

# **Sports Anti-Doping Bill**

Government Bill

As reported from the committee of the whole House

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## Key to symbols used in reprinted bill

### As reported from a select committee

#### Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

#### New (unanimous)

Subject to this Act,

Text inserted unanimously

*(Subject to this Act.)*

Words struck out unanimously

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*Hon Trevor Mallard*

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Government Bill

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

**1 Title**

This Act is the Sports Anti-Doping Act **2005**.

**2 Commencement**

**Struck out**

This Act comes into force on the (28th) 40th day after the date on which it receives the Royal assent.

**New**

- |   |
|---|
| <p>(1) <b>Sections 48, 48A, and 48B</b> come into force on the day after the date on which this Act receives the Royal assent.</p> <p>(2) The rest of this Act comes into force on 1 July 2007.</p> |
|---|

**Part 1**  
**Preliminary provisions**

**3 Purposes of this Act**

The purposes of this Act are to—

- |   |    |
|---|----|
| (a) give effect to the Code in New Zealand in order to achieve the Code's purposes of—  |    |
| (i) protecting athletes' fundamental right to participate in doping-free sport and in this way promote health, fairness, and equality for athletes worldwide; and                       | 10 |
| (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; and | 15 |

**Struck out**

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|---|----|
| <p>(b) continue (<i>the Agency</i>) <u>Drug Free Sport NZ</u> and the Tribunal as the independent bodies charged with implementing the Code in New Zealand.</p> | 20 |
|---|----|

**New**

- |   |    |
|---|----|
| <p>(b) continue Drug Free Sport NZ as an independent body charged with implementing the Code in New Zealand; and</p> <p>(c) continue the Tribunal as an independent body charged with—</p> <p style="padding-left: 20px;">(i) implementing the Code in New Zealand; and</p> <p style="padding-left: 20px;">(ii) hearing, considering, and determining other sports-related matters.</p> | 25 |
|---|----|

#### 4 Interpretation

In this Act, unless the context otherwise requires,—

##### Struck out (unanimous)

**Agency** means the New Zealand Sports Drug Agency continued under **section 6**

**board** means the board of *(the Agency)* Drug Free Sport NZ 5

**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

##### New (unanimous)

**Drug Free Sport NZ** means Drug Free Sport New Zealand, a Crown entity continued by **section 6** and previously known as the New Zealand Sports Drug Agency 10

**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 15

**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 20

**rules** means the rules made under **section 16**

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

**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. 25

5 **Act binds the Crown** 30  
This Act binds the Crown.

**Part 2**  
**Drug Free Sport New Zealand (*Sports Drug Agency*)**

Subpart 1—Continuation and membership of (*New Zealand Sports Drug Agency*) Drug Free Sport NZ

- 6** (*New Zealand Sports Drug Agency*) Drug Free Sport New Zealand continued 5
- (1) There continues to be an (*Agency known as the New Zealand Sports Drug Agency*) organisation to be called Drug Free Sport New Zealand.
- (2) (*The Agency*) Drug Free Sport NZ is the same body as the New Zealand Sports Drug Agency established under the New Zealand Sports Drug Agency Act 1994. 10

**New (unanimous)**

- (3) Drug Free Sport NZ continues under this Act with the (~~*additional*~~) functions, powers, and duties specified in this Act, but otherwise without any change in its continuity, assets, rights, liabilities, contracts, or members. 15
- (4) **Section 47A** overrides **subsection (3)**.

**7** (*Agency*) Drug Free Sport NZ is Crown entity

- (1) (*The Agency*) Drug Free Sport NZ is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004. 20
- (2) The Crown Entities Act 2004 applies to (*the Agency*) Drug Free Sport NZ except to the extent that this Act expressly provides otherwise.

**8** (*Agency*) Drug Free Sport NZ must act independently

- Except as expressly provided otherwise in this or any other Act, (*the Agency*) Drug Free Sport NZ must act independently in performing its statutory functions and duties and in exercising its statutory powers under— 25
- (a) this Act; and
- (b) any other Act that expressly provides for the functions, powers, or duties of (*the Agency*) Drug Free Sport NZ (other than the Crown Entities Act 2004). 30

