

Equestrian Federation of Australia
ATHLETE ANTI-DOPING POLICY
(Adopted at a Meeting of Directors on 24 November 2003).

1. INTERPRETATION

1.1. In this Policy, the following words have the following respective meanings:

"Anti-Doping Rule Violation" means the anti-doping rule violations described in Article 2 of the *Code*.

"ASDA" means the Australian Sports Drug Agency.

"Athlete" means:

- (a) a *Person* participating in sport under the authority of the Equestrian Federation of Australia; *or*
- (b) a *Person* registered as an athlete or competitor (however described) with the Equestrian Federation of Australia.

"CAS" means the Court of Arbitration for Sport.

"CEO" means the Chief Executive Officer of the Equestrian Federation of Australia Ltd. or a nominated representative.

"Code" means the World Anti-Doping Code as in force from time to time.

"Doping Offence" means a breach of an anti-doping rule, regulation, By-Law or policy of a sporting organisation that would have been an Anti-Doping Rule Violation had the sporting organisation adopted and implemented an anti-doping policy that conforms with the *Code*.

"EFA" means the Equestrian Federation of Australia Ltd.

"FEI" means Fédération Equestre Internationale (International Equestrian Federation)

"Branches" means those State and Territory-incorporated organisations that are Branches and Shareholders of the Equestrian Federation of Australia Ltd.

"National Sporting Organisation" means any organisation that nationally administers a sport within Australia.

"WADA" means the World Anti-Doping Agency being a Foundation constituted under the Swiss Civil Code in Lausanne on 10 November 1999 and any Agency contracted by WADA. 2

1124_EFA_Athlete_Anti-Doping_Policy.doc Page 2 of 9 1.2.

(1) Words not defined in this policy have the meaning ascribed to them in the *Code* unless a contrary meaning appears from the context.

(2) In the interpretation of this policy, should there be any inconsistency between this policy and the *Code*, then the provisions of the *Code* will be paramount.

(3) Reference to:

- (a) the singular includes the plural and the plural includes the singular; and
- (b) a person includes a body corporate.
- (c) If a person or body to whom this policy applies consists of more than one person, then this policy binds them jointly and severally.
- (d) Headings are for convenience only and do not form part of this policy or affect its interpretation.
- (e) "Including" and similar words are not words of limitation.

1.3. Where a word, or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

2 INTRODUCTION

2.1 This policy is adopted by the EFA and its Branches consistent with its obligations to the FEI and the Australian Olympic Committee to adopt and implement an anti-doping policy that conforms with the *Code*. In so doing the EFA commits to the purposes of the World Anti-Doping Program and the *Code*, namely:

- to protect athletes' fundamental right to participate in doping-free sport and thus promote health, fairness and equality for athletes worldwide; and
- to ensure harmonised, coordinated and effective anti-doping programs at international and national level with regard to detection, deterrence and prevention of doping.

2.2 The fundamental rationale of the *Code* and of this policy is the preservation of the spirit of sport, namely the celebration of the human spirit, body and mind that is characterised by the following values:

- Ethics, fair play and honesty;
- Health;
- Excellence in performance;
- Character and education;
- Fun and joy;
- Teamwork;
- Dedication and commitment;
- Respect for rules and laws;
- Respect for self and other participants;
- Courage; and
- Community and solidarity.

3. APPLICATION OF ANTI-DOPING POLICY

3.1. This policy applies to:

- 1) *Athletes* including all Equestrian sport participants,
- 2) *Athlete Support Personnel*,
- 3) Persons seeking nomination by the EFA to the Australian Olympic Committee for selection to an Australian Olympic Team and participation in the Olympic Games.

3.2. Sanctions are applicable in the event of any *Anti-Doping Rule Violation* or other breach of this policy.

3.3. Until the 2004 *WADC List comes into force*, the List of Prohibited Substances and Methods published under the Olympic Movement Anti-Doping Code will, for the purposes of this policy, be construed as being the *Prohibited List* under the *Code* and all references in the *Code* to the *Prohibited List* will be substituted by the List of Prohibited Substances and Methods published under the Olympic Movement Anti-Doping Code.

