



Ski Racing Australia Association Inc

ABN 30 830 516 013

Illicit Drugs in Sport Policy

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Version 2

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1. POSITION STATEMENT

- (a) The use of illicit drugs is harmful to Athletes and can bring the sport into disrepute and set a poor example for other members of the community who view Athletes as role models.
- (b) SRA has a zero tolerance approach to the use of drugs in sport, and seeks to educate Athletes in order to deter the use of illicit drugs.
- (c) This policy is designed to deter illicit drug use and reduce the drug-related harm to individuals, families and stakeholders of SRA and the broader community.
- (d) SRA will adopt a management approach which, in the first instance, focuses on education and counselling in addressing the use of illicit drugs in the Out-of-Competition context. However, for cases of repeated use where counselling and education have not been effective, escalating Sanctions will be applied.
- (e) Some illicit drugs may be legitimately used under the supervision of a physician for a clinically justified purpose. Such use must be consistent with the Therapeutic Use provisions in Article 11 of this Policy. The possession and use of illicit drugs is subject to Commonwealth, State and Territory laws.
- (f) SRA has adopted and implemented the International Waterski and Wakeboard Federation (IWWF) anti-doping policy which conforms to the World Anti Doping Agency (WADA) Code. The WADA Prohibited List includes illicit drugs which are prohibited *In-Competition*.
- (g) This *Illicit Drugs in Sport Policy* differs from the *SRA Anti-Doping Policy* in that it addresses *Out-of-Competition* illicit drug matters as well as *In-Competition* illicit drug matters that may not be detected or pursued by Sport Integrity Australia (SIA).

2. OBJECTIVES

- (a) SRA is committed to deterring the use of *Prohibited Illicit Drugs* in sport through:
 - (i) tailored education and prevention programs, including the use of positive role models;
 - (ii) detecting and deterring the use of illicit drugs by *Athletes* through an *In-Competition* illicit drugs *Testing Program*; and
 - (iii) effective education, counselling and *Sanctions* as appropriate for *Athletes* identified as using illicit drugs.

3. APPLICATION

- (a) This Policy applies to:
 - (i) *Athletes*;
 - (ii) *Members and Member Organisations*;
 - (iii) Employees, contractors and *Board Members* of SRA; and
 - (iv) Any other *Person* who has agreed to be bound by this Policy.
- (b) Where a *Person* bound by this Policy breaches his or her obligations under this Policy, including an *Illicit Drugs Breach*, such breach may also constitute a breach of the *SRA Codes of Behaviour*, *SRA Member Protection Policy*, or other relevant agreement between that

Person and *SRA*, and *Sanctions* under the other relevant agreement may apply, provided that no person shall be sanctioned twice for the same violation.

- (c) Where a breach of this Policy also constitutes a breach of the *SRA Anti-Doping Policy*, in the event of any inconsistency, the *SRA Anti-Doping Policy* prevails.
- (d) Nothing in this Policy limits the application of Commonwealth, state and territory laws to illicit drugs issues or the ability of *SRA* to refer such issues to the police, customs or other relevant authorities.
 - (i) The board of *SRA* will decide whether to refer matters that constitute a breach, or an alleged breach, of this policy to the relevant authorities on a case by case basis, and will consider matters such as but not limited to: the age of the *Person*; experience; type of violation; substance type; substance amount; whether trafficking was involved; and contrition and remorse of the individual.

4. ROLES AND RESPONSIBILITIES

- (a) The *Persons* identified in Article 3 (Application) are bound by this Policy as a condition of their participation and/or involvement in the sport.
- (b) Athletes
 - (i) *Athletes* must:
 - (A) be knowledgeable of and comply with all rules applicable to them under this Policy;
 - (B) use their influence on other *Athletes'* to reinforce the education messages regarding illicit drugs;
 - (C) read and understand the *List of Prohibited Illicit Drugs* as it relates to them and keep up to date with any changes to it;
 - (D) be available for *Sample Collection*;
 - (E) take responsibility, in the context of this Policy, for what they use, ingest or otherwise consume;
 - (F) assist, cooperate and liaise with *SRA* in relation to the conduct of any investigation or hearing into a suspected or alleged *Illicit Drugs Breach*;
 - (G) act in a discreet and confidential manner in discharging their obligations under this Policy;
 - (H) understand their obligations under any other illicit drugs policies and anti-doping policies they are bound to comply with, including understanding how such additional obligations differ from their obligations under this Policy;
 - (I) inform medical personnel of their obligations not to use *Prohibited Illicit Drugs* and ensure that any medical treatment received does not result in a breach of this Policy; and
 - (J) attend illicit drugs education as directed by *SRA* and as otherwise appropriate and understand that failure to attend shall be no excuse for an alleged *Illicit Drugs Breach* and shall not mitigate culpability of the *Athlete* in determining sanction.

