

SUMMARY OF MOST RELEVANT AND INTERESTING CHANGES

ISSF ANTI DOPING RULES

EFFECTIVE 1 JANUARY 2021

Why Revise the Anti-Doping Rules?

Because a new World Anti-Doping Code (Code) was accepted and ratified by all Signatories in November 2019 and will come into effect in 2021.

All Code Signatories are required to undertake three steps in order to be fully compliant with the Code: acceptance, implementation, and enforcement.

- Code acceptance means that ISSF, as a Code Signatory, agrees to the principles of the Code and agrees to implement and comply with the Code. Once a Signatory accepts the Code, it must then adopt it and implement it.
- Code implementation is the process by which the ISSF amends its rules and policies so that all mandatory articles and principles of the Code are respected.
- Code enforcement refers to the Signatory actually enforcing its amended rules and policies in accordance with the Code. In other words, this is where ISSF has to ensure its Anti-Doping Rules to ensure they are being respected and followed by ISSF, its member federations, its athletes and all support personnel.

The ISSF ADR reflect the Code and all other International Federations rules.

As explained, as a condition of being a Signatory, the ISSF must comply with the Code and must adopt and implement Code compliant Anti-Doping Rules (ADR).

WADA helps all its Signatories with their drafting exercise by publishing “model rules”. The new ISSF ADR are wholly based on the WADA Model Rules for International Federations.

They were drafted, sent to WADA for approval and have been approved by WADA.

They have now also been approved by ISSF Council and are to come into effect on 1 January 2021 just like the more or less identical Rules of every International Federation and every Code Signatory.

The WADA Model Rules

The Model Rules reflect the Code and its related *International Standards* in force as of 1 January 2021. They have been drafted pursuant to Article 23.2 of the *Code* to help International Federations to implement the *Code* and the *International Standards* in connection with their respective sports, as an essential part of International Federations' mission in the fight against doping. Most of the clauses in the Model Rules had to be reproduced without substantive change in the ISSF's Anti-Doping Rules. Where

permitted, other clauses in the Model Rules were slightly amended or reworded to best fit the ISSF's specific needs and requirements.

What changes were made to the Model Rules to address ISSF's specificities?

The most important modifications that were made to the Model Rules based on the specificities of ISSF's anti-doping program. They include:

- ISSF's definition of international level Athlete
- ISSF's requirement to have national level TUEs recognized at the international level prior to being valid (to avoid the granting of TUEs for the use of betablockers at the national level to athletes who compete at the international level)
- ISSF delegating its first instance Anti-Doping Hearing Panel to the Court of Arbitration for Sport Anti-Doping Division
- Etc.

What are the major changes between these Rules (based on the 2021 Code) and the old rules (based on the 2015 Code)?

The following are the most important and interesting.

1. Emphasis on Health as a Rationale for the Code (Scope)

A recent decision of the European Court of Human Rights relied on public health as a primary basis for upholding the whereabouts requirements of the Code.

As suggested by a number of stakeholders, health has been moved to the top of the list of rationales for the Code and all Anti-Doping Rules (including the ISSF's) and is specifically mentioned in the sentence following that list.

2. Delegation of Doping Control Functions by Anti-Doping Organizations

Further to confusion in the current Code and ISSF AD Rules as to whether an anti-doping organization may delegate aspects of the doping control process and the extent to which it remains responsible following such delegation. The Introduction to Part One of the Code and ISSF ADR and Article 20 which sets forth stakeholder's responsibilities, make clear that anti-doping organisations/international federations are responsible for all aspects of doping control, that they may delegate any of those aspects, but they remain fully responsible for the performance of those aspects in compliance with the Code.

- ✓ ISSF is therefore fully and solely responsible for its compliance with the Code even when it may delegate certain tasks (e.g. testing or hearings) to others.

3. Fraudulent Conduct During Results Management and Hearing Process (New Comment to Article 2.5, and New Articles 10.3.1.1 and 10.7)

A number of anti-doping organizations have experienced problems with athletes engaging in fraudulent conduct during the results management and hearing process, including for example, submitting fraudulent documents or procuring false witness testimony.

Under the current Code, there is no downside in terms of sanctions to an athlete who chooses to engage in this type of behavior. New Articles 10.3.1.1 and 10.7 provide that an additional sanction of 0-2 years ineligibility may be imposed for this misconduct.