- 
- 9 Membership of (Agency) Drug Free Sport NZ**
- (1) *(The Agency) Drug Free Sport NZ* consists of no more than 5 members.
- (2) The members of *(the Agency) Drug Free Sport NZ* are the board for the purposes of the Crown Entities Act 2004. 5
- 10 Eligibility for appointment as member of (Agency) Drug Free Sport NZ**
- (1) When considering whether to recommend a person for appointment as a member of *(the Agency) Drug Free Sport NZ*, the Minister must have regard to the need to ensure that the membership includes a mix of knowledge and experience in matters relevant to the functions of *(the Agency) Drug Free Sport NZ*, including knowledge of and experience in 1 or more of the following: 10
- (a) law: 15
- (b) sports medicine:
- (c) sports participation and administration.
- (2) This section does not limit section 29 of the Crown Entities Act 2004.
- 11 Superannuation fund or retiring allowances** 20
- (1) For the purpose of providing a superannuation fund or retiring allowances for any of its members, *(the Agency) Drug Free Sport NZ* may pay sums of money by way of a subsidy or a contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989. 25
- (2) Any person who, immediately before becoming an employee of *(the Agency) Drug Free Sport NZ*, 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 he or she continues to be an employee of *(the Agency) Drug Free Sport NZ*. 30
- (3) The Government Superannuation Fund Act 1956 applies to the person in all respects as if that person's service as an employee of *(the Agency) Drug Free Sport NZ* is Government service. 35

- (4) **Subsection (2)** does not entitle a person to become a contributor to the Government Superannuation Fund if that person has ceased to be a contributor.
- (5) For the purpose of applying the Government Superannuation Fund Act 1956, *(the Agency)* Drug Free Sport NZ is the controlling authority. 5

## Subpart 2—Functions and powers of *(Agency)* Drug Free Sport NZ

### 12 **Functions of *(Agency)* Drug Free Sport NZ**

- The functions of *(the Agency)* Drug Free Sport NZ are to— 10
- (a) make rules in accordance with **sections 16 to 23**; and
- (b) do all things necessary to comply with and implement the rules; and
- (c) do all things necessary to comply with and implement any Article of the Code that— 15
- (i) is not required to be reflected in the rules; but
- (ii) requires *(the Agency)* Drug Free Sport NZ to do something; and
- (d) ensure New Zealand complies with all international agreements and arrangements concerning doping in sport to which New Zealand is a party; and 20
- (e) 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 Code, and enter into reciprocal testing agreements in relation to athletes who are citizens or residents of New Zealand; and 25
- (f) consult with, advise, and assist— 30
- (i) government departments, local authorities, Sport and Recreation New Zealand, the New Zealand Olympic Committee Incorporated, national sporting organisations, athletes, and other bodies or persons on any matters concerned with doping in sport, and related matters; and 35
- (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; and

- (g) advise the Minister on any matters related to doping in sport, and related matters; and
- (h) generally take all steps necessary or desirable to achieve the purposes of this Act; and
- (i) perform any other functions that— 5
- (i) are conferred on *(the Agency) Drug Free Sport NZ* by this or any other enactment; or
- (ii) the Minister may direct in accordance with section 112 of the Crown Entities Act 2004.
- 13 Powers of *(Agency) Drug Free Sport NZ*** 10
- (1) Without limiting *(the Agency's) Drug Free Sport NZ's* powers under sections 16 and 17 of the Crown Entities Act 2004, it may—
- (a) take all steps necessary to comply with and implement the rules; and 15
- (b) take all steps necessary to comply with and implement the Code in accordance with this Act; and
- (c) subject to **section 14**, charge any fees, or impose any charges, that are reasonable in respect of the provision of services, information, or advice requested from *(the Agency) Drug Free Sport NZ*, other than information supplied to an athlete relating to the athlete. 20
- (2) The amount or rate of a fee or charge 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. 25
- 14 Charges for testing**
- (1) *(The Agency) Drug Free Sport NZ* must not make any charge to a national sporting organisation for testing conducted under a testing programme established under the rules. 30
- (2) *(The Agency) Drug Free Sport NZ* may, at the request of a national sporting organisation, conduct testing not provided for under a testing programme established under the rules, and may charge the national sporting organisation fees for that testing. 35
- (3) If *(the Agency) Drug Free Sport NZ* conducts testing under **subsection (2)**, athletes are entitled to the same rights to which athletes are entitled under a testing programme established under the rules.

- 15 Performing (Agency's) Drug Free Sport NZ's functions and exercising (Agency's) Drug Free Sport NZ's powers**
- (1) *(The Agency's) Drug Free Sport NZ's* functions may be performed, and its powers may be exercised, within and outside New Zealand. 5
- (2) *(The Agency) Drug Free Sport NZ* may perform any of its functions in co-operation with any person, body, association, or organisation.
- (3) In the performance of its functions and the exercise of its powers, *(the Agency) Drug Free Sport NZ* must establish for its use, and for the use of its committees, procedures that— 10
- (a) are appropriate and fair in the circumstances; and
- (b) comply with the rules.