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- (c) Employees, Contractors, *Board Members*, *SRA Members* and *Member Organisations*.
- (i) Employees, Contractors, *Board Members*, *Members* and *Member Organisations* of *SRA* must:
- (A) be knowledgeable of and comply with all rules applicable to them under this Policy;
 - (B) where applicable, use their influence on *Athletes* to reinforce the education messages regarding illicit drugs;
 - (C) assist, cooperate and liaise with *SRA* in relation to the conduct of any investigation or hearing into an alleged *Illicit Drugs Breach*;
 - (D) comply with the confidentiality obligations and privacy practices set out in Article 15;
 - (E) report any alleged breaches of this Policy; and
 - (F) For the avoidance of doubt, *SRA Members* and *Member Organisations* will be considered non-compliant with this Policy for reporting purposes in circumstances where they refuse or fail to provide timely and adequate assistance to *SRA*, upon request, in relation to alleged breaches of this Policy.
- (d) *SRA*
- (i) *SRA* will:
- (A) abide by, implement and enforce this Policy;
 - (B) develop and implement appropriate illicit drugs education programs and initiatives for *Persons* bound by this Policy;
 - (C) use reasonable endeavours to assist all those to whom this Policy applies to understand their responsibilities under this Policy;
 - (D) appoint one or more *Testing Agencies* to conduct *Testing* and *Sample Analysis* under this Policy;
 - (E) at its sole discretion investigate suspected *Illicit Drugs Breaches* under this Policy as it sees fit;
 - (F) coordinate results management procedures in accordance with the *Results Management Standards* as applicable (see Attachment B);
 - (G) make findings in relation to alleged *Illicit Drugs Breaches*;
 - (H) issue breach notices in relation to alleged *Illicit Drugs Breaches*;
 - (I) appoint *Tribunals* to conduct hearings under this Policy;
 - (J) convene hearings before the *Tribunals*;
 - (K) present its findings and its recommendations before the *Tribunals*;
 - (L) make reasonable efforts to make this Policy and the *List of Prohibited Illicit Drugs* available to any *Persons* who have agreed to be bound by this Policy;

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- (M) ensure that at all times it has the authority to enforce this Policy;
 - (N) ensure all employees, staff and contractors act in a discreet and confidential manner in discharging their obligations under this Policy, adopting confidentiality and privacy practices as set out in Article 18;
 - (O) provide information and education to all staff regarding their responsibilities in relation to the confidentiality and privacy practices as set out in Article 15.

5. ILLICIT DRUGS IN SPORT POLICY OFFICER

- (a) The Illicit Drugs in Sport Policy Officer for SRA shall:
 - (i) be appointed by the SRA Board and also hold one of the following roles: the CEO of SRA, the Chairperson of SRA, or a Board Member of SRA
 - (ii) be responsible for the supervision and administration of this Policy;
 - (iii) be responsible for the associated education programs to *Athletes, Members* and any other *Person* who has agreed to be bound by this Illicit Drugs in Sport Policy, or the delegation of such roles to others; and
 - (iv) perform other such roles as may be necessary for the proper administration of this Policy, including the delegation of roles or responsibilities to others at their sole discretion, as may be required from them from time to time.
- (b) The Illicit Drugs in Sport Policy Officer shall act in a discreet and confidential manner in discharging their obligations under this Policy, applying privacy practices consistent with the confidentiality and privacy practices as set out in Article 18.

6. EDUCATION PROGRAM

- (a) SRA will develop and implement appropriate education and prevention programs and initiatives for the sport consistent with the Australian Government's *Illicit Drugs in Sport - Education and Action Plan*.
- (b) The education and prevention programs will promote the key messages of the *Action Plan* to identified target groups and will be delivered through mediums suitable to the target audiences. These programs and initiatives will reflect key messages such as:
 - (i) illicit drug use is harmful;
 - (ii) illicit drug use can affect your sporting performance – *In-Competition* or *Out-of-Competition*, or on the weekend;
 - (iii) illicit drug use can affect your reputation and sporting career;
 - (iv) illicit drug use can affect your sports team;
 - (v) illicit drug use can impact on the community who support you; and
 - (vi) participating in sport supports a healthy lifestyle.
- (c) SRA will incorporate information relating to this Policy and any related *Testing* program, including the *List of Prohibited Illicit Drugs*, into the education programs.

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- (d) SRA will provide information about, and referrals to, counselling and support programs in relation to illicit drugs in the education programs. These programs may be face to face or an online service as appropriate.

7. LIST OF PROHIBITED ILLICIT DRUGS

- (a) The drugs prohibited under this Policy will be specified in the WADA Prohibited List which can be accessed using the link below, and any other substances declared prohibited by SRA from time to time:

<https://www.wada-ama.org/en/prohibited-list>

- (b) For the avoidance of doubt, any modifications to the WADA Prohibited List will be automatically incorporated into the list prohibited under this Policy.
- (c) SRA will make reasonable efforts to inform *Athletes, Athlete Support Personnel, Members, Employees, Contractors and Board Members, Members, Member Organisations* and any other *Person* who has agreed to be bound by this Illicit Drugs in Sport Policy of any changes to the WADA Prohibited List

8. ILLICIT DRUGS BREACHES

- (a) Each of the following constitutes an *Illicit Drugs Breach* under this Policy:
- (i) *A Positive Finding* by an *Athlete* for any *Prohibited Illicit Drug* or its *Metabolites* or *Markers* as a result of *Follow-up laboratory testing*;
 - (ii) *Possession, Use or Attempted Use, or Trafficking or Attempted Trafficking, of any Prohibited Illicit Drug* ;
 - (iii) Refusal to submit, or without compelling justification, *Failure to Submit*, by an *Athlete* to *Sample Collection* for *Illicit Drugs Testing* after notification by an authorised *Illicit Drugs Testing Agency* as described in this Policy, or otherwise evading *Sample Collection* for *Illicit Drugs Testing*, including refusal or *Failure to Submit* to *On-the-spot presumptive testing*; and
 - (iv) *Tampering*, or attempted *Tampering*, with any part of *Sample Collection* or any other part of *Testing*.
- (b) For the avoidance of doubt, an *On-the-spot presumptive testing* result that indicates the use of *Illicit Substances* is not an *Illicit Drugs Breach* under this policy.
- (c) A *Person* bound to this policy who is not an *Athlete* and who becomes aware of any, or any suspected breaches of this Policy and who fails to report or notify such information to SRA, may be sanctioned by SRA under this policy.
- (d) SRA will issue a written notice of breach to the *Person* who SRA alleges has committed an *Illicit Drugs Breach*.
- (e) Any illicit drugs issues that are not defined as breaches of this policy in Article 8.1(a) above will be addressed in compliance with the relevant Commonwealth, State and Territory laws, and/or relevant Codes of Conduct.

