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**Sports Anti-Doping Rules 2018**

**Made 21 November 2017**

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## INTRODUCTION

Having reviewed the Sports Anti-Doping Rules (2017), the Board of Drug Free Sport New Zealand (*DFSNZ*) has made the Sports Anti-Doping Rules (2018) in order to implement the amendments to the World Anti-Doping Code and *International Standards*.

*DFSNZ* has made these *Rules* under section 16 of the Sports Anti-Doping Act 2006 (“the Act”). The *Code* seeks to protect the fundamental rights of *Athletes* to participate in doping-free sport and to bring about the harmonisation of core anti-doping elements across *Signatories* to the *Code*. It is intended that *National Sporting Organisations* will agree to the *Rules* so that the *Rules* apply to their members and all *Participants* as governing the conditions under which sport is played.

*DFSNZ* 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.

While all provisions of the *Code* are mandatory in substance, the *Code* requires certain Articles to be implemented without substantive change by *Signatories* to the *Code* because of their central place in harmonising anti-doping measures. The provisions which have to be implemented without substantive change in these *Rules* are: Article 1 (Definition of Doping) Article 2 (*Anti-Doping Rule Violations*), Article 3 (Proof of Doping), Article 4.2.2 (Specified Substances), Article 4.3.3 (*WADA’s Determination of the Prohibited List*), Article 7.11 (Retirement from Sport), 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 13.6, and Article 13.7), Article 15.1 (Recognition of Decisions), Article 17 (Statute of Limitations), Article 24 (Interpretation of the *Code*) and Appendix 1 (Definitions), together with the corresponding comments from the *Code*. The *Rules* also provide for the application of *International Standards* established by *WADA*, in particular the *Prohibited List*, the *International Standard* for Testing and Investigations (and applicable *WADA Guidelines* for *Sample Collection*), the *International Standard* for Laboratories and the *International Standard* for Therapeutic Use Exemptions and the *International Standard* for the Protection of Privacy and Personal Information.

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

It is intended that *National Sporting Organisations* will agree to the *Rules* as their *Anti-Doping Rules* in order to implement the *Code*. By agreeing to the application of the *Rules*, *National Sporting Organisations* will agree that *DFSNZ* 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, *DFSNZ* 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*. Further, *National Sporting Organisations* shall take all reasonable steps to ensure that *Participants* under their authority are informed of the potential uses, recipients and retentions of personal information they provide.

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

*DFSNZ* 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 Investigations and applicable *WADA Guidelines* for the Collection of Blood and Urine *Samples*. *DFSNZ* will also carry out investigations in relation to *Anti-Doping Rule Violations* under *Rules 2.2 to 2.10*. *National Sporting Organisations* will promptly refer all information relating to possible *Anti-Doping Rule Violations* to *DFSNZ*. *DFSNZ* will review information obtained in any investigation and decide whether the information supports the bringing of Violation Proceedings. *DFSNZ* 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 promptly 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 *DFSNZ* 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*. Comments in these *Rules* are intended to be explanatory rather than intended to have legislative effect.

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## 1. APPLICATION OF THESE RULES AND INCORPORATION OF *INTERNATIONAL STANDARDS*

### 1.1 The *Rules* apply to:

- 1.1.1 *DFSNZ* and all *Doping Control* and any investigation into any *Anti-Doping Rule Violation* carried out by *DFSNZ* (save where *DFSNZ* 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*);
- 1.1.2 any *TUE* Committee established by *DFSNZ*;
- 1.1.3 any *National Sporting Organisation* that agrees to the *Rules*;
- 1.1.4 any club, team, association, league or any other *Person* that either:
  - 1.1.4.1 is a member of a *National Sporting Organisation* that has agreed to the *Rules*; or
  - 1.1.4.2 agrees to the application of the *Rules* with the *National Sporting Organisation*; or
  - 1.1.4.3 otherwise agrees to the application of the *Rules*;
- 1.1.5 all *Persons* who:
  - 1.1.5.1 are members of a *National Sporting Organisation* that has agreed to the *Rules*, regardless of where the *Persons* reside or are situated; or
  - 1.1.5.2 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 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
  - 1.1.5.3 otherwise agree to the *Rules*; and
- 1.1.6 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*:
- 1.2.2.1 recognise and accept the authority and responsibility of *DFSNZ* as the sole *National Anti-Doping Organisation* in New Zealand for implementing the *Code*; and
  - 1.2.2.2 authorise *DFSNZ* 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 *DFSNZ*.

- 1.2.3 A *National Sporting Organisation* that has agreed to the *Rules* will take all reasonable steps to ensure that any *Person* who wishes to take part in any *Event*, *Competition* or activity organised or authorised by it who is not a member of the *National Sporting Organisation* or who has not otherwise agreed to be bound by the *Rules*, agrees to be bound by the *Rules*.
- 1.2.4 A *National Sporting Organisation* that has agreed to the *Rules* must ensure that any *Person* who is not a member of the *National Sporting Organisation* but who wishes to participate in *International Events* or *Events* organised, sanctioned or authorised by the *National Sporting Organisation* and who fulfils, or would otherwise fulfil, the requirements to be part of *DFSNZ'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 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 *DFSNZ* under the Act and its obligations as a *Signatory* to the *Code*. Nothing in the *Rules* prevents *DFSNZ* 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 *DFSNZ* 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 *International Federation's Anti-Doping Rules* will prevail.
- 1.2.8 Where an *Athlete*, *Athlete Support Personnel* or other *Person* has an agreement with the *National Olympic and/or Paralympic Committee* for it to provide financial, coaching or other support directly to that *Athlete*, *Athlete Support Personnel* or other *Person* (other than for support for the *Olympic Games* or *Paralympic Games*), that *National Olympic and/or Paralympic Committee* will, for the purposes of these *Rules*,

be regarded as a *National Sporting Organisation*. To the extent that those circumstances apply, every reference in these Rules to any right or obligation of a *National Sporting Organisation* shall apply to the *National Olympic and/or Paralympic Committee*, in addition to any other rights and obligations it has as a *National Olympic and/ or Paralympic Committee* under these Rules.

1.2.9 The Rules are subject to the Legislation Act 2012.

1.3 *International Standards* incorporated into the Rules

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

1.3.1.1 World Anti-Doping Agency 2018 List of *Prohibited Substances* and Methods;

1.3.1.2 World Anti-Doping Agency *International Standard* for Therapeutic Use Exemptions, effective 1 January 2016;

1.3.1.3 World Anti-Doping Agency *International Standard* for Testing and Investigations, effective 1 January 2017;

1.3.1.4 World Anti-Doping Agency *International Standard* for Laboratories, effective 2 June 2016; and

1.3.1.5 World Anti-Doping Agency *International Standard* for the Protection of Privacy and *Personal Information*, 1 January 2015.

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

## 2. ANTI-DOPING RULE VIOLATIONS

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Rules 2.1 to 2.10 of the Rules.

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

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

The following constitute anti-doping rule violations:

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

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

[Comment to Rule 2.1.1: An Anti-Doping Rule Violation is committed under this Rule without regard to an *Athlete's Fault*. This rule has been referred to in various CAS decisions as "Strict Liability". An *Athlete's Fault* is taken into consideration in

determining the Consequences of this anti-doping rule violation under Rule 10. This principle has consistently been upheld by CAS.]

- 2.1.2 Sufficient proof of an anti-doping rule violation under Rule 2.1 is established by any of the following: presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in the *Athlete's A Sample* where the *Athlete* waives analysis of the *B Sample* and the *B Sample* is not analysed; or, where the *Athlete's B Sample* is analysed and the analysis of the *Athlete's B Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the *Athlete's A Sample* or where the *Athlete's B Sample* is split into two bottles and the analysis of the second bottle confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the first bottle.

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

- 2.1.3 Excepting those substances for which a quantitative threshold is specifically identified in the *Prohibited List*, the presence of any quantity of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample* shall constitute an anti-doping rule violation.
- 2.1.4 As an exception to the general rule of Rule 2.1, the *Prohibited List* or *International Standards* may establish special criteria for the evaluation of *Prohibited Substances* that can also be produced endogenously.

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

[Comment to Rule 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Rule 3.2, unlike the proof required to establish an anti-doping rule violation under Rule 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Athlete Biological Passport, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Rule 2.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organisation provides a satisfactory explanation for the lack of confirmation in the other Sample.]

- 2.2.1 It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body and that no *Prohibited Method* is Used. Accordingly, it is not necessary that intent, *Fault*, negligence or knowing Use on the *Athlete's* part be demonstrated in order to establish an anti-doping rule violation for Use of a *Prohibited Substance* or a *Prohibited Method*.
- 2.2.2 The success or failure of the Use or Attempted Use of a *Prohibited Substance* or *Prohibited Method* is not material. It is sufficient that the *Prohibited Substance* or *Prohibited Method* was Used or Attempted to be Used for an anti-doping rule violation to be committed.

[Comment to Rule 2.2.2: Demonstrating the "Attempted Use" of a Prohibited Substance or a Prohibited Method requires proof of intent on the Athlete's part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the Strict Liability principle established for violations of Rule 2.1 and violations of Rule 2.2 in respect of Use of a Prohibited Substance or Prohibited Method. An Athlete's Use of a Prohibited Substance constitutes an anti-doping rule violation unless such substance is not prohibited Out-of-Competition and the Athlete's Use takes place Out-of-Competition. (However,



*the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of Rule 2.1 regardless of when that substance might have been administered.))]*

### 2.3 Evading, Refusing, or Failing to submit to Sample Collection

Evading *Sample* collection, or without compelling justification refusing or failing to submit to *Sample* collection after notification as authorised in these *Rules* or other applicable anti-doping rules.

*[Comment to Rule 2.3: For example, it would be an anti-doping rule violation of "evading Sample collection" if it were established that an Athlete was deliberately avoiding a Doping Control official to evade notification or Testing. A violation of "failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Athlete, while "evading" or "refusing" Sample collection contemplates intentional conduct by the Athlete.]*

### 2.4 Whereabouts failures

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

### 2.5 Tampering, or Attempted Tampering, with any part of Doping Control

Conduct which subverts the *Doping Control* process but which would not otherwise be included in the definition of *Prohibited Methods*. *Tampering* shall include, without limitation, intentionally interfering or attempting to interfere with a *Doping Control* official, providing fraudulent information to an *Anti-Doping Organisation* or intimidating or attempting to intimidate a potential witness.

*[Comment to Rule 2.5: For example, this Rule would prohibit altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis or altering a Sample by the addition of a foreign substance. Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering shall be addressed in the disciplinary rules of sport organisations.]*

### 2.6 Possession of a Prohibited Substance or a Prohibited Method

2.6.1 *Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a Therapeutic Use Exemption (TUE) granted in accordance with Rule 4.4 or other acceptable justification.*

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

*[Comment to Rules 2.6.1 and 2.6.2: Acceptable justification would not include, for example, buying or Possessing a Prohibited Substance for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that Person had a physician's prescription, e.g., buying Insulin for a diabetic child.]*

[Comment to Rule 2.6.2: Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.]

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

2.8 *Administration or Attempted Administration to any Athlete In-Competition of any Prohibited Substance or Prohibited Method, or Administration or Attempted Administration to any Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition.*

2.9 *Complicity*

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation, *Attempted* anti-doping rule violation, or violation of Rule 10.12.1 by another *Person*.

2.10 *Prohibited Association*

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

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

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

2.10.3 Is serving as a front or intermediary for an individual described in Rule 2.10.1 or Rule 2.10.2.

In order for this provision to apply, it is necessary that the *Athlete* or other *Person* has previously been advised in writing by an *Anti-Doping Organisation* with jurisdiction over the *Athlete* or other *Person*, or by WADA, of the *Athlete Support Person's* disqualifying status and the potential *Consequence* of prohibited association and that the *Athlete* or other *Person* can reasonably avoid the association. The *Anti-Doping Organisation* shall also use reasonable efforts to advise the *Athlete Support Person* who is the subject of the notice to the *Athlete* or other *Person* that the *Athlete Support Person* may, within 15 days, come forward to the *Anti-Doping Organisation* to explain that the criteria described in Rules 2.10.1 and 2.10.2 do not apply to him or her. (Notwithstanding Rule 16, this Rule applies even when the *Athlete Support Person's* disqualifying conduct occurred prior to the effective date provided in Rule 18.)

The burden shall be on the *Athlete* or other *Person* to establish that any association with *Athlete Support Personnel* described in Rule 2.10.1 or 2.10.2 is not in a professional or sport-related capacity.

*Anti-Doping Organisations* that are aware of *Athlete Support Personnel* who meet the criteria described in Rule 2.10.1, 2.10.2, or 2.10.3 shall submit that information to WADA.

*[Comment to Rule 2.10: Athletes and other Persons must not work with coaches, trainers, physicians or other Athlete Support Personnel who are Ineligible on account of an anti-doping rule violation or who have been criminally convicted or professionally disciplined in relation to doping. Some examples of the types of association which are prohibited include: obtaining training, strategy, technique, nutrition or medical advice; obtaining therapy, treatment or prescriptions; providing any bodily products for analysis; or allowing the Athlete Support Person to serve as an agent or representative. Prohibited association need not involve any form of compensation.]*

### **3. PROOF OF DOPING**

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

*DFSNZ* has the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether *DFSNZ* 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 which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.

Where 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.

*[Comment to Rule 3.1: This standard of proof required to be met by DFSNZ is comparable to the standard which is applied in most countries to cases involving professional misconduct.]*

#### **3.2 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:

3.2.1 Analytical methods or decision limits approved by *WADA* after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any *Athlete* or other *Person* seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify *WADA* of the challenge and the basis of the challenge. *CAS* on its own initiative may also inform *WADA* of any such challenge. At *WADA*'s request, the *CAS* panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within 10 days of *WADA*'s receipt of such notice, and *WADA*'s receipt of the *CAS* file, *WADA* shall also have the right to intervene as a party, appear amicus curiae or otherwise provide evidence in such proceeding.

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

*[Comment to Rule 3.2.2: The burden is on the Athlete or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. If the Athlete or*

other Person does so, the burden shifts to DFSNZ to prove to the comfortable satisfaction of the Sports Tribunal or NSO Anti-Doping Tribunal that the departure did not cause the Adverse Analytical Finding.]

