

Sports Drug Testing Bill

EXPLANATORY MEMORANDUM

Outline

The purposes of this Bill are:

- (a) to provide for—
 - (i) the collection of samples from State competitors;
 - (ii) the testing of those samples for the presence of scheduled drugs or doping methods;
- (b) to confer functions and powers for that purpose on the Australian Sports Drug Agency.

Notes on Clauses

Clause 1 sets out the purposes of the Act.

Clause 2 sets out the commencement provisions and provides that the Act comes into operation on the day on which it receives Royal Assent.

Clause 3 sets out definitions of terms used in the Act, which in general mirror those of the Australian Sports Drug Agency Act 1990 of the Commonwealth. A major difference is the definition “State competitor”, which is intended to cover:

- individuals or team members who represent the State;
- individuals or team members who form a group for selection as State representatives;
- individuals receiving State support (as defined in clause 3);
- individuals against whom sanctions have been imposed as a result of their names being entered on the Register of Notifiable Events.

Clause 4 defines the meaning of “at competition” for the purposes of providing a sample for testing.

Clause 5 provides that the purpose of requesting a competitor to provide a sample must be to detect whether the State competitor has used a scheduled drug or doping method. It further provides that failure to provide a sample does not render the person subject to criminal or civil liability.

Clause 6 clarifies that references to regulations made under the Commonwealth Act are references to those regulations with adaptations as necessary to allow them to apply in a State context.

Clause 7 confers the functions and powers specified by the Act on the Australian Sports Drug Agency.

Clause 8 specifies the functions conferred by the Act on the Agency. In particular, those functions relate to selection, testing and entering on the Register the names of competitors who return a positive test result or refuse to provide a sample for testing. The

clause precludes the Agency from testing State competitors for purposes other than detecting use of a scheduled drug or doping method.

Clause 9 specifies the powers of the Agency, particularly those relating to the charging of fees by the Agency.

Clause 10 authorises the Agency to request State competitors to provide samples for the purpose of detecting the use of a scheduled drug or doping method. The request must be made in accordance with the Commonwealth regulations.

Clause 11 makes it necessary for a parent or guardian to consent to, and be present at, the testing of a State competitor who is under 18 years old.

Clause 12 specifies the procedures to be followed by the Agency when notifying State competitors who fail to comply with a request to provide a sample. The clause also provides for appeals to the Commonwealth Administrative Appeals Tribunal.

Clause 13 requires the Agency to enter a State competitor's name on the Register if that competitor fails to provide a sample and does not tender an acceptable excuse. Provision is made for removal of the entry if the Commonwealth AAT sets aside the Agency's decision.

Clause 14 specifies that the manner in which samples must be acquired, kept and tested is that prescribed by the Commonwealth.

Clause 15 specifies the procedures to be followed by the Agency in regard to:

- informing the competitor of a positive test result;
- determining the validity of a test result.

The clause also provides for appeals to the Commonwealth AAT.

Clause 16 requires the Agency to enter a State competitor's name on the Register if that competitor returns a positive test result and the Agency decides that the result is valid. Provision is made for removal of the entry if the Commonwealth AAT sets aside the Agency's decision.

Clause 17 prescribes the manner in which notice is deemed to be given to the State competitor by the Agency.

Clause 18 specifies the persons to whom or bodies to which notice must be given if a State competitor's name is entered on the Register and if it is subsequently removed as a result of a decision by the Commonwealth AAT. It also specifies that the form and manner of the notice is that prescribed by the Commonwealth.

Clause 19 allows the Agency to disclose details of a negative test result to specified persons and bodies.

Clause 20 directs the Agency to remove a State competitor's name from the Register at the end of a period of suspension by a sporting association or when ineligibility for State support ceases.

Clause 21 allows the Minister to request the Agency to provide details of a State competitor whose name has been entered on the Register or a State competitor who has returned a negative test result.

Clause 22 requires a sporting association to provide the Minister with details of any action taken or intended to be taken by the association in connection with a member whose name has been entered on the Register.

Clause 23 protects a State competitor by prohibiting disclosure of information relating to the competitor.

Clause 24 allows the Agency to delegate the powers of the Agency to its officers and employees.

Clause 25 provides for the Governor in Council to make regulations.