9. PROOF OF BREACH

- (a) Burdens and Standards of Proof
 - (i) SRA shall have the burden of establishing that an *Illicit Drugs Breach* has occurred.
 - (ii) The standard of proof shall be whether SRA has established an *Illicit Drugs Breach* to the comfortable satisfaction of the hearing body bearing in mind the seriousness of the allegation which is made (if the hearing has not been waived). This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.
 - (iii) Where this policy places the burden of proof upon the *Athlete* or other *Person* alleged to have committed an *Illicit Drug Breach* to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability.

10. METHODS OF ESTABLISHING FACTS AND PRESUMPTIONS

- (a) Facts related to an *Illicit Drug Breach* may be established by any reliable means, including admissions.
- (b) The following rules of proof shall be applicable with respect to *Positive Findings*:
 - (i) Where an *On-the-spot presumptive* test indicates a presumptive positive finding, the *Athlete's* sample shall undergo further *Testing* at the discretion of SRA for the purposes of Sample Analysis in a laboratory.
 - (ii) The *Testing Agency* is presumed to have conducted *Sample Collection*, *Sample* handling and *Sample* transport in accordance with the relevant *Testing Standards*. The *Athlete* may rebut this presumption by establishing that a departure from the relevant *Testing Standards* occurred. For the avoidance of doubt, it shall not be enough to rebut the presumption on the basis that oral/saliva *Testing* occurred rather than urine *Testing*.
 - (iii) If the *Athlete* rebuts the presumption by showing that a departure from the relevant *Testing Standards* occurred, then SRA shall have the burden to establish that such departure did not cause the *Positive Analytical Finding*.

11. THERAPEUTIC USE EXEMPTIONS

- (a) SRA shall consider any *Therapeutic Use Exemptions* granted by an anti-doping agency for substance use, including existing *TUEs* and potential retroactive *TUEs*, in accordance with the Australian Government's *Results Management Standards*.

12. TESTING

- (a) Authority to Test
 - (i) All *Athletes*, via their membership to SRA, agree to submit to *Sample Collection* as determined by SRA at any time or place, with or without advance notice by a SRA authorised *Testing Agency*.
 - (ii) Without limitation to Article 12(a)(i), SRA intends that *Sample Collection* will be conducted in conjunction with a sport related activity such as, but not limited to, training sessions, meetings, functions or other sport activities and race days.

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- (iii) Without limitation to Article 12(a)(i), all *Athletes* agree to submit to *Target Testing* as determined by *SRA* at its discretion or as required under Article 13 as a consequence of an *Illicit Drugs Breach*.
 - (b) Testing methods
 - (i) *SRA* shall employ a two-tiered system of *Prohibited Illicit Drugs* in sport *Testing* as follows:
 - (A) *On-the-spot presumptive testing*; and
 - (B) *Follow-up laboratory testing*.
 - (ii) *On-the-spot presumptive testing* is *Testing* conducted by *SRA* or an *Authorised Illicit Drugs Testing Agency* using, for example, oral/saliva expectorant kits, or blood or urine kits, as the case may be, for the detection of *Prohibited Illicit Drugs*.
 - (iii) Where an *Athlete* returns an *On-the-spot presumptive testing* result that indicates the *Use of Prohibited Illicit Drugs*, the *Athlete's* sample shall undergo *Follow-up Laboratory testing* as directed by *SRA*.
 - (A) By way of example: where an *Athlete* provides an oral/saliva swab on a race day, and the swab indicates the presence of a *Prohibited Illicit Drug* (ie, the swab 'turns blue'), the *Athlete's Sample* shall be appropriately stored and sent to the *Authorised Illicit Drugs Testing Agency* for further analysis.
 - (c) Testing Standards
 - (i) *On-the-spot presumptive testing* shall be conducted in accordance with the policies, procedures and directions of the *Authorised Illicit Drugs Testing Agency*.
 - (ii) *Follow-up laboratory testing* shall be conducted in accordance with the relevant *Testing Standards* applicable to the type of sample collected.
 - (d) Authorised Illicit Drugs Testing Agency
 - (i) *SRA* will appoint an *Authorised Illicit Drugs Testing Agency* or Agencies to conduct *Sample Collection* and illicit drugs *Testing* and *Sample Analysis* in relation to *Follow-up Laboratory testing* under this policy.
 - (ii) *SRA* may, from time to time, appoint additional authorised *Testing Agencies* to conduct *Sample collection* and illicit drugs *Testing* in relation to this policy.
 - (iii) *SRA* may, from time to time, terminate the appointment of authorised *Testing Agencies* at its discretion.
 - (e) Selection of Athletes for *Sample Collection*
 - (i) *SRA* or its authorised *Testing Agency* may select any *Athlete* for *Testing*.
 - (ii) Without limitation to Article 12(e)(i) *SRA* may select any *Athlete* for *Target Testing* at *SRA's* discretion, or as required as a consequence of an *Illicit Drugs Breach*.
 - (iii) If an *Athlete* has been notified for doping control by *ASADA* or another *Anti-Doping Organisation* to occur at the same time as proposed *Sample Collection* from the *Athlete* under this policy, the anti-doping testing takes precedence, in which case *SRA* or the authorised *Testing Agency* may select alternative *Athletes* for *Sample*

Collection under this Policy, or may thereafter test the Athlete in SRA's sole discretion.

