

# **Integrity Sport and Recreation Bill**

Government Bill

As reported from the Social Services and Community Committee

## **Commentary**

### **Recommendation**

The Social Services and Community Committee has examined the Integrity Sport and Recreation Bill and recommends that it be passed. We recommend all amendments unanimously.

### **Introduction**

The Integrity Sport and Recreation Bill seeks to strengthen the integrity of sport and recreation in New Zealand by establishing a new regulatory body. The Integrity Sport and Recreation Commission would be an independent Crown entity that would prevent and respond to potential threats to integrity. Examples of threats to integrity include competition manipulation, corruption and fraud, doping in sport, abuse (including abuse of children), bullying, violence, harassment, intimidation, racism, and other forms of discrimination.

The key functions of the Commission would be to:

- promote, advise, and educate on integrity issues and threats to integrity within the sport and physical recreation sector
- develop and issue integrity codes
- prescribe policies and procedures for complaints management and dispute resolution
- implement the World Anti-Doping Code and facilitate compliance with New Zealand's international obligations with respect to doping in sport
- investigate suspected breaches of integrity codes and threats to integrity
- advise the Minister for Sport and Recreation occasionally on the state of integrity in sport and organised physical recreation.

## Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

## Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

## Interpretation

We propose several changes to definitions in clause 4(1) to make it clearer who or what would, or would not, be captured by the definitions. We recommend amending definitions of the following:

- participant, to create a single definition of participant for both sport and physical recreation activities
- rainbow communities, to remove reference to “diverse sexual orientation”, and instead include specific examples of who would be captured by the definition
- sport and physical recreation sector, to include specific examples of organisations referred to under the definition.

We also recommend replacing the term “rainbow communities”, and all references to that term, with the term “rainbow people”. Our proposed amendment would reflect that not all people covered by this definition identify and connect with wider rainbow communities.

## Threats to integrity

Clause 5 sets out the meaning of “threat to integrity”. Because the primary objective of the Commission would be to prevent and address threats to integrity within sport and physical recreation, we consider it important that actions constituting a threat to integrity are clearly defined. We recommend amending clause 5 to include the following as actions that constitute threats to integrity:

- attempted manipulation of the result or course of a sporting competition or activity
- sports betting activity connected with competition manipulation or the misuse of inside information
- discrimination that is unlawful (as defined by Part 2 of the Human Rights Act 1993).

We recommend equivalent amendments in clause 5(e) to provide that organisations failing to take reasonable measures to prevent these actions would also constitute a threat to integrity.

## **Integrity codes**

### *The purpose of integrity codes should be made clear*

Clause 19 would empower the Commission to make integrity codes and sets out the matters that an integrity code could address. We think clause 19 should expressly articulate the purpose of these codes: to provide for minimum standards of integrity that would be consistent across the parts of the sport and physical recreation sector to which they would apply. We recommend inserting clause 19(1A) to this effect. We also recommend that clause 19(1A) state explicitly that the minimum standards set out by an integrity code must apply across the entirety of the sector, or the part to which it applies.

### *Consultation on integrity codes*

Clause 20 states that the Commission must consult relevant stakeholders before making an integrity code. As national sport organisations and national recreation organisations are most likely to be adopting these codes, we recommend that clause 20 be amended to include these organisations among the relevant stakeholders that must be consulted.

### *Integrity codes and anti-doping rules should be reviewed regularly*

To ensure that integrity codes remain at their most relevant to participants, we think they should be reviewed regularly. Clauses 22 and 26 state that reviews of integrity codes and anti-doping rules, respectively, must be undertaken “from time to time”. We recommend strengthening these clauses to ensure that reviews happen regularly, at least once every 3 years. This would ensure that the Commission meets its obligation to review codes.

## **Functions and duties of the Integrity Sport and Recreation Commission**

### *Ensuring age-appropriate mechanisms for dispute resolution and Commission procedures*

Several submitters told us that the needs of children and young people participating in sport and physical recreation should be expressly recognised by the bill. We agree. Many children and young people participate in sport and physical recreation in New Zealand, and are some of the most vulnerable participants in the sector. We recommend several amendments to better protect the safety and wellbeing of children and young people.

In the bill as introduced, clause 13(g) would require the Commission to provide accessible and culturally responsive mechanisms for resolving disputes related to integrity. We believe that mechanisms for dispute resolution should also be age appropriate. We recommend amending clause 13(g) to this effect.

Clause 14(1)(b) requires the Commission to establish procedures that reflect the needs of participants. We recommend that clause 14(2) be amended to include age as a consideration for the Commission in addressing the needs of participants.

We also consider that the Commission should be required to adopt and report on a child protection policy under the Children's Act 2014. We recommend amending Part 6 of the bill to this effect.

*Women and girls to be considered relevant stakeholders*

Clause 16 would require the Commission to establish effective means of consulting participants, Māori, and other relevant stakeholders.<sup>1</sup> Clause 20 would require the Commission to consult participants, Māori, and other relevant stakeholders before making an integrity code.

A number of submitters commented on these provisions. Most were concerned by the omission of women and girls as relevant stakeholders. We acknowledge that women and girls have historically been greatly affected by issues of discrimination in sport and active recreation.

We therefore recommend amending clauses 16 and 20 so that women and girls are recognised as relevant stakeholders.

*Participation of trans athletes*

A significant proportion of submitters raised the issue of the participation of trans people in sport. Some submitters had concerns regarding fairness, while others were concerned that the bill would restrict participation.

Most of these submissions were out of scope of the bill. The bill does not regulate who can and cannot participate in sport, and this would be more appropriately dealt with by the sport organisations themselves. The international bodies are responsible for making the rules for their sports.

Officials told us that they consider that it would be appropriate for the bill to explicitly state the definition of discrimination in the bill as that which is contrary to the Human Rights Act 1993. We believe our proposed amendment to that effect would provide appropriate clarification.

*Sanctions for breaching anti-doping rules should align with the World Anti-Doping Code*

Part of the core purpose of the Commission would be to implement the World Anti-Doping Code in New Zealand. The Commission would take over the work programme of Drug Free Sport New Zealand, which currently oversees the implementation of the World Anti-Doping Code. Clause 23 provides that the Commission must always have anti-doping rules in effect. The anti-doping rules must incorporate the specified Articles of the World Anti-Doping Code, but the Commission may also make other anti-doping rules. Clause 23(4)(a) states that additional anti-doping rules

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<sup>1</sup> Examples of other relevant stakeholders provided by the bill as introduced include Pacific peoples, disabled people, children and young people, and rainbow communities.

may include requirements to provide information or documents to the Commission or cooperate with an investigation.

Clause 23(4)(b) specifies that anti-doping rules made by the Commission may include reasonable and proportionate sanctions for breaching a requirement to provide information to the Commission or cooperate with an investigation. The Regulations Review Committee wrote to us about clause 23, recommending that we consider what type of sanctions would be imposed for breaching these specific anti-doping rules.

We consider that this clause could be more specific. We recommend amending it to clarify that any sanctions provided under clause 23(4)(b) must be of the kind permitted by the World Anti-Doping Code.

#### *Fees charged by the Commission*

Clause 49 would enable the Commission to charge any reasonable fees to provide services, information, or advice requested from it. We consider that the Commission should only be able to charge for services that people can elect to use, not services that are a part of the Commission's core functions. Tests conducted under a testing programme established under the anti-doping rules and the receiving and handling of complaints are core functions of the Commission. Therefore, we recommend amending clause 49 to exclude these core functions as services that the Commission could charge for.

Clause 50 relates to charges for testing other than under a testing programme established under anti-doping rules. For consistency, we recommend amending clause 50 to require that any fees charged should be reasonably related to the services provided by the Commission.

We would expect that these fees are reviewed regularly.

### **Other amendments**

#### *Privileges and immunities*

Given the sensitive nature of complaints that might be brought to the Commission, we consider it necessary that certain privileges be afforded to those who provide information.

