SURFING AUSTRALIA ANTI-DOPING POLICY

Date approved by ASADA	**17/03/2010**
Date adopted by *SA* Board	**20/2/2010**
Date Anti-Doping Policy effective	**1 January 2010**

TABLE OF CONTENTS

1 DEFINITIONS 3

2 WHAT IS *SA*'S POSITION ON DOPING? 4

3 WHO DOES THIS ADP APPLY TO? 4

4 OBLIGATIONS 4

5 DEFINITION OF DOPING 6

6 PROOF OF DOPING 6

7 ANTI-DOPING RULE VIOLATIONS 6

8 THE PROHIBITED LIST 6

9 THERAPEUTIC USE 6

10 TESTING 8

11 RETIREMENT AND RETURN TO COMPETITION 8

12 NEW MEMBERS 10

13 ANALYSIS OF SAMPLES 10

14 INVESTIGATIONS 10

15 RESULTS MANAGEMENT 10

16 HEARING 12

17 SANCTIONS 13

18 CONSEQUENCES TO TEAMS 14

19 APPEALS 14

20 MANAGEMENT OF ALLEGED ANTI-DOPING RULE VIOLATIONS NOT COVERED BY AN ANTI-DOPING POLICY 15

21 CONFIDENTIALITY AND REPORTING 15

22 INTERPRETATION OF THE *CODE* 16

23 MISCELLANEOUS 16

ANNEXURE A - WORLD ANTI-DOPING CODE 17

Background

1. Under a referral dated 21 March 2006 *Surfing Australia* (*SA*) referred the following anti-doping functions, powers and responsibilities ("anti-doping functions") to the *ASADA*:

   - investigating possible anti-doping rule violation*s* within the sport of Surfing;
   - issuing infraction notices or other matters under the determined results management process;
   - convening hearings before the *Court of Arbitration for Sport (CAS)*. There is no other hearing body for anti-doping matters in Surfing;
   - presenting allegations of anti-doping rule violations and all relevant, incidental matters in hearings before *CAS*; and
   - notifying the results of investigations and hearings and all relevant, incidental matters to relevant bodies including *SA* and the *ISA*. Any notification will be subject to the *ASADA Act* and privacy legislation.

2. *SA* and *ASADA* acknowledge and agree that under the ASADA Act, *ASADA* has the function of supporting and encouraging the development and implementation of comprehensive programs and education initiatives about sports drug and safety matters. *SA* will assist *ASADA* with such matters and will provide education and information regarding anti-doping rules and matters to persons within the sport of Surfing within the framework established by *ASADA*.

3. *ASADA* will perform and conduct the anti-doping functions in accordance with this referral and the ASADA Act. *ASADA* will use its best endeavours to ensure the *ISA* anti-doping code is recognised.

4. *SA* refers the above anti-doping functions to *ASADA* on the basis that:

   - *ASADA* will as soon as practicable, subject to the ASADA Act and privacy legislation, provide to *SA* (and if necessary *ISA*) copies of relevant documents including but not only test results, infraction notices and hearing documents;
   - *SA* retains the right to appear in anti-doping hearings before *CAS* as an interested party. *SA* will determine whether it wishes to exercise this right upon notification of a hearing by *ASADA*. If *SA* wishes to appear at any anti-doping hearing before *CAS* it will pay its own costs of such appearance;
   - all costs of any investigation and hearing (including but not only *CAS* application costs and any legal costs associated with any investigation and/or hearing) undertaken by *ASADA* will be paid by *ASADA*;

- *SA* will immediately advise *ASADA* of any alleged anti-doping rule violation in Surfing and will provide assistance to *ASADA* in any investigation that *ASADA* might reasonably request; and

- *ASADA* will, subject to the ASADA Act and privacy legislation, provide such reports to *SA* on *ASADA's* conduct of the above anti-doping functions as may be agreed between *ASADA* and *SA*.

5. *SA* will recognise and enforce any sanction determined by *CAS* in respect of an anti-doping rule violation in the sport of Surfing and in any other sport.

6. *SA* will use its best endeavours to ensure its *Members*, *Athletes* and *Athlete Support Personnel* are aware of this referral of the anti-doping functions to *ASADA* and assist and co-operate with *ASADA* in the conduct of the anti-doping functions. *SA* otherwise recognises *ASADA's* powers and functions under the *ASADA* Act.