### Subpart 3—Rules

- 16 Board must make rules** 15
- (1) The board must make, and from the *(90th day after the)* commencement of this *((Act))* section always have, rules.
- (2) The rules must implement the Code and, in particular, to the extent that the Code requires specified Articles of the Code to be incorporated into the rules without substantive changes 20  
(allowing for necessary non-substantive editing changes in order to refer to things like sports, section numbers, and *(the Agency's) Drug Free Sport NZ's* name), must incorporate those Articles in that manner.
- (3) In addition, the board may also make any other rules that are necessary or desirable to govern the practice and procedure of the board's functions under **section 12(c) to (i)**. 25
- (4) Before making a rule under **(subsection (3)) this section**, the board must give national sporting organisations, athletes, and the Privacy Commissioner a reasonable opportunity to comment on the proposed rule. 30
- (5) Rules made under this section may authorise specified procedures or matters of detail to be determined by *(the Agency) Drug Free Sport NZ*, and may not be challenged on the ground that they leave such matters to the discretion of *(the Agency) Drug Free Sport NZ*. 35

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- 17 Incorporation of material by reference in rules**
- (1) The following written material may be incorporated by reference in the rules:
- (a) standards, requirements, or recommended practices of the World Anti-Doping Agency: 5
  - (b) the World Anti-Doping Agency’s International Standards:
  - (c) the World Anti-Doping Agency’s Models of Best Practice.
- (2) Material may be incorporated by reference in the rules— 10
- (a) in whole or in part; and
  - (b) with modifications, additions, or variations specified in the rules.
- (3) Material incorporated by reference in the rules has effect as part of the rules. 15
- 18 Effect of amendments to, or replacement of, material incorporated by reference in rules**
- An amendment to, or replacement of, material incorporated by reference in the rules (the **principal rules**) has effect as part of the principal rules only if rules made after the making of the principal rules state that the particular amendment or replacement has that effect. 20
- 19 Proof of material incorporated by reference**
- (1) A copy of material incorporated by reference in the rules, including any amendment to, or replacement of, the material (**material**) must be— 25
- (a) certified as a correct copy of the material by the chief executive of (*the Agency*) Drug Free Sport NZ; and
  - (b) retained by the chief executive of (*the Agency*) Drug Free Sport NZ. 30
- (2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation of the material in the rules.
- 20 Effect of expiry of material incorporated by reference** 35
- Material incorporated by reference in the rules that expires or is revoked or ceases to have effect, ceases to have legal effect as part of the rules only if rules made under **section 16** state that the material ceases to have legal effect.

## 21 Method of making rules

- (1) Rules may be made under **section 16** by the chief executive of *(the Agency)* Drug Free Sport NZ publishing a notice in the *Gazette* that states the following:
- (a) that *(the Agency)* Drug Free Sport NZ has made rules under **section 16**; and 5
  - (b) if there is material incorporated by reference in the rules, a description of that material; and
  - (c) that the rules and the material are available for inspection during working hours, free of charge, and the location of the place or places at which they can be inspected; and 10
  - (d) that copies of the rules and the material can be purchased, and the location of the place or places at which they can be purchased; and 15
  - (e) if copies of the rules and the material are made available under **section 22(1)(c)**, that the rules and the material are available in other ways, and details of where or how they can be accessed or obtained.
- (2) The notice in the *Gazette* need not contain the rules or the material. 20
- (3) A rule comes into force 28 days after the date on which it is notified in the *Gazette* or on any later date stated in the notice.
- (4) In this section and **section 22**, **material** means—
- (a) material incorporated by reference in the rules: 25
  - (b) any amendment to, or replacement of, that material that is incorporated in the rules or the material referred to in **paragraph (a)** with the amendments or replacement material incorporated:
  - (c) if the material referred to in **paragraph (a) or (b)** is not in an official New Zealand language, as well as the material itself, an accurate translation of the material in an official New Zealand language. 30

## 22 Public access to rules and material incorporated by reference 35

- (1) The chief executive of *(the Agency)* Drug Free Sport NZ—
- (a) must make the rules and the material available for inspection during working hours, free of charge, at the head office of *(the Agency)* Drug Free Sport NZ and at