Clause 45 states that a person would have the same privileges as witnesses in any court. We suggest strengthening this by incorporating reference to the Evidence Act 2006, which outlines privileges and immunities in relation to court proceedings. Therefore, we recommend amending clause 45 to refer directly to Part 2, subpart 8 of the Evidence Act and provide for the same immunities and privileges to apply as in a court proceeding.

#### *Pre-commencement consultation*

Schedule 1 specifies that any consultation undertaken before the commencement date would be valid and effective so long as it was in accordance with clause 20 of the bill. Clause 8 of Schedule 1 does not expressly state who may have carried out pre-com-

mencement consultation, and to which period of time the clause applies. This raises the possibility of consultation by any person before the Commission is formally established being treated as consultation in lieu of the Commission.

We therefore recommend amending clause 8 of Schedule 1 to specify that pre-commencement consultation refers to consultation undertaken prior to the bill receiving Royal assent or prior to commencement. We also recommend stating that this consultation could be done by any person or group so long as it would have been in accordance with clause 20 if done by the Commission after the commencement date.

## **Appendix**

### **Committee process**

The Integrity Sport and Recreation Bill was referred to the committee on 4 April 2023.

We called for submissions on the bill with a closing date of 3 May 2023. We received and considered submissions from 183 interested groups and individuals. We heard oral evidence from 19 submitters at hearings in Wellington and via videoconference.

We received advice on the bill from Sport NZ and the Integrity Transition Programme. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clauses 19, 22, 23, 26, 41, 42, 43, 47, 49, and 50.

### **Committee membership**

Angie Warren-Clark (Chairperson)

Karen Chhour

Dr Liz Craig

Dr Emily Henderson

Anahila Kanongata'a

Ricardo Menéndez March

Terisa Ngobi

Maureen Pugh

Hon Louise Upston

Hon Michael Woodhouse participated in our consideration of this bill.





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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Hon Grant Robertson*

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Integrity Sport and Recreation Act **2023**.

**2 Commencement**

- (1) This Act comes into force on a single date to be appointed by the Governor-General by Order in Council. 5
- (2) If this Act has not earlier been brought into force by Order in Council, it comes into force on **1 July 2024**.
- (3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 10

**Part 1**

**Preliminary provisions**

**3 Purpose**

The purpose of this Act is to establish the Commission to,—

- (a) enhance integrity within sport and physical recreation to protect and promote the safety and well-being of participants and the fairness of competition:
- (b) with respect to anti-doping, give effect to the World Anti-Doping Code in New Zealand in order to achieve the Code's purposes of— 5
  - (i) protecting athletes' fundamental right to participate in doping-free sport and in this way promote health, fairness, and equality for athletes worldwide; and
  - (ii) ensuring harmonised, co-ordinated, and effective anti-doping programmes at an international and national level with regard to detection, deterrence, and prevention of doping. 10

#### 4 Interpretation

- (1) In this Act, unless the context otherwise requires,—
- anti-doping rules** means the rules made under **section 23**
- Commission** means the Integrity Sport and Recreation Commission established under **section 8** 15
- document** has the same meaning as in section 4 of the Evidence Act 2006
- integrity code** means a code made under **section 19**
- Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act 20
- national recreational organisation** means an organisation that represents members involved in a particular type of organised physical recreation event or activity in New Zealand (but does not include a local, regional, or other recreational organisation not operating at a national level) 25
- national sporting organisation** means an organisation 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 a local, regional, or other sporting organisation
- organisation** means any body of persons, whether incorporated or unincorporated 30
- participant**, in relation to a sport or physical recreation, includes—
- (a) an individual who is a player, competitor, or any other person who takes part in the sport or physical recreation; and
  - (b) an official or administrator; and 35
  - (c) a coach, trainer, or other person who gives instruction in the sport or physical recreation; and
  - (d) a manager, an agent, or a team staff member; and

- (e) a person providing medical or paramedical services to an individual in **paragraph (a)** or a team or group; and
- (f) a parent or caregiver of an individual in **paragraph (a)**; and
- (g) any other person working with, treating, or assisting an individual in **paragraph (a)** or a team or group; and 5
- (h) a volunteer providing services for the sport or physical recreation
- (a) in relation to a sport, includes—
- (i) an individual who is a player, competitor, or any other person who takes part in the sport; and
- (ii) an official or administrator; and 10
- (iii) a coach, trainer, manager, agent, sports team staff member, person providing medical or para-medical services to an individual in **subparagraph (i)** or a team, a parent of an individual in **subparagraph (i)**, and any other person working with, treating, or assisting an individual in **subparagraph (i)** or a team; and 15
- (iv) a volunteer providing services for the sport; and
- (b) in relation to organised physical recreation, includes an individual who takes part in, or gives instruction in, the physical recreation and any administrator or volunteer providing services for the physical recreation
- rainbow communities** means people with diverse sexual orientation, gender identity, gender expression, or sex characteristics 20
- rainbow people** means people whose sexual orientation, gender identity, gender expression, or variations of sex characteristics differ from majority binary norms, for example, people who are takatāpui, lesbian, gay, bisexual, intersex, transgender, queer, non-binary, and fa’afafine 25
- sport and physical recreation sector** means—
- (a) organisations with a primary purpose of providing opportunities for participation in sport or organised physical recreation; and
- (b) participants; and
- (c) organisations with a primary purpose of providing services to organisations described in **paragraph (a)** or to participants (for example, participant associations, the New Zealand Olympic Committee Incorporated, and Paralympics New Zealand); and 30
- (d) employees of organisations described in **paragraphs (a) and (c)**
- Sport and Recreation New Zealand** means the body established under section 7(1) of the Sport and Recreation New Zealand Act 2002 35
- Sports Tribunal** means the Sports Tribunal of New Zealand continued by section 29 of the Sports Tribunal Act 2006
- threat to integrity** has the meaning given in **section 5**



**World Anti-Doping Agency** means the body founded by the International Olympic Committee and constituted as a foundation in Lausanne by an instrument of foundation signed on 10 November 1999, and named in that instrument as the Agence Mondiale Antidopage, World Anti-Doping Agency

**World Anti-Doping Code** means the World Anti-Doping Code 2003 adopted by the World Anti-Doping Agency on 5 March 2003 at Copenhagen; and includes any amendments to the Code adopted by the World Anti-Doping Agency from time to time. 5

- (2) Nothing in the definitions of participant and sport and physical recreation sector limits or affects the meaning of the terms athlete, athlete support person, and participant in the World Anti-Doping Code or the anti-doping rules. 10
- (3) A reference in this Act to a person being **vulnerable** refers to the person being vulnerable due to age, health status, impairment, or any other cause.

## 5 Meaning of threat to integrity

In this Act, unless the context otherwise requires, **threat to integrity** means— 15

- (a) ~~manipulation or attempted manipulation of the result or course of a sporting competition or activity, and the misuse of inside information for sports betting:~~
- (ab) sports betting activity connected with competition manipulation or the misuse of inside information connected with competition manipulation or sports betting: 20
- (b) ~~the use of prohibited substances or doping methods in sport:~~
- (e) ~~bullying, violence, abuse, sexual misconduct, intimidation, harassment, or racism or other discrimination in sport or organised physical recreation:~~ 25
- (c) racism, discrimination that is unlawful under Part 2 of the Human Rights Act 1993, bullying, violence, abuse, sexual misconduct, intimidation, or harassment in sport or organised physical recreation:
- (d) corruption, fraud, and other forms of deception or breach of trust in sport or organised physical recreation: 30
- (e) a failure by an organisation in the sport and physical recreation sector to take reasonable measures to—
- (i) prevent manipulation or attempted manipulation of sporting competitions and the misuse of inside information for sports betting; or 35
- (ia) prevent sports betting activity connected with competition manipulation or the misuse of inside information connected with competition manipulation or sports betting; or
- (ii) ~~prevent the use of prohibited substances or doping methods in sport; or~~ 40