7. *SA* has amended its anti-doping policy (ADP) to reflect the roles and responsibilities under the referral. The ADP adopts and reflects the *World Anti-Doping Code (Code)* which is annexed to and forms part of this ADP.

8. Where an *Athlete* or *Athlete Support Personnel* is bound by *ISA*'s anti-doping code as well as this ADP, that *Person* shall be bound to, and have obligations in respect of, both policies.

1 DEFINITIONS

ASADA means, where the context requires based on the functions, powers and responsibilities conferred under the ASADA Act:

(a) the CEO of ASADA appointed under the ASADA Act;

(b) Australian Sports Anti-Doping Authority established under the ASADA Act; or

(c) the Anti Doping Violation Panel (ADRVP) established under the ASADA Act.

ASADA Act means the Australian Sports Anti-Doping Authority Act 2006 as amended from time to time, and includes the ASADA Regulations and any statutory or subordinate legislative instrument that replaces or supersedes the Australian Sports Anti-Doping Authority Act 2006 and/or the ASADA Regulations from time to time.

ASADA Regulations means the Australian Sports Anti-Doping Authority Regulations 2006, as amended from time to time (and which includes, for the avoidance of doubt, the NAD Scheme promulgated by those regulations).

Athlete means:

(a) any *Person* who participates in sport at the international level (as defined by each *International Federation*), the national level (as defined by each *National Anti-Doping Organisation*, including but not limited to those *Persons* in its *Registered Testing Pool*), and any other competitor in sport who is otherwise subject to the jurisdiction of any *Signatory* or other sports organisation accepting the *Code*. All provisions of the *Code*, including, for example, *Testing* and *TUEs*, must be applied to international and national-level competitors. For the purposes of this ADP, '*Athlete'* includes any participant in sporting activity who is a *Member* of *SA*, or a *Member* organisation of *SA*, and meets the definition of *Athlete* under the *Code* and/or the *NAD Scheme* as in force from time to time; and

(b) any *Person* who:

(i) is registered with *SA* or one of its *Members*; or

(ii) participates, or has in the previous eight years participated, in any sporting activity conducted, authorised, recognised or controlled, either directly or indirectly, by *SA* or a body affiliated with *SA*; or

(iii) has otherwise agreed to be bound by this ADP.

Code means the World Anti-Doping Code adopted by *WADA* on 17 November 2007 at Madrid; or if the *Code* has been amended, the *Code* as so amended.

International Federation (*IF*) means an international federation recognised by the International Olympic Committee or the General Assembly of International Sports Federations as the entity responsible for governing that sport internationally.

International Surfing Association (*ISA*) is the international federation recognised by the International Olympic Committee or the General Assembly of International Sports Federations as the entity responsible for governing Surfing internationally.

Member means a *Person* who, or a body which, is a member of *SA*; a *Person* who, or a body which, is affiliated with *SA*; or a *Person* who is a member of a body which is a member of or affiliated with *SA.*

National Anti-Doping (NAD) Scheme means the *NAD Scheme* as defined under the *ASADA Act 2006* as amended from time to time.

Prohibited List means the List identifying the *Prohibited Substances* and *Prohibited Methods* which is published and revised by *WADA* as described in Article 4.1 of the *Code* as updated from time to time.

Specified Substance has the meaning assigned to it in Article 4.2.2 of the *Code*.

Sporting Administration Body has the same meaning as in the *ASADA Act 2006.*

Surfing Australia (*SA*) means the national entity which is a member of or is recognised by *ISA* as the entity governing Surfing in Australia.

2 WHAT IS *SA*'S POSITION ON DOPING?

SA condemns doping as fundamentally contrary to the spirit of sport. The purpose of this ADP is to protect *Athletes'* fundamental right to participate in doping-free sport and to ensure harmonised, coordinated and effective anti-doping programs at the international and national level with regard to detection, deterrence and prevention of doping.

3 WHO DOES THIS ADP APPLY TO?

This ADP applies to *Athletes* and *Athlete Support Personnel* as defined under the *Code*. It also applies to *Members*, employees and contractors of *SA* and any other *Person* who has agreed to be bound by it.