4. OBLIGATIONS

4.1. All *Athletes* must:

- 1) be knowledgeable of and comply with all anti-doping policies and rules applicable to them, namely the *Code*, this policy and the policies and rules of *Anti-Doping Organisations*;
- 2) be available for *Sample* collection conducted according to the *Code*;
- 3) take responsibility, in the context of anti-doping, for what they ingest and use; and
- 4) inform medical personnel of their obligation not to *Use Prohibited Substances* and *Prohibited Methods* and to take responsibility to make sure that any medical treatment received does not violate the anti-doping policies and rules applicable to them.

4.2. As a condition of nomination by the EFA to the Australian Olympic Committee for selection to an Australian Olympic Team and participation in the Olympic Games, all *Persons* who are not *Athletes* but participate in the sport as an athlete or competitor (however described) must be available for *Sample* collection conducted according to the *Code* and provide accurate and up-to-date whereabouts information on a regular basis if required during the year before the Olympic Games.

In particular:

- 1) up-to-date whereabouts information must be provided in the manner prescribed from time to time in writing by the CEO at the direction of or with the prior approval of the Australian Olympic Committee; and
- 2) if, in the year preceding the 2004 Olympic Games but before the adoption of this policy a person:
 - a. is not subject to the then anti-doping policy of the EFA and
 - b. breaches his or her obligations under this clause or otherwise commits an *Anti-Doping Rule Violation*;

then this policy will apply retrospectively to any such breach or *Anti-Doping Rule Violation* as if this policy was in force from 13 August 2003, being one year before the commencement of the 2004 Olympic Games.

4.3. All *Athlete Support Personnel* must:

- 1) be knowledgeable of and comply with all anti-doping policies and rules applicable to them or *Athletes* whom they support, namely the *Code*, this policy and the policies and rules of *Anti-Doping Organisations*;
- 2) co-operate with the *Athlete Testing* program; and
- 3) use their influence on *Athlete* values and behaviour to foster anti-doping attitudes.

4.4. Each *Branch* must:

- 1) comply with this Policy;
- 2) cooperate with *National Anti-Doping Organisations* and *ASDA*;
- 3) by 31 December 2003
 - a. adopt and implement this Policy;
 - b. require persons who:
 - i. participate in sport under its authority or under the authority of one of its affiliated clubs; or
 - ii. are registered as an athlete or competitor (however described) or as *Athlete Support Personnel* with it;
to recognise and be bound by its anti-doping policy, the *Code* and this Policy;
 - c. take appropriate action to discourage non-compliance with the *Code* and its anti-doping policy.

5. TESTING

5.1. The EFA will recognise the results of laboratory analysis of *Testing* by *Anti-Doping Organisations* and *ASDA* conducted in accordance with the *Code*.

5.2. The EFA may request *ASDA* to conduct *Testing* and laboratory analysis of *Samples* of *Athletes* in accordance with the *Code*. *ASDA* is obliged as a condition of each request to conduct an initial review pursuant to Article 7.1 of the *Code* and any follow-up investigation required pursuant to Articles 7.3 and 7.4 of the *Code* and to advise the EFA of the results thereof.

6. BREACHES OF THIS POLICY

6.1. The commission of an *Anti-Doping Rule Violation* is a breach of this policy.

6.2. Articles 1, 2, 3, 4, 5, 6 and 17 of the *Code* apply to determine whether any *Anti-Doping Rule Violation* has been committed.

7. RECOGNISED ANTI-DOPING RULE VIOLATIONS and DOPING OFFENCES

7.1. The EFA will recognise and respect all determinations of:

- (1) *Anti-Doping Organisation* and other *National Sporting Organisations* that a *Person* has committed an *Anti-Doping Rule Violation* provided the finding is consistent with the *Code* and within the authority of the body concerned;
- (2) *International Federations* and other *National Sporting Organisations* that a person has committed a *Doping Offence*.