- 3.2.3 Departures from any other *International Standard* or other anti-doping rule or policy set forth in the *Code* or these *Rules* which did not cause an *Adverse Analytical Finding* or other anti-doping rule violation shall not invalidate such evidence or results. If the *Athlete* or other *Person* establishes a departure from another *International Standard* or other anti-doping rule or policy which could reasonably have caused an anti-doping rule violation based on *Adverse Analytical Finding* or other anti-doping rule violation, then *DFSNZ* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding* or the factual basis for the anti-doping rule violation.
- 3.2.4 The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the *Athlete* or other *Person* to whom the decision pertained of those facts unless the *Athlete* or other *Person* establishes that the decision violated principles of natural justice.
- 3.2.5 The *Sports Tribunal* or *NSO Anti-Doping Tribunal* in a hearing on an anti-doping rule violation may draw an inference adverse to the *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation based on the *Athlete's* or other *Person's* refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in *Person* or telephonically as directed by the *Sports Tribunal* or *NSO Anti-Doping Tribunal*) and to answer questions from the *Sports Tribunal* or *NSO Anti-Doping Tribunal* or *DFSNZ*.

[Comment to Rule 3.2: For example, an Anti-Doping Organisation may establish an anti-doping rule violation under Rule 2.2 based on the Athlete's admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Rule 2.2, or conclusions drawn from the profile of a series of the Athlete's blood or urine Samples, such as data from the Athlete Biological Passport.]

#### 4. THE PROHIBITED LIST

4.1 Unless provided otherwise in the *Prohibited List* or a revision, the *Prohibited List* and revisions shall become effective three months after publication of the *Prohibited List* by *WADA* without requiring any further action by *DFSNZ* or any further steps under these *Rules*. *DFSNZ* shall take reasonable steps to ensure the current *Prohibited List* is available to its *Participants*. All *Athletes* and other *Persons* shall be bound by the *Prohibited List*, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all *Athletes* and other *Persons* to familiarise themselves with the most up-to-date version of the *Prohibited List* and all revisions thereto.

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

4.2.1 *Prohibited Substances* and *Prohibited Methods*

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. *Prohibited Substances* and *Prohibited Methods* may be included in the *Prohibited List* by general category or by specific reference to a particular substance or method.

[Comment to Rule 4.2.1: Out-of-Competition Use of a substance which is only prohibited In-Competition is not an anti-doping rule violation unless an adverse Analytical Finding for the substance or its Metabolites or Markers is reported for a Sample collected In-Competition.]

#### 4.2.2 Specified Substances

For purposes of the application of Rule 10, all *Prohibited Substances* shall be “*Specified Substances*” except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so identified on the *Prohibited List*. The category of *Specified Substances* shall not include *Prohibited Methods*.

[Comment to Rule 4.2.2: The *Specified Substances* identified in Rule 4.2.2 should not in any way be considered less important or less dangerous than other doping substances. Rather, they are simply substances which are more likely to have been consumed by an Athlete for a purpose other than the enhancement of sport performance.]

#### 4.3 WADA’s determination of the *Prohibited List*

WADA’s determination of the *Prohibited Substances* and *Prohibited Methods* that will be included on the *Prohibited List*, the classification of substances into categories on the *Prohibited List*, and the classification of a substance as prohibited at all times or *In-Competition* only is final and shall not be subject to challenge by an *Athlete* or other *Person* based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.

#### 4.4 Therapeutic Use Exemptions (“TUEs”)

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

4.4.2 An *Athlete* who is not an *International-Level Athlete* should apply to *DFSNZ* for a *TUE*. If *DFSNZ* denies the application, the *Athlete* may appeal exclusively to the *Sports Tribunal*. The *Athlete* must file any such appeal within 14 days of receiving notification that the application has been denied.

4.4.3 An *Athlete* who is an *International-Level Athlete* should apply to his or her International Federation.

4.4.3.1 Where the *Athlete* already has a *TUE* granted by *DFSNZ* for the substance or method in question, if that *TUE* meets the criteria set out in the International Standard for Therapeutic Use Exemptions then the International Federation must recognise it. If the International Federation considers that the *TUE* does not meet those criteria and so refuses to recognise it, it must notify the *Athlete* and *DFSNZ* promptly, with reasons. The *Athlete* and/or *DFSNZ* shall have 21 days from such notification to refer the matter to *WADA* for review. If the matter is referred to *WADA* for review, the *TUE* granted by *DFSNZ* remains valid for national-level *Competition* and *Out-of-Competition Testing* (but is not valid for international-level *Competition*) pending *WADA*’s decision. If the matter is not referred to *WADA* for review, the *TUE* becomes invalid for any purpose when the 21-day review deadline expires.

- 4.4.3.2 If the *Athlete* does not already have a *TUE* granted by *DFSNZ* for the substance or method in question, the *Athlete* must apply directly to his or her International Federation for a *TUE* as soon as the need arises. If the International Federation (or *DFSNZ*, where it has agreed to consider the application on behalf of the International Federation) denies the *Athlete's* application, it must notify the *Athlete* promptly, with reasons. If the International Federation grants the *Athlete's* application, it must notify not only the *Athlete* but also *DFSNZ*, and if *DFSNZ* considers that the *TUE* does not meet the criteria set out in the International Standard for Therapeutic Use Exemptions, it has 21 days from such notification to refer the matter to *WADA* for review. If *DFSNZ* refers the matter to *WADA* for review, the *TUE* granted by the International Federation remains valid for international-level *Competition* and *Out-of-Competition Testing* (but is not valid for national-level *Competition*) pending *WADA's* decision. If *DFSNZ* does not refer the matter to *WADA* for review, the *TUE* granted by the International Federation becomes valid for national-level *Competition* as well when the 21-day review deadline expires.

*[Comment to Rule 4.4.3: If the International Federation refuses to recognise a TUE granted by DFSNZ only because medical records or other information are missing that are needed to demonstrate satisfaction with the criteria in the International Standard for Therapeutic Use Exemptions, the matter should not be referred to WADA. Instead, the file should be completed and re-submitted to the International Federation. If an International Federation chooses to test an Athlete who is not an International-Level Athlete, it must recognise a TUE granted to that Athlete by DFSNZ. A TUE granted by DFSNZ is valid at national level only; it is not automatically valid for international-level Competition.]*

- 4.4.4 A *Major Event Organisation* may require *Athletes* to apply to it for a *TUE* if they wish to *Use* a *Prohibited Substance* or a *Prohibited Method* in connection with the *Event*. In that case:

- 4.4.4.1 The *Major Event Organisation* must ensure a process is available for an *Athlete* to apply for a *TUE* if he or she does not already have one. If the *TUE* is granted, it is effective for its *Event* only.
- 4.4.4.2 Where the *Athlete* already has a *TUE* granted by *DFSNZ* or his or her International Federation, if that *TUE* meets the criteria set out in the International Standard for Therapeutic Use Exemptions, the *Major Event Organisation* must recognise it. If the *Major Event Organisation* decides the *TUE* does not meet those criteria and so refuses to recognise it, it must notify the *Athlete* promptly, explaining its reasons.
- 4.4.4.3 A decision by a *Major Event Organisation* not to recognise or not to grant a *TUE* may be appealed by the *Athlete* exclusively to an independent body established or appointed by the *Major Event Organisation* for that purpose. If the *Athlete* does not appeal (or the appeal is unsuccessful), he or she may not *Use* the substance or method in question in connection with the *Event*, but any *TUE* granted by *DFSNZ* or his or her International Federation for that substance or method remains valid outside of that *Event*.

*[Comment to Rule 4.4.4.3: For example, the CAS Ad Hoc Division or a similar body may act as the independent appeal body for particular Events, or WADA may agree to perform that function. If neither CAS nor WADA are performing that function, WADA retains the right (but not the obligation) to review the TUE decisions made in connection with the Event at any time, in accordance with Rule 4.4.6.]*

- 4.4.5 If *DFSNZ* chooses to collect a *Sample* from a *Person* who is not an *International-Level* or *National-Level Athlete*, and that *Person* is *Using a Prohibited Substance* or *Prohibited Method* for therapeutic reasons, *DFSNZ* may permit him or her to apply for a retroactive *TUE*.
- 4.4.6 *WADA* must review an International Federation's decision not to recognise a *TUE* granted by the *National Anti-Doping Organisation* that is referred to it by the *Athlete* or *DFSNZ*. In addition, *WADA* must review an International Federation's decision to grant a *TUE* that is referred to it by *DFSNZ*. *WADA* may review any other *TUE* decisions at any time, whether upon request by those affected or on its own initiative. If the *TUE* decision being reviewed meets the criteria set out in the International Standard for Therapeutic Use Exemptions, *WADA* will not interfere with it. If the *TUE* decision does not meet those criteria, *WADA* will reverse it.

[Comment to Rule 4.4.6: *WADA* shall be entitled to charge a fee to cover the costs of (a) any review it is required to conduct in accordance with Rule 4.4.6; and (b) any review it chooses to conduct, where the decision being reviewed is reversed.]

- 4.4.7 Any *TUE* decision by an International Federation (or by *DFSNZ* where it has agreed to consider the application on behalf of an International Federation) that is not reviewed by *WADA*, or that is reviewed by *WADA* but is not reversed upon review, may be appealed by the *Athlete* and/or *DFSNZ*, exclusively to *CAS* in accordance with Rule 13.

[Comment to Rule 4.4.7: In such cases, the decision being appealed is the International Federation's *TUE* decision, not *WADA*'s decision not to review the *TUE* decision or (having reviewed it) not to reverse the *TUE* decision. However, the time to appeal the *TUE* decision does not begin to run until the date that *WADA* communicates its decision. In any Event, whether the decision has been reviewed by *WADA* or not, *WADA* shall be given notice of the appeal so that it may participate if it sees fit.]

- 4.4.8 A decision by *WADA* to reverse a *TUE* decision may be appealed by the *Athlete*, *DFSNZ* and/or the International Federation affected, exclusively to *CAS* in accordance with Rule 13.
- 4.4.9 A failure to take action within a reasonable time on a properly submitted application for grant/recognition of a *TUE* or for review of a *TUE* decision shall be considered a denial of the application.
- 4.4.10 Therapeutic Use Exemption Committee (*TUE* Committee)
- 4.4.10.1 *DFSNZ* shall at all times have policies and procedures for the application for *TUE*s and for consideration of such applications.
- 4.4.10.2 *DFSNZ* shall appoint a *TUE* Committee to consider applications for *TUE*s. 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 *TUE*s from *Athletes* who are members of the same individual *National Sporting Organisations* or International Federations.
- 4.4.10.3 The *TUE* Committee member(s) shall promptly evaluate any request for a *TUE* in accordance with the International Standard for Therapeutic Use

Exemptions and render a decision on such request, which shall be the decision of *DFSNZ*.

4.4.10.4 *DFSNZ* and the *TUE* Committee shall conduct the *Administration* and determination of applications for *TUE*s in strict confidence.

4.4.11 Expiration, Cancellation, Withdrawal or Reversal of a *TUE*

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

4.4.11.2 In such event, the *Athlete* shall not be subject to any *Consequences* based on his/her *Use* or *Possession* or *Administration* of the *Prohibited Substance* or *Prohibited Method* in question in accordance with the *TUE* prior to the effective date of expiry, cancellation, withdrawal or reversal of the *TUE*. The review pursuant to Rule 7.2 of any subsequent *Adverse Analytical Finding* shall include consideration of whether such finding is consistent with *Use* of the *Prohibited Substance* or *Prohibited Method* prior to that date, in which event no anti-doping rule violation shall be asserted.

## 5. TESTING AND INVESTIGATIONS

5.1 Purpose of *Testing* and Investigations

*Testing* and investigations shall only be undertaken for anti-doping purposes.

5.1.1 *DFSNZ* shall undertake *Testing* to obtain analytical evidence as to the *Athlete's* compliance (or non-compliance) with the strict *Code* prohibition on the presence/*Use* of a *Prohibited Substance* or *Prohibited Method*.

5.1.2 *DFSNZ* shall undertake investigations:

5.1.2.1 in relation to *Atypical Findings*, *Atypical Passport Findings* and *Adverse Passport Findings*, in accordance with Rules 7.4 and 7.5 respectively, gathering intelligence or evidence (including, in particular, analytical evidence) in order to determine whether an anti-doping rule violation has occurred under Rule 2.1 and/or Rule 2.2; and

5.1.2.2 in relation to other indications of potential anti-doping rule violations, in accordance with Rules 7.6 and 7.7, gathering intelligence or evidence (including, in particular, non-analytical evidence) in order to determine whether an anti-doping rule violation has occurred under any of Rules 2.2 to 2.10.

5.2 Scope of *Testing*



Any *Athlete* (including any *Athlete* serving a period of *Ineligibility*) may be required to provide a *Sample* at any time and at any place by any *Anti-Doping Organisation* with *Testing* authority over him or her. Subject to the jurisdictional limitations for *Event Testing* set out in Rule 5.3:

- 5.2.1 *DFSNZ* shall have *In-Competition* and *Out-of-Competition Testing* authority over all *Athletes* who are nationals, residents, license-holders or members of sport Organisations of New Zealand or who are present in New Zealand.
- 5.2.2 Each International Federation shall have *In-Competition* and *Out-of-Competition Testing* authority over all *Athletes* who are subject to its rules, including those who participate in *International Events* or who participate in *Events* governed by the rules of that International Federation, or who are members or license-holders of that International Federation or its member National Federations, or their members.
- 5.2.3 Each *Major Event Organisation*, including the International Olympic Committee and the International Paralympic Committee, shall have *In-Competition Testing* authority for its *Events* and *Out-of-Competition Testing* authority over all *Athletes* entered in one of its future *Events* or who have otherwise been made subject to the *Testing* authority of the *Major Event Organisation* for a future *Event*.
- 5.2.4 *WADA* shall have *In-Competition* and *Out-of-Competition Testing* authority as set out in Article 20.7.8 of the *Code*.
- 5.2.5 *DFSNZ* may test any *Athlete* over whom it has *Testing* authority who has not retired, including *Athletes* serving a period of *Ineligibility*.
- 5.2.6 If an International Federation or *Major Event Organisation* delegates or contracts any part of *Testing* to *DFSNZ* (directly or through a National Federation), *DFSNZ* may collect additional *Samples* or direct the laboratory to perform additional types of analysis at *DFSNZ*'s expense. If additional *Samples* are collected or additional types of analysis are performed, the International Federation or *Major Event Organisation* shall be notified.