4 OBLIGATIONS

The persons identified in **Article 3** are bound by this ADP as a condition of their membership, participation and/or involvement in Surfing. *Athletes* and/or *Athlete Support Personnel* must comply with this ADP and the anti-doping rules as prescribed in the *ASADA Regulations* and the ASADA Act. In particular:

4.1 *Athletes* must:

4.1.1 know and comply with all anti-doping policies and rules applicable to them. These include, but may not be limited to this ADP, the *ISA* anti-doping code and the *NAD Scheme*;

4.1.2 be aware of whether they are in *ISA*'s and/or *ASADA's Registered Testing Pools* and comply with the requirements of any such membership;

4.1.3 read and understand the *Prohibited List* as it relates to them;

4.1.4 be available for *Sample* collection and provide accurate and up-to-date whereabouts information for this purpose when identified for inclusion in a *Registered Testing Pool*;

4.1.5 take full responsibility, in the context of anti-doping, for what they ingest, *Use* and *Possess*;

4.1.6 inform medical personnel of their obligations not to *Use* or *Possess Prohibited Substances* and *Prohibited Method*s and to take responsibility to make sure that any medical treatment received does not violate anti-doping policies and rules applicable to them;

4.1.7 immediately refer information about possible anti-doping rule violations to *ASADA*;

4.1.8 assist, cooperate and liaise with *ASADA* and other *Anti-Doping Organisations* in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation;

4.1.9 act in a discreet and confidential manner in discharging their obligations under this ADP;

4.1.10 be available for *Sample* collection and provide accurate and up-to-date whereabouts information on a regular basis, even if not a regular *Member* of *SA*, if required by the conditions of eligibility established by any applicable *Anti-Doping Organisation*;

4.1.11 attend anti-doping education as directed by *SA* and/or as appropriate. Failure to attend an anti doping education session shall be no excuse for an alleged anti-doping rule violation, nor shall it mitigate culpability of the *Athlete* in determining sanction; and

4.1.12 accept that ignorance of this ADP, the *Code* or the *Prohibited List* is not an excuse from an alleged anti-doping rule violation, and shall not mitigate culpability in sanction.

4.2 *Athlete Support Personnel* must:

4.2.1 know and comply with all anti-doping policies and rules applicable to them or the *Athletes* whom they support. These include, but may not be limited to this ADP; the *ISA* anti-doping code and the *NAD Scheme*;

4.2.2 support and assist *Anti-Doping Organisations*, including *ASADA* to conduct *Doping Control*;

4.2.3 use their influence on *Athletes'* values and behaviour to foster anti-doping attitudes;

4.2.4 immediately refer information about possible anti-doping rule violations to *ASADA*;

4.2.5 assist, cooperate and liaise with *ASADA* and other *Anti-Doping Organisations* in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation; and

4.2.6 act in a discreet and confidential manner in discharging their obligations under this ADP.

5 DEFINITION OF DOPING

Doping is defined as the occurrence of one or more of the anti-doping rule violations set out in Article 2 of the *Code*[1].

6 PROOF OF DOPING

Article 3 of the *Code* applies.

7 ANTI-DOPING RULE VIOLATIONS

Article 2 of the *Code* applies.

8 THE PROHIBITED LIST

8.1 This ADP incorporates the *Prohibited List* and otherwise applies Article 4 of the *Code.*

9 THERAPEUTIC USE

9.1 *Athlete*s with a documented medical condition requiring the *Use* of a *Prohibited Substance* or a *Prohibited Method* must first obtain a *Therapeutic Use Exemption* (*TUE*) in accordance with the *Code*, the *International Standard for TUEs* and this ADP.[2]

[1] The full text of the Code can be found at *(www.wada-ama.org).*

[2] *International-Level Athletes* or *Athletes* entering an *International Event* should seek guidance on the process for seeking a TUE from the WADA website at http://www.wada-ama.org or *ISA*'s website at http://www.isasurf.org/. National level *Athletes* should seek guidance from the ASDMAC website at http://www.asdmac.org.au.