- any other places that the chief executive determines are appropriate; and
- (b) must make copies of the rules and the material available for purchase at a reasonable price; and
- (c) may make copies of the rules and the material available in any other way that the chief executive considers appropriate in the circumstances (for example, on an internet website). 5
- (2) A failure to comply with this section does not invalidate the rules or the incorporation by reference of material in the rules. 10
- 23 Review of rules**
- (1) The board must review the rules from time to time for the purpose of ensuring that they comply with this Act.
- (2) **Sections 16 to 22** apply, with the necessary modifications, to the making of a new, amended, or revised rule. 15
- 24 Acts and Regulations Publication Act 1989 not applicable**
- (1) The rules are not regulations for the purposes of the Acts and Regulations Publication Act 1989.
- (2) The Acts and Regulations Publication Act 1989 does not apply to material incorporated by reference in the rules or to an amendment to, or replacement of, that material. 20
- 25 Application of Regulations (Disallowance) Act 1989**
- (1) The rules are regulations for the purposes of the Regulations (Disallowance) Act 1989. 25
- (2) Despite **subsection (1)**, nothing in section 4 of the Regulations (Disallowance) Act 1989 requires material that is incorporated by reference in the rules to be laid before the House of Representatives.
- 26 Application of Standards Act 1988 not affected** 30
- Sections 16 to 25** do not affect the application of sections 22 to 25 of the Standards Act 1988.

Subpart 4—Miscellaneous matters concerning (*Agency*)  
Drug Free Sport NZ

- 27 Recognising needs and privacy of athletes**  
In the performance of its functions and the exercise of its powers, (*the Agency*) Drug Free Sport NZ must, to the extent that there is not an inconsistency with the rules, develop appropriate procedures to— 5
- (a) reflect the needs of athletes who are under the age of 18 years; and
  - (b) reflect the culture, language, disabilities, and other special concerns of athletes; and 10
  - (c) protect athletes' right to privacy.
- 28 Sharing of evidence and information by customs, police, and others**  
A member of the police, a customs officer, or any other person may provide evidence or information to (*the Agency*) Drug Free Sport NZ if that person believes that that evidence or information may assist (*the Agency*) Drug Free Sport NZ in complying with or implementing the rules. 15

**Part 3** 20  
**Sports Tribunal of New Zealand**

Subpart 1—Continuation and membership of (*Sports*)  
Tribunal (*of New Zealand*)

- 29 Sports Tribunal of New Zealand continued**
- (1) There continues to be a (*Tribunal known as*) tribunal to be called the Sports Tribunal of New Zealand. 25
  - (2) The Tribunal is the same body as the Sports Disputes Tribunal of New Zealand established by the board of Sport and Recreation New Zealand under section 8(i) of the Sport and Recreation New Zealand Act 2002. 30

**New (unanimous)**

- (3) The Tribunal continues under this Act with the *((additional))* functions, powers, and duties specified in this Act, but otherwise without any change in its continuity, assets, rights, liabilities, contracts, or members.
- (4) **Sections 51 and 51A** override **subsection (3)**. 5

**30 Membership of Tribunal**

- (1) The Tribunal consists of at least 5, but no more than 9, members.
- (2) Each member must be appointed by the Governor-General on the recommendation of the Minister made after consultation with the board of Sport and Recreation New Zealand. 10

**New (unanimous)**

- (2A) In recommending a person for appointment as a member of the Tribunal, the Minister must have regard to the person's personal attributes, qualifications, and skills.
- (3) A member is not employed in the State services for the purposes of the State Sector Act 1988 or the Government service for the purposes of the Government Superannuation Fund Act 1956 only because the person is a member of the Tribunal. 15

**Struck out (unanimous)****31 Eligibility for appointment as member of Tribunal**

- (1) Other than the chairperson, 2 members of the Tribunal must— 20
- (a) be barristers or solicitors of the High Court of New Zealand with not less than 7 years' practice; and
- (b) have substantial experience in legal issues affecting sport, or substantial involvement in sport in some capacity. 25
- (2) In recommending a person for appointment as a member of the Tribunal, the Minister must have regard to—
- (a) the person's personal attributes, qualifications, and skills; and

**Struck out (unanimous)**

- (b) the need for persons included on the Tribunal to have between them knowledge of, or experience in, the different aspects of matters likely to come before the Tribunal.

**32 Chairperson of Tribunal**

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- (1) The Governor-General, on the recommendation of the Minister made after consultation with the board of Sport and Recreation New Zealand, must appoint one of the members as the chairperson of the Tribunal.

