

Triathlon Australia Ltd

ANTI-DOPING POLICY

The sport of Triathlon requires good health and fitness, physically demanding training and dedication to the ideals of competition. The use of performance enhancing drugs or methods, and the encouragement of such use, is contrary to fair play. The only legitimate use of drugs in sport is under supervision of a physician for a clinically justified purpose. This policy outlines the basis for testing for doping of Australian athletes and foreign athletes competing in the sport of Triathlon in Australia, and prohibits classes of substances and doping methods in recognition of their performance enhancing effects contrary to the ethics of sport, and the potential harm to health.

All athletes and their physicians must take every care to ensure that the therapeutic use or administration of substances does not contravene this policy.

1. INTERPRETATION

1.1 In this policy, the following words have the following respective meanings:

- "Act"** means the Australian Sports Drug Agency Act (ASDA) 1991
- "Agency"** means:
(a) ASDA; and
(b) any agency which conducts *Testing of Athletes* for the detection of *Doping* whilst and so long as such *Testing* is conducted substantially in conformity with the procedures of the International Triathlon Union (ITU), or if ITU does not provide for such procedures, or during the Olympic Games, then in conformity with the 'Code'.
- "Anti-Doping Control Officer"** means the person or persons appointed or deemed to be appointed as such by Triathlon Australia pursuant to clause 5.5
- "AOC"** means the Australian Olympic Committee Inc.
- "Secretary-General"** means the Secretary-General of the AOC.
- "ASC"** means the Australian Sports Commission.
- "ASDA"** means the Australian Sports Drug Agency established under the Australian Sports Drug Agency Act 1990;
- "Athlete"** means:
(a) any person:
I. competing; or
II. who in the previous twelve (12) months has competed;
in any competition under the control or auspices of Triathlon Australia, or
(b) any person:
I. using; or
II. who in the previous twelve (12) months has used;
the facilities of Triathlon Australia; unless retired from competition pursuant to clause 17.
(c) any person is a Triathlon Australia Professional (Elite) Licence Holder
- "CAS"** means the Court of Arbitration for Sport (Oceania Registry).
- "Doping"** Doping means:
(a)
I. the finding in an athletes body tissue or fluids of a substance;
II. the use or taking advantage of a technique;
III. admitting to having used or taken advantage of a substance

prohibited by the ITU, or during the Olympic Games, then such substances, methods and classes of drugs described in Chapter II of the IOC Olympic Movement Anti-Doping Code

- (b) Under the ITU rules prohibited substances includes a metabolite of a prohibited substance
- (c) Under the ITU rules prohibited technique includes, but not limited to:
 - I. blood doping
 - II. use of substances and methods which alter the integrity and validity of urine samples used in doping control

“Doping Offence”

means and includes:

- (a) *Doping*;
- (b) the refusal to provide a *Sample* for *Testing* upon request by a *Responsible Authority* or *Agency*;
- (c) *Trafficking*; or
- (d) (I) aiding, abetting, counseling or procuring;
- (II) inducing (whether by threats or promises or otherwise);
- (III) being in any way, whether directly or indirectly, concerned in, or party to; or
- (IV) conspiring with any other person to effect; any of the practices described in paragraphs (a) – (c) of this definition.

“International Triathlon Union (ITU)”

means:

International Triathlon Union, being the international sporting organisation/body for the sport of Triathlon as recognised by the IOC.

“IOC”

means the International Olympic Committee being an association created by the Congress of Paris of 23 June 1894 and which is entrusted with the control and development of the modern Olympic Games pursuant to the *Olympic Charter*.

“Olympic Movement Anti-Doping Code”

means the ‘Code’ provided for under Rule 48 of the *Olympic Charter* as in force from time to time.

“Member”

means:

- (a) any person who, or body which is, a member of Triathlon Australia;
- (b) any person who, or body which is, affiliated to Triathlon Australia;
- (c) any person who is a member of a body which is a member of or affiliated with Triathlon Australia; and
- (d) any person taking part in, or involved in or associated with any sporting activity conducted, authorised or recognised by Triathlon Australia, whether as an *Officer* or as an *Official* or otherwise.

“Officer”

means all persons who administer, manage, assist or are otherwise involved in the sport of Triathlon other than as an *Athlete* or *Official*.

“Official”

means all persons who administer, manage, coach, assist or are otherwise involved in the sport of Triathlon other than as an *Athlete* or as an *Officer*.

