

Reprint
as at 1 July 2007

**New Zealand Sports Drug Agency
Act 1994**

Public Act 1994 No 75
Date of assent 26 July 1994

The New Zealand Sports Drug Agency Act 1994: repealed, on 1 July 2007, by
section 59 of the Sports Anti-Doping Act 2006 (2006 No 58).

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

The New Zealand Sports Drug Agency Act 1994 is administered by the Department of Internal Affairs.

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An Act to establish the New Zealand Sports Drug Agency, to provide for testing for the use of drugs in sport, to encourage drug-free sport, and for related purposes

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the New Zealand Sports Drug Agency Act 1994.
- (2) This Act shall come into force on a date to be fixed by Order in Council.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Part 1 Preliminary

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

Agency means the New Zealand Sports Drug Agency established under section 4 of this Act

Annual testing programme means the programme developed under section 6(1)(c) of this Act

Board means the Board of the Agency

Competitor means a person who is registered as an athlete with, or who participates as an athlete in any sporting event or activities of, or sanctioned by, an international sporting federation, a national sporting organisation, a regional sporting organisation, or an affiliate of those bodies, or an affiliated club, team, association, or league, and who—

- (a) Is a New Zealand citizen; or
- (b) Is present in New Zealand; or
- (c) Is competing for New Zealand; or
- (d) Consents to be tested at the request of the Agency:

Determination means a determination under section 14 or section 16B, as the case may be, and which has been confirmed under section 22 of this Act, where that section is applicable

Determination: this definition was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression “section 16B” for the expression “section 16 of this Act”. *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Doping infraction means a determination made under section 16B that a competitor has used a scheduled drug or doping method or exceeded the permitted level of any scheduled drug

Doping infraction: this definition was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression “section 16B” for the expression “section 16(1)

of this Act”. See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Doping method means any method included in the schedule of drugs and doping methods maintained by the Agency under section 6(1)(a) of this Act

Drugs means banned substances, or substances that are banned if taken in excess of specified permitted levels, included in the schedule of drugs and doping methods maintained by the Agency under section 6(1)(a) of this Act

Executive Director*[Repealed]*

Executive Director: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

Foreign anti-doping body means—

- (a) An organisation established in a foreign country for the purpose of discouraging or eliminating the use of drugs or doping methods in sport; or
- (b) A laboratory in a foreign country; or
- (c) An international sporting federation; or
- (d) A foreign national sporting federation or foreign national sporting organisation:

Foreign country means any country other than New Zealand

Foreign government sports organisation means a department of State or a Government agency which oversees sport in a foreign country

Further testing means, where the sample is urine, the testing of the sample in the B bottle as provided in regulations; and, where the sample is not urine, the testing of the sample in such container as is specified in regulations; and **second testing** and **second test** shall have a corresponding meaning

Hillary Commission*[Repealed]*

Hillary Commission: this definition was repealed, as from 1 January 2002, by section 62 Sport and Recreation New Zealand Act 2002 (2002 No 38). See clause 2 Sport and Recreation New Zealand Act Commencement Order 2002 (SR 2002/376).

[Repealed]

Initial testing means, where the sample is urine, the testing of the sample in the A bottle as provided in regulations; and, where the sample is not urine, the testing of the sample in such

container as is specified in regulations; and **initial test** has a corresponding meaning

International Olympic Committee means the Committee established by the Congress of Paris on the 23rd day of June 1894, being the organisation entrusted with the control and development of the modern Olympic Games

Laboratory means an accredited laboratory that is included in the list prepared by the Agency under section 6(1)(b) of this Act

Minister means the Minister for Sport, Fitness, and Leisure

National sporting organisation means a body which represents members involved in a particular type of sporting event or activity in New Zealand; and includes a local, regional, or other sporting organisation, where a national organisation does not exist for that sport

New Zealand citizen means a person who has citizenship as provided in the Citizenship Act 1977 or the Citizenship (Western Samoa) Act 1982

Positive test result, in relation to a competitor, means a finding duly made by a laboratory, by means of testing a sample provided by a competitor, to the effect that—

- (a) The testing reveals the presence of a drug in the sample or the use of a doping method by the competitor, being a drug or doping method that is included in the schedule maintained by the Agency under section 6(1)(a) of this Act; and
- (b) Where the schedule sets out a permitted level in relation to that drug or doping method, the testing reveals that the permitted level has been exceeded:

Register means the Sports Drug Register established and maintained by the Agency under section 17 of this Act

Regulations means regulations in force under this Act

Sample means any human biological fluid or tissue

Scheduled drug or doping method means a drug or doping method, and any drug with a specified permitted level, included in the schedule maintained by the Agency under section 6(1)(a) of this Act

Specified athlete means a person whom the Agency is requested to test by a foreign anti-doping body, a foreign government sports organisation, or a foreign sports organisation under a contract testing arrangement

Sport and Recreation New Zealand means a Crown entity called Sport and Recreation New Zealand established under the Sport and Recreation New Zealand Act 2002

Sport and Recreation New Zealand: this definition was inserted, as from 1 January 2002, by section 62 Sport and Recreation New Zealand Act 2002 (2002 No 38). *See* clause 2 Sport and Recreation New Zealand Act Commencement Order 2002 (SR 2002/376).

Sport and Recreation New Zealand: this definition was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “a Crown entity” for the words “an agency”.

Test result means a finding duly made by a laboratory, in accordance with its testing procedures, that a sample test result is negative or positive

Working day means any day except—

- (a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and
- (b) A day in the period commencing on the 20th day of December in any year and ending with the 15th day of January in the following year.