9.2 *Athletes* who have been identified as included in *ISA's Registered Testing Pool* may only obtain *TUEs* in accordance with the rules of *ISA*.[3]

9.3 *Athletes* who are not in *ISA*'s *Registered Testing Pool* but are in *ASADA's Registered Testing Pool* or *Domestic Testing Pool* with documented medical conditions requiring the *Use* of a *Prohibited Substance* or a *Prohibited Method* must request a *TUE* from *ASDMAC.*

9.4 *Athletes* who are not in *ISA*'s or *ASADA*'s *Registered Testing Pool, Domestic Testing Pool* or have not otherwise been notified by *ASADA*, in accordance with the *NAD Scheme*, that they require *TUE*s prior to *Use* of a *Prohibited Substance* or a *Prohibited Method*, may submit applications to *ASDMAC* for approval of a *TUE* in accordance with the procedures of *ASDMAC*.

9.5 *Athletes* should submit applications for *TUEs* no less than 21 days before they require the approval (eg prior to a *National Event*), except for retroactive *TUE*s under **Article 9.6**.

9.6 An application for a *TUE* will not be considered for retroactive approval except in cases where:

(a) emergency treatment or treatment of an acute medical condition was necessary; or

(b) due to exceptional circumstances, there was insufficient time or opportunity for an *Athlete* to submit, or a *TUE* committee to consider, an application prior to *Doping Control*; or

(c) *ASDMAC* procedures, in accordance with the *Code* and the *International Standard* for *TUEs*, provide for retroactive approval.

9.7 An *Athlete* may not apply to more than one body for a *TUE* at the same time. Applications must be in accordance with the *International Standard* for *TUE*s and the procedures of *ISA* or *ASDMAC* as appropriate.

9.8 The granting of a *TUE* by *ASDMAC* for an *Athlete* in *ASADA's Registered Testing Pool* shall be promptly reported to *WADA*.

9.9 *WADA,* on its own initiative, may review at any time the granting of a *TUE* to any *International Level Athlete* in *ISA*'s *Registered Testing Pool* or national-level *Athlete* who is included in *ASADA's Registered Testing Pool.* Further, upon the request of any such *Athlete* who has been denied a *TUE*, *WADA* may review such denial. If *WADA* determines that such granting or denial of a *TUE* did not comply with the *International Standard* for *TUEs, WADA* may reverse the decision.

9.10 An *Athlete* who is denied a *TUE* by *ASDMAC* must seek review by *WADA* of the decision before any appeal may be commenced under Article 13.4 of the *Code*. If, contrary to the requirements of the *Code*, *ISA* does not have a process in

[3] Unless provided otherwise by the rules of *ISA* or an agreement with *ISA*, *ASDMAC* does not have the authority under the *Code* to grant *TUE*s to *International-Level Athletes* or for *International Events*.

place where *Athletes* may request *TUEs*, an *International-Level Athlete* may request *WADA* to review the application as if it had been denied.

10 TESTING

10.1 All *Athletes* subject to *Doping Control* agree to submit to *In-Competition Testing* and *Out-of-Competition Testing* (at any time or place, with or without advance notice) by an *Anti-Doping Organisation*. *ASADA* may test any *Athlete*, any time, anywhere.

10.2 All *Testing* shall be conducted in conformity with the *International Standard* for *Testing* in force at the time of *Testing*.

10.3 *Athlete*s must comply with their obligations under the ASADA Act (including but not only the *NAD Scheme)*, the *ISA* anti-doping code, this ADP and under the *Code* and any *International Standards* in respect to providing accurate whereabouts information to *ASADA* and/or *ISA*. Whereabouts information may be released in accordance with the *NAD Scheme*.

11 RETIREMENT AND RETURN TO COMPETITION

International-Level Athletes

11.1 An *Athlete* who has been identified by *ISA* for inclusion in its *Registered Testing Pool* shall be subject to *ISA*'s retirement and return to *Competition* requirements, to the exclusion of **Article 11.3**.

11.2 A*thletes wi*shing to retire should contact *SA* to determine if they are in *ISA*'s *Registered Testing Pool* and therefore are required to follow *ISA*'s procedures. *SA* shall immediately notify *ASADA* of the retirement or reinstatement of any *Athlete* in *ISA*'s *Registered Testing Pool* and provide copies of the correspondence from *ISA* confirming this retirement/reinstatement.