- (2) The chairperson must have significant understanding, interest, or experience in sport and must be— 10

(a) a retired judicial officer who has held office in a New Zealand court or statutory tribunal; or

(b) a senior barrister or solicitor of the High Court of New Zealand with not less than 7 years' practice and who is of standing and repute within the legal profession. 15

**New (unanimous)****32A Deputy chairperson of Tribunal**

- (1) The Governor-General, on the recommendation of the Minister made after consultation with the board of Sport and Recreation New Zealand, must appoint one or more of the members as a deputy chairperson of the Tribunal. 20

- (2) A deputy chairperson must have the qualifications listed in **section 32B(1)**.

**32B Eligibility for appointment as member of Tribunal**

- (1) Other than the chairperson, at least 2 members of the Tribunal must— 25

(a) be barristers or solicitors of the High Court of New Zealand with not less than 7 years' practice; and

(b) have substantial experience in legal issues affecting sport, or substantial involvement in sport in some capacity. 30

## New (unanimous)

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|---|
| <p>(2) Other than the chairperson and members who have the qualifications listed in <b>subsection (1)</b>, a member of the Tribunal must have substantial experience in sport, in any capacity, over a minimum of a 10-year aggregate period.</p> |
|---|

- |               |  |    |
|---------------|--|----|
| <b>33</b>     | <b>Term of office of members of Tribunal</b>   | 5  |
| (1)           | Except as provided in <b>section 34</b> , a member of the Tribunal holds office for a term not exceeding 5 years.  |    |
| (2)           | A member of the Tribunal may—  |    |
|               | (a) hold that office concurrently with any other office held by him or her; and  | 10 |
|               | (b) be reappointed.  |    |
| (3)           | If the term for which a member was appointed expires, that member, unless sooner vacating or removed from office under <b>section 34</b> , may continue to hold office, by virtue of the appointment for the term that has expired, until—   | 15 |
|               | (a) that member is reappointed; or   |    |
|               | (b) a successor to that member is appointed.   |    |
| <br><b>34</b> | <br><b>Termination of appointment of member of Tribunal</b>  |    |
| (1)           | A member of the Tribunal may, at any time, resign his or her office by giving notice in writing to that effect to the Minister.  | 20 |
| (2)           | A member of the Tribunal is taken to have vacated his or her office if he or she dies or is adjudged bankrupt under the Insolvency Act 1967.   |    |
| (3)           | A member of the Tribunal may, at any time, be removed from office by the Governor-General on the recommendation of the Minister made after consultation with the board of Sport and Recreation New Zealand for inability to perform the duties of office, neglect of duty, or misconduct proved to the satisfaction of the Governor-General. | 25 |
| (4)           | The powers of the Tribunal are not affected by any vacancy in its membership.  | 30 |

**Struck out (unanimous)****35 Remuneration and allowances of members**

- (1) The Tribunal is declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.
- (2) There must be paid to members of the Tribunal, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly.

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**New (unanimous)****35 Remuneration, allowances, and expenses of members**

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- (1) A member of the Tribunal is entitled to receive remuneration for services as a member at a rate and of a kind determined by the Remuneration Authority in accordance with the Remuneration Authority Act 1977.
- (2) There may be paid out of public money to the members of the Tribunal travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly.
- (3) The Tribunal is a statutory board for the purposes of the Fees and Travelling Allowances Act 1951.
- (4) Remuneration determined under **subsection (1)** must not include remuneration of the kind paid under **subsection (2)**.

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**36 Members of Tribunal not personally liable**

No member of the Tribunal is personally liable for any act done or omitted to be done by the Tribunal or any member of the Tribunal in good faith in pursuance or intended pursuance of the functions, duties, powers, or authorities of the Tribunal.

25

**Subpart 2—Jurisdiction and procedure****37 Functions of Tribunal**

The functions of the Tribunal are to—

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- (a) do all things necessary to comply with and implement the rules; and

- (b) subject to any other enactment, determine sports-related disputes if—
  - (i) all parties to the dispute agree in writing to refer the dispute to the Tribunal; and
  - (ii) the Tribunal agrees, at its sole discretion, to hear and determine the dispute; and
- (c) subject to any other enactment, hear an appeal against a decision of a national sporting organisation or the New Zealand Olympic Committee Incorporated if the constitution, rules, or regulations of that body specifically provides for an appeal to the Tribunal in relation to that matter; and

**New (unanimous)**

- (ca) consider any matter referred to it by the board of Sport and Recreation New Zealand; and
- (d) generally take all steps necessary or desirable to achieve the purposes of this Act; and
- (e) exercise and perform any other functions, powers, and duties that—
  - (i) are conferred or imposed on the Tribunal by this or any other enactment; or
  - (ii) are conferred or imposed on the Tribunal by the Minister.