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 Agency: this definition was inserted, as from 12 April 2001, by section 3 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

- (2) A reference in this Act to the use of drugs includes a reference to the use of doping methods.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

3 Purpose and principles

- (1) The purpose of this Act is to establish an independent agency to—

- (a) Oversee sports drug testing of competitors within and outside New Zealand; and
 - (b) Implement sports drug sampling and testing measures substantially in accordance with internationally recognised practices; and
 - (c) Provide education on the use of drugs and doping methods in sport.
- (2) To achieve the purpose of this Act, regard shall be given to the need to—
- (a) Encourage the practice of sport free from the use of drugs in a manner consistent with the objectives of protecting—
 - (i) The health of competitors; and
 - (ii) The values of fair play and competition; and
 - (iii) The rights of those who take part in sport:
 - (b) Encourage the development of programmes to educate the sporting community and the community at large about the dangers of using drugs in sport:
 - (c) Provide leadership in the development of a national strategy concerning the use of drugs in sport:
 - (d) Develop drug sampling and testing programmes that expose competitors to sampling and drug testing:
 - (e) Encourage national sporting organisations to participate in the development of the annual testing programme with the Agency:
 - (f) Encourage the development and maintenance of drug testing laboratories accredited by the International Olympic Committee or the World Anti-Doping Agency:
 - (g) Promote and encourage the adoption, at an international level, of uniform sampling and drug testing and disciplinary procedures, and of educational programmes relating to the use of drugs in sport.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (2)(f) was amended, as from 12 April 2001, by section 4 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by inserting the words “or the World Anti-Doping Agency”. See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Part 2

Establishment and functions of New Zealand Sports Drug Agency

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

4 New Zealand Sports Drug Agency

- (1) There is hereby established an Agency to be known as the New Zealand Sports Drug Agency.
- (2) The Agency is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Agency except to the extent that this Act expressly provides otherwise.
- (4)
- (5) The provisions of the Schedule to this Act shall have effect as to the constitution and operation of the Agency and as to the other matters set out in that Schedule in addition to the provisions of the Crown Entities Act 2004.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsections (2) and (3) were substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (4) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (5) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words “in addition to the provisions of the Crown Entities Act 2004”.

5 Membership of Board of Agency

- (1) The Board of the Agency shall consist of not more than 5 members.
- (2) When considering whether to recommend a person for appointment as a member of the Board, the Minister shall have regard to the need to ensure that the membership includes a mix of knowledge and experience in matters coming before the Board, including knowledge and experience in—
 - (a) Law; and
 - (b) Sports medicine; and
 - (c) Sports participation and administration.

- (3) Subsection (2) does not limit section 29 of the Crown Entities Act 2004.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “appointed by the Minister, one of whom shall be appointed chairperson of the Board”.

Subsection (2) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “to recommend a person for appointment” for the words “a person is suitable to be appointed”.

Subsection (3) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

6 Functions of Agency

- (1) The Agency shall have the following functions under this Act:
- (a) preparing, maintaining, and disseminating a schedule of—
 - (i) drugs and doping methods that are banned for the purposes of this Act; and
 - (ii) drugs and doping methods that are banned for the purposes of this Act except at specified permitted levels (including levels defined relative to levels of other substances); and
 - (iii) circumstances in which specified drugs or doping methods, or levels of drugs or doping methods, that are otherwise banned for the purposes of this Act, are not banned; and
 - (iv) evidence that the Board will accept as establishing the existence of circumstances described in subparagraph (iii) including, where appropriate, procedures for the collection and interpretation of that evidence:
 - (b) Preparing and maintaining a list of the laboratories accredited by the International Olympic Committee or the World Anti-Doping Agency for the purpose of testing for the use of drugs in sport:
 - (c) In consultation with national sporting organisations, developing an annual testing programme which, for out-of-competition testing, identifies the competitors or the number of, or classes of, competitors, liable for testing and for in-competition testing, identifies the sport-

ing events, competitions, and activities at which testing may be carried out:

- (d) Selecting competitors included in the annual testing programme to provide samples for testing, testing those competitors, and notifying the results:
- (e) Selecting other competitors to provide samples for testing, testing those competitors, and notifying the results:
- (f) Testing specified athletes and notifying the test results following sampling requests made under contracts or arrangements entered into under section 25 of this Act:
- (fa) collecting evidence in accordance with any procedures specified in the schedule under paragraph (a)(iv):
- (g) Establishing and maintaining a Sports Drug Register and notifying competitors and national sporting organisations of entries made in the Register:
- (h) Disseminating information about—
 - (i) Action that is likely to be taken if competitors record positive test results or fail to comply with requests to provide samples for testing; and
 - (ii) Testing procedures adopted by the Agency:
- (i) Making determinations regarding requests for the provision of samples and in respect of test results from samples from competitors:
- (j) Notifying competitors and national sporting organisations of determinations made by the Agency:
- (k) Developing and implementing educational programmes to discourage the use of drugs in sport, and related matters:
- (l) Collecting and disseminating information about the use of drugs in sport, and related matters:
- (m) Consulting with, advising, and assisting Government departments, local authorities, national sporting organisations, and other bodies or persons on any matters concerned with the use of drugs in sport, and related matters:
- (n) Consulting with, advising, and assisting Government and non-Government organisations and other persons overseas, for the purpose of promoting the adoption of uniform international drug-testing procedures:

- (o) Taking steps aimed at ensuring New Zealand's compliance with international agreements and arrangements to which New Zealand is a party, concerning the use of scheduled drugs and doping methods in sport:
 - (p) Establishing an information service that identifies—
 - (i) The problems associated with the misuse of drugs in sport; and
 - (ii) Alternative ways of improving sports performance without the use of drugs:
 - (q) Advising the Minister on any matters related to the use of drugs in sport, and related matters:
 - (r) Generally taking all such steps as may be necessary or desirable to achieve the purpose of this Act:
 - (s) Such other functions as are conferred on the Agency by this Act or any other Act.
- (2) In the exercise of its functions and powers, the Agency shall establish for its use, and for the use of its committees, procedures that are appropriate and fair in the circumstances, and shall comply with the principles of natural justice.
- (3) Except as expressly provided otherwise in this or any other Act, the Agency must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—
- (a) this Act; and
 - (b) any other Act that expressly provides for the functions, powers or duties of the Agency (other than the Crown Entities Act 2004).

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1)(a) was substituted, as from 12 April 2001, by section 5(1) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (1)(b) was amended, as from 12 April 2001, by section 5(2) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by inserting the words “or the World Anti-Doping Agency” after the word “Committee”. *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (1)(fa) was inserted, as from 12 April 2001, by section 5(3) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (3) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

6A Review of schedule

The Agency must from time to time review the contents of the schedule maintained under section 6(1)(a) having regard to the substances and doping methods specified for the time being by the International Olympic Committee or the World Anti-Doping Agency, or both, as prohibited substances and prohibited doping methods.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Section 6A was inserted, as from 12 April 2001, by section 6 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

7 Powers of Agency

(1)

(2)

(3) Subject to section 8 of this Act, the Agency may charge such fees, or impose such charges, as are reasonable in respect of the provision of services, information, or advice requested from the Agency, other than information supplied to a competitor relating to the competitor.