- (f) Analysis of Samples
 - (i) *On-the-spot presumptive testing Samples* shall be conducted in accordance with the policies, procedures and directions of the *Authorised Illicit Drugs Testing Agency*.
 - (ii) *Samples for Follow-up laboratory analysis* will be analysed in a laboratory of the *Authorised Illicit Drugs Testing Agency*, or its agent or subcontractor in accordance with the relevant *Testing Standards*.
 - (iii) *Samples* will be analysed for the presence of *Prohibited Illicit Drugs* and their *Metabolites* and *Markers*.
- (g) Results Management
 - (i) SRA will coordinate results management procedures following *Testing* under this Policy.
 - (ii) Where a Person bound by this Policy commits an *Illicit Drug Breach*, the SRA shall send that Person a notice (Breach Notice) of the alleged *Illicit Drug Breach*, which notice shall advise of:
 - (A) The *Illicit Drug Breach* and the *SRA Illicit Drugs Policy* rule said to be violated;
 - (B) The Person's right to a hearing before the an *Illicit Drugs In Sport Disciplinary Tribunal* or to waive that right; and
 - (C) The range of sanctions or penalty that is liable to be imposed.

13. RIGHT TO A FAIR HEARING

- (a) Where a Person bound by this Policy commits an *Illicit Drug Breach*, Articles 13, 14 and 15 apply.
- (b) All hearings conducted pursuant to this Policy will respect the following principles:
 - (i) a timely hearing;
 - (ii) a fair and impartial hearing body;
 - (iii) the right to be represented by counsel at the *Person's* own expense;
 - (iv) the right to be informed in a fair and timely manner of the alleged *Illicit Drugs Breach*;
 - (v) the right to respond to the alleged *Illicit Drugs Breach* and resulting consequences;
 - (vi) the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing body's discretion to accept testimony by telephone or written submission);
 - (vii) the *Person's* right to an interpreter at the hearing, with the *Illicit Drugs In Sport Disciplinary Tribunal* to determine the identity of, and responsibility for the cost of the interpreter; and

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- (viii) a timely, written, reasoned decision.
 - (c) Subject to Article 14, SRA will wait 7 days (or a shorter period agreed between SRA and the Person) after sending a Breach Notice and then will appoint an *Illicit Drugs In Sport Disciplinary Tribunal* to conduct the hearing.
 - (d) Subject to the principles in Article 13(b), the hearing will be conducted in the manner that the hearing body determines is appropriate, with as little formality and technicality, and as quickly, as proper consideration of the issue permits. Hearings may be conducted via teleconference or videoconference. Decisions may be made orally, and/or shall be provided by written decision at a later date in accordance with Article 15(c).
 - (e) At the sole discretion of SRA, the *Illicit Drugs Tribunal* may be the *Court of Arbitration for Sport – Oceania Registry (CAS)*.

14. WAIVER OF HEARING

- (a) If, upon receipt of a notification alleging a breach of this Illicit Drugs Policy, a Person chooses to admit the *Illicit Drugs Breach* and consents to the *Sanctions* applicable without requiring an *Illicit Drugs In Sport Tribunal*, then SRA can immediately impose the applicable *Sanctions* without convening the *Illicit Drugs In Sport Tribunal*.
- (b) The Person will provide this admission and consent in writing to the CEO of SRA.
- (c) A Person will be deemed to have waived his or her right to a hearing by failing to respond to a breach notice of failing to appear at a scheduled hearing within the relevant time period.
- (d) If a Person waives, or is deemed to have waived, his or her right to a hearing, then SRA may immediately impose at its discretion any or all other applicable *Sanctions* and other consequences without convening the *Illicit Drugs In Sport Tribunal*.

15. ILLICIT DRUGS IN SPORT TRIBUNAL DETERMINATION

- (a) The *Illicit Drugs in Sport Tribunal* will determine:
 - (i) if the Person has committed an *Illicit Drugs Breach*;
 - (ii) if so, what *Sanctions* and other actions will apply (to the extent that the *Illicit Drugs In Sport Tribunal* has jurisdiction and discretion under Article 16); and
 - (iii) any other issues referred to it by SRA.
- (b) Any *Sanctions* imposed must be in accordance with Article 16.
- (c) The *Illicit Drugs in Sport Disciplinary Tribunal* will give SRA a written statement of:
 - (i) the findings of the hearing and brief reasons for the findings;
 - (ii) to the extent that the *Illicit Drugs in Sport Disciplinary Tribunal* has jurisdiction and discretion to do so, what *Sanctions* (if any) and other actions will apply; and
 - (iii) any other relevant issues.
- (d) Hearings pursuant to this Policy shall be completed as soon as reasonably practicable.
- (e) SRA shall pay the costs of the *Illicit Drugs in Sport Disciplinary Tribunal*, and each party shall bear their own costs of the hearing. Where the *Illicit Drugs in Sport Disciplinary Tribunal* finds

that a party has acted maliciously, lied or intentionally deceived it or the SRA, or attempted to do so, the *Illicit Drugs in Sport Disciplinary Tribunal* may award such costs, including the costs of the *Illicit Drugs in Sport Disciplinary Tribunal*, against that party as it sees fit in its sole discretion.