- (iii) ~~protect all participants in sport or organised physical recreation from bullying, violence, abuse, sexual misconduct, intimidation, harassment, or racism or other discrimination; or~~
  - (iii) protect all participants in sport or organised physical recreation from racism, discrimination that is unlawful under Part 2 of the Human Rights Act 1993, bullying, violence, abuse, sexual misconduct, intimidation, or harassment; or 5
  - (iv) safeguard children in sport or organised physical recreation; or
  - (v) prevent corruption, fraud, and other forms of deception or breach of trust in sport and organised physical recreation. 10
- 6 Transitional, savings, and related provisions**
- The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.
- 7 Act binds the Crown**
- This Act binds the Crown. 15

## Part 2

### Integrity Sport and Recreation Commission

- 8 Integrity Sport and Recreation Commission established**
- (1) This section establishes the Integrity Sport and Recreation Commission.
  - (2) The Integrity Sport and Recreation Commission is a Crown entity for the purposes of the Crown Entities Act 2004. 20
  - (3) The Crown Entities Act 2004 applies to the Integrity Sport and Recreation Commission except to the extent that this Act expressly provides otherwise.
- 9 Commission must act independently**
- Except as expressly provided otherwise in this or any other Act, the Commission must act independently in performing its functions and duties and in exercising its powers under— 25
- (a) this Act; and
  - (b) any other Act that expressly provides for the functions, powers, or duties of the Commission (other than the Crown Entities Act 2004). 30

Compare: 2006 No 58 s 8

**10 Board of Commission**

The board of the Commission consists of at least 7, but not more than 9, board members.

**11 Eligibility for appointment as member of Board**

- (1) When considering whether to recommend a person for appointment as a member of the board of the Commission, the Minister must ensure that—
- (a) the board collectively has knowledge and experience in matters relevant to the functions of the Commission, including knowledge of and experience in—
    - (i) law; and
    - (ii) ~~sports medicine~~ athlete and participant health and well-being; and
    - (iii) sport and physical recreation sector participation and administration, such as participant associations; and
    - (iv) human rights, in particular the rights of children and young people; and
    - (v) te Tiriti o Waitangi/the Treaty of Waitangi; and
  - (b) at least 2 members of the board have experience and expertise in te ao Māori and tikanga Māori.
- (2) A person who is a member of the board, or an employee, of Sport and Recreation New Zealand or a subsidiary of Sport and Recreation New Zealand is not eligible to be a member of the board of the Commission.

**12 Objective of Commission**

In performing its functions and exercising its powers under this Act, the Commission's objective is to achieve the purposes in **section 3(a) and (b)** by—

- (a) preventing and addressing threats to integrity in sport and organised physical recreation; and
- (b) promoting participants' trust and confidence in integrity within the sport and physical recreation sector.

**13 Functions of Commission**

The functions of the Commission are—

*Promoting, advising, and leading on integrity in sport and recreation*

- (a) to provide advice, support, education, and guidance relating to integrity in sport and organised physical recreation:
- (b) to advocate and promote respect for, and enhance understanding and appreciation of, integrity in sport and organised physical recreation:
- (c) to engage with the sport and physical recreation sector to monitor developments relating to integrity:
- (d) to be a leader on integrity issues in sport and organised physical recreation within government and to co-ordinate with relevant international bodies:

*Integrity codes, investigations, discipline, and dispute resolution*

- (e) to develop and issue integrity codes under **Part 3**:
  - (f) to provide mechanisms for complaints and disclosures relating to integrity in the sport and recreation sector:
  - (g) to provide accessible, age appropriate, and culturally responsive mechanisms for resolution of disputes relating to integrity between persons or organisations involved in sport and organised physical recreation: 5
  - (h) to investigate matters relating to integrity in the sport and physical recreation sector in accordance with **Part 4**:
  - (i) to provide a disciplinary process for breaches of integrity codes: 10
- Sports anti-doping*
- (j) to make anti-doping rules in accordance with **sections 23 to 26**:
  - (k) to do all things necessary to comply with and implement the anti-doping rules:
  - (l) to do all things necessary to comply with and implement any Article of the World Anti-Doping Code that— 15
    - (i) is not required to be reflected in the anti-doping rules; but
    - (ii) requires the Commission to do something:
  - (m) to facilitate compliance by New Zealand with all international agreements and arrangements concerning doping in sport to which New Zealand is a party: 20
  - (n) to test athletes who are not citizens or residents of New Zealand, and notify the test results, in accordance with bilateral or multilateral agreements entered into with foreign governments, foreign anti-doping organisations, or other signatories to the World Anti-Doping Code, and enter into reciprocal testing agreements in relation to athletes who are citizens or residents of New Zealand: 25
  - (o) to consult, advise, and assist—
    - (i) government departments, local authorities, Sport and Recreation New Zealand, the New Zealand Olympic Committee Incorporated, Paralympics New Zealand, national sporting organisations, athletes, and other bodies or persons on any matters concerned with doping in sport, and related matters: 30
    - (ii) government and non-government organisations and other persons overseas, for the purpose of promoting the adoption of uniform international testing procedures for doping in sport: 35

*General*

- (p) to advise the Minister from time to time on any matters related to integrity in sport and organised physical recreation:

- (q) to generally take all steps necessary or desirable to achieve the purposes in **section 3(a) and (b)**:
- (r) to perform any other functions that—
  - (i) are conferred on the Commission by this or any other enactment; or
  - (ii) the Minister may direct in accordance with section 112 of the Crown Entities Act 2004.

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#### **14 Requirements for Commission’s procedures**

- (1) In the performance of its functions and the exercise of its powers, the Commission must establish for its use procedures that—
  - (a) are appropriate and fair in the circumstances; and
  - (b) reflect the needs of participants; and
  - (c) protect participants’ human rights, including their right to privacy; and
  - (d) promote the best interests of children and young people; and
  - (e) comply with the anti-doping rules and integrity codes.
- (2) In this section, the **needs of participants** includes their psychological needs and other needs such as those based on vulnerability, age, culture, language, gender identity and expression, sexual orientation, sex characteristics, and disability.

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Compare: 2006 No 58 s 15(3)

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#### **15 Duties of Commission when carrying out its functions**

- The Commission must maintain the capability and capacity to carry out its functions in a manner that is responsive to—
- (a) tikanga Māori and the rights and interests of Māori; and
  - (b) te Tiriti o Waitangi/the Treaty of Waitangi.

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#### **16 Commission to have effective means of seeking views**

The Commission must establish effective means of seeking the views of participants, Māori, and other relevant stakeholders, including Pacific peoples, disabled people, children and young people, women and girls, and rainbow communities people.

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#### **17 Application of functions and powers outside New Zealand and to matters occurring outside New Zealand**

- (1) The Commission’s functions may be performed, and its powers may be exercised, outside New Zealand if permitted, or required, under an international agreement to which New Zealand is a party.
- (2) The Commission may exercise the power under **section 31** (and a disciplinary panel may exercise the power under **subpart 4 of Part 4**) in respect of

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any act or omission by an organisation that has adopted an integrity code, or a person who is bound by an integrity code, whether or not the act or omission occurred in New Zealand.

- (3) The Commission may exercise the power under **section 32** in respect of any act or omission outside New Zealand by— 5
- (a) an organisation that is established in, or primarily operates in, New Zealand; or
- (b) a participant whose participation in a sport or organised physical recreation event or activity is being facilitated by an organisation described in **paragraph (a)** at the time of the act or omission. 10
- (4) The Commission may exercise a power conferred under **section 19(2)(g)(f)(i) or 23(4)(a)**, or the power under **section 34**, regardless of whether the person from whom the information is required is in New Zealand at the time of the request ~~the requirement is made~~. 15
- Compare: 2006 No 58 s 15(1)

### 18 Commission may perform functions in co-operation with others

The Commission may perform any of its functions in co-operation with any person, body, association, or organisation.