(4) The amount or rate of a fee or charge shall 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.

(5) The Agency's powers may be exercised within and outside New Zealand.

(6) This section does not limit sections 16 and 17 of the Crown Entities Act 2004.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsections (1) and (2) were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (6) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

8 Charges for testing

- (1) The Agency shall not make any charge to a national sporting organisation for testing conducted under the annual testing programme.
- (2) The Agency may, at the request of a national sporting organisation, conduct testing not provided for under the annual testing programme, and may charge the national sporting organisation fees for such testing.
- (3) Where the Agency conducts testing under subsection (2) of this section, competitors shall be entitled to the rights to which they are entitled under this Act.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

9 Recognising the needs and privacy of competitors

In performing and exercising its functions and powers under this Act, the Agency shall develop appropriate procedures to—

- (a) Reflect the needs of competitors who are under the age of 18 years and the cultural, language, disabilities, and other special concerns of competitors; and
- (b) Protect the right to privacy of competitors.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Part 3**Taking, testing, and notification of results
of samples**

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

*Taking of samples***10 Providing a sample**

The Agency may require a competitor to provide a sample for analysis in the manner provided for by regulations for the purpose of detecting the presence or otherwise of a scheduled drug or doping method.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

11 Requirements of regulations in regards to tests

Subject to this Act, a sample provided by a competitor must be dealt with in accordance with the requirements of the regulations.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Section 11 was substituted, as from 12 April 2001, by section 7 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

12 Sampling for purposes of Act only

- (1) The Agency shall not request, or collect, a sample from a competitor for any purpose other than to enable the testing of the sample to determine the presence or otherwise of scheduled drugs or doping methods.
- (2) Nothing in this Act shall be taken to imply that a person becomes subject to any criminal or civil liability because that person has failed to comply with a request to provide a sample.
- (3) A sample or a test result provided for the Agency, or any determination made by the Agency, shall not be admissible as evidence in any criminal proceedings against the competitor from whom any sample has been taken.
- (4) The Agency shall require the laboratory to discard samples sent to it by the Agency following the completion of testing and notification of the results to the Agency.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Failure to provide sample

13 Action following failure to provide a sample

- (1) Where it appears to the Agency that a competitor has failed to comply with a request to provide a sample in the manner provided for by regulations, the Agency shall give to the competitor a notice in the prescribed form stating—
 - (a) That the competitor has failed to comply with such a request; and

- (b) That the competitor may, before 5.00pm on the 5th working day following notification, advise the Agency in writing of the grounds on which the competitor had reasonable cause for failing to comply with the request.
- (2) For the purposes of this Act, a competitor must not be taken to have failed to comply with a request to provide a sample unless the competitor was notified in the manner required by the regulations of the requirement that he or she provide the sample.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (2) was substituted, as from 12 April 2001, by section 8 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

14 Determination by Board of Agency on failure to provide a sample

- (1) The Board of the Agency shall determine whether or not the competitor had reasonable cause for failing to comply with a request to provide a sample within a period of 7 days after receiving advice from the competitor in accordance with section 13(1)(b) of this Act or, if advice is not supplied, within 7 days after the expiration of the period of 5 working days referred to in that section.
- (2) In making its determination the Board must take into consideration—
 - (a) the nature and effect of any departure by any person from the procedures in the regulations; and
 - (b) any submissions made by or on behalf of the competitor.
- (3) Where the Board makes a determination that the competitor did not have reasonable cause to fail to provide a sample, the Agency shall enter the determination on the Register in accordance with section 17(2) of this Act.
- (4) Where the Board makes a determination that the competitor had reasonable cause for failing to provide a sample, the Agency shall give written notification to the competitor in the prescribed form.

- (5) Subject to sections 20 to 23 of this Act, a determination by the Board under this section shall be final and conclusive.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (2) was substituted, as from 12 April 2001, by section 9 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Positive and negative test results

This heading was substituted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). The previous heading read as follows: "Testing of Samples". See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

15 Determination by Board as to whether specified circumstances exist

- (1) This section applies to a competitor who has, after the initial testing of the sample, returned a positive test result for a drug or doping method that is not banned in circumstances specified in the schedule under section 6(1)(a)(iii).
- (2) The Board must determine under subsection (3) whether it is established that the circumstances specified in the schedule in respect of the drug or doping method existed in the competitor's case at the time the competitor was tested.
- (3) The Board must determine that it is established that the circumstances existed at the time the competitor was tested if either—
- (a) the evidence specified in the schedule under section 6(1)(a)(iv) in relation to the specified circumstances, that was required to exist at the time the competitor was tested, existed in the competitor's case at that time; or
 - (b) the schedule specifies other evidence under section 6(1)(a)(iv) in relation to the specified circumstances and that evidence exists in the competitor's case.
- (4) Where the Board determines that it is established that the specified circumstances existed in the competitor's case at the time the competitor was tested, the competitor's test result is, for the purposes of this Act, a negative test result returned after the initial testing of the sample.

- (5) Where the Board determines that it is not established that the specified circumstances existed in the competitor's case at the time the competitor was tested, the competitor's test result remains a positive test result returned after the initial testing of the sample for the purposes of this Act.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Sections 15 and 16 and the preceding heading "Positive and negative test results" were substituted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

16 Notification of negative test result

Where a competitor returns a negative test result after the initial testing of the sample, the Agency must, as soon as practicable, give written notification of that result, in the prescribed form, to the competitor and to the national sporting organisation or organisations concerned.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Sections 15 and 16 and the preceding heading "Positive and negative test results" were substituted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

16A Notification of positive test result

Where a competitor returns a positive test result after the initial testing of the sample, the Agency must, as soon as practicable, give the competitor written notification in the prescribed form stating—

- (a) the result of the test; and
- (b) that further testing of the sample will be conducted by a laboratory within 4 working days after service of the notice; and
- (c) that the competitor may attend or have a representative attend this further testing of the sample, the attendance to be at the expense of the competitor; and
- (d) that if the competitor does not notify the Agency that the competitor seeks attendance or representation under