*[Comment to Rule 5.2: Additional authority to conduct Testing may be conferred by means of bilateral or multilateral agreements among Signatories. Unless the Athlete has identified a 60-minute Testing window during the following-described time period, or otherwise consented to Testing during that period, before Testing an Athlete between the hours of 11:00 p.m. and 6:00 a.m., an Anti-Doping Organisation should have serious and specific suspicion that the Athlete may be engaged in doping. A challenge to whether an Anti-Doping Organisation had sufficient suspicion for Testing during this time period shall not be a defence to an anti-doping rule violation based on such test or attempted test.]*

### 5.3 *Testing at Events*

- 5.3.1 Except as otherwise provided below, only a single Organisation should be responsible for initiating and directing *Testing* at *Event Venues* during an *Event Period*. At *International Events* taking place in New Zealand, the collection of *Samples* shall be initiated and directed by the international Organisation which is the ruling body for the *Event* (e.g., the International Olympic Committee for the Olympic Games, the International Federation for a World Championship, and the Pan-American Sports Organisation for the Pan American Games). At *National Events* taking place in New Zealand, the collection of *Samples* shall be initiated and directed by *DFSNZ*. At the request of the ruling body for an *Event*, any *Testing* during the *Event Period* outside of the *Event Venues* shall be coordinated with that ruling body.

[Comment to Rule 5.3.1: Some ruling bodies for International Events may be doing their own Testing outside of the Event Venues during the Event Period and thus want to coordinate that Testing with DFSNZ Testing.]

- 5.3.2 If DFSNZ would otherwise have Testing authority but is not responsible for initiating and directing Testing at an Event and desires to conduct Testing of Athletes at the Event Venues during the Event Period, DFSNZ shall first confer with the ruling body of the Event to obtain permission to conduct and coordinate such Testing. If DFSNZ is not satisfied with the response from the ruling body of the Event, DFSNZ may ask WADA for permission to conduct Testing and to determine how to coordinate such Testing. WADA shall not grant approval for such Testing before consulting with and informing the ruling body for the Event. WADA's decision shall be final and not subject to appeal. Unless otherwise provided in the authorisation to conduct Testing, such tests shall be considered Out-of-Competition tests. Results management for any such test shall be the responsibility of DFSNZ unless provided otherwise in the rules of the ruling body of the Event.

[Comment to Rule 5.3.2: Before giving approval to a National Anti-Doping Organisation to initiate and conduct Testing at an International Event, WADA shall consult with the international organisation which is the ruling body for the Event. Before giving approval to an International Federation to initiate and conduct Testing at a National Event, WADA shall consult with the National Anti-Doping Organisation of the country where the Event takes place. The Anti-Doping Organisation "initiating and directing Testing" may, if it chooses, enter into agreements with other organisations to which it delegates responsibility for Sample collection or other aspects of the Doping Control process.]

- 5.3.3 DFSNZ will initiate, direct and conduct Testing at National Events and may initiate, direct and conduct Testing at an International Event in accordance with the provisions of Rule 5.3.

#### 5.4 Test Distribution Planning

- 5.4.1 WADA, in consultation with International Federations and other Anti-Doping Organisations, will adopt a Technical Document under the International Standard for Testing and Investigations that establishes by means of a risk assessment which Prohibited Substances and/or Prohibited Methods are most likely to be abused in particular sports and sport disciplines.

- 5.4.2 Starting with that risk assessment, DFSNZ shall develop and implement an effective, intelligent and proportionate test distribution plan that prioritises appropriately between disciplines, categories of Athletes, types of Testing, types of Samples collected, and types of Sample analysis, all in compliance with the requirements of the International Standard for Testing and Investigations. DFSNZ shall provide WADA upon request with a copy of its current test distribution plan.

#### 5.5 Testing Requirements

All Testing shall be conducted in conformity with the International Standard for Testing and Investigations.

#### 5.6 Athlete Whereabouts Information

Athletes who have been included in a Registered Testing Pool by their International Federation and/or DFSNZ shall provide whereabouts information in the manner specified in the International Standard for Testing and Investigations. The International Federations and DFSNZ shall coordinate the identification of such Athletes and the collection of their

whereabouts information. *DFSNZ* shall make available, through *ADAMS* or another system approved by *WADA*, a list which identifies those *Athletes* included in its *Registered Testing Pool* either by name or by clearly defined, specific criteria. *Athletes* shall be notified before they are included in a *Registered Testing Pool* and when they are removed from that pool. The whereabouts information they provide while in the *Registered Testing Pool* will be accessible, through *ADAMS* or another system approved by *WADA*, to *WADA* and to other *Anti-Doping Organisations* having authority to test the *Athlete* as provided in Rule 5.2. This information shall be maintained in strict confidence at all times; shall be used exclusively for purposes of planning, coordinating or conducting *Doping Control*, providing information relevant to the *Athlete Biological Passport* or other analytical results, to support an investigation into a potential anti-doping rule violation, or to support proceedings alleging an anti-doping rule violation; and shall be destroyed after it is no longer relevant for these purposes in accordance with the International Standard for the Protection of Privacy and Personal Information.

## 5.7 Retired *Athletes* Returning to *Competition*

5.7.1 If an *International- or National-Level Athlete* in *DFSNZ's Registered Testing Pool* retires and then wishes to return to active participation in sport, the *Athlete* shall not compete in *International Events* or *National Events* until the *Athlete* has: (a) made himself or herself available for *Testing* for a period of six months before returning to competition, including (if requested) complying with the whereabouts requirements of Annex I to the *International Standard* for Testing and Investigations; and (b) given six months prior written notice of his or her intent to resume competing to his or her International Federation and *DFSNZ*. *WADA*, in consultation with the relevant International Federation and *DFSNZ*, may grant an exemption to the six-month written notice rule where the strict application of that rule would be manifestly unfair to an *Athlete*. This decision may be appealed under Rule 13.

5.7.1.1 Any competitive results obtained in violation of Rule 5.7.1 shall be *Disqualified*.

5.7.2 If an *Athlete* retires from sport while subject to a period of *Ineligibility* and then wishes to return to active competition in sport, the *Athlete* shall not compete in *International Events* or *National Events* until the *Athlete* has made himself or herself available for *Testing* by giving six months prior written notice (or notice equivalent to the period of *Ineligibility* remaining as of the date the *Athlete* retired, if that period was longer than six months) to his or her International Federation and *DFSNZ*, including (if requested) complying with the whereabouts requirements of Annex I to the International Standard for Testing and Investigations.

## 5.8 Investigations and Intelligence Gathering

*DFSNZ* shall ensure it is able to do each of the following, as applicable and in accordance with the International Standard for Testing and Investigations:

5.8.1 Obtain, assess and process anti-doping intelligence from all available sources to inform the development of an effective, intelligent and proportionate test distribution plan, to plan *Target Testing*, and/or to form the basis of an investigation into a possible anti-doping rule violation(s); and

5.8.2 Investigate *Atypical Findings* and *Adverse Passport Findings*, in accordance with Rules 7.4 and 7.5 respectively; and

5.8.3 Investigate any other analytical or non-analytical information or intelligence that indicates a possible anti-doping rule violation(s), in accordance with Rules 7.6 and 7.7, in order either to rule out the possible violation or to develop evidence that would support the initiation of an anti-doping rule violation proceeding.

#### 5.9 *Independent Observer Program*

*DFSNZ, 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 Observer Program* at *Events*.

## 6. ANALYSIS OF SAMPLES

### 6.1 Use of Accredited and Approved Laboratories

For the purposes of Rule 2.1 *Samples* shall be analysed only in *WADA*-accredited laboratories or laboratories otherwise approved by *WADA*. The choice of the *WADA*-accredited or *WADA*-approved laboratory used for the *Sample* analysis shall be determined exclusively by *DFSNZ*. Laboratories shall analyse *Samples* and report results in conformity with the International Standard for Laboratories.

*[Comment to Rule 6.1: For cost and geographic access reasons, WADA may approve laboratories which are not WADA-accredited to perform particular analyses, for example, analysis of blood which should be delivered from the collection site to the laboratory within a set deadline. Before approving any such laboratory, WADA will ensure it meets the high analytical and custodial standards required by WADA. Violations of Rule 2.1 may be established only by Sample analysis performed by a WADA accredited laboratory or another laboratory approved by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.]*

### 6.2 Purpose of Analysis of *Samples*

*Samples* shall be analysed to detect *Prohibited Substances* and *Prohibited Methods* identified on the *Prohibited List* and other substances as may be directed by *WADA* pursuant to Article 4.5 or to assist an *Anti-Doping Organisation* in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling, or for any other legitimate anti-doping purpose. *Samples* may be collected and stored for future analysis.

*[Comment to Rule 6.2: For example relevant profile information could be used to direct Target Testing or to support an anti-doping rule violation proceeding under Rule 2.2 or both.]*

### 6.3 Research on *Samples*

No *Sample* may be used for research, without the *Athlete's* written consent. *Samples* used for purposes other than Rule 6.2 shall have any means of identification removed such that they cannot be traced back to a particular *Athlete*.

*[Comment to Rule 6.3: As is the case in most medical contexts, use of anonymised Samples for quality assurance, quality improvement, or to establish reference populations is not considered research.]*

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

Laboratories shall analyse *Samples* and report results in conformity with the International Standard for Laboratories. To ensure effective *Testing*, the Technical Document referenced at Rule 5.4.1 will establish risk assessment-based *Sample* analysis menus appropriate for

particular sports and sport disciplines, and laboratories shall analyse *Samples* in conformity with those menus, except as follows:

- 6.4.1 *DFSNZ* may request that laboratories analyse *Samples* using more extensive menus than those described in the Technical Document.
- 6.4.2 *DFSNZ* may request that laboratories analyse *Samples* using less extensive menus than those described in the Technical Document only if they have satisfied *WADA* that, because of the particular circumstances of New Zealand or the relevant sport, as set out in their test distribution plan, less extensive analysis would be appropriate.
- 6.4.3 As provided in the International Standard for Laboratories, laboratories at their own initiative and expense may analyse *Samples* for *Prohibited Substances* or *Prohibited Methods* not included on the *Sample* analysis menu described in the Technical Document or specified by the *Testing* authority. Results from any such analysis shall be reported and have the same validity and *Consequence* as any other analytical result.

*[Comment to Rule 6.4: The objective of this Rule is to extend the principle of "intelligent Testing" to the Sample analysis menu so as to most effectively and efficiently detect doping. It is recognised that the resources available to fight doping are limited and that increasing the Sample analysis menu may, in some sports and countries, reduce the number of Samples which can be analysed.]*

## 6.5 Further analysis of *Samples*

Any *Sample* may be stored and subject to further analysis for the purposes of Rule 6.2 by *WADA* at any time and/or by *DFSNZ* at any time before both the A and B *Sample* analytical results (or A *Sample* result where B *Sample* analysis has been waived or will not be performed) have been communicated by *DFSNZ* to the *Athlete* as the asserted basis for a Rule 2.1 anti-doping rule violation.

*Samples* may be stored and subjected to further analyses for the purposes of Rule 6.2 at any time exclusively at the direction of *DFSNZ* or *WADA*. (Any *Sample* storage or further analysis initiated by *WADA* shall be at *WADA*'s expense.) Further analysis of *Samples* shall conform with the requirements of the International Standard for Laboratories and the *International Standard* for Testing and Investigations.

## 6.6 Obtaining information at *Sample* Collection

Where *DFSNZ* 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 2.3 or any other anti-doping rule violation under Rules 2.1 to 2.10. Information obtained before, during, or after *Sample* collection and completed documentation will be forwarded to *DFSNZ* by the *Doping Control Officer* for further consideration and investigation by *DFSNZ*.

## 7. RESULTS MANAGEMENT

*[Comment to Rule 7: Various Signatories have created their own approaches to results management. While the various approaches have not been entirely uniform, many have proven to be fair and effective systems for results management. The Code does not supplant each of the Signatories' results management systems. This Rule does, however, specify basic principles in order to ensure the fundamental fairness of the results management process which must be observed by each Signatory. The specific anti-doping rules of each Signatory shall be consistent with these basic principles. Not all anti-doping*

*proceedings which have been initiated by an Anti-Doping Organisation need to go to hearing. There may be cases where the Athlete or other Person agrees to the sanction which is either mandated by the Code or which the Anti-Doping Organisation considers appropriate where flexibility in sanctioning is permitted. In all cases, a sanction imposed on the basis of such an agreement will be reported to parties with a right to appeal under Rule 13.2.3 and published as provided in Rule 8.8.2.]*

## 7.1 Responsibility for Conducting Results Management

Except as provided in Rules 7.1.1 and 7.1.2 below, where *DFSNZ* initiates and directs *Sample* collection, results management and hearings shall be the responsibility of *DFSNZ*, and shall be governed by these *Rules*. If no *Sample* collection is involved, but *DFSNZ* first provides notice to an *Athlete* or other *Person* of an asserted anti-doping rule violation and then diligently pursues that anti-doping rule violation, results management and hearings shall be the responsibility of *DFSNZ*, and shall be governed by these *Rules*.

Regardless of which Organisation conducts results management or hearings, the principles of natural justice shall be respected and the provisions identified in Article 23.2.2 of the *Code* must be followed.

If a dispute over which *Anti-Doping Organisation* has results management responsibility arises between *DFSNZ* and another *Anti-Doping Organisation*, *WADA* shall decide which Organisation has such responsibility. *WADA*'s decision may be appealed to *CAS* within seven days of notification of the *WADA* decision by any of the *Anti-Doping Organisations* involved in the dispute. The appeal shall be dealt with by *CAS* in an expedited manner and shall be heard before a single arbitrator. Where *DFSNZ* elects to collect additional *Samples* pursuant to Rule 5.2.6, then it shall be considered the *Anti-Doping Organisation* that initiated and directed *Sample* collection. However, where *DFSNZ* only directs the laboratory to perform additional types of analysis at *DFSNZ*'s expense, then the International Federation or *Major Event Organisation* shall be considered the *Anti-Doping Organisation* that initiated and directed *Sample* collection.

*[Comment to Rule 7.1: In some cases, the procedural Rules of the Anti-Doping Organisation which initiated and directed the Sample collection may specify that results management will be handled by another Organisation (e.g., the Athlete's National Federation). In such event, it shall be the Anti-Doping Organisation's responsibility to confirm that the other organisation's rules are consistent with the Code.]*

7.1.1 In circumstances where these *Rules* do not give *DFSNZ* authority over an *Athlete* or other *Person* who is not a national, resident, license holder, or member of a sport Organisation of New Zealand, or *DFSNZ* declines to exercise such authority, results management shall be conducted by the applicable International Federation or by a third party as directed by the rules of the International Federation. Results management and the conduct of hearings for a test conducted by *WADA* on its own initiative, or an *Anti-Doping Rule Violation* discovered by *WADA*, will be conducted by the *Anti-Doping Organisation* designated by *WADA*. Results management and the conduct of hearings for a test conducted by the International Olympic Committee, the International Paralympic Committee, or another *Major Event Organisation*, or an anti-doping rule violation discovered by one of those organisations, shall be referred to the applicable International Federation in relation to *Consequences* beyond exclusion from the *Event*, *Disqualification* of *Event* results, forfeiture of any medals, points, or prizes from the *Event*, or recovery of costs applicable to the anti-doping rule violation.