Compare: 2006 No 58 s 15(2)

## Part 3

### Integrity codes and anti-doping rules

#### *Integrity codes*

### 19 Commission may make integrity codes

- (1) The Commission may make 1 or more integrity codes.
- (1A) An integrity code must set out minimum standards that apply across the part or whole of the sport and physical recreation sector to which the code applies for the purpose of preventing and addressing threats to integrity. 25
- (2) An integrity code may—
- (a) specify rights of participants in relation to integrity in sport and physical recreation: 30
- (b) ~~set out minimum standards of conduct or procedural requirements for the purpose of preventing threats to integrity:~~
- (c) require an organisation that adopts the integrity code to have policies and procedures for responding to concerns about integrity (including complaints-handling and disciplinary procedures) that comply with minimum requirements set out in the integrity code: 35

- (d) prescribe mechanisms for the making of complaints and disclosures to the Commission:
- (e) prescribe culturally responsive dispute resolution procedures to be provided by the Commission and the types of disputes that may be referred to those procedures: 5
- (f) require an organisation that adopts the integrity code or a participant, or other person, who has agreed to be bound by the integrity code to—
- (i) provide to the Commission information or documents that the Commission considers is reasonably necessary for the purposes of any investigation conducted by the Commission under **section 31 or 32**: 10
- (ii) co-operate fully with an investigation under **section 31 or 32** or any disciplinary process, for example, by attending a hearing or an interview:
- (g) require an organisation that adopts the integrity code to provide to the Commission information or documents that the Commission considers reasonably necessary for the purpose of monitoring implementation of the integrity code: 15
- (h) require an organisation that adopts the integrity code to report to the Commission issues of serious concern (which may be further specified in the integrity code) regarding integrity: 20
- (i) in relation to breaches by an individual of the integrity code, a policy or procedure made under the integrity code, or **section 40**,—
- (i) provide for reasonable and proportionate sanctions in the nature of conditions or restrictions on that individual’s participation in any sport or organised physical recreation to which the integrity code applies; and 25
- (ii) require an organisation that adopts the integrity code to enforce sanctions prescribed in the integrity code under **subparagraph (i)** (including a sanction the organisation was required by a disciplinary panel under **subpart 4 of Part 4** to impose): 30
- (j) in relation to breaches by an organisation of the integrity code, a policy or procedure made under the integrity code, or **section 39** ~~by an organisation~~, prescribe reasonable and proportionate actions that the Commission may require the organisation to take by way of remedy, including— 35
- (i) issuing an apology or paying compensation to any person:
- (ii) taking steps to change the organisation’s policies or procedures:
- (k) prescribe—
- (i) the circumstances in which a matter may be referred to a disciplinary panel under **subpart 4 of Part 4**; and 40

- (ii) the composition of a disciplinary panel:
- (iii) the procedure of a disciplinary panel:
- (l) prescribe criteria that an organisation that adopts the integrity code must satisfy in order to gain a dispensation from any provisions of the integrity code and any necessary modifications to the integrity code that apply where a dispensation is granted: 5
- (m) contain any other matters necessary or desirable to promote integrity in sport or organised physical recreation.
- (3) ~~An integrity code may—~~
- (a) ~~relate to the whole or a specified part of the sport and physical recreation sector; and~~ 10
- (b) ~~concern all threats to integrity or specified threats to integrity.~~
- (3) An integrity code may—
- (a) relate to the whole or a specified part of the sport and physical recreation sector (but not to a single sport or physical recreation); and 15
- (b) concern all threats to integrity or specified threats to integrity.
- (4) No integrity code may prescribe matters for which anti-doping rules have been or could be made under **section 23**.
- (5) An integrity code may, consistently with **section 17**, provide that it applies to acts or omissions that occur outside New Zealand. 20
- (6) An integrity code made under this section—
- (a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) comes into force on the later of—
  - (i) the date that is 28 days after it is published under that Act; and 25
  - (ii) the date specified in the integrity code.

## 20 Consultation on integrity code

- (1) Before making an integrity code, the Commission must consult participants, national sporting organisations, national recreation organisations, Māori, other relevant stakeholders (including Pacific peoples, disabled people, children and young people, women and girls, and rainbow-~~communities~~ people), and the Privacy Commissioner on the proposed code. 30
- (2) **Subsection (1)** does not apply to an amendment to an integrity code if the Commission is satisfied that the amendment—
  - (a) is only correcting a minor error; or 35
  - (b) is otherwise of a minor nature only.



**21 Who is bound by integrity code**

- (1) An organisation in the sport and physical recreation sector may, in the manner provided in the code, adopt an integrity code.
- (2) An integrity code binds—
- (a) an organisation that adopts it; and 5
  - (b) any participant or other person who, or body ~~or~~ of persons that,—
    - (i) is a member of the organisation; or
    - (ii) agrees with the organisation that the code will apply to the participant, other person, or body or persons; or
    - (iii) otherwise agrees to the application of the code. 10
- (3) If an integrity code is replaced,—
- (a) the replacement code applies to an organisation to which, or participant or other person to whom, the replaced code applied immediately before the replacement; and
  - (b) the organisation, participant, or other person is not required to take steps to adopt the replacement code. 15
- (4) If an integrity code is amended,—
- (a) the code as amended applies to an organisation to which, or participant or other person to whom, the code applied immediately before the amendment; and 20
  - (b) the organisation, participant, or other person is not required to take steps to adopt the code as amended.
- (5) An organisation that has adopted an integrity code may, in the manner provided in the code, revoke its adoption of the code.
- (6) For the purposes of this section, a person is a **member** of an organisation if the person has agreed to be, and has been accepted as, a member of that organisation. 25

**22 Commission must review integrity codes ~~from time to time~~**

- (1) ~~The Commission must review each integrity code from time to time for the purpose of ensuring that it remains fit for purpose and meets the needs of participants.~~ 30
- (1) The Commission must, at least once every 3 years after an integrity code comes into force, review the code for the purpose of ensuring that it remains fit for purpose and meets the needs of participants.
- (2) **Sections 19 to 21** apply, with the necessary modifications, to the making of a new or an amended code. 35

*Anti-doping rules***23 Anti-doping rules**

- (1) The Commission must make, and always have, anti-doping rules to implement the World Anti-Doping Code.
- (2) To the extent that the World Anti-Doping Code requires specified Articles of the Code to be incorporated into the anti-doping rules without substantive changes (allowing for necessary non-substantive editing changes in order to refer to things like sports, section numbers, and the Commission's name), the anti-doping rules must incorporate those Articles in that manner. 5
- (3) In addition, the Commission may make any other anti-doping rules that are necessary or desirable to govern the practice and procedure of the Commission's functions under **section 13(j) to (o)**. 10
- (4) Without limiting **subsection (3)**, the Commission may make anti-doping rules—
- (a) requiring an organisation to which, or individual to whom, the anti-doping rules apply to— 15
- (i) provide to the Commission information or documents that the Commission considers is reasonably necessary for the purposes of performing its function to comply with and implement the anti-doping rules: 20
- (ii) co-operate fully with an investigation under the anti-doping rules, for example, by attending a hearing or an interview:
- (b) providing for reasonable and proportionate sanctions (of the kind permitted under the World Anti-Doping Code) for a breach of a requirement referred to in **paragraph (a)**. 25
- (5) Rules made under this section may authorise specified procedures or matters of detail to be determined by the Commission, and may not be challenged on the ground that they leave such matters to the discretion of the Commission.
- (6) Rules made under this section—
- (a) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and 30
- (b) come into force on the later of—
- (i) the date that is 28 days after they are published under that Act; and
- (ii) the date specified in the rules. 35