**38 Procedure of Tribunal**

- (1) Except as provided in this Act, the Tribunal may determine its own ~~(procedure)~~ practices and procedures for performing the Tribunal's functions under section 37(a) to (e).

**Struck out**

- (2) In determining its own procedure, the Tribunal must ensure that it complies with and implements the rules.

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**New**

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- (2) However, in determining its own practices and procedures, the Tribunal must ensure that it complies with and implements the rules, to the extent that the rules are applicable.
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**39 Evidence in proceedings before Tribunal**

- (1) The Tribunal may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matters before it, whether or not the same would be admissible in a court of law. 5
- (2) The Tribunal may take evidence on oath, and for that purpose any member or officer of the Tribunal may administer an oath. 10
- (3) The Tribunal may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Tribunal thinks fit, verifying it by oath.
- (4) Subject to **subsections (1) to (3)**, the Evidence Act 1908 applies to the Tribunal in the same manner as if the Tribunal were a court within the meaning of that Act. 15

**40 Witness summons**

- (1) The Tribunal may of its own motion, or on the application of any party to the proceedings, issue a witness summons to any person requiring that person to attend before the Tribunal to give evidence at the hearing of the proceedings. 20
- (2) The witness summons must state—
- (a) the place where the person is to attend; and
  - (b) the date and time when the person is to attend; and
  - (c) the papers, documents, records, or things that that person is required to bring and produce to the Tribunal; and 25
  - (d) the entitlement to be tendered or paid a sum in respect of allowances and travelling expenses; and
  - (e) the penalty for failing to attend.
- (3) The power to issue a witness summons may be exercised by the Tribunal or the chairperson, or by any officer of the Tribunal purporting to act by the direction or with the authority of the Tribunal or the chairperson. 30

**41 Service of summons**

- (1) A witness summons may be served—
- (a) by delivering it personally to the person summoned; or
  - (b) by posting it by registered post addressed to the person summoned at that person's usual place of residence. 5
- (2) The summons must,—
- (a) if it is served under **subsection (1)(a)**, be served at least 24 hours before the attendance of the witness is required; or
  - (b) if it is served under **subsection (1)(b)**, be served at least 10 days before the date on which the attendance of the witness is required. 10
- (3) If the summons is posted by registered post, it is deemed for the purposes of **subsection (2)(b)** to have been served at the time when the letter would be delivered in the ordinary course of post. 15

**42 Witnesses' allowances**

- (1) Every witness attending before the Tribunal to give evidence pursuant to a summons is entitled to be paid witnesses' fees, allowances, and travelling expenses according to the scales for the time being prescribed by regulations made under the Summary Proceedings Act 1957, and those regulations apply accordingly. 20
- (2) On each occasion on which the Tribunal issues a summons under **section 40**, the Tribunal, or the person exercising the power of the Tribunal under **subsection (3)** of that section, must fix an amount that, on the service of the summons, or at some other reasonable time before the date on which the witness is required to attend, must be paid or tendered to the witness. 25
- (3) The amount fixed under **subsection (2)** of this section must be the estimated amount of the allowances and travelling expenses to which, in the opinion of the Tribunal or person, the witness will be entitled according to the prescribed scales if the witness attends at the time and place specified in the summons. 30
- (4) If a party to the proceedings has requested the issue of the witness summons, then the fees, allowances, and travelling expenses payable to the witness must be paid by that party. 35

- (5) If the Tribunal has of its own motion issued the witness summons, the Tribunal may direct that the amount of those fees, allowances, and travelling expenses—
- (a) form part of the costs of the proceedings; or
  - (b) be paid from money appropriated by Parliament for the purpose. 5
- 43 Privileges and immunities**
- (1) Witnesses appearing before the Tribunal have the same privileges and immunities as witnesses have in proceedings in a District Court. 10
- (2) Every counsel, agent, or other person appearing before the Tribunal has the same privileges and immunities as counsel have in proceedings in a District Court.
- 44 Non-attendance or refusal to co-operate**
- (1) Every person commits an offence who, after being summoned to attend to give evidence before the Tribunal or to produce to the Tribunal any papers, documents, records, or things, without sufficient cause,— 15
- (a) fails to attend in accordance with the summons; or
  - (b) refuses to be sworn or to give evidence, or, having been sworn, refuses to answer any question that the person is lawfully required by the Tribunal or any member of it to answer concerning the proceedings; or 20
  - (c) fails to produce that paper, document, record, or thing.
- (2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$1,500. 25
- (3) No person summoned to attend before the Tribunal may be convicted of an offence against **subsection (1)** unless travelling expenses were tendered or paid to that person in accordance with **section 42**. 30
- 45 Contempt of Tribunal**
- (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who—
- (a) threatens, intimidates, or intentionally insults the Tribunal or any member of it or any special adviser to or officer of the Tribunal, during a sitting of the Tribunal, or in going to, or returning from, any sitting; or 35