“Olympic Charter”

means the Olympic Charter of the *IOC* or any amendment or modification thereto or replacement thereof.

“Positive Test Result”

means a notice from an *Agency of Doping*.

“Responsible Authority”

means International Triathlon Union, *AOC*, the *IOC*, Sydney Organising Committee for the Olympic Games, the *ASC*, the Australian Institute of Sport, *Sporting Organisations*, State Institutes of Sport and State Sporting Associations.

“Sample”

means human biological fluid or tissue.

“Sporting Organisation” means any body controlling a branch of sport, whether within Australia, overseas or internationally and recognised by the *IOC*, the *AOC* or the *ASC*.

“Testing” means the requesting, collecting and analysis of *Samples* for *Doping*.

“Trafficking” means:

- (a) manufacturing, extracting, transforming, preparing, storing, expediting, transporting, importing, transiting, offering (whether subject to payment or free of charge), distributing, selling, exchanging, brokering, obtaining in any form, prescribing, commercializing, making over, accepting, possessing, holding, buying or acquiring in any manner the products or substances which are prohibited under this policy;
- (b) acting in the above respect, financing or serving as an intermediary for the finance of the latter, provoking in any way the consumption or use of such products or prohibited substances or establishing means of procuring or consuming such substances; or
- (c) being concerned or involved in methods which are prohibited by this policy; other than in the course of the legal exercise of professional medical, pharmaceutical or analogous activities provided that a person, other than an *Athlete*, may rebut the presumption of trafficking arising out of mere possession of a substance prohibited under this *code* if that person proves to the satisfaction of *CAS* that the prohibited substance was solely for his or her personal use.

“Triathlon Australia (TA)”
means:
Triathlon Australia Ltd, being the national sporting organisation/body for the sport of Triathlon in Australia as recognised by the *ASC*, *AOC* and International Triathlon Union (*ITU*) and *IOC*.

“Triathlon” means:
the sports of triathlon, duathlon, aquathlon or any other multi-endurance sporting event sanctioned and or conducted under the race competition rules of Triathlon Australia and/or its affiliated State/Territory Triathlon Associations (*STTAs*).

TA Record of Doping Offences

means:
the database maintained by TA of details where this policy has been breached.

- 1.2 (1) Reference to:
 - (a) the singular includes the plural and the plural includes the singular; and
 - (b) a person includes a body corporate.
- (2) If a person or *Member* to whom this policy applies consists of more than one person, then this policy binds them jointly and severally.
- (3) Headings are for convenience only and do not form part of this policy or affect its interpretation.
- (4) “Including” and similar words are not words of limitation.
- (5) 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. POLICY STATEMENT

2.1 Doping is forbidden. No athlete or official shall engage in doping in triathlon.

2.2 TA condemns the use of performance enhancing drugs and doping practises prohibited by the *IOC* in sport, and totally supports the *ASDA*, *ASC*, *AOC*, *ITU* and *IOC* in their opposition to doping. TA recognises the need to take strong and positive action to eliminate doping to protect the health of athletes, and to preserve the ethics, integrity and values of fair play in sport and competition.

3. OBJECT OF ANTI-DOPING POLICY

3.1 The object of this policy is to:

- (1) detail the responsibilities of athletes, officials and TA relating to doping;

- (2) deter doping in triathlon by providing for the testing of athletes both in and out of competition at any time;
- (3) provide the method for determining whether a breach of this policy has occurred;
- (4) provide for penalties in the event that a person is found to have breached this policy; and
- (5) provide for grounds of a procedure for appeals from Sanctions that have been imposed.
- (6) support the drug testing programs and education initiatives of ASDA and other drug testing authorities

4. APPLICATION OF ANTI-DOPING POLICY

4.1 This policy applies to:

- (1) *Athletes*, whether in or out of competition;
- (2) *Members*; and
- (3) all persons involved in *Trafficking*.

4.2 Sanctions are applicable in the event of any infraction of this policy.

5. OBLIGATIONS

5.1 All *Athletes* must;

- (1) agree not to use banned substances or methods that may enhance performance;
- (2) abide by the terms and spirit of this policy;
- (3) give samples for testing at the request of the *Agency*
- (4) inform themselves in relation to the banned substances and procedures (doping) and ensure that they are not using a prohibited substance or procedure, whether intentionally or unintentionally.
- (5) be aware that drug testing may be conducted at any competition or other activity conducted or under the control of TA.

