



BERMUDA

ANTI-DOPING IN SPORT ACT 2023

2023 : 34

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WHEREAS a Convention entitled “the International Convention against Doping in Sport” was signed in Paris on 19 October 2005;

AND WHEREAS “the World Anti-Doping Code” which was adopted by the World Anti-Doping Agency in Copenhagen on 5 March 2003, was adopted in the Convention;

AND WHEREAS the “International Convention against Doping in Sport” of 2005 entered into force with respect to Bermuda on 1 June 2006;

AND WHEREAS it is necessary and expedient to give effect to “the International Convention Against Doping in Sport” of 2005 and to provide for the establishment of the Bermuda Sport Anti-Doping Authority;

Be it enacted by The King’s Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

PART 1 PRELIMINARY

Citation

1 This Act may be cited as the Anti-Doping in Sport Act 2023.

Application

2 This Act applies to—

- (a) athletes, athlete support personnel and participants in sports in Bermuda;

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- (b) athletes who possess Bermudian status or residents of Bermuda training or competing abroad;
- (c) national sport governing bodies, their affiliate members, clubs, teams, associations or leagues;
- (d) national leagues not affiliated with a national sport governing body;
- (e) participants in any capacity in any sporting activity organized, held, convened or authorized by a national event organization, multi-sport and major games federation; and
- (f) a foreign athlete, in-competition or out-of-competition, who is present in Bermuda.

Interpretation

3 (1) In this Act—

“Appeal Panel” means the Bermuda Anti-Doping Appeal Panel established under section 20;

“athlete” has the meaning provided in the Code;

“athlete support personnel” has the meaning provided in the Code;

“Bermuda Sport Anti-Doping Authority” or “BSADA” means the Bermuda Sport Anti-Doping Authority established under section 4;

“BSADA Rules” means the Bermuda Sport Anti-Doping Authority Anti-Doping Rules as amended from time to time;

“Chairman” means the person appointed under section 5;

“Code” means the World Anti-Doping Code adopted by the World Anti-Doping Agency on 5 March 2003 and includes any revisions or amendments thereto as are adopted by the World Anti-Doping Agency, from time to time;

“Disciplinary Panel” means the Bermuda Anti-Doping Disciplinary Panel established under section 16;

“doping control” has the meaning provided in the Code;

“in-competition” has the meaning provided in the Code;

“international-level athlete” has the meaning provided in the Code;

“international federation” means in relation to a particular type of sporting event or sporting activity, a body having international control over that sport or sporting event and which is recognized by the International Olympic Committee (IOC) or SportAccord, formerly known as the General Assembly of International Sports Federations (GAISF), as the entity responsible for governing that sport internationally;

“international standard” has the meaning provided in the Code;

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“Minister” means the Minister to whom responsibility for sport is assigned;

“National Anti-Doping Organisation” has the meaning provided in the Code;

“national-level athlete” has the meaning provided in the Code;

“national sport governing body” or “NSGB” in relation to a particular sport, has the meaning provided in the BSADA Rules;

“out-of-competition” has the meaning provided in the Code;

“participant” has the meaning provided in the Code;

“person” has the meaning provided in the Code;

“prohibited method” has the meaning provided in the Code;

“prohibited substance” has the meaning provided in the Code;

“World Anti-Doping Agency” or “WADA” has the meaning provided in the Code.

(2) The BSADA Rules as defined in subsection (1) are published separately on the website of the Bermuda Sport Anti-Doping Authority at the following web address: www.bsada.org.

(3) The Code and international standards as defined in subsection (1) are published separately on the website of the World Anti-Doping Agency at the following web address: www.wada-ama.org.

PART 2

ESTABLISHMENT OF THE BERMUDA SPORT ANTI-DOPING AUTHORITY (BSADA) AND THE BOARD

Establishment of the BSADA

4 (1) There is established a body corporate to be known as “the Bermuda Sport Anti-Doping Authority (BSADA)”.

(2) The BSADA shall be the authority responsible for the adoption and implementation of a Code-compliant, anti-doping programme and with jurisdiction over all athletes, athlete support personnel, national sport governing bodies or any person subject to the BSADA Rules.