7.2. This sub-clause will apply if:

- (1) an *Anti-Doping Organisation* has adopted and implemented an anti-doping policy that conforms with the *Code*; or
- (2) a *National Sporting Organisation* has adopted and implemented an anti-doping policy that conforms with the *Code* and used *CAS* as the sole body to hear and determine all cases at first instance in respect of alleged *Anti-Doping Violations*.

Upon being advised of a determination under clause 7.1, the CEO will give the person concerned notice in writing of:

- (3) the recognition by the EFA of such determination; and
- (4) the automatic imposition of the applicable sanction under clause 10 for the period determined by the *Anti-Doping Organisation* or *CAS* to apply to the *Anti-Doping Rule Violation* in question.

7.3. This sub-clause will apply in respect of all other determinations by *Anti-Doping Organisations* and *National Sporting Organisations*. Upon being advised of a determination under clause 7.1 or if a person to whom this policy applies admits committing an *Anti-Doping Rule Violation* or *Doping Offence*, the CEO will give the person concerned notice in writing of the determination recognised by the EFA and the sanction to be imposed under clause 10.

7.4. If, as a result of the application of clause 7.3, the person concerned believes there are circumstances entitling CAS to reduce the sanction pursuant to clause 10.4, the person concerned may by notice in writing given to the *CEO* within 14 days of the day of receipt of advice require the matter to be referred for hearing by CAS solely on the issue of the sanction to be imposed under this policy in respect of the *Anti-Doping Rule Violation*.

7.5. Except as provided in the *Code*, no person may appeal against or challenge any recognition of an *Anti-Doping Rule Violation* or *Doping Offence* by the EFA under this clause 7 unless that person has first exhausted all his or her rights of appeal and other legal rights (if any) in respect of the hearing and determination of the *Anti-Doping Organisation* or other *National Sporting Organisation* concerned and whether before any tribunal as provided for in the anti-doping policy of the *Anti-Doping Organisation* or other *National Sporting Organisation* concerned or in a court of law. In the event that a person challenges or appeals the hearing or determination of the *Anti-Doping Organisation* or other *National Sporting Organisation* concerned, the EFA will defer recognition of the *Anti-Doping Rule Violation* or *Doping Offence* pending the conclusion of the challenge or appeal and will abide by the decision of the tribunal or court concerned.

8. NON-RECOGNISED ANTI-DOPING RULE VIOLATIONS

8.1. Where:

- (1) there is evidence of an *Anti-Doping Rule Violation* by an *Athlete* and:
 - (a) the anti-doping policy of the FEI provides that the matter is to be prosecuted under this Policy, or
 - (b) the *CEO* believes that it is inappropriate in the circumstances of the particular case to refer the matter to the FEI for prosecution as a breach of its anti-doping policy; or
- (2) the *CEO* believes that a person holding a position on the EFA may have committed an *Anti-Doping Rule Violation* and is not subject to the anti-doping policy of any other *Anti-Doping Organisation* or other *National Sporting Organisation* in respect of that alleged *Anti-Doping Rule Violation*;

the *CEO* will issue an infraction notice under clause 8.2.

8.2. The infraction notice referred to in the preceding clause will:

- (1) be in writing and be given to the *Person* by:
 - (a) personal service; or
 - (b) delivered to the person's last known address as advised by the *Athlete* to the EFA.
- (2) set out the nature and particulars of the alleged *Anti-Doping Rule Violation*;
- (3) set out the sanction that may be imposed under this policy in respect of the *Anti-Doping Rule Violation*; and
- (4) state that the matter has been referred to the Oceania Registry of CAS for hearing as soon as possible to determine:
 - (a) whether or not the *Anti-Doping Rule Violation* has been committed; and
 - (b) the sanction to be imposed in respect of the *Anti-Doping Rule Violation* should it be found to have been committed.

8.3. The hearing of the matter referred to in Clause 8.2(4) by CAS will be conducted pursuant to clause 11 and as expeditiously as possible. To this end the CAS will implement an expedited procedure and 44.4 of the Code of Sports-Related Arbitration will not apply.