5.2 All members and other athletes of TA who;

- (1) have a TA Professional Licence and/or who compete in the 'Open' or 'Elite' category of a national Triathlon events.
- (2) receive coaching and/or financial assistance through either TA or a national and/or a state/territory academy or institute of sport.
- (3) are members of a national or state representative squad and/or teams.
 - (a) inform TA of any changes to contact details, including name, residential address, postal address, and phone numbers
 - (b) inform TA of any intention to relocate, travel and or compete for any other country

5.3 All athletes as referred to in 5.2 or to whom this policy applies must not commit a doping offence.

5.4 Triathlon Australia:

- (1) permits and authorises *ASDA* to attend competitions conducted by it or under its auspices to obtain *Samples* for *Testing*;
- (2) permits and authorises *ASDA* to obtain *Samples* for *Testing* from *Athletes* out of competition and will provide reasonable assistance for this purpose;
- (3) requires and will cause *Athletes* and *Officials* to permit *ASDA* or other *Agency* to collect *Samples* for *Testing* and provide reasonable assistance for this purpose. This assistance includes the prompt, complete and correct advice of the address and contact details of any *Athlete* as known to TA together with any other information requested by *ASDA* or any other *Agency* relevant to the collection of *Samples*;
- (4) uses *ASDA* to conduct any additional test in Australia and at the expense of Triathlon Australia
- (5) permits and assists ITU and any *Agency* appointed by the ITU to obtain *Samples* from *Athletes* for *Testing*;
- (6) will implement and administer this policy promptly and without favour or discrimination to the satisfaction of the *AOC*; and the *ASC*
- (7) subject to any applicable law to the contrary, will require *ASDA* or any other *Agency* conducting *Testing* of *Athletes* to notify the *AOC Secretary-General* and the *Executive Director of the ASC* of;
 - (a) all positive results of that *Testing*
 - (b) the results of all *testing* conducted at the direction of TA
 - (c) the results of such *testing* as advised by the *AOC Secretary General* or the *Executive Director of the ASC* from time to time; and
 - (d) any refusal to provide a *sample* upon request

- (8) will endeavour to develop and implement drug education and disseminate such information to other sporting organisations, affiliated associations, clubs and members
 - (9) will make this policy available to all TA members, athletes, coaches and officials.
- 5.5 Triathlon Australia will identify a TA Anti-Doping Control Office to direct the application of this Anti-Doping Policy. The TA Anti-Doping Control Office will include;
- (1) TA President
 - (2) TA National Executive Director
 - (3) TA Doping Education Officer
 - (4) Medical Committee Chair
- 5.6 Triathlon Australia will observe the Anti-Doping Policy of the AOC and to this end will identify an *Anti-Doping Control Officer* approved by the *AOC Secretary-General*. The *Anti-Doping Control Officer*.
- 5.7 The obligations of the *Anti-Doping Control Office* are
- (1) to ensure Triathlon Australia complies with its obligations to the AOC, the ASC and the International Triathlon Union pursuant to their respective anti-doping policies,
 - (2) without limiting the obligations under paragraph (1):
 - a. to notify *Athletes* they are liable for selection to provide *Samples* for *Testing* whether in Australia or overseas;
 - b. to arrange for completion and return of forms required for the purposes of ASDA or any other *Agency* at the request of the AOC, ASDA, ITU or other *Agency*;
 - c. to submit this anti-doping policy and any amendments thereto to the AOC and the ASC for approval and consistency with the anti-doping policies of the AOC and the ASC;
 - d. to advise promptly the AOC and the ASC of the anti-doping policy of the International Triathlon Union and any changes thereto within 48 hours of Triathlon Australia becoming aware of such changes;
 - e. to notify promptly the AOC and the ASC of any circumstances which may be or are an infraction of this policy and/or the anti-doping policies of the AOC and the ASC including:
 - i. the names of any *Athlete* who returns a *Positive Test Result* and details of that result;
 - ii the name of any person who Triathlon Australia or any of its *Officers* knows or reasonably suspects of having committed an infraction of this policy or the Anti-Doping Policy of the AOC and all relevant circumstances of that possible infraction; and
 - iii the address of the *Athlete* or person concerned which is last known by Triathlon Australia;
 - f. upon request to promptly provide to the AOC such information and assistance as the AOC may request concerning any alleged infraction of its anti-doping policy or this policy or any practice concerning the use of drugs in sport; and
 - g. to provide the AOC with the opportunity to attend as an observer at any prosecution, and a report concerning Triathlon Australia's prosecution of any *Doping Offence* hearing.
 - (3) for the purposes of clauses 3.2(11) of the AOC Anti Doping Policy, the Anti Doping Control Office, is jointly and severally responsible for ensuring that TA complies with its obligations under the AOC Anti Doping Policy and TA's Anti Doping Policy