- paragraph (c), the Agency will appoint an independent representative for the competitor, to attend at the second testing at the expense of the Agency; and
- (e) that the competitor may, by 5 pm on the 5th working day following service of the notice, advise the Agency in writing of any matters which the competitor considers the Board of the Agency, before making a determination, should take into consideration under section 16D(a) if the second test result confirms the initial test result; and
 - (f) that the competitor or the competitor's representative may advise the Agency in writing of any matters concerning the second testing that it is considered the Board should take into consideration under section 16D(a), before the making of the determination, such advice to be provided to the Agency within 3 working days after the second testing; and
 - (g) if the positive test result is in respect of a drug or doping method that is not banned in circumstances specified in the schedule under section 6(1)(a)(iii),—
 - (i) the nature of those circumstances; and
 - (ii) the nature of the evidence specified in the schedule under section 6(1)(a)(iv) that the competitor may provide to the Agency, including any procedures for the collection and interpretation of that evidence that are specified in the schedule.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Sections 16A to 16F were inserted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

16B Determination by Board on positive test result

- (1) Where the initial testing of a sample has returned a positive test result, the Board must determine whether or not the competitor has committed a doping infraction.
- (2) The Board must make its determination within the time limit set out in section 16C.

- (3) When the Board is making its determination, it must take into consideration the matters set out in section 16D.
- (4) The Board must determine that the competitor has not committed a doping infraction if it is satisfied of 1 or more of the matters set out in section 16E.
- (5) Subject to sections 20 to 23, a determination under this section is final and conclusive.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Sections 16A to 16F were inserted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

16C Time limits

- (1) The Board must make its determination under section 16B within the time limit set out in subsection (2) or subsection (3).
- (2) The Board must make its determination within 7 days after the completion of the procedures where—
 - (a) the initial testing of a sample returns a positive test result in respect of a drug or doping method, or level of drug or doping method, that is not banned in circumstances specified in the schedule under section 6(1)(a)(iii); and
 - (b) the schedule specifies procedures for the collection or interpretation, or both, of evidence in relation to the specified circumstances and the procedures require or allow the completion of the procedures after the second testing of the sample.
- (3) In any other case the Board must make its determination,—
 - (a) if advice is received in accordance with both paragraphs (e) and (f) of section 16A, or section 16A(f) only, within 7 days after receiving advice from the competitor in accordance with section 16A(f); or
 - (b) if advice is received in accordance with section 16A(e), but not section 16A(f), within 7 days after the expiry of the period referred to in section 16A(f); or
 - (c) if advice is not supplied in accordance with either paragraph (e) or paragraph (f) of section 16A, within 7 days

after the 7th working day after the date of notification under section 16A.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Sections 16A to 16F were inserted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

16D Matters to be taken into consideration

When the Board is making its determination under section 16B, it must—

- (a) take into consideration any submissions made by or on behalf of the competitor; and
- (b) take into consideration whether the second testing confirmed the initial test result; and
- (c) where the initial testing of a sample produced a positive test result in respect of a drug or doping method, or level of drug or doping method, that is not banned in circumstances specified in the schedule under section 6(1)(a)(iii), consider—
 - (i) any evidence specified in the schedule under section 6(1)(a)(iv) that is available to the Board in relation to the specified circumstances; and
 - (ii) whether the evidence in subparagraph (i) was collected and interpreted in accordance with procedures (if any) specified in the schedule under section 6(1)(a)(iv); and
 - (iii) any other relevant evidence available to the Board; and
 - (iv) any advice on the interpretation of the evidence in subparagraph (i) or subparagraph (iii) received from any person for the time being appointed under clause 12(3) of the Schedule of this Act.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Sections 16A to 16F were inserted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

16E Matters Board to be satisfied of

The matters referred to in section 16B(4) are that—

- (a) the second testing of the sample has not supported the initial test result; or
- (b) the positive test result relates to a drug or doping method that is not banned in circumstances specified in the schedule under section 6(1)(a)(iii), and those circumstances existed in the competitor's case at the time the competitor was tested; or
- (c) the sample was not tested by a laboratory; or
- (d) the identity or integrity of the sample or the reliability of the test result were compromised, or are likely to have been compromised, by any failure of the Agency or the laboratory to comply with the requirements of the regulations relating to the sealing of any container containing the sample or the recording of information relating to the sample; or
- (e) the identity or integrity of the sample or the reliability of the test result were compromised, or are likely to have been compromised, by any failure of the Agency or the laboratory to comply with the requirements of this Act or the regulations in any respect other than one described in paragraph (c) or paragraph (d); or
- (f) the identity or integrity of the sample or the reliability of the test result were compromised, or are likely to have been compromised, by anything other than a matter described in any of paragraphs (c) to (e).

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Sections 16A to 16F were inserted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

16F Board's actions following determination on positive test result

- (1) Where the Board determines that a competitor has committed a doping infraction, the Agency must enter the determination on the Register in accordance with section 17(2).

- (2) Where the Board determines that a competitor has not committed a doping infraction, the Agency must give written notification of the determination, in the prescribed form, to the competitor and the national sporting organisation or organisations concerned.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Sections 16A to 16F were inserted, as from 12 April 2001, by section 10 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Sports Drug Register

17 Agency to maintain Sports Drug Register

- (1) The Agency shall establish and maintain a Sports Drug Register for the purpose of recording the name of each competitor in respect of whom—
- (a) A determination has been made by the Board of the Agency to the effect that—
- (i) Under section 14 of this Act, the competitor did not have reasonable cause for failing to comply with a request to provide a sample; or
- (ii) Under section 16B, the competitor has committed a doping infraction—
- and that determination has not been quashed as a result of an appeal to the District Court under section 20 of this Act; or
- (b) The Agency has been advised, pursuant to section 26 or section 27 of this Act, as the case may be, that the competitor did not have reasonable cause for failing to comply with a request to provide a sample, or a doping infraction has been committed.
- (2) The Agency shall enter in the Register such particulars of the determination as may be prescribed, as soon as practicable after the determination has been made.
- (3) Where a determination has been quashed by the District Court pursuant to section 22 of this Act, the Agency shall delete from the Register any entry relating to that determination.