Compare: 2006 No 58 s 16

- 24 Consultation on anti-doping rules**
- (1) Before making an anti-doping rule, the Commission must consult national sporting organisations, athletes, the Sports Tribunal, Māori, and the Privacy Commissioner on the proposed rule.
- (2) **Subsection (1)** does not apply to an amendment to the anti-doping rules if the Commission is satisfied that the amendment— 5
- (a) is only correcting a minor error; or
- (b) is otherwise of a minor nature only.
- 25 Application of anti-doping rules amended or replaced**
- (1) If the anti-doping rules are replaced,— 10
- (a) the replacement anti-doping rules apply to any organisation to which, or individual to whom, the replaced anti-doping rules applied immediately before the replacement; and
- (b) the organisation or individual is not required to take steps to agree to the replacement anti-doping rules. 15
- (2) If the anti-doping rules are amended,—
- (a) the anti-doping rules as amended apply to any organisation to which, or individual to whom, the anti-doping rules applied immediately before the amendment; and
- (b) the organisation or individual is not required to take steps to agree to the anti-doping rules as amended. 20
- 26 Commission must review anti-doping rules from time to time**
- (1) The Commission must, no later than 3 years after the commencement of this Act and at least once every 3 years after that commencement date, review the anti-doping rules ~~from time to time~~ for the purpose of ensuring that they comply with this Act. 25
- (2) **Sections 23 to 25 and 47** apply, with the necessary modifications, to the making of a new or an amended rule.
- Compare: 2006 No 58 s 23

## Part 4 30

### Powers, investigations, and disciplinary panels

- 27 Overview of this Part**
- (1) **Subpart 1** confers powers on the Commission to comply with and implement the World Anti-Doping Code and the anti-doping rules. The anti-doping rules set out the detail of the testing and investigation powers of the Commission under the rules. 35

- (2) **Subpart 2** deals with the powers of the Commission to comply with and implement an integrity code.
- (3) **Subpart 3** confers investigative powers relating to breaches of integrity codes and in relation to threats to integrity.
- (4) **Subpart 4** deals with disciplinary panels that the Commission may establish to determine a sanction to be imposed as specified in an integrity code consider and determine whether an integrity code, or an organisation's policy made under an integrity code, has been breached by a participant and the sanction to be imposed for the breach. 5
- (5) This section is intended only as a guide to the overall scheme and effect of this Part. 10

### Subpart 1—Powers of Commission to comply with and implement anti-doping rules

- 28 Powers of Commission to comply with and implement World Anti-Doping Code and anti-doping rules** 15
- The Commission may—
- (a) take all steps necessary to comply with and implement the World Anti-Doping Code in accordance with this Act; and
- (b) take all steps necessary to comply with and implement the anti-doping rules. 20

### Subpart 2—Powers of Commission to comply with and implement integrity codes

- 29 Powers of Commission to comply with and implement integrity codes**
- The Commission may take all steps necessary to comply with and implement an integrity code. 25

### Subpart 3—Integrity investigations

- 30 Application of this subpart**
- (1) This subpart—
- (a) applies to investigations under **sections 31 and 32**;
- (b) does not apply to investigations conducted under the anti-doping rules. 30
- (2) Nothing in this subpart limits or affects the functions and powers of the Commission under the anti-doping rules.

**31 Investigation into breach of integrity code**

- (1) The Commission may investigate anything that is or appears to the Commission to be a breach of an integrity code by an organisation, participant, or other person who is bound by it.
- (2) The investigation must be conducted in accordance with the provisions of the integrity code and this subpart. 5
- (3) Following an investigation under this section, the Commission may—
- (a) refer the matter to a disciplinary process (including a disciplinary panel) provided for in the code:
  - (b) take or recommend the taking of any actions prescribed in the code under **section 19(2)(i) or (j)** that the Commission thinks fit for promoting the resolution of the matter; or 10
  - (c) take any other action consistent with the code that the Commission considers is necessary and appropriate:
  - (d) publish a report on the investigation in accordance with **section 37**. 15

**32 Investigation of threat to integrity**

- (1) The Commission may investigate anything to which neither **section 31** nor the anti-doping rules apply if—
- (a) the matter is or appears to the Commission to be a threat to integrity; and
  - (b) the Commission is satisfied that an investigation by the Commission is in the public interest. 20
- (2) For the purpose of **subsection (1)(b)**, the Commission—
- (a) must take into account—
    - (i) the severity of the potential threat to integrity and whether the threat appears to be ongoing: 25
    - (ii) the best interests of participants (including any vulnerabilities of the participants concerned):
    - (iii) whether the threat to integrity appears to be at an organisational level or concerns more than 1 organisation:
    - (iv) whether the matter has been, or is being, investigated by another relevant body: 30
    - (v) if the matter concerns a particular organisation, the views of the organisation and relevant participants on the need for an investigation; and
  - (b) may take into account any other matter the Commission thinks fit. 35
- (3) Following an investigation under this section, the Commission may publish a report in accordance with **section 37**.

**33 Initiation of investigation**

The Commission may investigate under **section 31 or 32** in response to a complaint or on its own initiative.

*Powers relating to investigation under ~~section 32~~ 31 or 32*

**34 Power to require information or documents**

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(1) If the conditions in **subsection (2)** are satisfied, the Commission may, by notice in writing, require a specified person—

(a) to provide the Commission or a specified employee of the Commission with any information the Commission requires; or

(b) to produce to the Commission or a specified employee of the Commission any document in the custody or under the control of that person, and to allow copies of, or extracts from, any such document to be made or taken; or 10

(c) to provide to the Commission or to a specified employee of the Commission copies or extracts from documents in the custody or under the control of that person. 15

(2) The conditions referred to in **subsection (1)** are that the Commission believes, on reasonable grounds, that—

(a) the information is relevant to an investigation under **section 31 or 32**; and 20

(b) the information or document or extract cannot be obtained from the specified person, or any other person, by consent; and

(c) the person holds or is likely to hold the information or document.

(3) In this section, **specified person** means—

(a) Sport and Recreation New Zealand: 25

(b) a subsidiary of Sport and Recreation New Zealand:

(c) the New Zealand Olympic Committee Incorporated:

(d) Paralympics New Zealand Incorporated:

(e) a national sporting organisation:

(f) an affiliate of a national sporting organisation: 30

(g) a national recreational organisation.

**35 Court may make orders for failure to comply with requirement under section 34**

(1) The Commission may apply to the District Court for orders against a person on the grounds that the person has failed to comply with a requirement under **section 34**. 35

- (2) The court may, on the application of the Commission, make either or both of the following orders if the court is satisfied that the person has failed to comply with the requirement:
- (a) an order directing the person to comply with the requirement specified in the notice: 5
  - (b) any other order that the court considers appropriate.
- (3) The court may require a person to produce documents or provide other information to the court for the purposes of determining an application under this section.
- (4) The court may make an order under this section subject to any conditions the court thinks appropriate. 10

### 36 Referrals of matters to body or person

- (1) This section applies if, in the course of conducting or proposing to conduct an investigation under **section 31 or 32**, the Commission considers that the subject matter of the investigation relates, in whole or in part, to a matter that is more properly within the scope of the functions of a person or body referred to in **subsection (5)**. 15
- (2) The Commission must, without delay, consult the person or body in order to determine the appropriate means of dealing with the subject matter.
- (3) As soon as practicable after consulting the person or body concerned, the Commission must determine whether the subject matter should be dealt with, in whole or in part, under this Act. 20
- (4) If the Commission determines that the subject matter should be dealt with, in whole or in part, by a person or body referred to in **subsection (5)**, the Commission must, without delay, refer the subject matter or, as the case requires, the appropriate part of the subject matter to that person or body. 25
- (5) The persons or bodies referred to in **subsection (1)** are—
- (a) the Human Rights Commission under the Human Rights Act 1993:
  - (b) the chief executive of the department for the time being responsible for the administration of the Oranga Tamariki Act 1989: 30
  - (c) the Commissioner of Police:
  - (d) the Health and Disability Commissioner:
  - (e) an Ombudsman exercising jurisdiction under the Ombudsmen Act 1975:
  - (f) the Privacy Commissioner:
  - (g) the Director of the Serious Fraud Office: 35
  - (h) any other person or body.

Compare: 2003 No 121 s 19

**37 Commission may report on investigation**

- (1) The Commission may publish a report relating to an investigation under **section 31 or 32**.
- (2) A report published under this section must not contain personal information unless—
- (a) the individual concerned consents to their personal information being included in the report; or
  - (b) the Commission considers that the public interest in including the personal information in the report outweighs the individual's privacy interests.
- (3) In this section, **personal information** has the same meaning as in section 7(1) of the Privacy Act 2020.