- (f) Decisions by the *Illicit Drugs in Sport Disciplinary Tribunal* shall not be subject to further review except as provided in Article 17 or as required by applicable law, and no party shall institute or maintain proceedings in any court or tribunal other than the *CAS Appeals Division*.
- (g) SRA may notify SIA, the ASC and, the IWWF of all alleged breaches and findings of hearings in its sole discretion. Such groups (as applicable) may be entitled to attend the hearing as an observer at SRA's invitation.
- (h) If, during any hearing, a party to the hearing process implicates a third party to an *Illicit Drugs Breach* or possible *Anti-Doping Rule Violation* then SRA may use any information that arises as a result of the hearing process without having to first seek the permission of the parties. This Article overrides R43 of the CAS Code of Sports-related Arbitration to the extent of any inconsistency.
- (i) Any hearing application fee will be paid by SRA. The appeal application fee will be paid by the party lodging the appeal.

16. CONSEQUENCES

- (a) Any *Athlete* who fails an *On-the-spot presumptive test* for a *Prohibited Illicit Drug(s)* in connection with a *Competition* or *Event* shall:
 - (i) Be immediately stood down from participation in any remaining *Competitions* at the *Event* (if any); and
 - (ii) Have their Sample undergo further testing as directed by SRA, including but not limited to *Follow-up laboratory testing*prior to being permitted to compete in a *Competition* or *Event* (the *Provisional Suspension*).
- (b) Any *Athlete* who is found to have the presence of a *Prohibited Illicit Drug* in their sample as a result of *Follow-up laboratory testing* shall be deemed to have committed an *Illicit Drug Breach* under this Policy, and Article 13, 14 and 15 shall apply.
- (c) The consequences for an *Illicit Drug Breach* shall be:
 - (i) For a **First Illicit Drug Breach**:
 - (A) a warning; and
 - (B) be subject to *Target Testing* under this Policy.
 - (ii) For a **Second Illicit Drug Breach**:
 - (A) subject to Article 13, a suspension from *Competition* for a time period not less than six (6) months in length;
 - (B) undertake an appropriate drugs in sport counselling, education or training program as identified by SRA at the *Person's* own expense; and
 - (C) be subject to *Target Testing* under this Policy.

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- (iii) For a **Third or further Illicit Drug Breach**:
- (A) subject to Article 13, a suspension from *Competition* for a time period at the discretion of the *Illicit Drugs in Sport Disciplinary Tribunal*, including for the avoidance of doubt Membership terminated, and in any event a suspension of not less than twelve (12) months in length.
 - (B) undertake an appropriate drugs in sport counselling, education or training program as identified by *SRA* at the *Person's* own expense; and
 - (C) be subject to *Target Testing* under this Policy.
- (d) Any person who is not an Athlete who is found to have committed an *Illicit Drug Breach* under this Policy shall receive such sanction from the Disciplinary Tribunal as it sees fit in all the circumstances having regard to the Article 16(c), and may include termination of employment with *SRA* and termination of engagement as a board member of *SRA*.
- (e) It is a breach of this policy to violate any period of suspension or sanction imposed under this policy.
- (f) Elimination or reduction of *Sanctions* based on exceptional circumstances.
- (i) If an *Athlete* establishes in an individual case involving a second or subsequent *Illicit Drugs Breach* that he or she bears *No Fault or Negligence* for the *Illicit Drugs Breach*, then the otherwise applicable *Sanctions* shall be eliminated. When a *Prohibited Illicit Drug* or its *Markers* or *Metabolites* is detected in an *Athlete's Sample*, the *Athlete* must also establish how the *Prohibited Illicit Drug* entered his or her system in order to have the *Sanctions* eliminated. In the event this Article is applied and the otherwise applicable *Sanctions* are eliminated, the *Illicit Drugs Breach* shall not be considered as an earlier *Illicit Drugs Breach* for the limited purpose of determining the *Sanctions* for any subsequent *Illicit Drugs Breaches*.
 - (ii) If an *Athlete* establishes in an individual case involving a second or subsequent *Illicit Drugs Breach* that he or she bears *No Significant Fault or Negligence*, then the otherwise applicable *Sanctions* may be reduced. The *Athlete* must still undergo the prescribed counselling program and *Target Testing*.
- (g) Rules and timing for potential multiple breaches
- (i) For the purposes of a second or subsequent *Illicit Drugs Breach*, these may be considered separately to the first or earlier *Illicit Drugs Breach* only if *SRA* can establish that the *Athlete* committed the second or subsequent *Illicit Drugs Breach* after the *Athlete* received notice, or after *SRA* made a reasonable attempt to give notice, of the first or earlier *Illicit Drugs Breach*. If *SRA* cannot establish this, the *Illicit Drugs Breaches* shall be considered as one single *Illicit Drugs Breach*.
 - (ii) For the purposes of imposing *Sanctions* under Article 16, an *Illicit Drugs Breach* must have occurred within four years of the date of a previous *Illicit Drugs Breach* in order to be considered a second or subsequent *Illicit Drugs Breach*.
- (h) Commencement of Sanctions
- (i) Subject to Article 13, any *Sanction* imposed on an *Athlete* shall take immediate effect on the date of the hearing decision or, if the hearing is waived, on the date specified by *SRA*.