- (4) The Agency shall keep the contents of the Register under review and shall delete entries which are outdated or which it is otherwise appropriate to delete.
- (5) A competitor may apply to the Agency at any time for deletion of the entry concerning the competitor from the Register, and the Agency shall consider any such request and the reasons given in support of it.
- (6) If the Agency deletes an entry from the Register, it shall give written notification of the deletion to the competitor and the national sporting organisation or organisations concerned. Written notification of the deletion shall also be given to the Sport and Recreation New Zealand, but not the competitor's name.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1)(a)(ii) was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression "section 16B" for the expression "section 16 of this Act". See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (6) was amended, as from 1 January 2002, by section 62 Sport and Recreation New Zealand Act 2002 (2002 No 38) by substituting the words "Sport and Recreation New Zealand" for the words "Hillary Commission". See clause 2 Sport and Recreation New Zealand Act Commencement Order 2002 (SR 2002/376).

18 Notification of entry on Register

- (1) Except as otherwise provided in subsection (7) of this section, the Agency shall, as soon as practicable after entering a competitor's name on the Register under section 17 of this Act, give written notification, in the prescribed form, of the contents of the entry to the competitor and the national sporting organisation or organisations concerned.
- (2) If it comes to the knowledge of the Agency that a competitor whose name has been entered on the Register under section 17 of this Act—
 - (a) Is (as a competitor) a member, or has (as a competitor) become a member, of; or
 - (b) Is associated as an administrator or coach with—

- another national sporting organisation, the Agency shall give written notification of the contents of the Register in respect of that competitor to that other national sporting organisation.
- (3) The Agency shall advise the Chief Executive of the Sport and Recreation New Zealand, in respect of each entry in the Register, of the name of the sport and the fact that a determination has been made, that a competitor did not have reasonable cause for failing to comply with a request to provide a sample, or that a doping infraction has been committed.
 - (4) The Agency may from time to time publish or otherwise disclose statistical information regarding entries made in the Register for the purposes of this Act.
 - (5) The Agency shall not advise any person or organisation of entries made in the Register, except as provided in subsections (1), (2), and (3) of this section, nor shall it permit any person or organisation to inspect the Register.
 - (6) A competitor may at any time request the Agency to disclose, to the competitor, any entry on the Register concerning the competitor, and the Agency shall comply with any such request.
 - (7) A competitor may at any time request the Agency to correct information held on the Register concerning that competitor, and may request that a notation be made on the Register indicating the nature of a correction requested but not made.
 - (8) Where an entry is made in the Register recording a determination that a doping infraction has been committed, the Agency shall include in the notice of the entry to the competitor, and to the national sporting organisation or organisations, the Board's reasons for so determining.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (3) was amended, as from 12 April 2001, by section 11 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by inserting the words "comply with a request to" after the words "failing to". See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (3) was amended, as from 1 January 2002, by section 62 Sport and Recreation New Zealand Act 2002 (2002 No 38) by substituting the words "Sport and Recreation New Zealand" for the words "Hillary Commission". See clause 2 Sport and Recreation New Zealand Act Commencement Order 2002 (SR 2002/376).

19 National sporting organisation to advise Agency of action

It shall be the duty of a national sporting organisation which receives notification from the Agency under section 18 of this Act to advise the Agency in writing, within 1 month after notification, of any action taken by the organisation in relation to the competitor, administrator, or coach concerned as a result of that notification.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

*Appeals to District Court***20 Competitor may appeal to District Court**

- (1) A competitor who has received notification of a determination by the Board under section 14 or section 16B, as the case may be, may appeal to the District Court against that determination.
- (2) The grounds for an appeal shall be limited to—
 - (a) In the case of a determination under section 14 of this Act, whether there was reasonable cause for the competitor failing to provide a sample as requested by the Agency;
 - (b) in the case of a determination under section 16B, that—
 - (i) the second testing of the sample did not support the initial test result; or
 - (ii) the positive test result relates to a drug or doping method that is not banned in circumstances specified in the schedule under section 6(1)(a)(iii) and those circumstances existed in the competitor's case at the time the competitor was tested; or
 - (iii) the sample was not tested by a laboratory; or
 - (iv) the Agency or the laboratory failed to comply with the requirements of the regulations relating to the sealing of any container containing the sample or the recording of information relating to the sample; or
 - (v) the Agency or the laboratory failed to comply with the requirements of this Act or the regulations in any respect other than one described in subparagraph (iii) or subparagraph (iv); or

- (vi) the identity or integrity of the sample or the reliability of the test result were compromised, or are likely to have been compromised, by anything other than a matter described in any of subparagraphs (iii) to (v).

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1) was amended, as from 12 April 2001, by section 12(1) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression “section 16B,” for the expression “section 16 of this Act.”. *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (2)(b) was substituted, as from 12 April 2001, by section 12(2) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

21 Procedures relating to appeal to District Court

- (1) An appeal shall be brought by the filing of a notice of appeal, in the prescribed form, by the competitor or his or her representative in the District Court within 5 working days after service of notification of the determination concerned, and the notice shall set out the grounds on which the appeal is made.
- (2) As soon as practicable after such a notice of appeal has been filed, the Registrar shall lodge a copy of the notice with the Agency and the national sporting organisation or organisations concerned.
- (3) The appeal shall be referred to a District Court Judge within 7 working days after receipt of a valid notice of appeal.
- (4) The Registrar shall fix the time and place for the hearing of the appeal and shall notify the appellant.
- (5) A copy of the notice of the time and place for hearing the appeal shall be served by the Registrar on the Agency and the national sporting organisation or organisations concerned.
- (6) The Agency shall furnish to the Registrar of the Court, before the hearing, a report on the manner in which the proceedings were conducted and the reasons for the making of the determination, and shall supply to the Court such information or assistance as may be required of it by the Court, and shall be represented at the hearing.