6 TESTING

- 6.1 *Testing* of *Athletes* must be conducted;
- (1) substantially in conformity with the requirements of *ITU*.
 - (2) during the Olympic Games, substantially in conformity with the 'Code'; or
 - (3) in the case of ASDA conducting government funded tests pursuant to the *Act*, conformity with the *Act*
- 6.2 Testing of athletes in Australia, both in and out of competition, shall be conducted by or under the control of ASDA provided such testing is conducted substantially in accordance with the *Act* .
- 6.3 Testing of Australian athletes while outside of Australia, both in and out of competition, may be conducted by ASDA, the ITU Doping Control Commission or a foreign anti-doping body provided the sampling and testing procedures are consistent with the IOC Charter against Doping in Sport.
- 6.4 All samples collected for testing shall be analysed by a laboratory accredited by the IOC.

- 6.5 Minor irregularities, which cannot reasonably be considered to have affected the results of otherwise valid tests, will have no effect on such results. Minor irregularities do not include the chain of custody of the *Sample*, improper sealing of the container(s) in which the *Sample* is stored, failure to request the signature of the *Athlete* or failure to provide the *Athlete* with an opportunity to be present or be represented at the opening and analysis of the 'B' *Sample*.
- 6.6 An athlete may be selected to provide any number of samples for drug testing in a year, whether in or out of competition.

7 INFRACTIONS

- 7.1 The commission of a *Doping Offence* is an infraction of this policy.
- 7.2 For the avoidance of doubt, it is expressly stated that intention to use substances belonging to classes of pharmacological agents prohibited under this policy is not relevant in determining whether *Doping* has occurred.

8 ADVICE FROM AGENCY OF ALLEGED BREACH

Where TA and or ITU have requested an *Agency* to conduct *Testing of Athletes*, the *Agency* requested will notify

- (a) the *Anti-Doping Control Office*;
- (b) the *AOC Secretary General* and
- (c) the Executive Director of the *ASC*

of the names and results of athletes who return a *Positive Test Result* or who fail to comply with the requirement to provide a sample for testing.

In accordance with ITU policy, results shall be confidential until they have been communicated to the athlete who has returned the positive test.

9. INFRACTION NOTICE

- 9.1 Where TA receives information that a person may have committed a doping offence, the *Anti Doping Control Officer*, in consultation with the *Anti-Doping Control Office*, will investigate the matter.
- 9.2 As soon as possible after the *Anti Doping Control Officer* has received notification or is of the understanding that a *doping offence* may have been committed, they will issue an infraction notice, together with a copy of this policy
- 9.3 The *Anti Doping Control Officer*, in consultation with the *Anti-Doping Control Office* may decide not to refer the matter to a hearing, if after receiving the infraction notice, that person formally advises;
- (1) that they (that person) acknowledges that they have committed the doping offence, and
 - (2) that they (that person) waives the right to a hearing in relation to;
 - (a) the doping offence committed
 - (b) sanctions that may apply
- 9.4 The infraction notice to be given under Clause 9.2 may be given by the *AOC Secretary-General* on behalf of the *Anti-Doping Control Officer*. Where the *AOC Secretary-General* gives the infraction notice, they may do so jointly with any infraction notice under the *Anti-Doping Policy* of the *AOC*. Should the *AOC Secretary-General* give the infraction notice on behalf of the *Anti-Doping Control Officer*, then references in the remainder of this Clause 9 and in Clause 14 to the *Anti-Doping Control Officer*, will be read as if they were references to the *AOC Secretary General*.
- 9.5 The infraction notice given pursuant to clause 9.2 must:
- (1) be in writing and be delivered to the person's address as last known to Triathlon Australia;
 - (2) set out the nature and particulars of the alleged *Doping Offence*;
 - (3) set out the sanction that may be imposed under this policy should the *Doping Offence* be established or deemed to be established; and
 - (4) state that:
 - (a) the person may, by notice in writing to be received by the *Anti-Doping Control Officer* within 14 days of the date of the infraction notice, require Triathlon Australia to refer the matter to the *CAS* for a hearing;
 - (b) in the absence of such notice to the *Anti-Doping Control Officer*, the person or person will be deemed to have committed the *Doping Offence* and will be subject to sanction in accordance with clause 10; or