*[Comment to Rule 7.1.1: The Athlete's or other Person's International Federation has been made the Anti-Doping Organisation of last resort for results management to avoid the possibility that no Anti-Doping Organisation would have authority to conduct*

results management. *An International Federation is free to provide in its own anti-doping rules that the Athlete's or other Person's National Anti-Doping Organisation shall conduct results management.*]

7.1.2 Results management in relation to a potential Whereabouts Failure (a filing failure or a missed test) shall be administered by the International Federation or the *National Anti-Doping Organisation* with whom the *Athlete* in question files his or her whereabouts information, as provided in the International Standard for Testing and Investigations. Where *DFSNZ* determines a filing failure or a missed test it shall submit that information to *WADA* through *ADAMS* or another system approved by *WADA*, where it will be made available to other relevant *Anti-Doping Organisations*.

## 7.2 Review Regarding *Adverse Analytical Findings*

Upon receipt of an *Adverse Analytical Finding*, *DFSNZ* will review the laboratory report and decide (a) whether there is any applicable *TUE* in effect or whether an applicable *TUE* will be granted as provided in the International Standard for Therapeutic Use Exemptions or (b) there is any apparent departure from the International Standard for Testing and Investigations or International Standard for Laboratories that caused the *Adverse Analytical Finding*.

*[Comment to Rule 7.2: If the review of an Adverse Analytical Finding reveals an applicable TUE or departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that caused the Adverse Analytical Finding, the entire test shall be considered negative and the Athlete, the Athlete's International Federation the Athlete's National Federation and WADA shall be so informed.]*

## 7.3 Notification After Review Regarding *Adverse Analytical Findings*

If the review of an *Adverse Analytical Finding* under Rule 7.2 does not reveal an applicable *TUE* or entitlement to a *TUE* as provided in the International Standard for Therapeutic Use Exemptions, or departure that caused the *Adverse Analytical Finding*, *DFSNZ* shall promptly notify the *Athlete*, the *Athlete's* International Federation and *WADA* in the manner set out in Rules 14.1.1 and 14.1.3 of:

(a) the *Adverse Analytical Finding*;

(b) the anti-doping rule violated;

(c) the *Athlete's* right to promptly request the analysis of the *B Sample* or, failing such request being made by the specified deadline, that the *B Sample* analysis may be deemed waived;

(d) the scheduled date, time and place for the *B Sample* analysis if the *Athlete* or *DFSNZ* chooses to request an analysis of the *B Sample*;

(e) the opportunity for the *Athlete* and/or the *Athlete's* representative to attend the *B Sample* opening and analysis within the time period specified in the International Standard for Laboratories if such analysis is requested; and

(f) the *Athlete's* right to request copies of the *A* and *B Sample* laboratory documentation package which includes information as required by the International Standard for Laboratories.

If *DFSNZ* decides not to bring forward the *Adverse Analytical Finding* as an anti-doping rule violation, it shall so notify the *Athlete* and the *Anti-Doping Organisations* as described in Rule 14.1.2.

In all cases where an *Athlete* has been notified of an anti-doping rule violation that does not result in a mandatory *Provisional Suspension* under Rule 7.9.1, the *Athlete* shall be offered the opportunity to accept a *Provisional Suspension* pending the resolution of the matter.

#### 7.4 Review of *Atypical Findings*

As provided in the International Standard for Laboratories, in some circumstances laboratories are directed to report the presence of *Prohibited Substances*, which may also be produced endogenously, as *Atypical Findings* subject to further investigation.

Upon receipt of an *Atypical Finding*, DFSNZ shall conduct a review to determine whether: (a) an applicable *TUE* has been granted or will be granted as provided in the International Standard for Therapeutic Use Exemptions, or (b) there is any apparent departure from the International Standard for Testing and Investigations or International Standard for Laboratories that caused the *Atypical Finding*. If that review does not reveal an applicable *TUE* or departure that caused the *Atypical Finding*, DFSNZ shall conduct the required investigation. After the investigation is completed, the *Athlete* and other *Anti-Doping Organisations* identified in Rule 14.1.2 shall be notified whether or not the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding*. The *Athlete* shall be notified as provided in Rule 7.3.

[Comment to Rule 7.4: The “required investigation” described in this Rule will depend on the situation. For example, if it has previously determined that an *Athlete* has a naturally elevated testosterone/epitestosterone ratio, confirmation that an *Atypical Finding* is consistent with that prior ratio is a sufficient investigation.]

7.4.1 DFSNZ will not provide notice of an *Atypical Finding* until it has completed its investigation and decided whether it will bring the *Atypical Finding* forward as an *Adverse Analytical Finding* unless one of the following circumstances exists:

7.4.1.1 If DFSNZ determines the *B Sample* should be analysed prior to the conclusion of its investigation under Rule 7.4 DFSNZ may conduct the *B Sample* analysis after notifying the *Athlete*, with such notice to include a description of the *Atypical Finding* and the information described in Rule 7.3(d)-(f).

7.4.1.2 If DFSNZ receives a request, either from a *Major Event Organisation* shortly before one of its *International Events* or a request from a sport Organisation responsible for meeting an imminent deadline for selecting team members for an *International Event*, to disclose whether any *Athlete* identified on a list provided by the *Major Event Organisation* or sport organisation has a pending *Atypical Finding*, DFSNZ shall so identify any such *Athlete* after first providing notice of the *Atypical Finding* to the *Athlete*.

[Comment to Rule 7.4.1.2: Under the circumstances described in Rule 7.4.1.2 the option to take action would be left to the *Major Event Organisation* or sport organisation consistent with its rules.]

#### 7.5 Review of *Atypical Passport Findings* and *Adverse Passport Findings*

Review of *Atypical Passport Findings* and *Adverse Passport Findings* shall take place as provided in the International Standard for Testing and Investigations and International Standard for Laboratories. At such time as DFSNZ is satisfied that an anti-doping rule violation has occurred, it shall promptly give the *Athlete* notice, in the manner set out these *Rules*, of



the anti-doping rule violated, and the basis of the violation. Other *Anti-Doping Organisations* shall be notified as provided in Rule 14.1.2.

#### 7.6 Review of Whereabouts Failures

Review of potential filing failures and missed tests shall take place as provided in the International Standard for Testing and Investigations. At such time as the International Federation or *DFSNZ* (as applicable) is satisfied that a Rule 2.4 anti-doping rule violation has occurred, it shall promptly give the *Athlete* notice, in the manner set out in its rules, that it is asserting a violation of Rule 2.4 and the basis of that assertion. Other *Anti-Doping Organisations* shall be notified as provided in Rule 14.1.2.

#### 7.7 Review of Other Anti-Doping Rule Violations Not Covered by Rules 7.1 to 7.6

*DFSNZ* shall conduct any follow-up investigation into a possible anti-doping rule violation as may be required by these *Rules* or any applicable anti-doping policies which *DFSNZ* otherwise considers appropriate. At such time as *DFSNZ* is satisfied that an anti-doping rule violation has occurred, it shall promptly give the *Athlete* or other *Person* notice, in the manner set out in these *Rules*, of the anti-doping rule violated, and the basis of that assertion. Other *Anti-Doping Organisations* shall be notified as provided in Rule 14.1.2.

#### 7.8 Identification of Prior Anti-Doping Rule Violations

Before giving an *Athlete* or other *Person* notice of an asserted anti-doping rule violation as provided above, *DFSNZ* shall refer to *ADAMS* or another system approved by *WADA* and contact *WADA* and other relevant *Anti-Doping Organisations* to determine whether any prior anti-doping rule violation exists.

#### 7.9 *Provisional Hearings and Provisional Suspensions*

- (a) Where *DFSNZ* has provided notice under Rule 7.3 or has provided notice of an alleged anti-doping rule violation under the rules against a *Person* who is subject to the rules, *DFSNZ* shall refer the question whether to impose a *Provisional Suspension* under the *Rules* to the *Sports Tribunal*, and *DFSNZ* and the *National Sporting Organisation* will provide the *Sports Tribunal* with the information relevant to the alleged anti-doping rule violation.
- (b) Where a *National Sporting Organisation* has established an *NSO Anti-Doping Tribunal*, *DFSNZ* 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 7.9 shall apply to any *NSO Anti-Doping Tribunal* dealing with the question whether to impose a *Provisional Suspension*.
- (c) Where *DFSNZ* 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. 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.

- (d) 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.
- (e) 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 7.9 and 8 of the *Code*.
- (f) In considering whether to impose a *Provisional Suspension*, the *Sports Tribunal* may request further information or material from *DFSNZ*, the *National Sporting Organisation* or the *Person* who may be subject to the *Provisional Suspension*. *DFSNZ*, 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.
- (g) 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 anti-doping rule 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*.
- (h) The *National Sporting Organisation* shall take all necessary steps to have the *Provisional Suspension* recognised by other *Anti-Doping Organisations*, *International Federations*, *Major Event Organisers*, *National Olympic and/or Paralympic Committees* and any relevant *Signatory* to the *Code*.
- (i) 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*.
- (j) If *DFSNZ* 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*.

- (k) When the *Sports Tribunal* or *NSO Anti-Doping Tribunal* receives notification from *DFSNZ* of a declaration under Rule 7.9(j) that there has been no anti-doping rule violation, the *Sports Tribunal* or *NSO Anti-Doping Tribunal* shall immediately rescind any *Provisional Suspension*.

#### 7.9.1 Mandatory *Provisional Suspension* after an *Adverse Analytical Finding*

7.9.1.1 Where there has been an *Adverse Analytical Finding* other than for a *Specified Substance*:

- (a) It is mandatory for a *Provisional Suspension* to be imposed provided the *Athlete* is given a *Provisional Hearing* or an expedited hearing.
- (b) A mandatory *Provisional Suspension* may be eliminated if the *Athlete* demonstrates to the *Sports Tribunal* that the violation is likely to have involved a *Contaminated Product*.
- (c) The *Sports Tribunal's* decision not to eliminate a mandatory *Provisional Suspension* on account of the *Athlete's* assertion regarding a *Contaminated Product* shall not be appealable.

#### 7.9.2 Optional *Provisional Suspension* based on an *Adverse Analytical Finding* for *Specified Substances*, *Contaminated Products*, or other *Anti-Doping Rule Violations*

7.9.2.1 Where there has been an *Adverse Analytical Finding* for a *Specified Substance* or notice has been given of another *Anti-Doping Rule Violation* under Rules 2.2 to 2.10, a *Provisional Suspension* shall be imposed except where the *Athlete* demonstrates that there is a real likelihood that no period of *Ineligibility* will be imposed.

7.9.2.2 Where a *Provisional Suspension* has been imposed after an *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 *DFSNZ* that the *B Sample* analysis does not confirm the *A Sample* analysis.

*[Comment to Rule 7.9: In the rare circumstance where the B Sample analysis does not confirm the A Sample finding, the Athlete who had been Provisionally Suspended will be allowed, where circumstances permit, to participate in subsequent Competitions during the Event. Similarly, depending upon the relevant rules of the International Federation in a Team Sport, if the team is still in Competition, the Athlete may be able to take part in future Competitions. Athletes and other Persons shall receive credit for a Provisional Suspension against any period of Ineligibility which is ultimately imposed or accepted as provided in Rule 10.11.3 or Rule 10.11.3.4.]*

#### 7.10 Notification of Results Management Decisions

In all cases where *DFSNZ* has asserted the commission of an anti-doping rule violation, withdrawn the assertion of an anti-doping rule violation, or agreed with an *Athlete* or other *Person* to the imposition of a sanction without a hearing, or the *Tribunal* has imposed a

*Provisional Suspension*, DFSNZ shall give notice thereof as set forth in Rule 14.2.1 to other *Anti-Doping Organisations* with a right to appeal under Rule 13.2.3.

#### 7.11 Retirement from Sport

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

#### 7.12 Negative Analytical Findings

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

7.12.2 DFSNZ will notify *Athletes* or any representative of *Negative Analytical Findings*.

7.12.3 All documentation from the *Sample* collection and the notification of *Negative Analytical Findings* shall be retained by DFSNZ for a minimum of eight years.

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

7.13.1 DFSNZ will undertake *Testing* for *Anti-Doping Rule Violations* under Rule 2.1 according to the *International Standard* for Testing and Investigations.

7.13.2 DFSNZ shall receive the analytical results of *Doping Control Samples* from the laboratory. DFSNZ shall receive any *Doping Control Officer Reports* indicating a possible refusal or failure to submit to *Sample* collection under Rule 2.3 or other information relating to any possible *Anti-Doping Rule Violation* from the relevant *Doping Control Officer* along with other documentation from the *Sample* collection.

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

7.14.1 In addition to carrying out *Testing* under the *International Standard* for Testing and Investigations in relation to *Violations* under Rule 2.1, DFSNZ will carry out such investigations as it sees fit (whether arising from *Sample* collection or otherwise) into all matters which may be relevant to the commission of any possible *Anti-Doping Rule Violation* under Rules 2.2 to 2.10.

7.14.2 Where DFSNZ has obtained documentation or information from *Sample* collection carried out under the *Rules* or from any other investigation which it has carried out, or from any other source, which may support an allegation that a *Violation* under Rules 2.2 to 2.10 has occurred, DFSNZ will review that information and carry out any such further investigation as it sees fit, to decide whether, in its view, an *Anti-Doping Rule Violation* has occurred.

7.14.3 At any time during the course of an investigation DFSNZ may, by notice in writing served on any *Participant* or *National Sporting Organisation*, require that *Participant* or *National Sporting Organisation* to furnish to DFSNZ within the time and in the manner specified in the notice, any information or class of information specified in the notice; or produce to DFSNZ any document or class of documents specified in the notice; or (in the case of a *Participant*) to attend an interview before DFSNZ or any

person authorised by *DFSNZ* at a time and place specified in the notice to answer any questions asked at the interview.