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**38 Confidentiality and disclosure of information relating to investigations**

- (1) The Commission must keep confidential any information obtained through a complaint about integrity or while conducting an investigation under **section 31 or 32** if that information might identify a complainant or any other person who has provided information during an investigation.
- (2) Despite **subsection (1)**, the Commission may disclose information referred to in that subsection if—
- (a) the person who would be identified consents to the disclosure of the information; or
  - (b) the Commission believes on reasonable grounds that the disclosure of the information is necessary—
    - (i) for the effective investigation of the complaint or the effective conduct of the investigation, if commenced, or for disciplinary processes arising from the investigation; or
    - (ii) to prevent or lessen a serious risk to public health, public safety, or to the health or safety of any individual; or
    - (iii) for an investigation by a law enforcement or regulatory agency for the purpose of law enforcement; or
    - (iv) for the conduct of proceedings before any court or tribunal (that is, proceedings that have been commenced or are reasonably in contemplation); or
    - (v) for the purposes of a report that the Commission may issue in accordance with **section 37**; or
  - (c) the Commission is required to disclose the information under any other legislation (including the Privacy Act 2020 and the Official Information Act 1982).

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- (3) Before releasing identifying information for a reason described in **subsection (2)(b) or (c)**,—
- (a) if the release is for the reason described in **subsection (2)(b)(i), (iii), or (v)**, the Commission must consult the person who would be identified about the release; or 5
- (b) if the release is for the reason described in **subsection (2)(b)(ii) or (iv)**, the Commission must, if practicable, consult the person who would be identified about the release.
- (4) After releasing identifying information for a reason described in **subsection (2)(b)**, the Commission must inform the person who is identified by it. 10
- (5) Nothing in this section limits or prevents the provision of information to the Government Statistician for the production of official statistics or research under the Data and Statistics Act 2022.
- (6) In this section, **law enforcement or regulatory agency** includes bodies within the meaning of law enforcement agency in section 3(1) of the Search and Surveillance Act 2012. 15
- 39 No retaliation against participant who makes complaint or provides information to Commission**
- (1) An organisation in the sport and physical recreation sector must not retaliate, or threaten to retaliate, against a participant because the participant— 20
- (a) makes or intends to make a complaint to the Commission; or
- (b) provides or intends to provide information to the Commission for the purposes of an investigation under **section 31 or 32**.
- (2) For the purpose of this section, **retaliate**, in relation to a participant, means subjecting, or organising to subject, the participant to any detriment or disadvantage (including any detrimental or disadvantageous effect on the participant's selection for activities, events, or competitions in sport or physical recreation) in circumstances in which other participants in those activities, events, or competitions are not or would not be subjected to such detriment or disadvantage. 25 30
- 40 No victimisation in relation to making complaint or providing information to Commission**
- (1) A person (**A**) must not treat, or threaten to treat, another person (**B**) less favourably than A would treat other persons in the same or substantially similar circumstances because— 35
- (a) B (or a relative or an associate of B)—
- (i) makes or intends to make a complaint to the Commission; or
- (ii) provides or intends to provide information to the Commission for the purposes of an investigation; or

- (iii) has encouraged another person to take an action described in **sub-paragraph (i) or (ii)**; or
- (iv) has given information in support of, or relating to, an action described in **subparagraph (i) or (ii)**; or
- (b) A believes or suspects that B (or a relative or an associate of B) intends to do, or has done, anything described in **paragraph (a)**. 5
- (2) **Subsection (1)** does not apply if B knowingly made a false allegation or otherwise acted in bad faith.
- (3) **Subsection (4)** applies if a breach of **subsection (1)** occurs where there is no applicable integrity code to which person A is bound under which the breach can be dealt with and sanctioned. 10
- (4) A breach of **subsection (1)** is unlawful under section 66(3) of the Human Rights Act 1993.

#### Subpart 4—Disciplinary panels

- 41 Commission may establish disciplinary panel** 15
- (1) If provided for in an integrity code, the Commission may establish a disciplinary panel to consider and determine whether an integrity code, or an organisation's policy made under an integrity code, has been breached by a participant and the sanction to be imposed for the breach.
  - (2) The composition of the disciplinary panel must be as prescribed in the relevant integrity code. 20
  - (3) A disciplinary panel does not have jurisdiction to deal with any matter arising between an employer and the employer's employee concerning the terms and conditions of the employee's employment, a dispute about the interpretation, application, or operation of an employment agreement, or a personal grievance. 25
  - (4) The Commission must ensure that the disciplinary panel function is performed independently from its function of conducting investigations under **sections 31 and 32**.
- 42 Powers and procedure of disciplinary panel**
- (1) A disciplinary panel may, for the purpose of considering and determining a matter described in **section 41(1)**,— 30
    - (a) request information from the parties or from any other person:
    - (b) interview any of the parties.
  - (2) Having considered the matter, a disciplinary panel may— 35
    - (a) recommend that no further action be taken:
    - (b) refer the matter back to the Commission or the organisation concerned for further investigation, determination of a sanction under the integrity code, or any other action:

- (c) require an organisation to impose a sanction specified by the panel from those available under the relevant integrity code or the organisation's policies made under the integrity code.
- (3) The disciplinary panel must comply with the procedure prescribed for the panel in the relevant integrity code. 5
- 43 Appeal against decision of disciplinary panel**
- (1) A party to a matter that is referred to a disciplinary panel may appeal to the Sports Tribunal against the whole or any part of a decision of the panel.
- (2) ~~The party may bring the appeal by giving notice in writing to the Sports Tribunal within 1 month after the party has received notice of the decision of the disciplinary panel.~~ 10

## Part 5

### General and miscellaneous provisions

- 44 Sharing of evidence and information by Customs, police, and others**
- A Police employee, a Customs officer, or any other person may provide evidence or information to the Commission if that person believes that the evidence or information may assist the Commission— 15
- (a) in complying with or implementing the anti-doping rules or an integrity code; or
- (b) in an investigation under **section 31 or 32.** 20
- Compare: 2006 No 58 s 28
- 45 Privilege**
- (1) ~~A person has the same privileges in relation to the giving of information, and the production of documents, to the Commission for the purpose of an investigation under **section 31 or 32** as witnesses have in any court.~~ 25
- (2) ~~Any information supplied by a person in the course of an investigation by the Commission under **section 31 or 32** is privileged in the same manner as if the investigation were a proceeding in a court.~~
- (3) ~~For the purposes of clause 3 of Part 2 of Schedule 1 of the Defamation Act 1992, any report made by the Commission under this Act is to be taken to be an official report.~~ 30
- 45 Immunities and privileges in relation to giving information or documents to Commission**
- (1) A person giving information or producing documents to the Commission for the purpose of an investigation under **section 31 or 32** has the same immunities and privileges as if they were appearing in civil proceedings, and subpart 8 35

- of Part 2 of the Evidence Act 2006 applies to the investigation, to the extent that it is relevant, as if—
- (a) the investigation were a civil proceeding; and
  - (b) every reference to a Judge were a reference to the Commission.
- (2) **Subsection (3)** applies if a person has been required to provide information or produce documents for the purpose in **subsection (1)** and wishes to claim a privilege or immunity described in that subsection. 5
- (3) In order for the Commission to determine under section 52 of the Evidence Act 2006 whether the person claiming privilege has a justifiable reason for maintaining the privilege, or the information or document should be disclosed, the Commission may,— 10
- (a) if authorised by the person, view the information or document; or
  - (b) direct the person to provide the information or document to an independent person.
- 46 Immunities from proceedings for persons providing information or documents** 15
- No civil or criminal proceedings may be brought against a person by reason only of that person’s compliance with any requirement to provide information or produce documents to the Commission under this Act.
- 46A Privilege for Commission reports** 20
- For the purposes of clause 3 of Part 2 of Schedule 1 of the Defamation Act 1992, any report made by the Commission under this Act is to be taken to be an official report.
- Incorporation by reference*
- 47 Incorporation by reference in anti-doping rules** 25
- (1) The following, whether in written or electronic form, may be incorporated by reference in the anti-doping rules:
    - (a) standards, requirements, or recommended practices of the World Anti-Doping Agency:
    - (b) the World Anti-Doping Agency’s International Standards: 30
    - (c) the World Anti-Doping Agency’s Models of Best Practice.
  - (2) Part 3 of the Legislation Act 2019 applies (as modified by this section) as if the material were incorporated in reliance on section 64 of that Act.
  - (3) Clause 1 of Schedule 2 of the Legislation Act 2019 does not apply.
  - (4) The rest of that Schedule 2 applies as if references to the chief executive of the administering agency were references to the chief executive of the Commission. 35

**48 Incorporation by reference in integrity codes**

Nothing in **section 47** limits the application of sections 63 to 66 of the Legislation Act 2019 to integrity codes.