(c) the person may admit the *Doping Offence*

- 9.6 In the event that the person notifies the *Anti-Doping Control Officer* that they require a hearing pursuant to clause 9.5(4)(a), the *Anti-Doping Control Officer* must so refer the matter to the Oceania Registry of the CAS for a hearing to be conducted pursuant to clause 11.
- 9.7 In the event that the person who has been sent an infraction notice pursuant to clause 9.5;
- (1) does not notify the *Anti-Doping Control Officer* within 14 days of the date of the infraction notice that they require Triathlon Australia to refer the matter to the CAS for hearing; or
 - (2) notifies the *Anti-Doping Control Officer* that they committed the *Doping Offence*; the person will be deemed to have committed the *Doping Offence* and the relevant sanction pursuant to clauses 10.1 and 10.2 will be automatically applied including the repayment of all grants paid to the *Athlete* by Triathlon Australia.
- Where a discretion as to sanction is involved, or where the *Anti-Doping Control Officer* is of the view that an increased sanction under clause 10.3 ought be imposed, then Triathlon Australia will refer the matter solely on the question of the applicable sanction to the Oceania Registry of the CAS for a hearing to be conducted pursuant to clause 11.
- 9.8 Where a person is deemed to have committed a *Doping Offence* under clause 9.7, the *Anti-Doping Control Officer* will inform the person by notice in writing of the recording of the *Doping Offence* and the sanction imposed.
- 9.9 The *Anti-Doping Control Officer* will also;
- (1)
 - (a) advise the ITU, AOC and the ASC of the details of the person and the alleged doping offence
 - (b) consult with the ITU, AOC, and ASC about their participation in any investigation and hearing, and
 - (c) Assist in any investigation and hearing on behalf of the ITU, AOC or the ASC
- 9.10 the *Anti-Doping Control Officer*, in consultation with the Anti-Doping Control Office, may agree to refer a doping offence matter under clause 9.8 to a joint hearing under clause 11 with:
- (1)
 - (a) the ASC or
 - (b) both the AOC and the ASC.
- 9.11 the *Anti-Doping Control Officer* may withdraw the referral; to a hearing under clause 9.6 at any time until the hearing commences if the person gives a formal written waiver under clause 9.3
- 9.12 the *Anti-Doping Control Officer* may recommend;
- (1) financial or other assistance to a person be suspended, and
 - (2) a sanction to suspend the person from competition in events and competitions conducted by or under the auspices of TA until the determination of the hearing.
- 9.13 for ITU competitions held in Australia the communication of a *Doping Offence* will comply with the ITU Doping Control Rules and Procedural Guidelines.
- 9.14 A person who receives notification pursuant to clause 9.8 may apply to CAS to have the recording of the *Doping Offence* and the sanction imposed set aside. As a preliminary issue to any hearing, the person must first establish to the satisfaction of CAS that he or she was unaware of the infraction notice sent to him or her or the contents thereof and, as result, did not request the matter be referred to the CAS for a hearing. Should CAS be so satisfied, CAS will then proceed to hear the matter as if the person had requested to it for hearing.

10. SANCTIONS

- 10.1 An *Athlete* who is found to have returned a *Positive Test Result* for *Doping* will:
- (1) unless otherwise determined by the CAS, be required to repay to Triathlon Australia all funding and grants received from Triathlon Australia since the earlier of the implementation of this policy or the occurrence of the *Doping Offence*; and
 - (2) will have all awards, placing and records won from the date of the occurrence of the *Doping Offence* withdrawn; and will be:
 - (a) ineligible for membership of, or selection by Triathlon Australia in, any Australian representative team;

- (b) banned from competing in any events and competitions conducted by or under the auspices of Triathlon Australia;
- (c) ineligible to receive, directly or indirectly, funding or assistance from Triathlon Australia; and
- (d) ineligible to hold any position with Triathlon Australia; for the applicable period described in clause 10.2 and may be required to undergo counseling.