- 7.14.4 *National Sporting Organisations* and *Participants* shall promptly report any information, documentation or materials suggesting or relating to a potential anti-doping violation to *DFSNZ* and shall take all reasonable steps to assist and co-operate with any investigation conducted by *DFSNZ* 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 co-operate with and assist *DFSNZ* in any investigation which it carries out under the *Rules*. In particular, and without limiting the foregoing, *National Sporting Organisations* must report any information suggesting or relating to an anti-doping rule violation to *DFSNZ* and co-operate with investigations conducted by *DFSNZ*.
- 7.14.5 Where *DFSNZ* decides that, as a result of any investigation, it has material which supports an allegation that a *Participant* or other *Person* has committed a Violation under *Rules 2.2 to 2.10* and *DFSNZ* intends to make such an allegation, *DFSNZ* will give notice in writing of its intention to make the allegation to the *Participant* or *Person*.
- 7.14.6 The notice will set out the matters which *DFSNZ* 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 *DFSNZ*, whether at an interview or in writing. The notice will also set out the possible *Consequences* of the *Anti-Doping Rule Violation* if it is proven before the *Sports Tribunal*, recommend that the *Participant* or *Person* obtains advice and will also provide that the *Participant* or *Person* may, if they wish, admit the *Anti-Doping Rule Violation* in writing.
- 7.14.7 *DFSNZ* will, in its notification to the *Participant* or *Person* provide for a reply to be received in seven days. If no reply has been received by *DFSNZ* within that time, *DFSNZ* will review any further information and proceed to make its final decision whether to bring *Anti-Doping Rule Violation Proceedings*. Where the *Participant* or *Person* provides a statement or comment or further information to *DFSNZ* in relation to the alleged *Anti-Doping Rule Violation*, *DFSNZ* will consider any material provided before making its decision to bring *Anti-Doping Rule Violation Proceedings*.
- 7.14.8 *DFSNZ* may decide that it will not give notice under this Rule where it considers that it is inappropriate to do so. Where *DFSNZ* 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.
- 7.14.9 Where *DFSNZ* is conducting an investigation into a possible *Anti-Doping Rule Violation* under *Rules 2.2 to 2.10*, *DFSNZ* 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 *Anti-Doping Rule Violation Proceedings*, where *DFSNZ* considers that such notification is necessary to allow for the consideration of the imposition of a *Provisional Suspension*, required in order to carry out the investigation effectively or to otherwise implement these *Rules*.

- 7.14.10 In the course of an investigation, *DFSNZ* may inform any other third party of the investigation where it considers that this is required in order to carry out the investigation effectively. Where *DFSNZ* informs such a third party of any aspect of an investigation, it will give notice to the third party of the confidential nature of the investigation as set out in Rule 14.
- 7.14.11 At any stage in an investigation *DFSNZ* may decide that it will bring *Anti-Doping Rule Violation* Proceedings. Where *DFSNZ* so decides, it will proceed to notify its decision and bring the *Anti-Doping Rule Violation* Proceedings as set out in Rule 8.

## 8. NOTIFICATION AND REFERRAL TO THE SPORTS TRIBUNAL

### 8.1 Notice to *Participant* or *Person*

Where:

- 8.1.1 there has been an *Adverse Analytical Finding* and, after *DFSNZ* has carried out the steps under Rule 7.2 which are applicable, *DFSNZ* considers that an *Anti-Doping Rule Violation* has been committed under Rule 2.1; or
- 8.1.2 after considering and assessing documentation or information obtained or provided during any investigation under Rule 7.14 and any further matters which it considers relevant, *DFSNZ* considers that an *Anti-Doping Rule Violation* under Rules 2.2 to 2.10 has occurred and decides that it will bring Violation Proceedings against any *Participant* or other *Person*,

*DFSNZ* will notify the *Participant* or *Person* in writing who is alleged to have committed the *Anti-Doping Rule Violation* setting out the *Anti-Doping Rule Violation* which *DFSNZ* alleges has been committed. The notice will give particulars of the alleged Violation and the possible sanctions which may apply if the *Anti-Doping Rule Violation* is established. *DFSNZ* will also notify the *Person* of the other parties who will be notified of the allegation under Rule 8.2. The notice will also provide that the *Participant* or *Person* who is the subject of the *Anti-Doping Rule Violation* Proceeding may admit the *Anti-Doping Rule Violation* in writing.

### 8.2 Notice to Organisations

When *DFSNZ* has determined as a result of any investigation that it will bring *Anti-Doping Rule Violation* Proceedings, in addition to giving the notice under Rule 8.1, *DFSNZ* 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 *Anti-Doping Rule Violation* and providing the details which are given to the *Participant* or *Person* under Rule 8.1.

### 8.3 Waiver of Hearing

The right to a hearing may be waived either expressly or by the *Athlete's* or other *Person's* failure to challenge *DFSNZ's* assertion that an anti-doping rule violation has occurred within such time as the Rules of the *Sports Tribunal* allow.

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

Where *DFSNZ* has determined that it will bring *Anti-Doping Rule 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 *Anti-Doping Rule Violation* Proceedings before the *Sports Tribunal* or relevant *NSO Anti-Doping Tribunal*. Where *DFSNZ* is not aware of the position in relation to the existence of any relevant *NSO Anti-Doping Tribunal* it will notify the *Sports Tribunal*. *DFSNZ* will file and serve the documents required to commence *Anti-Doping Rule Violation* Proceedings under the *Rules* of the *Sports Tribunal* or *NSO Anti-Doping Tribunal*.

## 8.5 Single Hearing before CAS

Anti-doping rule violations asserted against *International-Level Athletes* or *National-Level Athletes* may, with the consent of the *Athlete*, *DFSNZ*, *WADA*, and any other *Anti-Doping Organisation* that would have had a right to appeal a first instance hearing decision to *CAS*, be heard directly at *CAS*, with no requirement for a prior hearing.

[Comment to Rule 8.5: In some cases, the combined cost of holding a hearing in the first instance at the international or national level, then rehearing the case de novo before CAS can be very substantial. Where all of the parties identified in this Rule are satisfied that their interests will be adequately protected in a single hearing, there is no need for the Athlete or Anti-Doping Organisations to incur the extra expense of two hearings. An Anti-Doping Organisation that wants to participate in the CAS hearing as a party or as an observer may condition its approval of a single hearing on being granted that right.]

## 8.6 Role of Sports Tribunal

8.6.1 Subject to Rule 8.6.2, the *Sports Tribunal* established under the Act is the body responsible for hearing and determining *Anti-Doping Rule Violations* referred to it by *DFSNZ* 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*.

8.6.2 A *National Sporting Organisation* may establish and nominate an *NSO Anti-Doping Tribunal* to hear *Anti-Doping Rule Violations* brought by *DFSNZ* 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 *DFSNZ* 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 *DFSNZ* and provide *DFSNZ* with all relevant *Rules* relating to the operation of the *NSO Anti-Doping Tribunal*.

8.6.3 Where the *Rules* refer to the *Sports Tribunal*, the reference shall be read as also referring to any *NSO Anti-Doping Tribunal* established by a *National Sporting Organisation* under Rule 8.8.2.

## 8.7 Hearing Procedure

8.7.1 Proceedings under the *Rules* must be completed in a timely manner, and should normally be completed within three months of the date of notification of the *Anti-Doping Rule Violation* Proceedings to the *Sports Tribunal* by *DFSNZ*.

8.7.2 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.

## 8.8 Confidentiality of Hearings and Reporting of Decisions

8.8.1 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.

8.8.2 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 relevant *National Olympic and/or Paralympic 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.

8.8.3 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 8.8.3. The decision of the *Sports Tribunal* will be *Publicly Reported* only with the consent of the *Athlete* or other *Person* who is the subject of the decision. DFSNZ and the *Sports Tribunal* shall use all reasonable efforts to obtain such consent. Where consent is obtained, the decision shall be *Publicly Disclosed* in full or in such form as the *Athlete* or other *Person* approves.

8.8.4 Decisions will be published under Rules 8.8.2 and 8.8.3 by posting the required information on the website of the *Sports Tribunal*. Information posted on the website of the *Sports Tribunal* must remain in place for the longer of one month or the duration of any period of *Ineligibility*.

8.8.5 The mandatory *Public Reporting* required in Rule 8.8.2 shall not be required where the *Athlete* or other *Person* who has been found to have committed an *Anti-Doping Rule Violation* is a *Minor*. Any optional *Public Reporting* in a case involving a *Minor* shall be proportionate to the facts and circumstances of the case.

8.8.6 Where the *Sports Tribunal* considers that a decision under Rule 8.2 contains sensitive personal information, it may, in its discretion, redact that information before the decision is *Publicly Reported*, provided that the *Sports Tribunal Publicly Reports* the decision and the substantive reasons for it.

## 8.9 Appeals

Appeals from the decisions of the *Sports Tribunal* are exclusively to CAS as set out in Rule 13 of the *Rules*.

## 8.10 Other Matters



Subject to the application of Rule 3.2.3 in relation to departures from the *International Standard* for Testing and Investigations, no failure to follow, or departure from, the procedures provided for by the *Rules* by DFSNZ 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.

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

## 9. AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS

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

*[Comment to Rule 9: For Team Sports, any awards received by individual players will be Disqualified. However, Disqualification of the team will be as provided in Rule 11 (Consequences to Teams). In sports which are not Team Sports but where awards are given to teams, Disqualification or other disciplinary action against the team when one or more team members have committed an anti-doping rule violation shall be as provided in the applicable Rules of the International Federation.]*

## 10. SANCTIONS ON INDIVIDUALS

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

An anti-doping rule violation occurring during or in connection with an *Event* may, upon the decision of the ruling 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 10.1.1.

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

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

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

- 10.2 *Ineligibility* for Presence, Use or Attempted Use, or Possession of a Prohibited Substances or Prohibited Methods

The period of *Ineligibility* imposed for a violation of Rules 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Rules 10.4, 10.5 or 10.6:

10.2.1 The period of *Ineligibility* shall be four years where:

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

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

10.2.2 If Rule 10.2.1 does not apply, the period of *Ineligibility* shall be two years.

10.2.3 As used in Rules 10.2 and 10.3, the term “intentional” is meant to identify those *Athletes* who cheat. The term, therefore, requires that the *Athlete* or other *Person* engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an *Adverse Analytical Finding* for a substance which is only prohibited *In-Competition* shall be rebuttably presumed to be not “intentional” if the substance is a *Specified Substance* and the *Athlete* can establish that the *Prohibited Substance* was *Used Out-of-Competition*. An anti-doping rule violation resulting from an *Adverse Analytical Finding* for a substance which is only prohibited *In-Competition* shall not be considered “intentional” if the substance is not a *Specified Substance* and the *Athlete* can establish that the *Prohibited Substance* was *Used Out-of-Competition* in a context unrelated to sport performance.

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

The period of *Ineligibility* for anti-doping rule violations other than as provided in Rule 10.2 shall be as follows, unless Rules 10.5 or 10.6 are applicable:

10.3.1 For violations of Rule 2.3 or Rule 2.5, the *Ineligibility* period shall be four years unless, in the case of failing to submit to *Sample* collection, the *Athlete* can establish that the commission of the anti-doping rule violation was not intentional (as defined in Rule 10.2.3), in which case the period of *Ineligibility* shall be two years.

10.3.2 For violations of Rule 2.4, the period of *Ineligibility* shall be two years, subject to reduction down to a minimum of one year, depending on the *Athlete’s* degree of *Fault*. The flexibility between two years and one year of *Ineligibility* in this Article is not available to *Athletes* where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the *Athlete* was trying to avoid being available for *Testing*.

10.3.3 For Violations of Rule 2.7 or Rule 2.8, the period of *Ineligibility* imposed shall be a minimum of four years up to lifetime *Ineligibility* depending on the seriousness of the violation. A Rule 2.7 or Rule 2.8 violation involving a *Minor* shall be considered a particularly serious violation, and, if committed by *Athlete Support Personnel* for violations other than for *Specified Substances*, shall result in lifetime *Ineligibility* for such *Athlete Support Personnel*. In addition, significant violations of Rule 2.7 or Rule 2.8 which may also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.

[Comment to Rule 10.3.3: Those who are involved in doping Athletes or covering up doping should be subject to sanctions which are more severe than the Athletes who test positive. Since the authority of sport organisations is generally limited to Ineligibility for accreditation, membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.]

10.3.4 For violations of Rule 2.9, the period of *Ineligibility* imposed shall be a minimum of two years, up to four years, depending on the seriousness of the violation.

10.3.5 For violations of Rule 2.10, the period of *Ineligibility* shall be two years, subject to reduction down to a minimum of one year, depending on the *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case.

[Comment to Rule 10.3.10.3.5: Where the "other Person" referenced in Rule 2.10 is an entity and not an individual, that entity may be disciplined as provided in Rule 12.]

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

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

[Comment to Rule 10.4: This Rule and Rule 10.5.2 apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. They will only apply in exceptional circumstances, for example, where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, *No Fault or Negligence* would not apply in the following circumstances: (a) a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Rule 2.1.1) and have been warned against the possibility of supplement contamination); (b) the Administration of a Prohibited Substance by the Athlete's Personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical Personnel and for advising medical Personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Rule 10.5 based on *No Significant Fault or Negligence*.]

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

10.5.1 Reduction of Sanctions for *Specified Substances* or *Contaminated Products* for Violations of Rule 2.1, 2.2 or 2.6

##### 10.5.1.1 *Specified Substances*

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

##### 10.5.1.2 *Contaminated Products*

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

[Comment to Rule 10.5.1.2: In assessing that Athlete's degree of Fault, it would, for example, be favourable for the Athlete if the Athlete had declared the product which was subsequently determined to be contaminated on his or her Doping Control form.]

#### 10.5.2 Application of *No Significant Fault or Negligence* beyond the Application of Rule 10.5.1

If an *Athlete* or other *Person* establishes in an individual case where Rule 10.5.1 is not applicable, that he or she bears *No Significant Fault or Negligence*, then, subject to further reduction or elimination as provided in Rule 10.6, the otherwise applicable period of *Ineligibility* may be reduced based on the *Athlete* or other *Person's* degree of *Fault*, but the reduced period of *Ineligibility* may not be less than one-half of the period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this Article may be no less than eight years.

[Comment to Rule 10.5.2: Rule 10.5.2 may be applied to any Anti-Doping Rule Violation, except those Articles where intent is an element of the Anti-Doping Rule Violation (e.g., Rule 2.5, 2.7, 2.8 or 2.9) or an element of a particular sanction (e.g., Rule 10.2.1) or a range of *Ineligibility* is already provided in an Article based on the *Athlete* or other *Person's* degree of *Fault*.]