*Fees and charges***49 Powers of Commission to charge fees or impose charges**

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~~(1) The Commission may charge any fees, or impose any charges, that are reasonable in respect of the provision of services, information, or advice requested from the Commission, other than information supplied to an individual relating to the individual.~~

(1) The Commission may charge any fees, or impose any charges, that are reasonable in respect of the provision of services, information, or advice requested from the Commission, other than for—

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(a) supplying information to an individual relating to the individual; or

(b) receiving and handling complaints or reports about integrity, conducting investigations under the anti-doping rules or **section 31 or 32**, or the provision of and work of a disciplinary panel; or

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(c) testing conducted under a testing programme established under the anti-doping rules.

(2) The amount or rate of a fee or charge under this section must be reasonably related to the expenses incurred or to be incurred in relation to the provision of services, information, or advice to which the fee or charge relates.

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Compare: 2006 No 58 s 13

**50 Charges for Testing other than under testing programme established under anti-doping rules**

~~(1) The Commission must not charge a national sporting organisation for testing conducted under a testing programme established under the anti-doping rules.~~

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(2) The Commission may, at the request of a national sporting organisation, conduct testing not provided for under a testing programme established under the anti-doping rules, and may charge the national sporting organisation fees for that testing.

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(2A) The amount of a fee charged under **subsection (2)** must be reasonably related to the expenses incurred or to be incurred in relation to the testing conducted.

(3) If the Commission conducts testing under **subsection (2)**, athletes are entitled to the same rights to which athletes are entitled under a testing programme established under the anti-doping rules.

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Compare: 2006 No 58 s 14

*Reporting on use of power to require information or documents***51 Commission must report on use of power to require information or documents**

The Commission must include the following information in its annual report under section 150 of the Crown Entities Act 2004:

- (a) each instance where the Commission has used a power conferred under **section 19(2)(f)(i) or 23(4)(a)**, or the power under **section 34**; and
- (b) a description of the individual or organisation from whom the information or documents were requested (in a form that does not identify any individual); and
- (c) whether the information or documents were provided; and
- (d) if the information or documents were not provided, what, if any, enforcement action was taken and the outcome of that enforcement action.

*Miscellaneous provisions***52 Commission must not delegate power to make, amend, or revoke integrity code**

Despite section 73 of the Crown Entities Act 2004, the Commission must not delegate the power to make, amend, or revoke an integrity code to an employee of the Commission.

**53 Government Superannuation Fund**

- (1) Any person who, immediately before becoming an employee of the Commission, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 is deemed, for the purposes of that Act, to be employed in the Government service so long as the person continues to be an employee of the Commission.
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if that person's service as an employee of the Commission were Government service.
- (3) **Subsection (1)** does not entitle a person to become a contributor to the Government Superannuation Fund if that person has ceased to be a contributor.
- (4) For the purpose of applying the Government Superannuation Fund Act 1956, the Commission is the controlling authority.

Compare: 2006 No 58 s 11(2)–(5)

*Review of Act***54 Review of Act**

- (1) The Minister must, within 5 years from the commencement of this Act, commence a review of how widely and effectively integrity codes have been implemented. 5
- (2) The Minister must ensure that, during the review, the people and organisations that the Minister thinks appropriate are consulted.
- (3) The Minister must prepare a report on the review, including any recommendations for change necessary to this Act to improve adoption of and compliance with the integrity codes. 10
- (4) The Minister must present the report to the House of Representatives as soon as practicable after it has been completed.

**Part 6****Amendments to legislation***Amendment to Children's Act 2014* 15**54A Principal Act**

**Section 54B** amends the Children's Act 2014.

**54B Section 15 amended (Interpretation)**

In section 15, definition of **prescribed State service**, before paragraph (a), insert: 20

(aaa) The Integrity Sport and Recreation Commission established under **section 8** of the Integrity Sport and Recreation Act 2023:

*Amendment to Protected Disclosures (Protection of Whistleblowers) Act 2022***55 Principal Act**

**Section 56** amends the Protected Disclosures (Protection of Whistleblowers) Act 2022. 25

**56 Schedule 2 amended**

In Schedule 2, insert in its appropriate alphabetical order:

Sport and recreation	Integrity Sport and Recreation Commission
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*Amendment to Sport and Recreation New Zealand Act 2002***57 Principal Act** 30

**Section 58** amends the Sport and Recreation New Zealand Act 2002.

**58 Section 8 amended (Functions)**

In section 8(i), after “disputes”, insert “(other than disputes to which the Integrity Sport and Recreation Act **2023** applies)”.

*Amendments to Sports Anti-Doping Act 2006***59 Principal Act**

5

**Sections 60 to 66** amend the Sports Anti-Doping Act 2006.

**60 Title of principal Act changed**

In section 1, replace “Sports Anti-Doping” with “Sports Tribunal”.

**61 Sections 3 and 4 replaced**

Replace sections 3 and 4 with:

10

**3 Purpose**

The purpose of this Act is to continue the Tribunal as an independent body charged with—

- (a) implementing the World Anti-Doping Code in New Zealand; and
- (b) hearing, considering, and determining other sports-related and integrity matters.

15

**4 Interpretation**

In this Act, unless the context otherwise requires,—

**anti-doping rules** means the rules made under **section 23** of the Integrity Sport and Recreation Act **2023**

20

**integrity code** means a code made under **section 19** of the Integrity Sport and Recreation Act **2023**

**Minister** means the Minister who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

25

**national sporting organisation** means 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 a local, regional, or other sporting organisation

**Tribunal** means the Sports Tribunal of New Zealand continued by section 29 and previously known as the Sports Disputes Tribunal of New Zealand

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**World Anti-Doping Code** means the World Anti-Doping Code 2003 adopted by the World Anti-Doping Agency on 5 March 2003 at Copenhagen; and includes any amendments to the Code adopted by the World Anti-Doping Agency from time to time.

35



- 62 Part 2 repealed**  
Repeal Part 2.
- 63 Section 30 amended (Membership of Tribunal)**  
Replace section 30(1) with:
- (1) The Tribunal consists of the number of members (which must be not less than 5) as may be required to ensure the efficient and expeditious exercise of the jurisdiction of the Tribunal. 5
- 64 Section 38 amended (Functions of Tribunal)**
- (1) In section 38(a), replace “rules” with “anti-doping rules and integrity codes”.
- (2) After section 38(a), insert: 10
- (aa) determine disputes arising from the application of an integrity code; and
- (ab) hear an appeal against a decision of a disciplinary panel under **subpart 4 of Part 4** of the Integrity Sport and Recreation Act **2023**; and
- (ac) hear an appeal against a decision of a disciplinary body established by an organisation that has adopted an integrity code; and 15
- (3) ~~In section 38(e), replace “rules” with “anti-doping rules”.~~
- (4) In section 38(d), after “New Zealand”, insert “or the Integrity Sport and Recreation Commission”.
- 65 Section 39 amended (Procedure of Tribunal)**  
In section 39(2), replace “rules” with “anti-doping rules” in each place. 20
- 65A Section 40 amended (Evidence in proceedings before Tribunal)**  
In section 40(4), replace “Evidence Act 1908” with “Evidence Act 2006”.
- 66 Sections 49 to 54 and cross-headings repealed**  
Repeal sections 49 to 54 and the cross-headings above sections 49 and 53.
- Other amendments to Acts* 25
- 67 Other amendments to Acts**  
Amend the legislation specified in **Schedule 2** as set out in that schedule.