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- (ii) Any period of Provisional Suspension, whether imposed or voluntarily served, by an *Athlete* from *Competition* shall count toward the *Athlete's* period of Ineligibility. Voluntary periods of Ineligibility must be in writing to the SRA Illicit Drugs in Sport Policy Officer.
 - (iii) Where required by fairness, such as delays in the hearing process or other aspects of the *Testing* and results management process not attributable to the *Athlete*, the *Illicit Drugs In Sport Tribunal* imposing a suspension from *Competition* may start the suspension at an earlier date commencing as early as the date of notification.
- (i) Status during Suspension
 - (i) No *Athlete* or *Person* suspended from *Competition* may, during the period of suspension, compete in or participate in any *Competition* or *Event* authorised or organised by *SRA*, or otherwise represent *SRA* at any other *Competition* or *Event* as a competitor or in any coaching, promotional or other support role, or meeting convened under the *SRA* constitution.
 - (j) Reinstatement
 - (i) As a condition to regaining eligibility to *Compete* at the end of a suspension period as a consequence of an *Illicit Drugs Breach*, an *Athlete* must:
 - (A) If requested, make him or herself available for *Sample Collection* by *SRA*;
 - (B) have completed any required counselling, education or training program to *SRA's* satisfaction, and
 - (C) have complied with any other obligations imposed by the *Illicit Drugs in Sport Tribunal* including the payment of any costs imposed.
 - (k) Consequences to Teams
 - (i) An *Illicit Drugs Breach* at a *Competition* or *Event* by an *Athlete* shall automatically disqualify the result of the *Team* in that *Event*, with the forfeiture of any points, prizes or awards.
 - (ii) A *Team* shall not be permitted to substitute an *Athlete* who is stood down from participation in any remaining *Competitions* at an *Event*; in accordance with Article 16(a), but may replace the *Athlete* for future *Events*.
 - (l) On-the-spot presumptive finding not confirmed by Follow-up Laboratory Positive Test
 - (i) Where *On-the-spot presumptive Testing* indicates a potential *Prohibited Illicit Drug* finding, and the *Person* is stood down or otherwise prohibited from participation in a *Competition* or *Event*, and subsequent *Follow-up laboratory Testing* does not confirm a *Positive Test*, the *Person* shall have no recourse against *SRA* or the *Authorised Illicit Drug Testing Agency*. No adjustment to any placements, qualifications or results shall be entered into, and neither *SRA* nor the *Authorised Illicit Drug Testing Agency* shall be liable for any costs or claims of damages.

17. APPEALS

- (a) Decisions made by the *Illicit Drugs in Sport Tribunal* under Article 16 may be appealed exclusively to the *CAS Appeals Division* as set out in this Article 17.

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- (b) Appeals to the *CAS Appeals Division* shall only be made on procedural grounds not on the merits of the *Illicit Drugs in Sport Tribunal*, or SRA in the case of a waiver, decision. This article replaces R57 of the *CAS Code of Sports-related Arbitration* to the extent of any inconsistency.
 - (c) Both the *Athlete* being the subject of a decision, and *SRA*, have the right to appeal to the *CAS Appeals Division*.
 - (d) The appealing party shall pay any CAS filing fee, and shall pay all CAS fees for the appeal, barring which the appeal shall be dismissed.
 - (e) The determination of the *CAS Appeals Division* will be final and binding on the parties to the appeal and no party may institute or maintain proceedings in any court or tribunal other than the *CAS Appeals Division*.
 - (f) *SRA* may notify *SIA* and the *IWWF* of the existence of an appeal and of the outcome of any appeal within seven (7) days of the release by the *CAS Appeals Division* of the written decision of the appeal.
 - (g) The time to file an appeal to the *CAS Appeals Division* shall be within 21 days of receipt by the appealing party of the written decision of the *Illicit Drugs in Sport Tribunal* or the SRA in the case of a waiver.

18. PRIVACY, CONFIDENTIALITY AND DISCLOSURE

- (a) Privacy
 - (i) *SRA* will adopt privacy practices consistent with, to the extent applicable to *SRA*, the *Privacy Act* and in so doing will consider the *Privacy Guidelines*.
 - (ii) *SRA* and its *Members*, employees and agents shall act in a discreet and confidential manner in discharging their obligations under this Policy.
- (b) Confidentiality
 - (i) *SRA* and its employees and *Board Members* will keep confidential and not disclose information regarding an alleged or established *Illicit Drugs Breach*, including the identity of the *Person* alleged or found to have committed such breach, except to the extent:
 - (A) permitted under this Policy;
 - (B) permitted under another applicable *SRA* policy or agreement with the relevant *Person*;
 - (C) required for the purposes of administering and enforcing this Policy;
 - (D) required by law;
 - (E) in the public domain; and
 - (F) authorised by the relevant *Person*.
- (c) Disclosure
 - (i) *SRA* may inform the following organisations of any *Positive Analytical Finding*, any notification of an alleged *Illicit Drugs Breach*, any finding of an *Illicit Drugs Breach* or

any other details of the results management process or hearing process with respect to any *Athlete* or other *Person* subject to this Policy:

- (A) *Sport Integrity Australia* ;
 - (B) the International Waterski and Wakeboard Federation;
 - (C) the *Australian Institute of Sport* and/or the *Australian Sports Commission*;
 - (D) the *Person's* team;
 - (E) where relevant, the *AOC*, *APC* and/or *ACGA*; and
 - (F) without limitation, police, customs or other relevant authorities.
- (ii) Except as provided above, unless and until a *Person* publicly discloses that he or she has been notified of an *Illicit Drug Breach* and/or has authorised *SRA* or affected/interested parties to make public comments, *SRA* and any notified parties must not publicly disclose the identity of a *Person* who is suspected of an *Illicit Drug Breach*.
- (iii) For the avoidance of doubt, where an *Illicit Drugs in Sport Disciplinary Tribunal* or *CAS* determination has found that an *Illicit Drug Breach* has occurred, or a hearing has been waived, *SRA* may publicly disclose the details of the *Illicit Drugs Breach* in its sole discretion.