- (6A) Without limiting subsection (6), the Court may ask the Agency for information or assistance in the course of satisfying itself of the matters described in section 22(1A).
- (7) The Registrar may require the competitor to provide a notice of the points of appeal in support of the appeal and, if such a notice is requested, shall require the competitor to provide the Agency and the national sporting organisation or organisations concerned with a copy of the documents accompanying the notice of appeal or otherwise provided under this subsection.
- (8) The competitor and the national sporting organisation may speak (either personally or through a representative) and call evidence at the hearing in support of the appeal, whether or not such evidence is admissible in a court of law.
- (9) The District Court shall—
- (a) Avoid unnecessary delay or formality; and
 - (b) Receive such evidence as it considers relevant, whether or not it would be admissible in a court of law.
- (10) The appeal may from time to time be adjourned and, in the case of death or illness or if for any other reason a Judge cannot complete the hearing and determination of the appeal, another Judge may be appointed to complete it.
- (11) The appeal shall be heard in chambers.
- (12) Except in relation to the payment of fees for the filing and hearing of an appeal and to enforcement of the payment of costs, the District Court Rules shall have no application in respect of the appeal.
- (13) Fees for the hearing of an appeal shall be payable only in respect of the first half day of the hearing.
- (14) The procedure at the hearing shall be as the Judge determines, subject to this Act and to any regulations.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (6A) was inserted, as from 12 April 2001, by section 13 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

22 Decision of District Court

- (1) On the completion of the hearing of the appeal, the District Court may—
 - (a) Quash the determination appealed against; or
 - (b) Confirm the determination.
- (1A) The District Court must not quash a determination by reason of a failure referred to in subparagraph (iv) or subparagraph (v) of section 20(2)(b) if the District Court is satisfied that the failure did not compromise the identity or integrity of the sample or the reliability of the test result.
- (2) The decision of the District Court shall include the reasons for the decision.
- (3) Within 3 working days after the Registrar has received the written decision, the Registrar shall forward a copy of it to the appellant, the Agency, and the national sporting organisation or organisations concerned.
- (4) A decision of the District Court confirming a determination shall be given effect to as if it were a determination of the Board under section 14 or section 16B, as the case may be.
- (5) If the District Court quashes a determination, the Agency shall give written notification of the Court's decision to the Sport and Recreation New Zealand, but not the appellant's name.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1A) was inserted, as from 12 April 2001, by section 14 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (4) was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression "section 16B" for the expression "section 16 of this Act". *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (5) was amended, as from 1 January 2002, by section 62 Sport and Recreation New Zealand Act 2002 (2002 No 38) by substituting the words "Sport and Recreation New Zealand" for the words "Hillary Commission". *See* clause 2 Sport and Recreation New Zealand Act Commencement Order 2002 (SR 2002/376).

23 Limitation on proceedings in relation to appeals to District Court

No proceedings, other than injunctive proceedings, shall be initiated in any Court by any person or organisation in respect of a determination of the Board under section 14 or section 16B unless the competitor has appealed under section 20 of this Act, and the appeal has been undertaken and a decision made under section 22 of this Act:

Provided that nothing in this section shall affect the right of any person or organisation to apply, in accordance with law, for a judicial review of any such determination if an applicable right of appeal against the determination is not available under this Act.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Section 23 was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression "section 16B" for the expression "section 16 of this Act". See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Appeal to High Court

24 Appeal to High Court on question of law

- (1) Where the Board makes a determination under section 14 or section 16B and that determination has been appealed against under section 20 of this Act, a competitor who is dissatisfied with the decision of the District Court on the appeal, as being erroneous in point of law, may appeal to the High Court on that question of law.
- (2) Where a District Court makes a decision pursuant to section 22 of this Act which the Agency considers is erroneous in point of law, the Agency may appeal to the High Court on that question of law.
- (3) Subject to this section, every appeal under this section shall be dealt with in accordance with Part 10 of the High Court Rules.
- (4) The national sporting organisation concerned shall be a party to any appeal brought under this section.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1) was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the ex-

pression “section 16B” for the expression “section 16 of this Act”. *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Part 4

Testing for and by foreign organisations

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

25 Contract testing

- (1) The Agency may enter into a contract or arrangement with a foreign anti-doping body, an international sporting federation, a foreign government sports organisation, or a foreign sports organisation under which the Agency may—
 - (a) Collect samples from specified athletes for the purpose of testing whether any scheduled drug or doping method is present in the samples; and
 - (b) Arrange for the testing of the samples by a laboratory; and
 - (ba) testing a New Zealand competitor out-of-competition; or
 - (c) Arrange for the secure transport of the samples to a laboratory; and
 - (d) Give notice of the results of the testing to such persons and organisations as may be specified in the contract or arrangement.
- (2) A contract or arrangement shall be entered into by the Agency under subsection (1) of this section only for the purposes of—
 - (a) Testing a foreign athlete who is in New Zealand; or
 - (b) Conducting testing at a sporting event held in New Zealand by the international sporting federation making the request; or
 - (c) Conducting testing in a foreign country.
- (3) The Agency may do anything lawfully required or lawfully necessary to be done to give effect to the contract or arrangement.
- (4) The procedures for testing under a contract or arrangement are those set out in this Act and the regulations, unless the contract or arrangement provides otherwise.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (2)(ba) was inserted, as from 12 April 2001, by section 15(1) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (4) was substituted, as from 12 April 2001, by section 15(2) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

26 Foreign anti-doping body may take sample for Agency

- (1) The Agency may request a foreign anti-doping body to take a sample for it from a competitor who is in a foreign country.
- (2) If a foreign anti-doping body advises the Agency, following a request to provide a sample, that a competitor has—
 - (a) Failed to provide a sample to that body without reasonable cause; or
 - (b) Provided a sample which has produced a positive test result—

the Agency shall determine, in each case, whether the procedures carried out by that body were of a similar effect to the procedures set out in this Act and the regulations in respect of—

 - (c) The manner in which the sample is requested; and
 - (d) The collection of samples; and
 - (e) The sealing of the containers in which the sample is to be kept until it is tested; and
 - (f) The transportation of samples to a laboratory; and
 - (g) The analysis of samples at a laboratory; and
 - (h) The competitor's rights in relation to the testing of the sample.
- (3) If the Board is satisfied that the procedures carried out were of a similar effect to the procedures set out in this Act and the regulations,—
 - (a) the Agency must notify the competitor in terms of section 13 or section 16A, as the case may be, of the advice from the body; and
 - (b) the Board must make a determination under section 14 or section 16B, as the case may be.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (2) was amended, as from 12 April 2001, by section 16(1) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the words “of a similar effect to” for the words “substantially in accordance with”. See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (3) was substituted, as from 12 April 2001, by section 16(2) New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

27 Decisions notified by foreign anti-doping body

(1) If a foreign anti-doping body informs the Agency that a competitor who has been selected by that body to provide a sample has—

- (a) Failed to provide a sample to that body without reasonable cause; or
- (b) Committed a doping infraction in relation to a sample provided to that body—

the Agency shall determine, in each case, whether the procedures carried out by that body were of a similar effect to the procedures set out in this Act and the regulations in respect of the matters set out in paragraphs (c) to (h) of section 26(2) of this Act.