National-Level Athletes

11.3 *Athletes* in *ASADA's Registered Testing Pool* or *Domestic Testing Pool* shall be subject to the following requirements:

(a) An *Athlete* who wants to retire from *Competition* must do so by notifying *ASADA* by fully completing and forwarding to *ASADA* the *ASADA* "RETIREMENT NOTIFICATION FORM" (retirement notification)[4]. Retirement notifications that are not fully completed will not be accepted and will be returned to the *Athlete*. An *Athlete's* retirement date will be the date *ASADA* receives the fully completed retirement notification.

(b) Upon receipt of a notification under **Article 11.3(a)**, *ASADA* will, as soon as reasonably practicable, provide the *Athlete* and *SA* with written confirmation of the *Athlete's* retirement.

[4] In May 2008, the *ASADA* RETIREMENT NOTIFICATION FORM was accessible on the internet through the website of the *Australian Sports Anti-Doping Authority* (www.asada.gov.au).

(c) Retirement does not:

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

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

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

(iv) affect the results of *Testing* under (i) or (iii) above;

(v) exempt the *Athlete* from this ADP in relation to an anti-doping rule violation committed on or before their retirement date; or

(vi) affect *ASADA*'s power to conduct results management (see **Article 15**).

11.4 An *Athlete* who has retired in accordance with **Article 11.3(a)**, and who wishes to return to *Competition*, can only do so by notifying *ASADA* by fully completing and forwarding, the *ASADA* "REQUEST FOR REINSTATEMENT FORM" (reinstatement request)[5]. Reinstatement requests that are not fully completed will not be accepted and will be returned to the *Athlete*. The *Athlete's* reinstatement request date will be the date *ASADA* receives the fully completed reinstatement request. Reinstatement will be at the discretion of *SA* in consultation with *ASADA*.

11.5 Upon receipt of notification under **Article 11.4**, *ASADA* will, as soon as reasonably practicable:

(a) provide the *Athlete* with written confirmation of the outcome of the *Athlete's* reinstatement request; and

(b) if the reinstatement request is approved, provide *SA* with written confirmation of the *Athlete's* reinstatement.

11.6 If reinstatement is granted then this ADP will apply to the *Athlete* from the date of their reinstatement request. An *Athlete* who is reinstated under **Article 11.4** may not compete in *Competitions* and *Events* conducted by or under the auspices of *SA* or *ISA* for a period of 6 months from the date of the reinstatement request.

11.7 An *Athlete* must be available for unannounced *Out-of-Competition Testing* in accordance with this ADP from the date of their reinstatement request. Being available for *Out-of-Competition Testing* means that an *Athlete* has provided current and accurate and up-to-date whereabouts information as required under the

[5] In May 2008, the *ASADA* REQUEST FOR REINSTATEMENT FORM was accessible on the internet through the website of the *Australian Sports Anti-Doping Authority* (www.asada.gov.au).

reinstatement request and **Article 10.3** and has complied with any request by an *Anti-Doping Organisation* to provide a *Sample*.

11.8 A decision regarding reinstatement of an *Athlete* may be appealed to *CAS* by *SA*, the *Athlete* or *ASADA*.

12 NEW MEMBERS

Any new *Member* of *SA* who is an *Athlete* subject to *Doping Control* in accordance with the *NAD Scheme* (including any *Athlete* in *ASADA's Registered Testing Pool*) must also be available for unannounced *Out-of-Competition Testing* in accordance with this ADP for a period of 6 months from the date of their membership request prior to competing in national or international *Competitions* and *Events.*

13 ANALYSIS OF SAMPLES

*Sample*s collected under this ADP must be analysed by *WADA*-accredited laboratories or as otherwise approved by *WADA*. Laboratories shall analyse *Sample*s and report results in accordance with the relevant *International Standards*.

14 INVESTIGATIONS

14.1 *ASADA* may conduct an investigation to determine whether an anti-doping rule violation may have occurred under this ADP. *ASADA* will conduct investigations in accordance with the *Code*, the ASADA Act and the *NAD Scheme* as published from time to time. *SA* may, with the prior agreement of *ASADA*, conduct its own investigation to determine whether an anti-doping rule violation may have occurred under this ADP, provided that *SA* does so in coordination with any investigation being undertaken by *ASADA.*

14.2 All persons bound by this ADP and *SA* must assist, co-operate and liaise with *ASADA* in relation to any investigation into an alleged anti-doping rule violation.