**Schedule 1**  
**Transitional, savings, and related provisions**

s 6

**Part 1**  
**Provisions relating to this Act as enacted**

5

**1 Meaning of commencement date**

In this schedule, **commencement date** means the date on which this Act comes into force.

*Transition from Drug Free Sport New Zealand to Commission*

**2 Drug Free Sport New Zealand disestablished**

10

- (1) Drug Free Sport New Zealand is disestablished.
- (2) The members of Drug Free Sport New Zealand cease to hold office at the close of the day before the commencement date.

**3 Consequences of disestablishment of Drug Free Sport New Zealand**

- (1) On the commencement date,—
  - (a) all property belonging to Drug Free Sport New Zealand vests in the Commission; and
  - (b) all information and documents held by Drug Free Sport New Zealand are held by the Commission; and
  - (c) all money payable to or by Drug Free Sport New Zealand becomes payable to or by the Commission; and
  - (d) all rights, liabilities, contracts, entitlements, and engagements of Drug Free Sport New Zealand become the rights, liabilities, contracts, entitlements, and engagements of the Commission; and
  - (e) subject to **subclause (5)**, every employee of Drug Free Sport New Zealand becomes an employee of the Commission on the same terms and conditions as applied immediately before they became an employee of the Commission; and
  - (f) anything done, or omitted to be done, or that is to be done, by or in relation to Drug Free Sport New Zealand is to be treated as having been done, or having been omitted to be done, or to be done, by or in relation to the Commission; and
  - (g) proceedings that may be commenced, continued, or enforced by or against Drug Free Sport New Zealand may instead be commenced, continued, or enforced by or against the Commission without amendment to the proceedings; and

- (h) a matter or thing that could, but for this clause, have been completed by Drug Free Sport New Zealand may be completed by the Commission.
- (2) The transfer of information from Drug Free Sport New Zealand to the Commission under **subclause (1)** does not constitute an action that is an interference with the privacy of an individual under section 69 of the Privacy Act 2020. 5
- (3) For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), Drug Free Sport New Zealand and the Commission are treated as the same person.
- (4) The disestablishment of Drug Free Sport New Zealand does not, by itself, affect any of the following matters: 10
- (a) any decision made, or anything done or omitted to be done, by Drug Free Sport New Zealand in relation to the performance or exercise of its functions, powers, or duties under any enactment:
- (b) any proceedings commenced by or against Drug Free Sport New Zealand: 15
- (c) any other matter or thing arising out of Drug Free Sport New Zealand's performance or exercise, or purported performance or exercise, of its functions, powers, or duties under any legislation.
- (5) Despite **subclause (1)(e)**, the chief executive of Drug Free Sport New Zealand does not become an employee of the Commission under this schedule. 20
- 4 References to Drug Free Sport New Zealand**
- On and from the commencement date, unless the context otherwise requires, every reference to Drug Free Sport New Zealand in any contract or other instrument, document, or notice must be read as a reference to the Commission. 25
- 5 Transfer of employees from Drug Free Sport New Zealand to Commission**
- (1) This clause applies to a person who becomes an employee of the Commission under **clause 3(1)(e)** (a **transferred employee**).
- (2) The terms and conditions of employment of a transferred employee immediately before the commencement date continue to apply in relation to that employee until— 30
- (a) those terms and conditions are varied by agreement between the transferred employee and the Commission; or
- (b) the transferred employee accepts a subsequent appointment with the Commission. 35
- (3) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of a transferred employee,—

- (a) the employment agreement of that employee is to be treated as unbroken; and
- (b) the employee's period of service with Drug Free Sport New Zealand, and every other period of service of that employee that is recognised by Drug Free Sport New Zealand as continuous service, is to be treated as a period of service with the Commission. 5
- (4) To avoid doubt, the employment of a transferred employee by the Commission does not constitute new employment for the purposes of the Holidays Act 2003 or the KiwiSaver Act 2006.
- (5) A transferred employee is not entitled to receive any payment or benefit from Drug Free Sport New Zealand or the Commission on the grounds that the person's position in Drug Free Sport New Zealand has ceased to exist or the person has ceased to be an employee of Drug Free Sport New Zealand as a result of the transfer to the Commission. 10
- (6) This clause overrides Part 6A of the Employment Relations Act 2000. 15
- 6 Restriction on compensation for technical redundancy for chief executive of Drug Free Sport New Zealand**
- (1) The person holding the position of chief executive of Drug Free Sport New Zealand is not entitled to receive any payment or other benefit on the ground that— 20
- (a) the position of chief executive of Drug Free Sport New Zealand has ceased to exist as a result of the disestablishment of Drug Free Sport New Zealand; and
- (b) in connection with that disestablishment, the person holding the position of chief executive is offered and accepts other employment in the Commission. 25
- (2) This clause overrides Part 6A of the Employment Relations Act 2000.
- Tests, proceedings, matters, issues, or things before Drug Free Sport New Zealand*
- 7 Tests, proceedings, matters, issues, or things before Drug Free Sport New Zealand** 30
- Any test, proceeding, matter, issue, or thing before or with, or being considered or dealt with by, Drug Free Sport New Zealand before the commencement date must be dealt with by the Commission under the Sports Anti-Doping Act 2006, whether or not any action was taken in relation to the test, proceeding, matter, issue, or thing before the commencement date, as if this Act had not been enacted. 35

*Pre-commencement consultation on integrity codes***8 Pre-commencement consultation on integrity codes**

Any consultation undertaken by any person, or group of persons, before the date on which this Act received the Royal assent or before the commencement date in relation to a proposed integrity code is valid and effective if, had it been done by the Commission after the commencement date, it would have been in accordance with **section 20**. 5

*Anti-doping rules***9 Anti-doping rules**

The anti-doping rules made by Drug Free Sport New Zealand under section 16 of the Sports Anti-Doping Act 2006 and in force immediately before the commencement date continue in force as if they were made under **section 23** of this Act. 10

*Investigations into actions and omissions before commencement date***10 Commission may investigate actions and omissions before commencement date** 15

The Commission may conduct an investigation under **section 32** whether the actions or omissions that are the subject of the investigation occurred wholly or partly before or after the commencement date.

## Schedule 2

### Consequential amendments to other Acts

s 67

#### **Crown Entities Act 2002 (2005 No 115)**

In Schedule 1, Part 3, repeal the item relating to Drug Free Sport New Zealand. 5

In Schedule 1, Part 3, insert in its appropriate alphabetical order:

Integrity Sport and Recreation Commission

#### **Human Rights Act 1993 (1993 No 82)**

Replace section 66(3) with:

- (3) The following is unlawful under this Act: 10
- (a) a breach of section 22(1) of the Protected Disclosures (Protection of Whistleblowers) Act 2022:
  - (b) a breach of **section 40(1)** of the Integrity Sport and Recreation Act **2023** to which **section 40(4)** of that Act applies.
- (4) The rest of this Act applies to a breach referred to in **subsection (3)** (so that, 15  
for example, section 68 of this Act applies to treat an employee's actions or omissions as done or omitted by their employer).

#### **Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, repeal the item relating to Drug Free Sport New Zealand.

In Schedule 1, Part 2, insert in its appropriate alphabetical order: 20

Integrity Sport and Recreation Commission

#### **Remuneration Authority Act 1977 (1977 No 110)**

In Schedule 4, repeal the item relating to the members of Drug Free Sport New Zealand.

In Schedule 4, insert in its appropriate alphabetical order: 25

The members of the board of the Integrity Sport and Recreation Commission

#### **Legislative history**

28 March 2023  
4 April 2023

Introduction (Bill 243–1)  
First reading and referral to Social Services and Community  
Committee