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

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

10.6.1.1 Prior to a final appellate decision under Rule 13 or the expiration of the time to appeal, *DFSNZ* may suspend a part of the period of *Ineligibility* imposed in an individual case where the *Athlete* or other *Person* has provided *Substantial Assistance* to an *Anti-Doping Organisation*, criminal authority or professional disciplinary body that results in: (i) the *Anti-Doping Organisation* discovering or bringing forward an anti-doping rule violation by another *Person*; or (ii) in a criminal or disciplinary body discovering or bringing forward a criminal offence or the breach of professional rules committed by another *Person* and the information provided by the *Person* providing *Substantial Assistance* is made available to *DFSNZ*. After a final appellate decision under Rule 13 or the expiration of time to appeal, *DFSNZ* may only suspend part of the otherwise applicable period of *Ineligibility* with the approval of *WADA* and the applicable International Federation. The extent to which the otherwise applicable period of *Ineligibility* may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the *Athlete* or other *Person* and the significance of the *Substantial Assistance* provided by the *Athlete* or other *Person* to the effort to eliminate doping in sport. No more than three-quarters of the otherwise applicable period of *Ineligibility* may be suspended. If the otherwise applicable period of *Ineligibility* is a lifetime, the non-suspended period under this section must be no less than eight years. If any part of the otherwise applicable period of *Ineligibility* under this Rule is suspended, *DFSNZ* shall promptly provide the written decision relating to the suspension of the period of *Ineligibility* to each *Anti-Doping Organisation* having a right to appeal the decision. If the *Athlete* or other *Person* fails to continue to cooperate and to provide the complete and credible *Substantial Assistance* upon which a suspension of the period of *Ineligibility* was based, *DFSNZ* shall reinstate the original period of

*Ineligibility*. If DFSNZ decides to reinstate a suspended period of *Ineligibility* or decides not to reinstate a suspended period of *Ineligibility*, that decision may be appealed by any *Person* entitled to appeal under Rule 13.

- 10.6.1.2 To further encourage *Athletes* and other *Persons* to provide *Substantial Assistance* to *Anti-Doping Organisations*, at the request of DFSNZ or at the request of the *Athlete* or other *Person* who has, or has been asserted to have, committed an anti-doping rule violation, WADA may agree at any stage of the results management process, including after a final appellate decision under Rule 13, to what it considers to be an appropriate suspension of the otherwise-applicable period of *Ineligibility* and other *Consequences*. In exceptional circumstances, WADA may agree to suspensions of the period of *Ineligibility* and other *Consequences* for *Substantial Assistance* greater than those otherwise provided in this Rule, or even no period of *Ineligibility*, and/or no return of prize money or payment of fines or costs. WADA's approval shall be subject to reinstatement of sanction, as otherwise provided in this Rule. Notwithstanding Rule 13, WADA's decisions in the context of this Rule may not be appealed by any other *Anti-Doping Organisation*.
- 10.6.1.3 If DFSNZ suspends any part of an otherwise applicable sanction because of *Substantial Assistance*, then notice providing justification for the decision shall be provided to the other *Anti-Doping Organisations* with a right to appeal under Rule 13.2.3 as provided in Rule 14.2. In unique circumstances where WADA determines that it would be in the best interest of anti-doping, WADA may authorize DFSNZ to enter into appropriate confidentiality agreements limiting or delaying the disclosure of the *Substantial Assistance* agreement or the nature of *Substantial Assistance* being provided.

*[Comment to Rule 10.6.1: The cooperation of Athletes, Athlete Support Personnel and other Persons who acknowledge their mistakes and are willing to bring other anti-doping rule violations to light is important to clean sport. This is the only circumstance under these Rules where the suspension of an otherwise applicable period of Ineligibility is authorised.]*

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

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

*[Comment to Rule 10.6.2: This Rule is intended to apply when an Athlete or other Person comes forward and admits to an anti-doping rule violation in circumstances where no Anti-Doping Organisation is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Athlete or other Person believes he or she is about to be caught. The amount by which Ineligibility is reduced should be based on the likelihood that the Athlete or other Person would have been caught had he or she not come forward voluntarily.]]*

10.6.3 Prompt Admission of an Anti-Doping Rule Violation after being Confronted with a Violation Sanctionable under Rule 10.2.1 or Rule 10.3.1

An *Athlete* or other *Person* potentially subject to a four-year sanction under Rule 10.2.1 or Rule 10.3.1 (for evading or refusing *Sample* Collection or Tampering with *Sample* Collection), by promptly admitting the asserted anti-doping rule violation after being confronted by *DFSNZ*, and also upon the approval and at the discretion of both *WADA* and *DFSNZ*, may receive a reduction in the period of *Ineligibility* down to a minimum of two years, depending on the seriousness of the violation and the *Athlete* or other *Person's* degree of *Fault*.

10.6.4 Application of Multiple Grounds for Reduction of a Sanction

Where an *Athlete* or other *Person* establishes entitlement to reduction in sanction under more than one provision of Rule 10.4, 10.5 or 10.6, before applying any reduction or suspension under Rule 10.6, the otherwise applicable period of *Ineligibility* shall be determined in accordance with *Rules* 10.2, 10.3, 10.4 and 10.5. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under Rule 10.6, then the period of *Ineligibility* may be reduced or suspended, but not below one-fourth of the otherwise applicable period of *Ineligibility*.

*[Comment to Rule 10.6.4: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions (Rule 10.2, Rule 10.3, Rule 10.4, or Rule 10.5) apply to the particular anti-doping rule violation. Second, if the basic sanction provides for a range of sanctions, the hearing panel must determine the applicable sanction within that range according to the Athlete or other Person's degree of Fault. In a third step, the hearing panel establishes whether there is a basis for elimination, suspension or reduction of the sanction (Rule 10.6). Finally, the hearing panel decides on the commencement of the period of Ineligibility under Rule 10.11.]*

10.7 Multiple Violations

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

10.7.1.1 six months;

10.7.1.2 one-half of the period of *Ineligibility* imposed for the first anti-doping rule violation without taking into account any reduction under Rule 10.6; or

10.7.1.3 twice the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, without taking into account any reduction under Rule 10.6.

The period of *Ineligibility* established above may then be further reduced by the application of Rule 10.6.

10.7.2 A third anti-doping rule violation will always result in a lifetime period of *Ineligibility*, except if the third violation fulfils the condition for elimination or reduction of the period of *Ineligibility* under Rule 10.4 or 10.5 or involves a violation of Rule 2.4. In these particular cases, the period of *Ineligibility* shall be from eight years to lifetime *Ineligibility*.

10.7.3 An anti-doping rule violation for which an *Athlete* or other *Person* has established *No Fault or Negligence* shall not be considered a prior violation for purposes of this Rule.

#### 10.7.4 Additional Rules for Certain Potential Multiple Violations

10.7.4.1 For purposes of imposing sanctions under Rule 10.7 an anti-doping rule violation will only be considered a second violation if *DFSNZ* can establish that the *Athlete* or other *Person* committed the second anti-doping rule violation after the *Athlete* or other *Person* received notice under Rule 7, or after *DFSNZ* made reasonable efforts to give notice, of the first anti-doping rule violation; if *DFSNZ* cannot establish this, the anti-doping rule violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction.

10.7.4.2 If, after the imposition of a sanction for a first anti-doping rule violation, facts are discovered involving an anti-doping rule violation by the *Athlete* or other *Person* which occurred prior to notification regarding the first violation, then *DFSNZ* shall impose an additional sanction based on the sanction that could have been imposed if the two violations had been adjudicated at the same time. Results in all *Competitions* dating back to the earlier anti-doping rule violation will be *Disqualified* as provided in Rule 10.8.

#### 10.7.5 Multiple Anti-Doping Rule Violations During a Ten-Year Period

For purposes of Rule 10.7, each anti-doping rule violation must take place within the same ten year period in order to be considered multiple violations.

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

In addition to the automatic *Disqualification* of the results in the *Competition* which produced the positive *Sample* under Rule 9, all other competitive results of the *Athlete* 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.

*[Comment to Rule 10.8: Nothing in these Rules precludes clean Athletes or other Persons who have been damaged by the actions of a Person who has committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such Person.]*

#### 10.9 Allocation of CAS Cost Awards and Forfeited Prize Money

The priority for repayment of CAS cost awards and forfeited prize money shall be: first, payment of costs awarded by CAS; second, reallocation of forfeited prize money to other *Athletes* if provided for in the rules of the applicable International Federation; and third, reimbursement of the expenses of *DFSNZ*

#### 10.10 *Financial Consequences*

Where *DFSNZ* brings proceedings before the *Sports Tribunal* the recovery of costs or imposition of financial sanctions shall be as determined by the *Sports Tribunal*.

#### 10.11 Commencement of *Ineligibility* Period

Except as provided below, the period of *Ineligibility* shall start on the date of the final hearing decision providing for *Ineligibility* or, if the hearing is waived or there is no hearing, on the date *Ineligibility* is accepted or otherwise imposed. Any period of *Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* to be served.

#### 10.11.1 Delays Not Attributable to the *Athlete* or other *Person*

Where there have been substantial delays in the hearing process or other aspects of *Doping Control* not attributable to the *Athlete* or other *Person*, the body imposing the sanction may start the period of *Ineligibility* at an earlier date commencing as early as the date of *Sample* collection or the date on which another anti-doping rule violation last occurred. All competitive results achieved during the period of *Ineligibility*, including retroactive *Ineligibility*, shall be *Disqualified*.

*[Comment to Rule 10.11.1: In cases of anti-doping rule violations other than under Rule 2.1, the time required for an Anti-Doping Organisation to discover and develop facts sufficient to establish an anti-doping rule violation may be lengthy, particularly where the Athlete or other Person has taken affirmative action to avoid detection. In these circumstances, the flexibility provided in this Article to start the sanction at an earlier date should not be used.]*

#### 10.11.2 Timely Admission

Where the *Athlete* or other *Person* promptly (which, in all events, for an *Athlete* means before the *Athlete* competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by *DFSNZ*, the period of *Ineligibility* may start as early as the date of *Sample* collection or the date on which another anti-doping rule violation last occurred. In each case, however, where this Rule is applied, the *Athlete* or other *Person* shall serve at least one-half of the period of *Ineligibility* going forward from the date the *Athlete* or other *Person* accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed. This Rule shall not apply where the period of *Ineligibility* already has been reduced under Rule 10.6.3.

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

10.11.3.1 If a *Provisional Suspension* is imposed and respected by the *Athlete* or other *Person*, then the *Athlete* or other *Person* shall receive a credit for such period of *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed. If a period of *Ineligibility* is served pursuant to a decision that is subsequently appealed, then the *Athlete* or other *Person* shall receive a credit for such period of *Ineligibility* served against any period of *Ineligibility* which may ultimately be imposed on appeal.

10.11.3.2 If an *Athlete* or other *Person* voluntarily accepts a *Provisional Suspension* in writing from *DFSNZ* and thereafter respects the *Provisional Suspension*, the *Athlete* or other *Person* shall receive a credit for such period of voluntary *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed. A copy of the *Athlete's* or other *Person's* voluntary acceptance of a *Provisional Suspension* shall be provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation under Rule 14.



[Comment to Rule 10.11.3.2: An Athlete's voluntary acceptance of a Provisional Suspension is not an admission by the Athlete and shall not be used in any way as to draw an adverse inference against the Athlete.]

10.11.3.3 No credit against a period of *Ineligibility* shall be given for any time period before the effective date of the *Provisional Suspension* or voluntary *Provisional Suspension* regardless of whether the *Athlete* elected not to compete or was suspended by his or her team.

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

[Comment to Rule 10.11: Rule 10.11 makes clear that delays not attributable to the Athlete, timely admission by the Athlete and Provisional Suspension are the only justifications for starting the period of *Ineligibility* earlier than the date of the final hearing decision.]

## 10.12 Status During *Ineligibility*

### 10.12.1 Prohibition Against Participation During *Ineligibility*

No *Athlete* or other *Person* who has been declared *Ineligible* may, during the period of *Ineligibility*, participate in any capacity in a *Competition* or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organised by any *Signatory* or *Signatory's* member organisation, or a club or other member organisation of a *Signatory's* member organisation, or in *Competitions* authorised or organised by any professional league or any international- or national-level *Event* organisation or any elite or national-level sporting activity funded by a governmental agency.

An *Athlete* or other *Person* subject to a period of *Ineligibility* longer than four years may, after completing four years of the period of *Ineligibility*, participate as an *Athlete* in local sport events not sanctioned or otherwise under the jurisdiction of a *Code Signatory* or member of a *Code Signatory*, but only so long as the local sport event is not at a level that could otherwise qualify such *Athlete* or other *Person* directly or indirectly to compete in (or accumulate points toward) a national championship or *International Event*, and does not involve the *Athlete* or other *Person* working in any capacity with *Minors*.

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

[Comment to Rule 10.12.1: For example, subject to Rule 10.12.2 below, an *Ineligible Athlete* cannot participate in a training camp, exhibition or practice organised by his or her National Federation or a club which is a member of that National Federation or which is funded by a governmental agency. Further, an *Ineligible Athlete* may not compete in a non-*Signatory* professional league (e.g., the National Hockey League, the National Basketball Association, etc.), Events organised by a non-*Signatory* International Event organisation or a non-*Signatory* national-level event organisation without triggering the Consequences set forth in Rule 10.12.3. The term "activity" also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organisation described in this Rule. *Ineligibility* imposed in one sport shall also be recognised by other sports (see Rule 15).]

#### 10.12.2 Return to Training

As an exception to Rule 10.12.1, an *Athlete* may return to train with a team or to use the facilities of a club or other member organisation of *Signatory's* member organisation during the shorter of: (1) the last two months of the *Athlete's* period of *Ineligibility*, or (2) the last one-quarter of the period of *Ineligibility* imposed.

*[Comment to Rule 10.12.2: In many Team Sports and some individual sports (e.g., ski jumping and gymnastics), an Athlete cannot effectively train on his or her own so as to be ready to compete at the end of the Athlete's period of Ineligibility. During the training period described in this Article, an Ineligible Athlete may not compete or engage in any activity described in Rule 10.12.1 other than training.]*

#### 10.12.3 Violation of the Prohibition of Participation During *Ineligibility*

Where an *Athlete* or other *Person* who has been declared *Ineligible* violates the prohibition against participation during *Ineligibility* described in Rule 10.12.1, the results of such participation shall be *Disqualified* and a new period of *Ineligibility* equal in length to the original period of *Ineligibility* shall be added to the end of the original period of *Ineligibility*. The new period of *Ineligibility* may be adjusted based on the *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case. The determination of whether an *Athlete* or other *Person* has violated the prohibition against participation, and whether an adjustment is appropriate, shall be referred by *DFSNZ* or the *Anti-Doping Organisation* whose results management led to the imposition of the initial period of *Ineligibility* to the *Sports Tribunal* under Rule 8 or the hearing body of the *Anti-Doping Organisation* whose results management led to the imposition of the initial period of *Ineligibility*. This decision may be appealed under Rule 13.

