



New South Wales

Sports Drug Testing Amendment Act 1997 No 100

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Sports Drug Testing Amendment Act 1997 No 100

Act No 100, 1997

An Act to amend the *Sports Drug Testing Act 1995* to apply as laws of New South Wales certain Commonwealth laws relating to sports drug testing; and for other purposes. [Assented to 25 November 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Sports Drug Testing Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Sports Drug Testing Act 1995 No 45

The *Sports Drug Testing Act 1995* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Long title

Omit the long title. Insert instead:

An Act relating to the carrying out of sports drug testing on State competitors; and for other purposes.

[2] Section 3 Object

Omit the section.

[3] Section 4 Definitions

Omit the definitions of *accredited laboratory*, *applicable procedural requirements*, *negative test result*, *positive test result*, *sample* and *scheduled drug or doping method*.

[4] Section 4

Insert in alphabetical order:

applied provisions means the Commonwealth sports drug testing laws that apply as laws of the State because of section 11.

Commonwealth sports drug testing laws means:

- (a) the provisions of Part 3 of the Commonwealth Act, and
- (b) the regulations made under those provisions.

exercise a function includes perform a duty.

function includes a power, authority or duty.

[5] Section 4, definition of "State competitor"

Omit "this Act" from paragraph (d).
Insert instead "the applied provisions".

[6] Section 6 Request to provide sample

Omit "this Act" from section 6 (1).
Insert instead "the applied provisions".

[7] Section 6 (2)

Insert "or the applied provisions" after "this Act".

[8] Section 7 Adoption of regulations under the Commonwealth Act

Omit the section.

[9] Section 8

Omit the section. Insert instead:

8 Conferral of functions on Agency

In accordance with section 9A of the Commonwealth Act, the Agency has:

- (a) the same functions under the applied provisions as the Agency has under the Commonwealth sports drug testing laws, and
- (b) such other functions as are conferred on it by or under this Act.

[10] Section 9

Omit the section. Insert instead:

9 Functions

- (1) Without limiting section 8, the Agency has the following functions:
 - (a) to make entries relating to State competitors in the Register in accordance with the applied provisions,
 - (b) to notify persons and bodies, in accordance with this Act and the applied provisions, of such entries,
 - (c) to disseminate information about:
 - (i) the penalties that are likely to be imposed if State competitors record positive test results, or fail to comply with requests to provide samples for testing, under the applied provisions, and
 - (ii) the testing procedures, and the possibility of State competitors being requested to provide samples, under the applied provisions,
 - (d) to select:
 - (i) the State competitors who are to be requested to provide samples for testing under the applied provisions, and
 - (ii) the dates on which, and the times and places at which, they are to be requested to provide the samples,
 - (e) to collect samples from State competitors under the applied provisions,
 - (f) to arrange, under the applied provisions, for the testing of samples.

- (2) The Agency must not collect samples from State competitors under the applied provisions for any purpose other than to enable the testing of the samples to determine whether State competitors have been using scheduled drugs or doping methods within the meaning of the Commonwealth Act.
- (3) Without limiting the manner in which the Agency may exercise its functions under the applied provisions, the Agency may, in exercising those functions, prepare and maintain a list of all persons whom the Agency knows to be State competitors.
- (4) The Agency's functions under this Act and the applied provisions in relation to State competitors may be exercised within or outside the State.
- (5) The Agency may exercise any of its functions in co-operation with the Commonwealth, another State or a Territory or any person, body, association or organisation.

[11] Section 9A

Insert after section 9:

9A Taking samples from persons under 18

The Agency must not, under the applied provisions, collect or accept a sample from a State competitor who is under the age of 18 years unless:

- (a) a parent or guardian of the State competitor has been given written notice of the requirements of this section, and
- (b) the parent or guardian consents to a sample being provided.

[12] Part 3, heading

Omit the heading.

Insert instead "**Part 3 Application of Commonwealth sports drug testing laws as State laws**".

[13] Sections 11–21

Omit the sections. Insert instead:

11 Commonwealth sports drug testing laws to apply as laws of the State

- (1) The Commonwealth sports drug testing laws, as in force from time to time, apply as laws of the State.
- (2) The Commonwealth sports drug testing laws so apply:
 - (a) with such adaptations as may be necessary for the purposes of this Act, and
 - (b) as if they extended to State competitors.
- (3) This section is subject to section 12.

12 Future amendments to Commonwealth sports drug testing laws

- (1) An amendment to the Commonwealth sports drug testing laws made after the commencement of this section applies automatically under section 11 until such time (if any) as the regulations under this Act provide for the amendment:
 - (a) to apply under section 11 subject to such modifications as are prescribed by the regulations, or
 - (b) to be excluded from the operation of section 11.
- (2) A regulation made for the purposes of subsection (1) has effect only if it is made before the end of 6 months after the date of the Commonwealth amendment concerned.

- (3) For the purposes of this section, the date of the Commonwealth amendment is the date on which:
 - (a) the Commonwealth Act effecting the amendment receives the Royal Assent, or
 - (b) the regulation effecting the amendment is notified in the Commonwealth of Australia Gazette.

13 Interpretation of applied provisions

- (1) The following provisions apply to the interpretation of the applied provisions:
 - (a) section 2 of the Commonwealth Act,
 - (b) the *Acts Interpretation Act 1901* of the Commonwealth.
- (2) The *Interpretation Act 1987* does not apply to the applied provisions.

[14] Part 3A, heading

Insert “**Part 3A Additional notification provisions**” before section 22.

[15] Section 22A

Insert after section 22:

22A Requirement to notify Director-General

- (1) As soon as possible after entering a State competitor’s name on the Register in accordance with the applied provisions, the Agency must, if the competitor is receiving State support, give written notice of the contents of the entry to the Director-General and any agency of the State involved in providing that support.
- (2) The requirement under subsection (1) is in addition to the notification requirements under the applied provisions.

[16] Section 24

Omit the section. Insert instead:

24 Conferral of functions and jurisdiction on Commonwealth AAT

In accordance with section 9A of the Commonwealth Act, the Administrative Appeals Tribunal, and any member or officer of that Tribunal, have:

- (a) the same functions and jurisdiction under the applied provisions as that Tribunal, member or officer has under the Commonwealth sports drug testing laws, and
- (b) such other functions as are necessary or convenient to be exercised in connection with those functions and jurisdiction.

[17] Section 25 Disclosure of confidential information

Insert “within the meaning of the Commonwealth Act” after “laboratory” in section 25 (1) (e).

[18] Section 25 (2)–(4)

Insert “or the applied provisions” after “this Act” wherever occurring.

[19] Section 27 Delegation by Agency

Insert “or the applied provisions” after “this Act” in section 27 (1).

[20] Section 28 Regulations

Omit “, and in particular, for or with respect to collecting samples from State competitors under the age of 18 years”.

[Minister's second reading speech made in—
Legislative Assembly on 15 October 1997
Legislative Council on 18 November 1997]

BY AUTHORITY