Amendments to be moved on behalf of the Government

(Circulated by the authority of the Minister for Sport, Senator the Hon. Kate Lundy)
AUSTRALIAN SPORTS ANTI-DOPING AUTHORITY AMENDMENT BILL 2013

OUTLINE

The purpose of Australian Sports Anti-Doping Authority Amendment Bill 2013 is to amend the Australian Sports Anti-Doping Authority Act 2006 (ASADA Act) to strengthen the Australian Sports Anti-Doping Authority’s (ASADA) investigation functions and enhance information sharing arrangements with other government agencies. In addition, the Bill clarifies other aspects of Australia’s anti-doping arrangements.

These amendments respond to the comments made by the various Senate Committees which have reviewed the Bill. These proposed government amendments will provide additional assurances to athletes, support staff personnel and other individuals around the circumstances in which the ASADA Chief Executive Officer (CEO) can issue a disclosure notice.

While the Bill contains a number of checks and balances on the CEO in regards to the issuance of a disclosure notice, these amendments will require the CEO to make declarations in writing that they have a reasonable belief that a person has information relevant to the administration of the NAD scheme. It also requires the CEO to obtain the agreement in writing of three members of the Anti-Doping Rule Violation Panel (the Panel) that the CEO has reasonable grounds for forming this belief.

The Panel is a separate body within the ASADA Act whose members are appointed by the Minister. Their current role is to decide, based on evidence presented by ASADA, whether or not it is possible that an anti-doping rule violation has been committed. As part of the process of consideration, the Panel assures itself that ASADA has followed the procedures established in the ASADA regulations for bringing a case forward.

The proposed bill inserts subsection 68(5A) of the ASADA Act which allows the Chief Executive Officer (CEO) not to disclose to athletes that relevant customs information has been passed to relevant sporting administration bodies where that disclosure is likely to prejudice a current investigation into a possible violation of the anti-doping rules. To ensure transparency in regard to this power it is proposed that an amendment be made to require that the CEO report in ASADA’s Annual Report how many times this discretion has been exercised.

These amendments also respond to the comments by the Senate Standing Committee on the Scrutiny of Bills in relation the proposed approach to civil proceedings. This amendment aims to ensure the proposed new paragraph 13D(2)(f) allows information obtained by ASADA through a disclosure note to be used in hearings of any sports tribunal established to deliberate on cases involving anti-doping rule violations and/or other sports tribunals for doping and safety purposes.

Information obtained by ASADA through a disclosure note is inadmissible in other civil proceedings.

FINANCIAL IMPACT STATEMENT

These Government amendments have no financial impact.
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NOTES ON AMENDMENTS

Amendment (1) and (2)

These amendments remove the CEO’s sole discretion in relation to having a reasonable belief the person has information, documents or things that may be relevant to the administration of the National Anti-Doping Scheme.

Amendment (3)

This amendment introduces the requirement that the CEO declare in writing their reasonable belief that the person has information, documents or things that may be relevant to the administration of the National Anti-Doping Scheme. The CEO must also, prior to issuing a disclosure notice to a person, obtain the written agreement of three members of the Anti-Doping Rule Violation Panel (the Panel) that this belief is reasonable.

Amendment (4)

This amendment makes it clear that information obtained through a disclosure notice is inadmissible in any proceedings that would expose the individual to a penalty, other than proceedings in connection with the Australian Sports Anti-Doping Authority Act 2006 or its regulations.

Amendment (5)

This amendment clarifies that any proceedings before a sporting administration body, the Court of Arbitration for Sport or other sports tribunals that relate to sports doping and safety matters are deemed to be proceedings in connection with the Australian Sports Anti-Doping Authority Act 2006 or its regulations.

Amendment (6)

This amendment inserts a new subsection 74(1B) that compels the CEO to report in ASADA’s Annual Report the number of times the CEO has exercised their discretion not to disclose to a person that relevant customs information relating to that person has been passed to relevant sporting administration bodies.

Amendment (7) and (8)

These amendments will increase the maximum number of members on the Panel from seven to nine with a consequential change to the definition of vacancy in subsection 5(1A) of the ASADA Act. This will assist to alleviate the additional workload that will be placed on members as a result of requiring that three members of the Panel agree in writing prior to the CEO issuing a disclosure notice to a person.