a *Prohibited Substance* for genuine and legal therapeutic purposes.

*TUE*: Therapeutic use exemption.

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

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

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

*WADA*: The World Anti-Doping Agency, being a Foundation constituted under the Swiss Civil Code in Lausanne on 10 November 1999 and any *National Anti-Doping Organisation* contracted by *WADA*.