(3) The BSADA shall perform such functions as are necessary to facilitate the control and prevention of doping in sport, including—

- (a) doing all the things necessary to carry out all the functions required to comply with and implement the Code;
- (b) adopting anti-doping rules that comply with the Code and international standards and are binding on all athletes, athlete support personnel, national sport governing bodies and any person subject to the BSADA Rules;

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- (c) planning, implementing and monitoring information and education programmes aimed at educating athletes, athlete support personnel, parents, the media and the general public in Bermuda about doping in sport matters, such as—
 - (i) the health consequences of doping;
 - (ii) the harm of doping to the ethical values of sport;
 - (iii) prohibited substances and prohibited methods;
 - (iv) therapeutic use exemptions;
 - (v) nutritional supplements;
 - (vi) doping control procedures and results management; and
 - (vii) athletes' rights and responsibilities and the consequences of committing an anti-doping rule violation;
- (d) facilitating the sharing of information between national sporting organisations and other relevant agencies to reduce the prevalence and availability of prohibited substances and prohibited methods;
- (e) facilitating the access of national sporting organisations to WADA-accredited laboratories or WADA-approved laboratories for analysis of samples;
- (f) directing the anti-doping programme specific to sports including the conducting of tests on athletes, planning, co-ordinating and implementing the collection of samples, the management of test results and conducting hearings in keeping with the mandatory international standards set out in the Code;
- (g) promoting and encouraging research about doping in sport matters to develop effective prevention strategies and more effective anti-doping programmes;
- (h) entering into reciprocal testing agreements with national anti-doping organisations outside Bermuda;
- (i) consulting with, advising and assisting departments and agencies of the Bermuda Government, local authorities, the Bermuda Olympic Association, national sporting organisations, and other bodies or persons on any matters concerned with doping in sport issues and related matters;
- (j) developing appropriate procedures to—
 - (i) reflect the needs of athletes who have not attained the age of 18;
 - (ii) reflect any disabilities or other special concerns of athletes; and
 - (iii) protect each athlete's right to privacy;

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- (k) advising the Minister on any doping in sport matters;
- (l) performing any other functions relating to doping in sport that are conferred on the BSADA by this or any other legislative instrument;
- (m) providing quarterly reports to the government authorities related to the operations of BSADA;
- (n) generally taking all steps necessary or desirable to achieve the purposes of this Act.

(4) The BSADA shall adopt and comply with the Code and current international standards and the responsibilities provided in the Code or current international standards.

Board of the BSADA

5 (1) The BSADA shall be managed by a Board hereinafter referred to as “the Board”.

(2) The Board shall comprise not less than seven, nor more than 13 members, appointed by the Minister from the following categories—

- (a) a person who has demonstrated knowledge or experience in sports medicine or pharmacology;
- (b) a person who has experience in dealing with doping or substance abuse prevention matters;
- (c) a person who is a former athlete, former coach, former sports administrator or former NSGB executive;
- (d) a person with a proven academic background, education and training in sports and athletics;
- (e) a person who has demonstrated knowledge or experience in marketing or public relations;
- (f) a person who has knowledge or experience in financial accounting, human resources or management;
- (g) a person who has a legal, regulatory or compliance background relating to sports, athletics or doping in sports;
- (h) a barrister;
- (i) three persons who by virtue of their skill or experience can contribute meaningfully to the work of the Board.

(3) A person shall be ineligible to serve as a member of the Board if the person—

- (a) is involved in the management and operation of a sports organization in Bermuda or the ministry responsible for sport ; or
- (b) is a public officer.

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(4) Where a member of the Board has any direct or indirect interest in any matter before the Board, that member shall disclose his interest by signing a conflict of interest declaration.

(5) The members of the Board shall choose a Chairman and a Vice-Chairman from among them.

(6) Subject to the provisions of subsections (7), (8) and (9), the members of the Board shall hold office for a period not exceeding four years and shall be eligible for reappointment.

(7) The Minister may terminate the appointment of a member of the Board where the member—

- (a) is guilty of gross misconduct in the performance of his duties;
- (b) has, without reasonable excuse, failed to carry out his duties for a continuous period of three months; or
- (c) is unable by reason of physical or mental incapacity to perform his duties or is otherwise unable or unfit to perform his duties.

(8) A member of the Board may resign his office by instrument in writing which is addressed to the Minister.

(9) A member of the Board shall be deemed to have vacated his office if without leave of absence from the Board, he fails to attend three consecutive statutory meetings of the Board, or without leave of absence from the Board, he fails to attend a minimum of three statutory meetings of the Board in any year.

(10) If any member of the Board is temporarily prevented by illness or other cause from exercising his functions, the Minister may appoint some other person to act in his stead for the period of such illness or incapacity.

(11) The appointment of a person as a member of the Board to fill the vacancy occurring under subsections (7), (8) and (9), shall be for the unexpired portion of the term of the member to whose office that person has been appointed and such a person is eligible for reappointment.

Secretary and seal of the BSADA

6 (1) The Board shall appoint a Secretary who shall have custody of the seal of the BSADA.

(2) The seal of the BSADA shall be attested by the signature of the Secretary and the Chairman or a member of the Board duly authorized by the Board to act on his behalf.