- ✓ Although ISSF has very few anti-doping rule violations, this is an interesting article that looks to ensure that all Athletes are honest and truthful when confronted with an anti-doping rule violation.

4. Tampering (Article 2.5) and Definition of Tampering

The definition of Tampering has been expanded to specifically include fraudulent conduct during Results Management. Tampering during Results Management would be treated as a separate first violation with the period of Ineligibility (4 years to 2 years in exceptional circumstances) to be served consecutively with any period of Ineligibility imposed for the underlying violation.

The acts of falsifying documents submitted to ISSF and procuring false testimony from witnesses have been moved up from the comment and specifically included in the definition of Tampering.

5. Increasing the Upper End of the Sanction for Complicity (Article 2.9)

The current sanction for an anti-doping rule violation involving complicity is 2-4 years ineligibility. However, in some circumstances, violations involving complicity can be very similar to violations involving “administration” (Article 2.8) where the current sanction is 4 years to life ineligibility.

To retain some greater flexibility in the sanctioning of certain types of complicity, but to avoid any argument that the most serious types of complicity, which could also be viewed as administration, are subject to a sanction cap of 4 years, the range of ineligibility for complicity has been changed to 2 years – lifetime ineligibility.

6. Modification of Article 2.10 - Prohibited Association

This Article prohibits association in a sport related capacity with an athlete support person who is serving a period of ineligibility. Since this Article was incorporated into the 2015 Code, there have been very few, if any, anti-doping rule violation cases brought under this Article. A number of anti-doping organizations have expressed concern that one reason for this is because the current requirement that an athlete must be notified before an anti-doping rule violation for prohibited association can be asserted, simply drives that prohibited association underground. In response to that concern, this Article has been changed to eliminate the advance notice requirement and instead, places the burden on the anti-doping organization to demonstrate that the athlete knew, or was reckless in not knowing, that the athlete support person was ineligible.

7. WADA's Right to Require an Anti-Doping Organization to Conduct Results Management – (Article 7.1.1)

It has occasionally been the case that the anti-doping organization with results management authority has refused to conduct results management. That is not only a Code compliance issue, it is necessary that some anti-doping organization conduct results management in the individual case to determine whether or not an anti-doping rule violation was committed. An addition to Article 7.1.1 makes clear that in this unique circumstance, WADA may demand that the antidoping organization with results management authority conduct results management and, if the organization refuses, WADA may designate another anti-doping organization to conduct the results management with the resulting cost borne by the refusing anti-doping organization.

This Article has been modified to provide that an Anti-Doping Organization's refusal to conduct Results Management shall be considered an act of non-compliance and that Results Management may only be assigned by WADA to another Anti-Doping Organization with authority over the Athlete.

8. Burden Shifting (Article 3.2)

Modifications to Article 3.2.3 make clear that departures from the International Standard for Testing and Investigations involving Sample collection or Sample handling, or the International Standard for Results Management involving Adverse Passport Findings or Whereabouts failures or notice to the Athlete of the opening of the B Sample, which could reasonably have caused an anti-doping rule violation, shifts the burden to the Anti-Doping Organization to establish that the departure did not cause the anti-doping rule violation.

A comment to Article 3.2.3 makes clear that an Anti-Doping Organization can satisfy its burden of establishing that the failure to give notice of the B Sample opening did not cause the Adverse Analytical Finding, by having an independent observer witness the B Sample opening.

9. General Changes to Results Management (Article 7)

Much of the detail currently found in Article 7 has been moved into the new International Standard for Results Management and Hearings.

- ✓ ISSF Legal Counsel in anti-doping is well advised of the contents of the new International Standard and shall ensure that ISSF complies with it whenever an anti-doping rule violation occurs.

10. More Rigorous Standards for Fair Hearings under Article 8

The fair hearing requirements in Article 8 have been expanded.

These requirements are also incorporated into a new International Standard for Results Management and Hearings.

- ✓ ISSF has delegated its hearings to the CAS Anti-Doping Division. We are confident all requirements will be met.