Where an *Athlete Support Person* or other *Person* assists a *Person* in violating the prohibition against participation during *Ineligibility*, *DFSNZ* shall seek that the *Sports Tribunal* impose sanctions for a violation of Rule 2.9 for such assistance.

#### 10.12.4 Withholding of Financial Support during *Ineligibility*

In addition, for any anti-doping rule violation not involving a reduced sanction as described in Rule 10.4 or Rule 10.5, some or all sport-related financial support or other sport-related benefits received by such *Person* will be withheld by *DFSNZ*, the New Zealand Government, National Sporting Organisations, the New Zealand Olympic Committee and Paralympics New Zealand.

### 10.13 Automatic Publication of Sanction

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

*[Comment to Rule 10: Harmonisation of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonization means that the same Rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonisation of sanctions are based on differences between sports including, for example, the following: in some sports the Athletes are professionals making a sizable income from the sport and in others the Athletes are true amateurs; in those sports where an Athlete's career is short, a standard period of Ineligibility has a much more significant effect on the Athlete than in sports where careers are traditionally much longer. A primary argument in favour of harmonisation is that it is simply not right that two Athletes from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in*

*sanctioning has often been viewed as an unacceptable opportunity for some sporting organisations to be more lenient with dopers. The lack of harmonisation of sanctions has also frequently been the source of jurisdictional conflicts between International Federations and National Anti-Doping Organisations.]*

## **11. CONSEQUENCES TO TEAMS**

### **11.1 Testing of Team Sports**

Where more than one member of a team in a *Team Sport* has been notified of an anti-doping rule violation under Rule 7 in connection with an *Event*, the ruling body for the *Event* shall conduct appropriate *Target Testing* of the team during the *Even Period*.

### **11.2 Consequences for Team Sports**

If more than two members of a team in a *Team Sport* are found to have committed an anti-doping rule violation during an *Event Period*, the ruling body of the *Event* shall impose an appropriate sanction on the team (e.g., loss of points, *Disqualification* from a *Competition* or *Event*, or other sanction) in addition to any *Consequences* imposed upon the individual *Athletes* committing the anti-doping rule violation.

### **11.3 Event Ruling Body May Establish Stricter Consequences for Team Sports**

The ruling body for an *Event* may elect to establish rules for the *Event* which impose *Consequences* for *Team Sports* stricter than those in Rule 11.2 for purposes of the *Event*.

*[Comment to Rule 11.3: For example, the International Olympic Committee could establish Rules which would require Disqualification of a team from the Olympic Games based on a lesser number of anti-doping rule violations during the period of the Games.]*

## **12. SANCTIONS AGAINST SPORTING BODIES**

Where any *National Sporting Organisation* fails, without reasonable excuse, to comply with any direction or request made by *DFSNZ* under these *Rules*, or with Rule 7.14.4, *DFSNZ* may report such failure to the Chief Executive Officer of Sport New Zealand.

## **13. APPEALS**

### **13.1 Decisions Subject to Appeal**

Decisions made under the *Code* or these *Rules* may be appealed as set forth in this Rule or as otherwise provided in the *Code* or *International Standards*. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review provided in these *Rules* must be exhausted, provided that such review respects the principles set forth in Rule 13.2.2 below (except as provided in Rule 13.1.3).

#### **13.1.1 Scope of Review Not Limited**

The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker.

#### **13.1.2 CAS Shall Not Defer to the Findings Being Appealed**

In making its decision, CAS need not give deference to the discretion exercised by the body whose decision is being appealed.

[Comment to Rule 13.1.2: CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.]

### 13.1.3 WADA Not Required to Exhaust Internal Remedies

Where WADA has a right to appeal under Rule 13 and no other party has appealed a final decision within DFSNZ's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in DFSNZ's process.

[Comment to Rule 13.1.3: Where a decision has been rendered before the final stage of DFSNZ's process (for example, a first hearing) and no party elects to appeal that decision to the next level of DFSNZ's process, then WADA may bypass the remaining steps in DFSNZ's internal process and appeal directly to CAS.]

## 13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, Provisional Suspensions Recognition of Decisions and Jurisdiction

A decision that an anti-doping rule violation was committed, a decision imposing *Consequences* or not imposing *Consequences* for an anti-doping rule violation, a decision that no anti-doping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision by WADA not to grant an exception to the six months' notice requirement for a retired *Athlete* to return to *Competition* under Rule 5.7.1; a decision by WADA assigning results management under Rule 7.1; a decision by DFSNZ not to bring forward an *Adverse Analytical Finding* or an *Atypical Finding* as an anti-doping rule violation, or a decision not to go forward with an anti-doping rule violation after an investigation under Rule 7.3; a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing*; DFSNZ's failure to comply with Rule 7.9; a decision that DFSNZ lacks jurisdiction to rule on an alleged anti-doping rule violation or its *Consequences*; a decision to suspend, or not suspend, a period of *Ineligibility* or to reinstate, or not reinstate, a suspended period of *Ineligibility* under Rule 10.6.1; a decision under Rule 10.12.3; and a decision by DFSNZ not to recognise another *Anti-Doping Organisation's* decision under Rule 15 may be appealed exclusively as provided in Rules 13.2 - 13.6.

### 13.2.1 Appeals Involving *International-Level Athletes* or *International Events*

In cases arising from participation in an *International Event* or in cases involving *International-Level Athletes*, the decision may be appealed exclusively to CAS.

[Comment to Rule 13.2.1: CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.]

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

In cases where Rule 13.2.1 is not applicable, the decision of the *Sports Tribunal* may be appealed exclusively to CAS.

### 13.2.3 *Persons* Entitled to Appeal

In cases under Rule 13.2.1, the following parties shall have the right to appeal to CAS: (a) the *Athlete* or other *Person* who is the subject of the decision being appealed; (b) the other party or parties to the case in which the decision was

rendered; (c) the relevant International Federation; (d) *DFSNZ* and the *National Anti-Doping Organisation* of the *Person's* country of residence or countries where the *Person* is a national or license holder; (e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and (f) *WADA*.

In cases under Rule 13.2.2, the following parties shall have the right to appeal: (a) the *Athlete* or other *Person* who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) the relevant International Federation; (d) the *National Anti-Doping Organisation* of the *Person's* country of residence; (e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games, and (f) *WADA*. For cases under Rule 13.2.13.2.2, *WADA*, the International Olympic Committee, the International Paralympic Committee, and the relevant International Federation shall also have the right to appeal to *CAS* with respect to the decision of the *Sports Tribunal*. Any party filing an appeal shall be entitled to assistance from *CAS* to obtain all relevant information from *DFSNZ* and the *Sports Tribunal* and the information shall be provided if *CAS* so directs.

The time to file an appeal to *CAS* shall be twenty-one days from the date of receipt of the decision by the appealing party. The above notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings that led to the decision being appealed:

13.2.3.1 Within fifteen days from notice of the decision, such party/ies shall have the right to request a copy of the case file from the body that issued the decision;

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

The filing deadline for an appeal or intervention filed by *WADA* shall be the later of:

13.2.3.3 Twenty-one days after the last day on which any other party in the case could have appealed, or

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

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

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

Cross appeals and other subsequent appeals by any respondent named in cases brought to *CAS* under the *Code* are specifically permitted. Any party with a right to appeal under this Rule 13 must file a cross appeal or subsequent appeal at the latest with the party's answer.

[Comment to Rule 13.2.4: This provision is necessary because since 2011, CAS rules no longer permit an Athlete the right to cross appeal when an Anti-Doping Organisation appeals a decision after the Athlete's time for appeal has expired. This provision permits a full hearing for all parties.]

### 13.3 Failure to Render a Timely Decision by *Sports Tribunal*

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

[Comment to Rule 13.3: Given the different circumstances of each anti-doping rule violation investigation and results management process, it is not feasible to establish a fixed time period for the *Sports Tribunal* to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the *Sports Tribunal* and give the *Sports Tribunal* an opportunity to explain why it has not yet rendered a decision. Nothing in this Rule prohibits an International Federation from also having Rules which authorise it to assume jurisdiction for matters in which the results management performed by one of its National Federations has been inappropriately delayed.]

### 13.4 Appeals from Decisions relating to *TUEs*

13.4.1 *TUE* decisions may be appealed exclusively as provided in Rule 4.4.

### 13.5 Notification of Appeal Decisions

Any *Anti-Doping Organisation* that is a party to an appeal shall promptly provide the appeal decision to the *Athlete* or other *Person* and to the other *Anti-Doping Organisations* that would have been entitled to appeal under Rule 13.2.3 as provided under Rule 14.2.

### 13.6 Appeals from Decisions under Part Three and Part 4 of the *Code*

With respect to a WADA report of non-compliance under Article 23.5.4, or any *Consequences* imposed under Part Three (Roles and Responsibilities) of the *Code*, the entity to which the WADA report pertains or upon which *Consequences* are imposed under Part Three of the *Code* shall have the right to appeal exclusively to CAS in accordance with the provisions applicable before such court.

## 14. REPORTING, CONFIDENTIALITY, AND PUBLIC DISCLOSURE

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

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

14.1.1.1 All notices referred to in the *Rules* shall be governed by the provisions of this Rule.

14.1.1.2 Each *Athlete* in *DFSNZ Registered Testing Pool* shall provide *DFSNZ* with a physical address, a mailing address and an email address to which notice may be delivered. In the *Event* of a change of any address it is the responsibility of the *Athlete* to provide *DFSNZ* 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*.

- 14.1.1.3 All notices to an *Athlete* in *DFSNZ Registered Testing Pool*, including but not limited to notices relating to allegations or potential allegations that an anti-doping rule violation has occurred, shall be delivered by courier, registered post or email to at least one of the addresses provided by the *Athlete* under Rule 14.1.1.2. Proof of delivery by courier, registered post or email shall be conclusive. In any event, notice shall be deemed to have been received upon the expiry of three working days after the date of despatch.
- 14.1.1.4 Any other notice to an *Athlete* or other *Person*, including but not limited to notices relating to allegations or potential allegations that an anti-doping rule violation has occurred, shall be given by sending the notice to the physical address, mailing address or email 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 14.1.1.2. Such notice shall be deemed to have been received upon the expiry of three working days after the date of despatch.
- 14.1.1.5 *DFSNZ* may, with the prior agreement of the intended recipient, as an alternative to, or in conjunction with, any notice provided under Rules 14.1.1.3 or 14.1.1.4 use any other method of communication available, including, but not limited to, facsimile and telephone.

#### 14.1.2 Notice of Anti-Doping Rule Violations to *National Anti-Doping Organisations*, International Federations and *WADA*

*DFSNZ* shall also notify the *Athlete's National Anti-Doping Organisation*, International Federation and *WADA* of the assertion of an anti-doping rule violation simultaneously with the notice to the *Athlete* or other *Person*.

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

Notification shall include: the *Athlete's* name, country, sport and discipline within the sport, the *Athlete's* competitive level, whether the test was *In-Competition* or *Out-of-Competition*, the date of *Sample* collection, the analytical result reported by the laboratory and other information as required by the International Standard for Testing and Investigations, or, for anti-doping rule violations other than Rule 2.1, the Rule violated and the basis of the asserted violation.

#### 14.1.4 Status Reports

Except with respect to investigations which have not resulted in notice of an anti-doping rule violation pursuant to Rule 14.1.1, the *Anti-Doping Organisations* referenced in Rule 14.1.2 shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to Rule 7, 8 or 13 and shall be provided with a prompt written reasoned explanation or decision explaining the resolution of the matter.

#### 14.1.5 Confidentiality

The recipient organisations shall not disclose this information beyond those *Persons* with a need to know (which would include the appropriate personnel at the applicable *National Olympic and/or Paralympic Committee*, National Federation, and team in a *Team Sport*) until *DFSNZ* has made *Public Disclosure* or has failed to make *Public Disclosure* as required in Rule 14.3.

#### 14.2 Notice of Anti-Doping Rule Violation Decisions and Request for Files

- 14.2.1 Anti-doping rule violation decisions rendered pursuant to Rule 7.10, 8.4, 10.4, 10.5, 10.6, 10.12.3 or 13.5 shall include the full reasons for the decision, including, if applicable, a justification for why the maximum potential sanction was not imposed.
- 14.2.2 An *Anti-Doping Organisation* having a right to appeal a decision received pursuant to Rule 14.2.1 may, within 15 days of receipt, request a copy of the full case file pertaining to the decision.

#### 14.3 Public Disclosure

- 14.3.1 The identity of any *Athlete* or other *Person* who is asserted by *DFSNZ* to have committed an anti-doping rule violation, may be *Publicly Disclosed* by *DFSNZ* only after notice has been provided to the *Athlete* or other *Person* in accordance with Rule 7.3, 7.4, 7.5, 7.6 or 7.7, and to the applicable *Anti-Doping Organisations* in accordance with Rule 14.1.2.
- 14.3.2 No later than twenty days after it has been determined in a final appellate decision under Rule 13.2.1 or 13.2.2, or such appeal has been waived, or a hearing in accordance with Rule 8 has been waived, or the assertion of an anti-doping rule violation has not otherwise been timely challenged, *DFSNZ* must *Publicly Report* the disposition of the anti-doping matter including the sport, the anti-doping rule violated, the name of the *Athlete* or other *Person* committing the violation, the *Prohibited Substance* or *Prohibited Method* involved and the *Consequences* imposed. *DFSNZ* must also *Publicly Report* within twenty days the results of final appeal decisions concerning anti-doping rule violations, including the information described above.
- 14.3.3 In any case where it is determined, after a hearing or appeal, that the *Athlete* or other *Person* did not commit an anti-doping rule violation, the decision may be *Publicly Disclosed* only with the consent of the *Athlete* or other *Person* who is the subject of the decision. *DFSNZ* shall use reasonable efforts to obtain such consent, and if consent is obtained, shall *Publicly Disclose* the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.
- 14.3.4 Publication shall be accomplished at a minimum by placing the required information on *DFSNZ's* website and leaving the information up for the longer of one month or the duration of any period of *Ineligibility*.
- 14.3.5 Neither *DFSNZ* nor any official of *DFSNZ* shall publicly comment on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to the *Athlete*, other *Person* or their representatives.
- 14.3.6 The mandatory *Public Reporting* required in Rule 14.3.2 shall not be required where the *Athlete* or other *Person* who has been found to have committed an anti-doping



rule violation is a *Minor*. Any optional *Public Reporting* in a case involving a *Minor* shall be proportionate to the facts and circumstances of the case.