- (b) intentionally interrupts the proceedings of the Tribunal or otherwise misbehaves while the Tribunal is sitting; or
- (c) intentionally and without lawful excuse disobeys an order or direction of a member of the Tribunal in the course of any proceedings before the Tribunal. 5
- (2) A member of the Tribunal may order the exclusion from a sitting of the Tribunal of any person whose behaviour, in that member's opinion, constitutes an offence against **subsection (1)**, whether or not that person is charged with the offence; and any member of the police may take the steps reasonably necessary to enforce that exclusion. 10
- 46 Costs**
- (1) The Tribunal, in any proceedings before it under this Act, may make orders as to costs as it thinks fit. 15
- (2) An order as to costs may be filed in a District Court and may be enforced as a judgment of that Court.

## Part 4

### **Transitional provisions, repeal, *(and)* revocations, and consequential amendments** 20

#### **New (unanimous)**

##### *General transitional provision*

- 46A Matters commenced under New Zealand Sports Drug Agency Act 1994**
- All matters to which the New Zealand Sports Drug Agency Act 1994 applied that have been commenced before ~~(the commencement of this Act)~~ 1 July 2007, and not been completed before ~~(the commencement of this Act)~~ 1 July 2007, are to be continued and completed as if this Act had not been enacted. 25

*Transitional provisions for (Agency) Drug Free Sport NZ***New (unanimous)****46B Meaning of Agency**

In this Part, **Agency** means the New Zealand Sports Drug Agency established under the New Zealand Sports Drug Agency Act 1994.

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**47 *(Proceedings or) Tests, proceedings, matters, issues, or things before Agency***

Any test, proceeding, *(or)* matter, issue, or thing before or with, or being considered or dealt with by, the Agency before *((the commencement of this Act)) 1 July 2007* must be dealt with by *(the Agency) Drug Free Sport NZ* under the New Zealand Sports Drug Agency Act 1994, whether or not any action was taken in relation to the test, proceeding, *(or)* matter, issue, or thing before *((the commencement of this Act)) 1 July 2007*, as if this Act had not been enacted.

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**New (unanimous)****47A References to Agency**

*((On the commencement of this Act)) From 30 June 2007*, unless the context otherwise requires, every reference to the Agency in any contract or other instrument, document, or notice must be read as a reference to Drug Free Sport NZ.

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**Struck out****48 Preparation of rules before commencement of this Act**

- (1) Anything done by the Agency before the commencement of this Act in relation to the preparation of the rules that, if it had been done after the commencement of this Act would have been done in accordance with **sections 16 to 23**, is to be treated as being as valid and effective as it would have been had it been done on or after the commencement of this Act.

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**Struck out****New (unanimous)**

- (2) **Subsection (1)** only applies if, in preparing the rules in accordance with that subsection, the Agency complied with **section 16(4)** as if that section was in force.

**New**

- 48 Preparation and making of rules before 1 July 2007** 5
- (1) The Agency may, prior to 1 July 2007, prepare and make the rules in accordance with **sections 16 to 22** as if those sections were in force.
- (2) However, the rules must not take effect before 1 July 2007.
- (3) Anything done by the Agency before the commencement of **sections 16 to 22** is valid and effective if, had it been done after the commencement of those sections, it would have been done in accordance with those sections. 10
- (4) This section does not limit section 11 of the Interpretation Act 1999. 15

*Temporary additional functions of Drug Free Sport NZ*

- 48A Additional functions of Agency prior to 1 July 2007**
- (1) From the day on which this section comes into force until 1 July 2007, the Agency's functions are extended to include the following: 20
- (a) investigating potential violations of Articles 2.2, 2.4, 2.5, 2.6, 2.7, and 2.8 of the Code; and
- (b) providing evidence of a potential violation of Articles 2.2, 2.4, 2.5, 2.6, 2.7, or 2.8 of the Code to a national sporting organisation or any anti-doping organisation if the Agency considers this to be the appropriate course of action in the circumstances. 25
- (2) The Agency must perform its additional functions in accordance with the Code and the World Anti-Doping Agency's