9. DISQUALIFICATION

9.1. An *Anti-Doping Rule Violation* in connection with an *In-Competition* test automatically leads to *Disqualification* of the individual result obtained in that *Competition* with all resulting consequences, including forfeiture of any medals, points and prizes.

9.2. If in a team event, one or more team members have committed an *Anti-Doping Rule Violation*; disqualification of the team will be determined according to the anti-doping rules of the FEI.

10. SANCTIONS

10.1. Subject to clause 10.4, any *Person* who is found to have committed an *Anti-Doping Rule Violation* will be:

(1) unless otherwise determined by the CAS, required to repay to the EFA all funding and grants received from the EFA since the earlier of the implementation of this policy or the occurrence of the *Anti-Doping Rule Violation* (provided this will not apply to any *Anti-Doping Rule Violation* involving specified substances described in Article 10.3 of the *Code*); and

(2) *Disqualified* from all competitive results obtained from the date of the positive Sample was collected or other *Anti-Doping Rule Violation* occurred with all resulting consequences, including forfeiture of any medals, points and prizes; and will be:

(a) ineligible for membership of, or selection by the EFA in any Australian representative team; (b) ineligible to participate in any capacity in any *Competition* or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organized by the EFA or any member organisation;

(c) ineligible to receive, directly or indirectly, sport-related financial support or other sport-related benefits from the EFA (provided this will not apply to any *Anti-Doping Rule Violation* involving specified substances described in Article 10.3 of the *Code*);

and

(d) ineligible to hold any position with the EFA. for the period or periods determined according to Articles 10 and 11 of the *Code*.

10.2. The above sanctions may be applied to a *Person* independently of any sanction or penalty, its duration or timing or whether current or past, imposed by any *Anti-Doping Organisation* or other body provided that the EFA will recognise previous sanctions imposed by any *Anti-Doping Organisation* or other body in compliance with the *Code* to determine whether the breach is a first or second offence.

10.3. Where a person is found to have committed, or is deemed to have committed, a *Doping Offence*, then such person will be subject to the sanctions described in this clause as if the *Doping Offence* were an *Anti-Doping Rule Violation*.

10.4. Any period of sanction may be reduced by CAS solely in accordance with the provisions of the *Code*.

11. CAS HEARING

11.1. A hearing by CAS under this policy will be conducted:

(1) by a single arbitrator appointed by the Permanent Secretary of the Oceania Registry of CAS;

(2) as an ordinary arbitration proceeding; and

(3) pursuant to the Code of Sports Related Arbitration, provided that the Award and the arbitrator's reasons therefore will be made public and to this extent Rule 43 of the Code of Sports-Related Arbitration will not apply.

11.2. All instances of alleged *Anti-Doping Rule Violations* will be determined in conformity with the *Code* and must be established according to the provisions of the *Code*.

11.3. If CAS determines that a person has committed an *Anti-Doping Rule Violation*, it will impose on the person the relevant sanction pursuant to clause 10.

11.4. Subject to the right of appeal pursuant to clause 12, the determination of CAS will be final and binding on the parties and no person may institute or maintain proceedings in any court or tribunal other than CAS. In particular, and without restricting the generality of the foregoing and for further and better assurance notwithstanding that such provisions have no applicability, neither party will have the right of appeal under Section 38 of the Commercial Arbitration Act of any of the Australian States or to apply for the determination of a question of law under Section 39(1)(a) of such Act.

12. APPEALS FROM DETERMINATIONS OF CAS.

12.1. A person (including the EFA and those entitled to appeal under Article 13.2.3 of the *Code*) aggrieved of a determination of *CAS* under clause 11 may appeal that decision to the *CAS*.

12.2. Any appeal hearing by *CAS* under this clause 12 will be conducted:

(1) by a panel of three arbitrators appointed by the Permanent Secretary of the Oceania Registry of *CAS*;

(2) as an appeal arbitration proceeding; and

(3) pursuant to the Code of Sports Related Arbitration, provided that the Award and the arbitrator's reasons therefore will be made public.