(2) If the Agency is satisfied that the procedures were carried out substantially in accordance with the procedures set out in this Act and the regulations, the Agency shall enter the information on the Register, and the entry shall be deemed to be a determination of the Board under section 14 or section 16B, as the case may require.

(3) The Agency shall give written notice of the entry to the competitor and to the national sporting organisation or organisations concerned as soon as practicable after the entry is made.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1) was amended, as from 12 April 2001, by section 17 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the words “of a similar effect to” for the words “substantially in accordance with”. See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subsection (2) was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression “section 16B” for the expression “section 16 of this Act”. See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

28 Notification where competitor not a New Zealand competitor

Where, under section 14 or section 16B, the Agency is to give notification in relation to a competitor, and that competitor is not a New Zealand citizen, the Agency, in addition to notifying the competitor and the national sporting organisation or organisations concerned, may notify each overseas sporting organisation known to the Agency—

- (a) Of which the competitor is, as a competitor, a member; or
- (b) With which the competitor is associated as an administrator or coach.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Section 28 was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression “section 16B” for the expression “section 16 of this Act”. See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Part 5 Miscellaneous provisions

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

29 Restriction on delegation

- (1) The Board may not delegate—
 - (a) the power of the Board to make determinations under sections 14 and 16B; or
 - (b) the fixing of fees and charges under section 7.
- (2) In other respects, section 73 of the Crown Entities Act 2004 applies.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1)(a) was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression “section 16B” for the expression “16 of this Act”. *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Section 29 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

30 Service of notices

- (1) Where, for the purposes of this Act, any competitor is to be notified of any matter, notice of that matter shall be given, served on, or supplied to that person in the following manner:
 - (a) Personally; or
 - (b) By leaving it at that competitor’s usual or last known place of residence or business or at the address specified by the competitor in any document received from that competitor; or
 - (c) By posting it in a letter addressed to the competitor at that place of residence or business or at that address.
- (2) If any such notice is sent to any competitor by post, then, in the absence of proof to the contrary, the notice shall be deemed to have been delivered to the competitor on the 4th day after the date on which it was posted, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.
- (3) If the competitor’s address is in a foreign country, the Agency shall use all reasonable endeavours (including, but not limited to, the use of courier services) to supply the competitor with the notice within 4 days after the date of despatch by the Agency.
- (4) If any notice is sent pursuant to subsection (3) of this section, then, in the absence of proof to the contrary, the notice shall be deemed to have been delivered to the competitor—
 - (a) On the day on which written confirmation of delivery is received by the Agency from the agency which effected delivery; or
 - (b) If posted in the foreign country, on the 4th day after the date on which written confirmation is received by the Agency that the notice has been posted to the competitor and that it was properly addressed and posted.

- (5) In proving a delivery effected pursuant to subsection (3) of this section by post in a foreign country, it shall be sufficient to prove that the letter was properly addressed and posted.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

31 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) Prescribing the procedure to be followed when a request for the supply of a sample is made:
 - (aa) prescribing ways in which a competitor fails to comply with a request to provide a sample, without limiting the ways in which it may appear to the Agency that a competitor has failed to comply with a request:
 - (b) Prescribing human biological fluid or tissue which may be tested:
 - (c) Prescribing the procedure to be followed for the taking of samples:
 - (d) Prescribing the means of identification and attestation of samples and their transportation to laboratories:
 - (e) Prescribing the procedure for the testing of samples:
 - (f) Prescribing the procedure for the notification of test results to the Agency, and by the Agency to competitors and national sporting organisations:
 - (g) Prescribing the manner in which competitors may make submissions to the Agency:
 - (h) Prescribing the form and content of the Sports Drug Register:
 - (i) Prescribing the manner in which competitors may appeal to the District Court against a determination made by the Agency:
 - (j) Prescribing matters relating to the conduct of appeals to the District Court:
 - (k) Prescribing the content of notices:
 - (l) Making provision in respect of the duties and responsibilities of persons appointed as drug testing officials:

- (m) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.
- (2) Before making any recommendation for the purposes of subsection (1) of this section, the Minister shall request the Agency to—
 - (a) Do everything reasonably practicable on its part to advise all persons and organisations, who or which in its opinion may be affected by any regulations made in accordance with the recommendation, of the proposed terms of the regulations; and
 - (b) Give such persons and organisations a reasonable opportunity to make submissions on them to the Agency; and
 - (c) Advise the Minister of any submissions received and any comments the Agency wishes to make on the proposed regulations.
- (3) Subsection (2) of this section shall not apply in respect of any regulations if the Minister considers it is desirable in the public interest that the regulations be made urgently.
- (4) A failure to comply with subsection (2) of this section shall not affect the validity of any Order in Council made under this section.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

Subsection (1)(aa) was inserted, as from 12 April 2001, by section 18 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

32 Time limits may be extended

Where, under this Act, any time limit is provided for the making of any application, or for any other procedure, the Agency or the District Court may, in any particular case, extend that time limit as it sees fit.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

33 Interpretation: transitional provisions

In sections 34 to 37 of this Act, unless the context otherwise requires,—

Interim Agency means the sports drug testing agency established and operated by the Hillary Commission before the commencement of this Act

Undertaking means all contracts, engagements, rights, authorities, and liabilities of the Interim Agency, including any grants, subsidies, donations, and gifts.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

34 Transitional provisions relating to staff

Every person employed by the Interim Agency immediately before the commencement of this Act shall, on the commencement of this Act, be deemed to have been appointed as an employee of the Agency on the same terms and conditions of employment (including those relating to salaries and allowances) as applied in respect of that person immediately before such commencement.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

35 Transitional provisions relating to records

All records held by the Interim Agency before the commencement of this Act shall be transferred to the Agency on the commencement of this Act.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

36 Undertaking of Interim Agency

- (1) On the commencement of this Act, the undertaking of the Interim Agency shall vest in the Agency.
- (2) Every agreement, contract, deed, instrument, undertaking, or notice entered into, executed, or given by the Interim Agency, and every action taken by the Interim Agency, before the commencement of this Act, to the extent that it would have been valid if entered into, executed, given, or taken by the Agency after the commencement of this Act, is hereby validated and

declared to have been lawfully entered into, executed, given, or taken.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

37 Savings

Where the Interim Agency has requested a competitor to provide a sample and the procedures relating to that request remain uncompleted at the commencement of this Act, the Interim Agency shall complete those matters in terms of its existing rules.