## New

- International Standards, Models of Best Practice, and its other standards, requirements, and recommended practices.
- (3) The functions set out in **subsection (1)** are in addition to the functions of the Agency set out in section 6 of the New Zealand Sports Drug Agency Act 1994. 5
- 48B Use of information and evidence gathered under section 48A(1)(a)**
- (1) Information and evidence gathered by the Agency under **section 48A(1)(a)** may be used—
- (a) by the Agency before 1 July 2007 in order to prove a breach of the Code; or 10
- (b) by Drug Free Sport NZ on or after 1 July 2007 in order to prove, pursuant to this Act and the rules, a breach of the Code.
- (2) However, **subsection (1)(b)** only applies if, had that information and evidence been gathered by Drug Free Sport NZ on or after 1 July 2007, it would have been gathered in accordance with the requirements of this Act and the rules. 15
- (3) **Subsection (1)(b)** overrides **sections 46A and 47**. 15

*Transitional provisions for Tribunal* 20**49 Meaning of Sports Disputes Tribunal**

In this Part, **Sports Disputes Tribunal** means the tribunal established by the board of Sport and Recreation New Zealand under section 8(i) of the Sport and Recreation New Zealand Act 2002 and known as the Sports Disputes Tribunal of New Zealand. 25

**50 (*Proceedings or*) Issues, proceedings, matters, or things before Sports Disputes Tribunal**

Any issue, proceeding, (or) matter, or thing before(,) or registered with, or being considered or dealt with by, the Sports Disputes Tribunal before (*the commencement of this Act*) 1 July 2007 must be dealt with by the Tribunal, whether or not any action was taken in relation to the issue, proceeding, (or) 30

matter, or thing before ~~(the commencement of this Act)~~ 1 July 2007, as if this Act had not been enacted.

- 51 References to Sports Disputes Tribunal**  
 ((On the commencement of this Act ))From 30 June 2007, unless the context otherwise requires, every reference to the Sports Disputes Tribunal in any contract or other instrument, document, or notice must be read as a reference to the Tribunal. 5

**New (unanimous)**

- 51A Transitional remuneration of members of Tribunal**  
 A person who, at ~~(the commencement of this Act)~~ 1 July 2007, is a member of the Sports Disputes Tribunal— 10
- (a) continues as a member of the Tribunal in accordance with that person's contract of employment or notice of appointment; and
  - (b) until a determination made in accordance with **section 35(1)** is given effect, continues to be remunerated in accordance with that contract or notice. 15

*Repeal (and), revocations, and consequential amendments*

- 52 New Zealand Sports Drug Agency Act 1994 repealed**  
 The New Zealand Sports Drug Agency Act 1994 is repealed. 20
- 53 Regulations revoked**  
 The regulations specified in *(the Schedule)* **Schedule 1** are revoked.

**New (unanimous)**

- 54 Consequential amendments to other Acts**  
 The Acts specified in **Schedule 2** are amended in the manner indicated in that schedule. 25

s 53

**Schedule 1**  
**Regulations revoked**

**New Zealand Sports Drug Agency Act Commencement Order  
1994 (SR 1994/285)**

**New Zealand Sports Drug Agency Amendment Act  
Commencement Order 2001 (SR 2001/27)** 5

**Sports Drug (Urine Testing) Regulations 1994 (SR 1994/286)**

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## New (unanimous)

## Schedule 2

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## Consequential amendments to other Acts

**Crown Entities Act 2004 (2004 No 115)**

Part 3 of Schedule 1: omit “New Zealand Sports Drug Agency”.

Part 3 of Schedule 1: insert “Drug Free Sport New Zealand” after  
“Commerce Commission”. 5**Ombudsmen Act 1975 (1975 No 9)**Part 2 of Schedule 1: omit “The New Zealand Sports Drug  
Agency”.Part 2 of Schedule 1: insert “Drug Free Sport New Zealand” after  
“District health boards”. 10**Remuneration Authority Act 1977 (1977 No 110)**Schedule 4: omit “The members of the New Zealand Sports Drug  
Agency”.Schedule 4: insert “The members of Drug Free Sport New Zealand”  
after “The Chief Community Magistrate”. 15Schedule 4: insert “The members of the Sports Tribunal of New  
Zealand” after “The Retirement Commissioner”.**Legislative history**

1 August 2005	Introduction (Bill 285–1)
13 December 2005	First reading and referral to Government Administration Committee
21 June 2006	Reported from Government Administration Committee (Bill 285–2)
10 October 2006	Second reading
19, 25 October 2006	Committee of the whole House (Bill 285–3)