#### 14.4 Statistical Reporting

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

#### 14.5 Data Privacy

*DFSNZ* may collect, store, process or disclose personal information relating to *Athletes* and other *Persons* where necessary and appropriate to conduct their anti-doping activities under these *Rules*, the *Code* and *International Standards* (including specifically the International Standard for the Protection of Privacy and Personal Information), and in compliance with applicable law, including the Privacy Act 1993.

[Comment to Rule 14.5: Note that Article 22.2 provides that “Each government will put in place legislation, regulation, policies or administrative practices for cooperation and sharing of information with Anti-Doping Organisations and sharing of data among Anti-Doping Organisations as provided in the Code.”]

#### 14.6 Confidentiality and Public Disclosure

*DFSNZ* may, notwithstanding anything in these *Rules*, *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 an anti-doping rule 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 *DFSNZ*'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 14.3 *DFSNZ* shall *Publicly Report* the decision in the anti-doping rule violation Proceedings in the manner provided by Rule 14.3.

### 15. APPLICATION AND RECOGNITION OF DECISIONS

15.1 Subject to the right of appeal in Rule 13, *Testing* hearing results or other final adjudications of any *Signatory* which are consistent with the *Code* and are within the authority of the *Signatory*, shall be applicable worldwide and shall be recognised and respected by *DFSNZ*, the *Sports Tribunal*, any *NSO Anti-Doping Tribunal*, and all *National Sporting Organisations* and *Persons* who are subject to the *Rules*.

[Comment to Rule 15.1: The extent of recognition of TUE decisions of other Anti Doping Organisations shall be determined by Article 4.4 and the International Standard for Therapeutic Use Exemptions.]

15.2 Upon application by *DFSNZ* the *Sports Tribunal* shall recognise the measures taken by other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*.

[Comment to Rule 15.2: Where the decision of a body that has not accepted the Code is in some respects Code compliant and in other respects not Code compliant, the Sports Tribunal should attempt to apply the decision in harmony with the principles of the Code. For example, if in a process consistent with the Code a non-Signatory has found an Athlete to have committed an anti-doping rule violation on account of the presence of a Prohibited Substance in his or her body but the period of Ineligibility applied is shorter than the period

provided for in the Code, then the Sports Tribunal should recognise the finding of an anti-doping rule violation and should conduct a hearing consistent with Article 8 to determine whether the longer period of Ineligibility provided these Rules should be imposed.]

## 16. LIMITATION PERIOD

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

## 17. AMENDMENT AND INTERPRETATION

### 17.1 Amendment

*DFSNZ* 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 *DFSNZ* to provide comment in relation to the operation of the *Rules*.

### 17.2 Interpretation

17.2.1 The comments annotating various provisions of the *Rules* shall be used to interpret the *Rules*.

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

17.2.3 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.

17.2.4 The *Rules* shall not apply retroactively to matters pending before the date they entered into effect. However, anti-doping rule violations committed before the *Rules* came into effect will continue to count as “First Violations” or “Second Violations” for purposes of determining sanctions under Rule 10 where anti-doping rule violations have been committed under these *Rules*.

17.2.5 The **INTRODUCTION** and the **DEFINITIONS** shall be considered integral parts of the *Rules*.

17.2.6 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*.

## 18. COMMENCEMENT, TRANSITIONAL PROVISIONS, VALIDITY

### 18.1 Commencement

These Rules shall come into force on the date provided for under s 21(3) of the Sports Anti-Doping Act 2006 (the “Effective Date”).

### 18.2 Non-Retroactive except for Rule 10.7.5 and Rule 16 or Unless Principle of “Lex Mitior” Applies

18.2.1 The retrospective periods in which prior violations can be considered for purposes of multiple violations under Rule 10.7.5 and the statute of limitations set forth in Rule 16 are procedural rules and should be applied retroactively; provided, however, that Rule 16 shall only be applied retroactively if the statute of limitation period has not already expired by the Effective Date. Otherwise, with respect to any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date, the case shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, unless the *Sports Tribunal* determines the principle of “lex mitior” appropriately applies under the circumstances of the case.

### 18.3 Application to Decisions Rendered Prior to the 2018 Rules

With respect to cases where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date, but the *Athlete* or other *Person* is still serving the period of *Ineligibility* as of the Effective Date, the *Athlete* or other *Person* may apply to *DFSNZ* for the anti-doping rule violation to consider a reduction in the period of *Ineligibility* in light of the 2018 *Rules*. Such application must be made before the period of *Ineligibility* has expired. The application will be referred by *DFSNZ* to the *Sports Tribunal*. The decision on the application by the *Sports Tribunal* rendered may be appealed pursuant to Rule 13.2. The 2018 *Rules* shall have no application to any anti-doping rule violation case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.

### 18.4 Multiple Violations Where the First Violation Occurs Prior to 1 January 2015

For purposes of assessing the period of *Ineligibility* for a second violation under Rule 10.7.1, where the sanction for the first violation was determined based on pre-2015 *Code* rules, the period of *Ineligibility* which would have been assessed for that first violation had 2015 *Code* rules been applicable, shall be applied.

*[Comment to Rule 18.4: Other than the situation described in Rule 18.4, where a final decision finding an anti-doping rule violation has been rendered prior to the existence of the Code or under the Code in force before the 2015 Code and the period of Ineligibility imposed has been completely served, the 2015 Code may not be used to re-characterize the prior violation.]*

### 18.5 Validity

18.5.1 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.

18.5.2 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

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

Act. Sports Anti-Doping Act 2006

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

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

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

**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*.

**Athlete:** Any *Person* who competes in sport at the international level (as defined by each International Federation) or the national level (as defined by each *National Anti-Doping Organisation*). An *Anti-Doping Organisation* has discretion to apply anti-doping rules to an *Athlete* who is neither an *International-Level Athlete* nor a *National-Level Athlete*, and thus to bring them within the definition of “*Athlete*.” In relation to *Athletes* who are neither *International-Level* nor *National-Level Athletes*, an *Anti-Doping Organisation* may elect to: conduct limited *Testing* or no *Testing* at all; analyse *Samples* for less than the full menu of *Prohibited Substances*; require limited or no whereabouts information; or not require advance *TUEs*. However, if a Rule 2.1, 2.3 or 2.5 anti-doping rule violation is committed by any *Athlete* over whom an *Anti-Doping Organisation* has authority who competes below the international or national level, then the *Consequences* set forth in the *Code* (except Article 14.3.2) must be applied. For purposes of Rule 2.8 and Rule 2.9 and for purposes of anti-doping information and education, any *Person* who participates in sport under the authority of any *Signatory*, government, or other sports organisation accepting the *Code* is an *Athlete*.

*[Comment: This definition makes it clear that all International- and National-Level Athletes are subject to the anti-doping rules of the Code, with the precise definitions of international- and national-level sport to be set forth in the anti-doping rules of the International Federations and National Anti-Doping Organisations, respectively. The definition also allows each National Anti-Doping Organisation, if it chooses to do so, to expand its anti-doping program beyond International- or National-Level Athletes to competitors at lower levels. Competition or to individuals who engage in fitness activities but do not compete at all. Thus, a National Anti-Doping Organisation could, for example, elect to test recreational-level competitors but not require advance TUEs. But an anti-doping rule violation involving an Adverse Analytical Finding or Tampering results in all of the Consequences provided for in the Code (with the exception of Article 14.3.2). The decision on whether Consequences apply to recreational-level Athletes who engage in fitness activities but never compete is left to the National Anti-Doping Organisation. In the same manner, a Major Event Organisation holding an Event only for masters-level*

*competitors could elect to test the competitors but not analyse Samples for the full menu of Prohibited Substances. Competitors at all levels of Competition should receive the benefit of anti-doping information and education.]*

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

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

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

*Atypical Finding:* A report from a WADA-accredited laboratory or other WADA-approved laboratory which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an *Adverse Analytical Finding*.

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

CAS: The Court of Arbitration for Sport.

Code: The World Anti-Doping Code.

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

*Consequences of Anti-Doping Rule Violations ("Consequences"):* An *Athlete's* or other *Person's* violation of an anti-doping rule may result in one or more of the following: (a) 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 on account of an anti-doping rule violation for a specified period of time from participating in any *Competition* or other activity or funding as provided in Rule 10.12; (c) Provisional Suspension means the *Athlete* or other *Person* is barred temporarily from participating in any *Competition* or activity prior to the final decision at a hearing conducted under Rule 8; and (d) Financial Consequences means a financial sanction imposed for an anti-doping rule violation or to recover costs associated with an anti-doping rule violation; and (e) Public Disclosure or Public Reporting means the dissemination or distribution of information to the general public or *Persons* beyond those *Persons* entitled to earlier notification in accordance with Rule 14. Teams in *Team Sports* may also be subject to *Consequences* as provided in Rule 11.

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

DFSNZ: 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 Rule Violations* above.

*Doping Control:* All steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps and processes in between such as provision of whereabouts information, *Sample* collection and handling, laboratory analysis, *TUEs*, results management and hearings.

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

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

*Event Venues:* Those venues so designated by the ruling body for the *Event*.

*Fault:* *Fault* is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an *Athlete* or other *Person's* degree of *Fault* include, for example, the *Athlete's* or other *Person's* experience, whether the *Athlete* or other *Person* is a *Minor*, special considerations such as impairment, the degree of risk that should have been perceived by the *Athlete* and the level of care and investigation exercised by the *Athlete* in relation to what should have been the perceived level of risk. In assessing the *Athlete's* or other *Person's* degree of *Fault*, the circumstances considered must be specific and relevant to explain the *Athlete's* or other *Person's* departure from the expected standard of behaviour. Thus, for example, the fact that an *Athlete* would lose the opportunity to earn large sums of money during a period of *Ineligibility*, or the fact that the *Athlete* only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of *Ineligibility* under Rules 10.5.1 or 10.5.2.

[*Comment: The criteria for assessing an Athlete's degree of Fault is the same under all Articles where Fault is to be considered. However, under Rule 10.5.2, no reduction of sanction is appropriate unless, when the degree of Fault is assessed, the conclusion is that No Significant Fault or Negligence on the part of the Athlete or other Person was involved.*]

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

*In-Competition:* Unless provided otherwise in the *Rules* of an International Federation or the ruling body of the *Event* in question, „*In-Competition*“ means the period commencing twelve hours before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*.

[*Comment: An International Federation or ruling body for an Event may establish an "In-Competition" period that is different than the Event Period.*]

*Independent Observer Program:* A team of observers, under the supervision of WADA, who observe and provide guidance on the *Doping Control* process at certain *Events* and report on their observations.

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

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

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

*International-Level Athlete:* *Athletes* who compete in sport at the international level, as defined by each International Federation consistent with the International Standard for Testing and Investigations.

[*Comment: Consistent with the International Standard for Testing and Investigations, the International Federation is free to determine the criteria it will use to classify Athletes as International-Level Athletes, e.g., by ranking, by participation in particular International*

*Events, by type of license, etc. However, it must publish those criteria in clear and concise form, so that Athletes are able to ascertain quickly and easily when they will become classified as International-Level Athletes. For example, if the criteria include participation in certain International Events, then the International Federation must publish a list of those International Events.]*

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

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

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

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

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

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

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

*National-Level Athlete:* *Athletes* who compete in sport at the national level, as defined by each *National Anti-Doping Organisation*, consistent with the International Standard for Testing and Investigations.

*National Olympic and/or Paralympic Committee:* The organisations recognised by the International Olympic Committee and the International Paralympic Committee. The term *National Olympic and/or Paralympic Committee* shall also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical *National Olympic and/or Paralympic Committee* responsibilities in the anti-doping area. In New Zealand the *National Olympic and/or Paralympic Committees* are the New Zealand Olympic Committee Incorporated and Paralympics New Zealand 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 Fault or Negligence:* The *Athlete* or other *Person's* establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had *Used* or been administered the *Prohibited Substance* or *Prohibited Method* or otherwise violated an anti-

doping rule. Except in the case of a *Minor*, for any violation of Rule 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

*No Significant Fault or Negligence*: The *Athlete* or other *Person's* establishing that his or her *Fault* or negligence, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the anti-doping rule violation. Except in the case of a *Minor*, for any violation of Rule 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

*[Comment: For Cannabinoids, an Athlete may establish No Significant Fault or Negligence by clearly demonstrating that the context of the Use was unrelated to sport performance.]*

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

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

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

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

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

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

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

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

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

*Provisional Hearing*: For purposes of Rule 7.9, an expedited abbreviated hearing occurring prior to a hearing under Article 8 that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form.



[Comment: A Provisional Hearing is only a preliminary proceeding which may not involve a full review of the facts of the case. Following a Provisional Hearing, the Athlete remains entitled to a subsequent full hearing on the merits of the case. By contrast, an “expedited hearing,” as that term is Used in Article 7.9, is a full hearing o the merits conducted on an expedited time schedule.]

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

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

*Registered Testing Pool:* The pool of highest priority *Athletes* established separately at the international level by International Federations and at the national level by DFSNZ who are subject to *focused In-Competition* and *Out-of-Competition Testing* as part of that International Federation’s or DFSNZ test distribution plan and therefore are required to provide whereabouts information as provided in Rule 5.6 and the International Standard for Testing and Investigations

*Rules:* The Sports Anti-Doping Rules (2018) made under the Sports Anti-Doping Act 2006.

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

*Signatories:* Those entities signing the *Code* and agreeing to comply with the *Code* as provided in Article 23 of the *Code*.

*Specified Substance:* See Rule 4.2.2.

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

*Substantial Assistance:* For purposes of Rule 10.6.1, a *Person* providing *Substantial Assistance* must: (1) fully disclose in a signed written statement all information he or she possesses in relation to anti-doping rule violations, and (2) fully co-operate with the investigation and adjudication of any case related to that information, including, for example, presenting testimony at a hearing if requested to do so by an *Anti-Doping Organisation* or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

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

*Tampering:* Altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring.

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

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

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

*Trafficking:* Selling, giving, transporting, sending, delivering or distributing (or *Possessing* for any such purpose) a *Prohibited Substance* or *Prohibited Method* (either physically or by any electronic or other means) by an *Athlete*, *Athlete Support Person* or any other *Person* subject to the jurisdiction of an *Anti-Doping Organisation* to any third party; provided, however, this definition shall not include the actions of “bona fide” medical personnel involving a *Prohibited Substance* used for genuine and legal therapeutic purposes or

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

*TUE*: Therapeutic use exemption, as described in Rule 4.4.

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

*UNESCO Convention*: The International Convention against Doping in Sport adopted by the 33rd session of the UNESCO General Conference on October 19, 2005 including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport.

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

*Violation Proceedings*: Proceedings in respect of an alleged breach of the anti-doping rule violations in Rule 3 of the *Rules*.

*WADA*: The World Anti-Doping Agency.