19. ATHLETES WHO ARE MINORS

- (a) *SRA* recognises that *Athletes* who may be bound to, and *Tested* under, this Policy may be *Minors* at the time of the Testing.
- (b) For the avoidance of doubt, this Policy applies to *Minors* to the same extent as to all other *Athletes*. Any notifications under this Policy involving a *Minor* shall be advised to the *Minor's* parent or guardian.
- (c) The fact that an *Athlete* is/was a *Minor* at the time of any breach of this Policy shall not excuse any breach of this Policy, but age and inexperience may be considered in mitigation of sanction by the *Illicit Drugs in Sport Disciplinary Tribunal*.

20. LIMITATIONS OF ACTION

- (a) No action may be commenced under this Policy against an *Athlete* or other *Person* for an alleged *Illicit Drugs Breach* unless such action is commenced within two years from the date the alleged *Illicit Drugs Breach* occurred.

21. INVESTIGATIONS

- (a) *SRA* may at its sole discretion at any time conduct an investigation into whether an *Illicit Drugs Breach* or other breach of this Policy has occurred.
- (b) A *Person* who is investigated under this Policy may also be investigated in relation to the same matter under the *SRA Anti-Doping Policy* and/or *SRA Code of Conduct*, where applicable.
- (c) An investigation for the purposes of this Policy may also serve as an investigation under the *SRA Anti-Doping Policy* and/or *SRA Code of Conduct*, where applicable.

22. AMENDMENT AND INTERPRETATION

- (a) This Policy may be amended from time to time by SRA.
- (b) This Policy shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.
- (c) The headings used for the various Parts and Articles of this Policy are for convenience only and shall not be deemed part of the substance of this Illicit Drugs in Sport Policy or to affect in any way the interpretation of this Policy.
- (d) Definitions of terms used in this Policy can be found in Article 23. The definitions shall be considered an integral part of this Policy. Another grammatical form of a defined term has a corresponding meaning.
- (e) This Illicit Drugs in Sport Policy shall apply from the date the Policy became effective.
- (f) Words in the singular include the plural and vice versa.
- (g) Reference to “including” and similar words are not words of limitation.
- (h) Minor irregularities in the application of this Policy which cannot be reasonably considered to have affected the determination of an *Illicit Drugs Breach* will not affect such determination.
- (i) This Policy shall apply from its specified effective date.

23. DEFINITIONS

In this Policy, the following terms have the following definitions:

ACGA

The Australian Commonwealth Games Association Inc.

AIS

The Australian Institute of Sport, a division of the ASC

Anti-Doping Rule Violation

An anti-doping rule violation as defined in Article 6 of the *SRA Anti-Doping Policy*

AOC

The Australian Olympic Committee Inc.

APC

The Australian Paralympic Committee Inc.

SIA

Sport Integrity Australia. Note: The *Australian Sports Anti-Doping Authority (ASADA)* was established under the *ASADA Act* in March 2006 and ultimately became part of SIA in July 2020.

ASC

The Australian Sports Commission, established under the *ASC Act*. Includes the *AIS*

ASC Act

The *Australian Sports Commission Act 1989 (Cth)*, as amended from time to time

Athlete

Includes any participant in a sporting activity who has a current *SRA* membership

Athlete Support Personnel

Any coach, trainer, manager, agent, team staff *Member*, official, scientist, medical or paramedical or other personnel working with, treating or assisting an *Athlete* preparing for or participating in a sporting activity

Attempt

Has the same meaning as in the WADA Code.

Australian Standards 4308

Australian Standards (AS)/New Zealand Standards (NZS) 4308:2008 (Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine), as amended from time to time.

Authorised Illicit Drugs Testing Agency

Means the company engaged by *SRA* to conduct *Testing for Prohibited Illicit Drugs*.

Board Member

The Directors of *SRA*, as defined in the Constitution

CAS

The Court of Arbitration for Sport (Oceania Registry)

CAS Appeals Division

The Court of Arbitration for Sport (Oceania Registry) Appeals Arbitration Division

Competition

A single competition or singular athletic contest. By way of example, a single race during an Event

Education and Action Plan

The Australian Government's Illicit Drugs in Sport — National Education and Action Plan as amended from time to time

Event

A series of individual *Competitions* conducted together. By way of example, multiple races during a day or over a weekend

Fails to Submit

Failure to submit to *Sample Collection* or failure to comply with *Sample Collection* procedures, including: Failure to provide a *Sample* as required, or Failure to complete or sign any form required

Follow-up laboratory testing

Testing by an approved pathology or other laboratory in accordance with the *Testing Standards*. Where *SRA* engages an independent drug testing company (for example, Fit for Duty) to conduct *Sample* collection and *On-the-spot presumptive testing*, further analysis of the *Sample* by that company, or at the direction of that company shall constitute *Follow-up laboratory testing* for the purposes of this policy, and shall be deemed to be in accordance with the *Testing Standards* unless the *Athlete* or *Person* so otherwise proves.