15 RESULTS MANAGEMENT

15.1 Results shall be managed in accordance with Article 7 of the *Code*, the ASADA Act 2006 and the *NAD Scheme*.

15.2 *ASADA* will conduct any follow up investigation in accordance with the *Code*, the ASADA Act 2006 and the *NAD Scheme.*

15.3 *ASADA* shall be responsible for notification of an alleged anti-doping rule violation and all matters incidental thereto in accordance with the ASADA Act 2006 and the *NAD Scheme*.

15.4 *ASADA* will issue an infraction notice. *ASADA* will advise *SA* and any other relevant parties that *ASADA* is issuing an infraction notice prior to issuing the infraction notice.

15.5 The infraction notice shall:

(a) notify the *Person* of the anti-doping rule/s which appear/s to have been violated and the basis for the violation;

(b) enclose a copy of this ADP and the *Code* or the web site addresses where these documents may be found;

(c) state that *ASADA* will refer the matter to a hearing within 14 days (or other period determined by *ASADA* in accordance with the *Code*, the NAD Scheme and the ASADA Act), unless the *Person* gives a written waiver under **Article 15.7**; and

(d) state that if the *Person* does not respond within 14 days (or other period in accordance with the *Code*, the NAD Scheme and the ASADA Act) a hearing can be held in absentia or sanction can be applied in accordance with **Article 17**.

15.6 Any relevant party will only disclose or use information about a *Person* who is alleged to have, or has committed an anti-doping rule violation as permitted under the *ASADA* Act 2006 and the *NAD Scheme*.

15.7 *ASADA* will refer the matter to hearing in accordance with **Article 16**. ASADA may decide not to refer the matter to hearing if the *Person* in writing:

(a) acknowledges they have admitted the anti-doping rule violation; and

(b) waives the right to a hearing in relation to:

(i) whether they have committed an anti-doping rule violation; and

(ii) what sanction will apply.

15.8 If the *Person* does not respond within 14 days (or other period determined by *ASADA* in accordance with the *Code*, the NAD Scheme and the ASADA Act) a hearing can be held in absentia or sanction can be applied in accordance with **Article 17.**

15.9 If an *Athlete* or other *Person* retires while a results management process is underway, *ASADA* retains jurisdiction to complete its results management process. If an *Athlete* or other *Person* retires before any results management process has begun, so long as *ASADA* would have had results management jurisdiction over the *Athlete* or other *Person* at the time the *Athlete* or other *Person* committed an anti-doping rule violation, *ASADA* will have jurisdiction to conduct results management.

15.10 *SA* must, after consultation with ASADA, impose a *Provisional Suspension* on any *Person* whose *A Sample* is the subject of an *Adverse Analytical Finding* of a *Prohibited Substance* other than a *Specified Substance.*

15.11 *SA* may, after consultation with ASADA, impose a *Provisional Suspension* on any *Person* whose *A Sample* is the subject of an *Adverse Analytical Finding* of a

Specified Substance or who is issued with an infraction notice or who is subject to an investigation.

15.12 *SA* may, after consultation with ASADA, impose the following *Provisional Suspension*. *SA* may suspend:

(a) financial or other assistance to the *Person*;

(b) the *Person* from *Competition* in *Event*s and *Competition*s conducted by or under the auspices of *SA*; and

(c) the *Person's* licence or participation permit (if relevant).

15.13 *SA* may, after consultation with ASADA, apply the *Provisional Suspension*:

(a) from the date of the infraction notice;

(b) following the 14 day submission period; or

(c) as deemed appropriate by *SA* or *ISA*;

until the determination of the hearing or a determination by *ASADA* not to refer the matter to hearing.

15.14 If a *Provisional Suspension* is imposed, the hearing under **Article 16** shall be advanced to a date that avoids substantial prejudice to the *Athlete.*

15.15 *ASADA* will convene any *Provisional Hearing* and will present the case at any *Provisional Hearing* unless otherwise agreed.