- 10.2 The applicable period for paragraphs (a) – (d) of clause 10.1 are:
- (1) for a first infraction other than in the cases provided in paragraph (2) - suspension for two years;
 - (2) for a first infraction in cases of a *Positive Test Result* for ephedrine, phenylpropanolamine, pseudoephedrine, caffeine, strychnine and related compounds - suspension for a maximum period of three months;
 - (3) for a subsequent infraction other than in the cases provided in paragraph (4) - suspension for his or her lifetime;
 - (4) for a second infraction in cases of a *Positive Test Result* for ephedrine, phenylpropanolamine, pseudoephedrine, caffeine, strychnine and related compound - suspension for two years; and
 - (5) for a subsequent infraction in cases of a *Positive Test Result* for ephedrine, phenylpropanolamine, pseudoephedrine, caffeine, strychnine and related compound - suspension for his or her lifetime.
- 10.3 Where an *Athlete* or person is found to have committed a *Doping Offence* other than a *Positive Test Result*, they will be subject to at least the same penalties as described in clauses 10.1 and 10.2, provided that such penalties are a minimum only and may be increased according to the circumstances and culpability involved.
- 10.4 The above sanctions may be applied to a person regardless of any sanction or penalty, its duration or timing or whether current or past, imposed by any *Responsible Authority* provided that:
- (1) Triathlon Australia will recognise previous sanctions imposed by any *Responsible Authority* to determine whether the infraction is a first or second offence, provided that the event which resulted in the sanction imposed by the *Relevant Authority* would be an infraction of this policy if this policy had applied to that event; and
 - (2) in the event that a *Responsible Authority* has imposed a heavier sanction than that imposed pursuant to clauses 10.1 and 10.2, the CAS may impose the same sanction imposed by that *Responsible Authority*.
- 10.5 Where the rules of the ITU provide for a lesser sanction in respect of a *Positive Test Result* for alcohol, cannabinoids, local anaesthetics, corticosteroids or beta blockers, then that same sanction will be substituted for the sanctions described in clauses 10.1 and 10.2.
- 10.6 Notwithstanding clauses 10.1 - 10.5, the CAS has an overriding ability under clause 11.5 to reduce the sanction imposed in respect of a *Positive Test Result*.

11. CAS HEARING

- 11.1 A hearing under this clause 9 will be conducted pursuant to the Code of Sports-Related Arbitration. All parties to any such hearing may appear in person (or if a body corporate to be represented by any of its officers) or to be represented by their legal representative.
- 11.2 Where the alleged *Doping Offence* arises out of a *Positive Test Result*, the CAS may only determine that a *Doping Offence* has not occurred if the *Athlete* establishes on the balance of probabilities that:
- (1) the Sampling or *Testing* procedure was not conducted in accordance with this policy;
 - (2) the *Samples* which led to the *Positive Test Result* were not those of the *Athlete*; or
 - (3) the *Samples* which led to the *Positive Test Result* were so contaminated as to affect the result of the test; or any combination of these factors.
- 11.3 In all other instances of alleged *Doping Offences*, Triathlon Australia bears the onus of establishing on the balance of probabilities that the *Doping Offence* has been committed.
- 11.4 Subject to clauses 11.5 and 11.6, if the CAS determines that a person has committed a *Doping Offence* as detailed in the infraction notice, it will impose on the person the relevant sanction pursuant to clauses 10.1 – 10.4 and determine whether the person ought repay all or part of all grants paid to them by Triathlon Australia.

- 11.5 In any hearing of the kind referred to in clause 11.2, the *CAS* may reduce the sanction (but not overturn the *Doping Offence*) only if the *Athlete* establishes on the balance of probabilities that extenuating circumstances exist and that as a result of those extenuating circumstances the sanction should be reduced. For the purposes of this clause, “extenuating circumstances” means circumstances where the *Athlete*:
- (1) did not know or suspect that the relevant substance was prohibited and had no reasonable grounds to know or suspect the substance was prohibited; or
 - (2) did not know that they had taken or been administered the relevant substance, provided they had acted reasonably in all the relevant circumstances.
- 11.6 The *CAS* may impose a sanction greater than specified in clause 10.3 if it is satisfied on the balance of probabilities that it is appropriate to do so in all the circumstances (including the need to fight against the use of drugs in sport and for Triathlon Australia to lead that fight by example),
- 11.7 any hearing by *CAS*:
- (1) *CAS* will decide according to the laws applicable in New South Wales;
 - (2) AOC will bear the costs of a *CAS* hearing where the hearing is a joint one between the AOC and TA.
 - (3) CAS Rule 64.5 the panel will determine which party shall bear such costs or in which portion the parties shall share them.
 - (4) the provisions of R43 of the Code of Sports-Related Arbitration will not apply; and
 - (5) the *CAS* award will be made public, except in exceptional cases at the direction of *CAS*.