IF

An International Federation recognised by the International Olympic Committee or SportAccord as the entity responsible for governing that sport internationally

Illicit Drugs Breach

Any of the categories of breach specified in Article 8 of this Policy

Illicit Drugs in Sport Disciplinary Tribunal

The body appointed by SRA for the purposes of conducting a hearing. The *Illicit Drugs In Sport Disciplinary Tribunal* shall comprise three (3) persons, one of whom shall be a board member of SRA, and shall be chaired by a lawyer or barrister.

In-Competition

Unless provided otherwise in the rules of an *IF* or other relevant *Anti-Doping Organisation*, the period commencing 12 hours before a *Competition* in which the *Athlete* is scheduled to participate through to the end of such *Competition* and the sample collection process related to such *Competition*

List of Prohibited Illicit Drugs

The list identifying the illicit drugs prohibited under this Policy as made available on the *SRA* website, as amended from time to time in accordance with this Policy

Metabolites

Any substance produced by a biotransformation process

Markers

A compound, group of compounds or biological parameter/s that indicates the use, ingestion or consumption of a *Prohibited Illicit Drug*

Member

A person who, or a body which, is a *Member* of *SRA*; a person who, or body which, is affiliated with *SRA* or a person who is a *Member* of a body which is a *Member* of or affiliated with *SRA*.

Minor

Means a Person who is under 18 years of age as at the time of any alleged breach of this Policy.

No Fault or Negligence

An *Athlete* establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had used, ingested or otherwise consumed the *Prohibited Illicit Drug*

No Significant Fault or Negligence

An *Athlete* establishing that his or her fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the *Positive Analytical Finding*

Office for Sport

The Office for Sport within the Department of the Prime Minister and Cabinet, or such other Australian Government office, department or agency assuming that office's role under this Policy

On-the-spot presumptive testing

Sample testing using an on-the-spot system that provides a near immediate indication of illicit substance presence, but does not constitute an *Illicit Drugs Breach*.in the absence of *Follow-up laboratory testing*

Out-of-Competition

Any period of time where an *Athlete* is not *In-Competition*

Out of Competition Sample Collection

The process of collecting biological material for the purpose of *Sample Analysis*

Person

A natural person, body corporate, organisation or other entity

Positive Finding

The presence in a *Sample* of a *Prohibited Illicit Drug* or its *Metabolites* or *Markers*

Possession

Has the same meaning as the definition in the WADA Code.

Privacy Act

The *Privacy Act 1988* (Cth), as amended from time to time

Privacy Guidelines

The Australian Government's Guidelines on Privacy and Illicit Drug Testing in Sport, as amended from time to time and accessible through the website idis.gov.au

Prohibited Illicit Drug

A drug listed on the *List of Prohibited Illicit Drugs*

Results Management Standards

The Australian Government's Illicit Drugs in Sport – National Education and Action Plan – Results Management Standards, as amended from time to time. A reference in that document to an NSO will be read as a reference to SRA as applicable

Sample

Any biological material collected for the purposes of *Sample Analysis*

Sample Analysis

Analysis of *Samples* for the presence of *Prohibited Illicit Drugs* and their *Metabolites* or *Markers*

Sample Collection

Means collection of a *Sample* for both on-the spot presumptive testing purposes, as well as *Follow-up laboratory testing*

Sanctions

Suspension from competition and representation on behalf of SRA at any event, competition or other activity, or other penalty as determined by the *Illicit Drugs in Sport Tribunal*

SRA Anti-Doping Policy

SRA's Anti-Doping Policy as amended from time to time

Tamper

Causing, arranging or participating in any of the following in relation to any part of *Sample Collection* or any other part of *Testing*:

- a. Altering, or attempting to alter, for an improper purpose or in an improper way;
- b. Bringing, or attempting to bring, improper influence to bear;
- c. Interfering, or attempting to interfere, improperly;
- d. Obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring, or attempting to so obstruct, mislead or engage in such conduct, or
- e. Providing, or attempting to provide, fraudulent information.

Target Testing

The selection of *Athletes* for *Sample Collection* where specific *Athletes*, or groups of *Athletes*, are selected on a non-random basis for *Sample Collection* at a specified time

Test Distribution Plan

The number, timing and spread of *Sample Collection* to be conducted to ensure an efficient and effective allocation of *Testing* resources

Testing

The parts of the process of testing in relation to *Prohibited Illicit Drugs* involving *Test Distribution Planning*, *Sample Collection*, *Sample* handling, and *Sample* transport to the laboratory

Testing Standards

When referring to urine testing; the Australian Government's Illicit Drugs in Sport — National Education and Action Plan — Testing Standards, as amended from time to time. A reference in that document to an *NSO* is a reference to *SRA* as applicable. When referring to oral/saliva testing; the applicable standards, policies and procedures of the *Authorised Illicit Drugs Testing Agency*.

Trafficking

Selling, giving, transporting, sending, delivering or distributing (either physically or by electronic or other means) any substance on the *List of Prohibited Illicit Drugs* by an *Athlete* or any other person bound to this policy, to any other person, without a bona fide medical reason

Therapeutic Use Exemption (TUE)

Means an exemption for the legitimate use of a *Prohibited Illicit Drug* provided by SIA or IWWF or WADA. SRA may in its sole discretion consider a doctor's prescription for the use of a substance as a *TUE* where the prescription was obtained prior to the *Testing* or incident that caused the *Illicit Drug Breach*.

Use

The utilization, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Illicit Drug.