12.3. Any appeal from a determination of the *CAS* must be solely and exclusively resolved by the *CAS*. The determination of the *CAS* will be final and binding on the parties to the appeal and no person may institute or maintain proceedings in any court or tribunal other than the *CAS*. In particular, and without restricting the generality of the foregoing and for further and better assurance notwithstanding that such provisions have no applicability, neither party will have the right of appeal under Section 38 of the Commercial Arbitration Act of any of the Australian States or to apply for the determination of a question of law under Section 39(1)(a) of such Act.

12.4. An appeal will be a re-hearing of the matters appealed against and the provisions of clause 11 will apply, *mutatis mutandis*, to any appeal to the *CAS*.

13. NOTIFICATION.

13.1. Upon the imposition of a sanction under this policy, the EFA will send details of the sanction imposed to:

(1) the FEI;

(2) those *Persons* entitled to notification under Article 14.1 of the *Code*;

(3) the Australian Olympic Committee;

(4) the Australian Sports Commission and *ASDA*; and

(5) any other person or organisation the EFA believes should be informed.

13.2. If on appeal the *CAS* overturns the finding that an *Anti-Doping Rule Violation* has occurred or alters the sanction imposed, the EFA will advise the decision to all those persons notified of the initial imposition of the sanction pursuant to clause 12.1.

14. DISPUTES.

Any dispute regarding the construction and/or application of this policy must be solely and exclusively resolved by the *CAS* according to the Code of Sports-Related Arbitration. The decision of the *CAS* will be final and binding on the parties concerned and no Athlete or person may institute or maintain proceedings in any court or tribunal other than the *CAS*. In particular, and without restricting the generality of the foregoing and for further and better assurance notwithstanding that such provisions have no applicability, neither party will have the right of appeal under Section 38 of the Commercial Arbitration Act of any of the Australian States or to apply for the determination of a question of law under Section 39(1)(a) of such Act.

15. REVIEW OF ANTI-DOPING RULE VIOLATION

If a person recorded as having committed an *Anti-Doping Rule Violation* is subsequently found not to have committed that *Anti-Doping Rule Violation* or is otherwise cleared or pardoned of any relevant wrongdoing by the *CAS* or other *Anti-Doping Organisation* acting in conformity with the *Code*, the EFA will overturn the *Anti-Doping Rule Violation* and any sanction which had been imposed as a result of that *Anti-Doping Rule Violation*.

16. REVIEW OF EFA IMPOSED SANCTION

16.1. A person to whom a sanction has been applied under this policy or any preceding anti-doping policy of the EFA in respect of an *Anti-Doping Rule Violation* may apply to the CAS for review of that sanction imposed by the EFA.

16.2. No such application may be made unless it concerns information concerning the subject *Anti-Doping Rule Violation* that:

- (1) was not known to the person; and
- (2) could not have been reasonably ascertained by the person; at the time of the imposition of the sanction in question and is relevant to the duration of the sanction; or
- (3) pursuant to Article 10.5.3 of the *Code*, concerns the person's substantial assistance to an *Anti-Doping Organisation* since the imposition of the sanction.

16.3. The CAS will consider the application and may only alter the sanction if:

- (1) it does not accord with the *Code*;
- (2) circumstances are found to exist justifying the elimination or reduction of the sanction pursuant to Article 10.5 of the *Code*.

16.4. In respect of any such application:

- (1) the provisions of clause 11 of this policy will apply;
- (2) the *Person* making the application to the CAS will be responsible for the costs of:
 - (a) the CAS;
 - (b) their legal or other representation and witness and other expenses;
 - (c) the legal or other representation and witness and other expenses of the EFA;of and incidental to the application and hearing.

16.5. In the event of any alteration to a sanction by the EFA pursuant to this clause 16, the CEO will promptly notify the person concerned as well as those persons who received notification from the EFA of that sanction. In such instance, those persons entitled to appeal under Article 13.2.3 of the *Code* (other than the person to whom the sanction has been applied) will have the right to appeal the decision of CAS in accordance with the *Code*. Clause 12 will apply to any such appeal.