15.16 As a general rule, the *Provisional Suspension* of a *Person* will not be publicly disclosed. A *Provisional Suspension* may however be publicly disclosed so long as such disclosure will not be unfairly prejudicial to the interests of the *Person*. *ASADA* must be consulted prior to any such disclosure.

16 HEARING

16.1 Article 8 of the *Code* applies.

16.2 *ASADA* will wait 14 days (or other period determined by *ASADA* in accordance with the *Code*, the NAD Scheme and the ASADA Act or a period less than 14 days as agreed between *ASADA* and the *Person*) after sending an Infraction Notice above and then will convene *CAS* to conduct the hearing. *ASADA* will prosecute the alleged anti-doping rule violation.

16.3 *CAS* will determine:

(a) if the *Person* has committed a violation of this ADP;

(b) if so, what sanction will apply;

(c) how long the sanction will apply; and

(d) any other issues properly brought before it for determination.

16.4 *CAS* will give to the *Athlete*, *ASADA* and *SA* a written statement of:

(a) the findings of the hearing and brief reasons for the findings;

(b) what sanction (if any) will apply;

(c) for how long the sanction (if any) will apply; and

(d) any other issues determined by it.

16.5 Sanctions will be applied under **Article 17**.

16.6 *ASADA* will report the outcome of all anti-doping rule violations in accordance with the *Code*, the *ASADA* Act 2006 and the *NAD Scheme*.

16.7 Hearings under this Article shall be completed expeditiously as reasonably practicable.

16.8 Australian Sports Commission *(ASC)*, *SA*, *ISA* and *WADA* and any other relevant body (for example, Australian Olympic Committee, Australian Paralympic Committee or Australian Commonwealth Games Association) shall have the right to attend hearings as an observer or affected party.

16.9 Decisions by *CAS* under this Article may be appealed as provided in **Article 19**.

16.10 Decisions by *CAS* under this Article shall not be subject to further administrative review at the national level except as required by applicable national law.

16.11 If, during a hearing, a party to the hearing process implicates a third party to an anti-doping rule violation, *ASADA* may use any information that arises as a result of the *CAS* process without having to first seek the permission of the parties. This clause expressly ousts Rule 43 of the *CAS* Code of Sports-related Arbitration.

17 SANCTIONS

17.1 Articles 9 and 10 of the *Code* apply.

17.2 *CAS* or another relevant body may require the *Athlete* or other *Person* to repay all funding and grants received by the *Athlete* from that body subsequent to the occurrence of the anti-doping rule violation. However, no financial sanction may be considered a basis for reducing the period of *Ineligibility* or other sanction which would otherwise be applicable under this ADP. Repayment of funding and grants may be made a condition of reinstatement.

17.3 *CAS* may also determine, in addition to applying the sanctions under the *Code*, that a *Person* who has committed an anti-doping rule violation, is required to go to counselling for a specified period.

17.4 Where *CAS* determines that an employee or contractor of *SA* has committed an anti-doping rule violation, *SA* will take disciplinary action against the employee or contractor.

17.5 Once the period of a *Person's Ineligibility* has expired and the *Person* has fulfilled the conditions for reinstatement, then provided that the *Person* has paid all forfeiture penalties in full and has satisfied in full any award of costs made against the *Person* by *CAS* and any other requirements determined by *CAS*, the *Person* will become automatically re-eligible and no application for reinstatement will be necessary. If, however, further forfeited amounts become due after the *Person's* period of *Ineligibility* has expired then any failure by the *Person* to pay all outstanding amounts on or before their respective due dates shall entitle *SA* to deny the *Person's* access to further *Competitions* and *Events* or any other *SA* activity until the amounts due are paid in full unless otherwise agreed by both parties.

18 CONSEQUENCES TO TEAMS

Article 11 of the *Code* applies.

19 APPEALS

19.1 Decisions made under **Article 16** of this ADP may be appealed to the *CAS* Appeals Division in accordance with this ADP, Article 13 of the *Code* and the *CAS* Code of Sports Related Arbitration. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review authorised in the *NAD Scheme* or **Article 16.9** must be exhausted. The following persons shall have the right to appeal:

- the *Athlete* or other *Person* who is the subject of the decision being appealed;
- the other party to the case in which the decision was rendered;
- *ASADA*;
- any other affected parties including *SA*;
- *ISA* and any other *Anti-Doping Organisation* under whose rules a sanction could have been imposed;
- 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
- *WADA*.