11. Retired Athletes Returning to Competition (Article 5.6)

Article 5.6 provides that when an International-Level Athlete or National-Level Athlete in a Registered Testing Pool retires and then wishes to return to active participation in sport, the Athlete must not compete in an International Event or a national Event until the Athlete has made himself or herself available for Testing by giving six months prior written notice to the Athlete's International Federation and National Anti-Doping Organization. WADA is then given the opportunity to make exceptions to the six-month rule in exceptional circumstances. New Article 5.6.1.1 makes clear that an Athlete's competitive results are not disqualified if the Athlete can establish that he or she could not reasonably know that the Event was an international or national level Event.

- ✓ If the demand warrants, e.g. for older shooters or those who no longer wish to compete at national or international level WADA will set up an expedited procedure to grant exemptions to the six-month rule for Athletes who are clearly not international or national level competitors in the sport in which they are seeking to compete.

12. Added Flexibility for Sanctioning Minors (Article 10)

A minor need not establish how the prohibited substance entered his or her system in order to benefit from a reduced sanction on account of No Significant Fault or Negligence (Definition of No Significant Fault or Negligence). Public Reporting in a case involving a minor is not mandatory and, if reported, must be proportionate to the facts and circumstances of the case (Article 14.3.6).

For purposes of the 4 year ban for the presence, use, or possession of a non-specified substance, the burden is no longer on the minor to establish that the anti-doping rule violation was not intentional (Article 10.2.1); when a minor can establish No Significant Fault or Negligence for an anti-doping rule violation involving a non-specified substance, the minimum period of ineligibility imposed is now a reprimand instead of the 1 year minimum applicable to other athletes (Article 10.5.1.3). Finally, based on feedback from athletes who are concerned about giving sanctioning flexibility to 16 and 17 year old athletes who compete at the elite level, the definition of "minor" has been modified to exclude 16 and 17 year old athletes who are in a registered testing pool, or who have competed in an international event in the open category.

- ✓ 17- and 18-year-old elite Athletes are not subject to the mandatory public reporting of Anti-Doping Rule Violation decisions found in Article 14.3.7 of the ISSF ADR.

13. New Article Entitled "Prompt Admission of an Anti-Doping Rule Violation After Being Confronted with a Violation and Acceptance of Consequences" – Article 10.6.3

An athlete can now only receive a reduction in the 4-year ban or a sanction start date going back to sample collection if the athlete and anti-doping organization agree on the applicable consequence and that agreement is approved by WADA.

The new Article, Article 10.8, replacing both “prompt admission” (Article 10.6.3), and “timely admission” (Article 10.11.2) was not well understood by all stakeholders. Changes to the Article and a revised comment have been included for clarification.

- ✓ In Article 10.8.1, the Athlete is now given 20 days after the B Sample result or notice of the Use or Possession charge to admit the Anti-Doping Rule Violation and accept the sanction reduced by 1 year.
- ✓ Article 10.8.2 allows ISSF, the Athlete and WADA to reach an agreement on the period of Ineligibility to be served in a particular case.
- ✓ A new comment to this Article in the Code makes clear that whether this Article is used or not is solely at the discretion of the ISSF, recognizing that there are some countries where only a hearing panel can decide on a doping sanction.

14. Re-Introduction of the Concept of “Aggravating Circumstances” (Article 10.7)

The Aggravating Circumstances Article has been reinserted into the Code and ISSF ADR to deal with special or exceptional circumstances where an additional period of ineligibility from 0-2 years is appropriate. For example, when fraudulent conduct occurs during the results management or hearing process (Articles 10.3.1.1 and 10.7.2) or where a provisional suspension is violated (Definition of Aggravating Circumstances).

15. Express Authority of a Signatory to Exclude Athletes and Other Persons from its Events as a Sanction Against a Member Federation (Article 12.2)

The language added to Article 12.2 makes clear that discipline by the IOC against a member National Olympic Committee or by the ISSF against a member national federation may include exclusion of athletes from that country from its events. This is a Mandatory provision under the Code.

Questions? Communications?

If you have any questions on the changes that have been brought to the Rules, please do not hesitate to direct them to the Anti-Doping Committee who will answer them as soon as possible.

The goal is to publish Information Portal On Doping (IPOD) articles on the ISSF website Athlete’s Page and on the ISSF website Anti-Doping Page throughout the year to inform all athletes of these imminent changes.