12. APPEALS FROM DECISIONS OF THE CAS.

- 12.1 A person (including Triathlon Australia) aggrieved of a decision of the *CAS* under this policy may appeal that decision to the *CAS*. An appeal may be against the finding that a *Doping Offence* has occurred, the sanction imposed or both.
- 12.2 Any appeal from a decision of the *CAS* must be solely and exclusively resolved by the *CAS*. The decision of the *CAS* will be final and binding on the parties to the appeal and no person (including Triathlon Australia) may institute or maintain proceedings in any court or tribunal other than the *CAS*.
- 12.3 An appeal will be a rehearing of the matters appealed against and the provisions of clause 11 will apply, *mutatis mutandis*, to any appeal to the *CAS*.

13. REVIEW OF DOPING OFFENCE

- 13.1 A person may make an application to the Anti-Doping Control Office for review of a finding of a doping offence and imposed sanction that was determined in accordance of 10 of this policy
- 13.2 The application must;
- (1) Formally in writing
 - (2) Set out the reasons why a notice in writing requiring TA to refer the matter to the *CAS* for a hearing was not received by the Anti-Doping Control Office within 14 days of the infraction notice
- 13.3 The Anti-Doping Control Office will consider the application and may refer the application to the *CAS* to:
- (1) conduct a hearing as set out under clause 12 of this policy and pursuant to the code of sports-related arbitration, and
 - (2) decide whether to maintain, reduce or withdraw the sanction
- 13.4 A sanction will remain in force during the review unless the *CAS* decides otherwise.

14. NOTIFICATION.

- 14.1 Upon the imposition of a sanction under clauses 10.4 or 12, the *Anti-Doping Control Officer* will send details of the *Doping Offence* and the sanction imposed to:
- (1) International Triathlon Union;
 - (2) the AOC;
 - (3) the *Agency(ies)* (if any) concerned in the incident;
 - (4) ASC; and
 - (5) any other person or organisation the *Anti-Doping Control Officer* believes should be informed.

- 14.2 If on appeal the CAS overturns the finding that a *Doping Offence* has occurred or alters the sanction imposed, the *Anti-Doping Control Officer* will advise the decision to all those persons notified of the initial imposition of the sanction pursuant to clause 14.1.

15. RECOGNITION OF OTHER DECISIONS.

- 15.1 Triathlon Australia will recognise any finding and sanction of a *Responsible Authority* or a *Sporting Organisation* that a person has committed an infraction of the anti-doping policy of that *Responsible Authority* or *Sporting Organisation*, provided that infraction of the anti-doping policy would also have been an infraction of this policy.
- 15.2 where clause 15.1 applies, the provisions of this policy will apply to that infraction.

16. 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.

17. RETIREMENT

- 17.1 An *Athlete* who wishes to retire from competition must give Triathlon Australia notice in writing. This notice will not excuse the *Athlete* from having to give a *Sample* for *Testing* where prior notification has been given to the *Athlete*, nor will it serve to negate the results of the *Testing* of any *Sample* already given or the results of such *Testing*.
- 17.2 Subject to clause 17.3, upon giving a notice under clause 17.1, the *Athlete* will thereafter be ineligible to compete for a minimum of 2 years from the date of receipt of the retirement notice by Triathlon Australia.
- 17.3 At any time beginning 1 year after the retirement date the *Athlete* may seek reinstatement by written request to Triathlon Australia, at which time the *Athlete* will again be subject to the provisions of this policy. Reinstatement will not be automatic and the *Anti-Doping Control Officer* may require the *Athlete* to provide a *Sample* for *Testing* prior to any decision being made by Triathlon Australia as to the *Athlete's* reinstatement. If Triathlon Australia reinstates the *Athlete*, then during the ensuing 6 months from the reinstatement the *Athlete* will be eligible to compete in domestic competitions only and may be subject to further *Testing* at the discretion of the *Anti-Doping Control Officer*.