19.2 The outcome of all appeals must be reported to all parties, *ASC, SA, ISA* and *WADA* within 14 days of the conclusion of the appeal. *ASADA* may inform other *Person*s or organisations as it considers appropriate.

19.3 The time to file an appeal to *CAS* shall be within 21 days of the release of the written decision of the initial hearing.

20 MANAGEMENT OF ALLEGED ANTI-DOPING RULE VIOLATIONS NOT COVERED BY AN ANTI-DOPING POLICY

In the case of a *Person* who has committed an anti-doping rule violation or has committed conduct which would have amounted to an anti-doping rule violation if the *Person* was bound by a *Code* compliant anti-doping policy and the *Person* has not been sanctioned by *CAS* or any other hearing body because the *Person* was not bound by a *Code* compliant anti-doping policy, *SA* will:

(a) prevent that *Person* from competing in *SA Competitions*, *Events* and activities if the *Person* is an *Athlete*;

(b) prevent that *Person* (so far as reasonably possible) from having any involvement in *SA Competitions*, *Events* and activities; and

(c) not employ, engage or register that *Person*;

unless and until that *Person* agrees to be retrospectively bound by this ADP from the occurrence of the anti-doping rule violation.

21 CONFIDENTIALITY AND REPORTING

21.1 The identity of any *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation may only be *Publicly Disclosed* by *ASADA,* or *SA* after consultation with *ASADA*, in accordance with the *Code*, the ASADA Act, the *NAD Scheme* and the terms of the Confidentiality Undertaking signed between *ASADA* and *SA*.

21.2 *ASADA* or *SA*, or any official of either, will not publicly comment on the specific facts of a 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.

21.3 No later than 20 days after it has been determined in a hearing in accordance with Article 16 that an anti-doping rule violation has occurred and the time to appeal such decision has expired, or such hearing has been waived and the time to appeal the decision has expired, or the assertion of an anti-doping rule violation has not been challenged in a timely fashion, *ASADA* must *Publicly Disclose* at least: 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. ASADA must also *Publicly Disclose* within 20 days appeal decisions concerning anti-doping rule violations. *ASADA* will also, within the time period for publication, send all hearing and appeal decisions to *WADA. SA* may also elect to make a public statement in relation to the matter, following consultation with *ASADA*.

21.4 In any case where it is determined, after a hearing or appeal, that the *Athlete* or other *Person* did not commit an anti-doping rule violation, the decision may be *Publicly*

Disclosed only with the consent of the *Athlete* or other *Person* who is the subject of the decision. *ASADA* will use reasonable efforts to obtain such consent, and if consent is obtained, will *Publicly Disclose* the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

21.5 Any decision of an *Anti-Doping Organisation* regarding a violation of this ADP shall be recognised by all *Sporting Administration Bodies*, which shall take all necessary action to render such results effective.

21.6 Subject to the right to appeal provided in **Article 19**, the *Testing*, *TUE* and hearing results or other final adjudications of any organisation recognised by *ASADA* or any *Sporting Administration Body* which are consistent with the *Code* and are within the organisation's authority, shall be recognised and respected by *SA*. *SA* may recognise the same actions of other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*, the *ASADA Regulations* and/or *ASADA's* position.

22 INTERPRETATION OF THE *CODE*

22.1 Article 24 of the *Code* applies.

23 MISCELLANEOUS

23.1 Statute of Limitations – Article 17 of the *Code* applies.

23.2 Doping Control for animals competing in Sport – Article 16 of the *Code* applies (if relevant).

23.3 Words not defined in this ADP have the meaning ascribed to them in the *Code* unless a contrary meaning appears from the context.

23.4 This ADP may be amended by *SA* subject to prior consultation with *ASADA* and ongoing compliance with the *Code* and ASADA Act.

23.5 Where this ADP adopts and applies an article of the *Code* that article and the terms in it shall be considered and applied in the context of this ADP.

ANNEXURE A - WORLD ANTI-DOPING CODE