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

38 Ombudsmen Act 1975 amended

[Repealed]

Sections 38 and 39 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

39 Agency to be Crown entity

[Repealed]

Sections 38 and 39 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Schedule

Section 4(5)

**Provisions relating to New Zealand Sports
Drug Agency**

This Act was repealed, as from 1 July 2007, by section 59 Sports Anti-Doping Act 2006 (2006 No 58).

1 Term of office of members of Board

[Repealed]

Clauses 1 and 2 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2 Meetings of Board*[Repealed]*

Clauses 1 and 2 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

3 Chairperson or designated member may act alone for competition purposes

- (1) Should the exigencies of testing during a sporting event or activity require a determination to be made urgently under section 14 or section 16B (as the case may be), the chairperson or a member designated by the Board for the purpose may make such a determination acting alone.
- (2) This clause applies despite section 25 of the Crown Entities Act 2004.

Clause 3 was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression “section 16B” for the expression “section 16 of this Act”. *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27). The amending authority proposed to amend Schedule 3; however, there is only one Schedule to this Act.

Subclause (2) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

4 Remuneration, allowances, and expenses of members, etc*[Repealed]*

Clauses 4 to 10 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

5 Disclosure of interests of member*[Repealed]*

Clauses 4 to 10 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

6 Deputies of members*[Repealed]*

Clauses 4 to 10 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

7 Proceedings not affected by certain irregularities

[Repealed]

Clauses 4 to 10 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

8 Employees of Agency

[Repealed]

Clauses 4 to 10 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

9 Personnel policy

[Repealed]

Clauses 4 to 10 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

10 Equal employment opportunities

[Repealed]

Clauses 4 to 10 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

11 Superannuation or retiring allowances

- (1) For the purpose of providing a superannuation fund or retiring allowances for any of its members, the Agency may from time to time pay sums of money by way of subsidy or contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.
- (2) Notwithstanding anything in this Act, a person who, immediately before becoming an employee of the Agency, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 shall, for the purposes of that Act, be deemed to be employed in the Government service so long as that person continues to be an employee of the Agency; and that Act shall apply to that person in all respects as if that person's service as an employee of the Agency is Government service.
- (3) Nothing in subclause (2) of this clause entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

- (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2) of this clause, to an employee of the Agency who is a contributor to the Government Superannuation Fund, the term **controlling authority**, in relation to that employee, means the Agency.

Subclause (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “the Executive Director and its employees, or for”.

12 Use of experts

- (1)
- (2)
- (3) The Board may, from time to time, appoint a suitably qualified person to provide it with specialist medical advice, including, but not limited to, advice on—
- (a) matters to be specified in the schedule under subparagraphs (iii) and (iv) of section 6(1)(a); and
 - (b) any evidence or procedures for collection or interpretation of evidence being considered by the Board under section 16D.
- (4) Subclause (3) does not limit section 17 of the Crown Entities Act 2004.

Subclauses (1) and (2) were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subclause (2) was substituted, and subclauses (3) and (4) were inserted, as from 12 April 2001, by section 19 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73). *See* clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27).

Subclause (4) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

13 Application of certain Acts to members and employees of Agency

[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

14 Protection from civil actions

[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15 Audit Office to be auditor of Agency

[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

16 Funds of Agency

[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

17 Bank accounts

[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

18 Investment of money

[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

19 Borrowing powers

[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

20 Crown may provide services for Agency

[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

21 Reporting by Agency

[Repealed]

Clause 21 was amended, as from 12 April 2001, by section 20 New Zealand Sports Drug Agency Amendment Act 2000 (2000 No 73) by substituting the expression "Board under section 14 and section 16B of this Act" for the ex-

pression “Agency under sections 14 and 16 of this Act”. See clause 2 New Zealand Sports Drug Agency Amendment Act Commencement Order 2001 (SR 2001/27). The amending authority proposed to amend Schedule 3; however, there is only one Schedule to this Act.

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

22 Proceedings not to be held bad for want of form
[Repealed]

Clauses 13 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Sports Anti-Doping Act 2006

Public Act 2006 No 58
Date of assent
Commencement see section 2

1 Title

This Act is the Sports Anti-Doping Act 2006.

2 Commencement

- (1) Sections 52, 53, and 54 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on 1 July 2007.

Part 4

Transitional provisions, repeal, revocations, and consequential amendments

General transitional provision

48 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 1 July 2007, and not been completed before 1 July 2007, are to be continued and completed as if this Act had not been enacted.

Transitional provisions for Drug Free Sport NZ

49 Meaning of Agency

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

50 Tests, proceedings, matters, issues, or things before Agency

Any test, proceeding, matter, issue, or thing before or with, or being considered or dealt with by, the Agency before 1 July 2007 must be dealt with by 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, matter, issue, or thing before 1 July 2007, as if this Act had not been enacted.

Temporary additional functions of Drug Free Sport NZ

53 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:
 - (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.
- (2) The Agency must perform its additional functions in accordance with the Code and the World Anti-Doping Agency's 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.

54 Use of information and evidence gathered under section 53(1)(a)

- (1) Information and evidence gathered by the Agency under section 53(1)(a) may be used—
 - (a) by the Agency before 1 July 2007 in order to prove a breach of the Code; or
 - (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.

- (3) Subsection (1)(b) overrides sections 48 and 50.
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Notes**1 General**

This is an eprint of the New Zealand Sports Drug Agency Act 1994. It incorporates all the amendments to the New Zealand Sports Drug Agency Act 1994 as at 1 July 2007. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 30 June 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

**3 List of amendments incorporated in this eprint
(most recent first)**