18. REVIEW OF SANCTION

- 18.1 Where a person to which a sanction has been applied under this policy in respect of a *Doping Offence* (including any preceding Triathlon Australia anti-doping policy) has new and relevant information concerning the subject *Doping Offence*, they or it may make written application to the *Anti-Doping Control Officer* setting out the grounds for a possible review of that sanction.
- 18.2 *Anti-Doping Control Officer* will consider the application in consultation with the Anti-Doping Control Office and:
- (1) after first consulting with any other Sporting Organisations which has a current sanction over the person; and
 - (2) with the prior approval of the *AOC Secretary-General*;
- determine whether to review any sanction imposed under this policy and may alter a sanction imposed previously including a reduction or withdrawal of the sanction.
- 18.3 The *Anti-Doping Control Officer* will not alter any sanction under clause 16.2 without the prior approval of the *AOC Secretary-General*.
- 18.4 In the event of any alteration to a sanction by Triathlon Australia pursuant to this clause 16, the *Anti-Doping Control Officer* will promptly notify the person concerned as well as those persons who received notification from them of the *Doping Offence* and sanction.

19. PROCEDURES FOR APPLICATION FOR EXEMPTION TO USE PROHIBITED SUBSTANCES

- 19.1 These TA Rules make it possible for an athlete, who for a limited or prolonged period of time needs a prohibited substance for medical reasons, to participate in sport. An athlete may request that the Anti-Doping Control Office grant prior exemption allowing him/her to take a substance normally prohibited under TA Rules. Such exemption will only be granted in a case of clear and compelling need.

- 19.2 Exemption will not normally be granted in cases of acute disease and never when sporting activity may be hazardous to the athlete.
- 19.3 Out of Competition doping control is used as a deterrent for the use of anabolic agents and peptide hormones. Application for exemption of drug use during training is, therefore, needed only for these substances
- 19.4 An application for exemption must contain a certificate from a qualified physician setting out the reasons why the administration of a prohibited substance is necessary for the health of the athlete. It must also contain the dosage and duration of medication, as well as an explanation as to why a non-banned drug cannot be used.
- 19.5 The application shall be in writing and addressed to the TA *Anti-Doping Control Officer*. An application with respect to salbutamol, salmeterol, or terbutaline inhalation therapy can be made to both the TA *Anti-Doping Control Officer* at least 7 days prior to the athlete's next competition. Any exemption granted will be in effect for a maximum period of two years, unless renewed by the TA *Anti-Doping Control Officer*. It is the responsibility of the athlete to apply for renewal of any exemption about to expire. A sample exemption application is attached.
- 19.6 In evaluating any medical opinion advanced on behalf of an athlete, the TA *Anti-Doping Control Office* is authorised, if necessary, to take advice from a specialist in the field relevant to the issue.

Adopted as a By-Law of Triathlon Australia on 1 July 1999.

Triathlon Australia Ltd

Use of Prohibited Substance Notification FORM

**PLEASE NOTE ANY MEDICATIONS USED FOR THE TREATMENT OF ASTHMA
MUST BE LISTED ON THIS FORM, SIGNED BY A SPORTS PHYSICIAN OR
RESPIRATORY PHYSICIAN**

**For Information on a suitable Sports Physician, contact Australian College of
Sports Physicians
(02) 99061096**

***This Notification Form is valid for two years from date listed below to 30 June
2000***

**Name of
Doctor:** _____

**Address of
Doctor:** _____

**Contact Details of
Doctor:** _____ (Ph) _____ (Fx)

**Qualifications of
Doctor:** _____

Name of Athlete: _____ (Date of Birth): _____

**Address of
Athlete:** _____

Contact Details of Athlete: _____ (Ph) _____ (Fx)

**Name of Drug
(#1):** _____

**Dosage of Drug
(#1):** _____

**Mode of Administration of Drug
(#1):** _____

Name of Drug

(#2): _____

Dosage of Drug

(#2): _____

Mode of Administration of Drug

(#2): _____

Reason(s) why the administration of this prohibited substance is necessary for the health of this athlete: _____

Reason(s) why a non listed drug cannot be used: _____

Signature of Doctor: _____ **(Date):** _____