(3) All documents, other than those required by any written law to be under seal and all decisions of the Board shall be signified under the hand of the Chairman, the Secretary or a member duly authorized by the Board.

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Functions and powers of the Board

7 The Board shall—

- (a) monitor the administrative operations of the BSADA;
- (b) assist in ensuring that the BSADA receives and manages funds in a prudent manner.

Acting appointment

8 (1) Where the Chairman is absent at any meeting, the Vice-Chairman shall perform the functions of the Chairman.

(2) Where a member, other than the Chairman is absent or unable to perform his duties, the Minister may appoint another person to act in the place of that member.

Location and meetings

9 (1) The BSADA shall be located in such place as it determines to be suitable, and its address shall be published in the Gazette.

(2) The Board shall meet as often as the Chairman deems necessary for the performance of its functions and in any event not less than once every quarter.

Chief Executive Officer

10 (1) The Board shall appoint a Chief Executive Officer of the BSADA who shall be responsible for the day to day management of the BSADA.

(2) The Chief Executive Officer shall not at any time be involved in the operation or management of any sports organization or be a public officer or any person connected to the Ministry responsible for sports.

(3) The Board shall advise the Minister after such appointment has been made in accordance with subsection (1).

Staff of the BSADA

11 (1) The BSADA shall employ such members of staff as are required for the performance of its functions on such terms and conditions as are agreed upon between an employee and the BSADA.

(2) The BSADA may, on such terms and conditions as it thinks fit, engage any suitably qualified person to provide it with services, information or advice.

(3) Staff members of BSADA shall not at any time be involved in the operation or management of any sports organization or be a public officer or any person connected to or involved with the Ministry responsible for sports.

Accounts and audit

12 (1) The BSADA shall keep proper accounts of its receipts, payments, credits and liabilities.

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(2) The BSADA shall submit the accounts referred to in subsection (1) from time to time to the Auditor General or a qualified auditor appointed by the Auditor General to be audited.

Annual reports and estimates

13 (1) The BSADA shall present within three months of the end of each financial year, a report of its proceedings for that year, including the accounts that have been audited in accordance with section 12(2), to the Minister.

(2) A copy of the report referred to in subsection (1) shall be laid in the House of Assembly within three months of the date of receipt by the Minister.

(3) The BSADA shall, at the end of each financial year, submit its estimates of revenue and expenditure in respect of its next financial year for approval by the Minister.

(4) A copy of the approved estimates shall be published in the Gazette.

Obligation of confidentiality

14 (1) Every person having an official duty or being employed in the administration of this Act, shall regard and deal with as confidential, all information, records or documents relating to the functions of the BSADA or the Board, that have been obtained by the person in the course of the performance of his duties or otherwise.

(2) A person to whom information is communicated by a person in subsection (1) shall regard and deal with the information as confidential.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months or both.

(4) Notwithstanding subsections (1) and (2) a person may disclose information in any of the following circumstances—

- (a) pursuant to an order of the Court;
- (b) to an employee of the BSADA or any committee established thereunder, who is so authorized;
- (c) where disclosure is permitted under any other enactment.

Liability of members

15 A member of the Board or the staff of the BSADA shall not be personally liable for any act or default of the BSADA, done or omitted to be done in good faith in the course of its operations.

PART 3

THE BERMUDA ANTI-DOPING DISCIPLINARY PANEL

Establishment of the Disciplinary Panel

16 There is established the Bermuda Anti-Doping Disciplinary Panel (hereinafter referred to as “the Disciplinary Panel”), which must satisfy the requirements found in the definition of “operational independence” in the Code.

Composition and appointment of the Disciplinary Panel

17 (1) The Disciplinary Panel shall comprise a pool of nine persons appointed by the Minister as follows—

- (a) three legal practitioners of not less than five years’ standing, one of whom shall be the Chairman and the other two who shall each be a Vice-Chairman;
- (b) three medical practitioners of not less than five years’ standing; and
- (c) three persons each of whom is, or has previously been, a sports administrator or an athlete.

(2) The members of the Disciplinary Panel shall hold office for a period of three years and are eligible for reappointment.

(3) The Chairman or in his absence, a Vice-Chairman shall appoint three members from the Disciplinary Panel to hear and determine each case.

(4) Every hearing shall comprise the Chairman or a Vice-Chairman as chairman of the hearing panel, one medical practitioner member and one sports administrator or athlete member.

(5) Where a member of the Disciplinary Panel dies, is unable to perform his duties or resigns, the Minister may appoint a person to fill the vacancy.

(6) The appointment of a person as a member of the Disciplinary Panel to fill the vacancy occurring under subsection (5), shall be for the unexpired portion of the term of the member to whose office that person has been appointed and such a person is eligible for reappointment.

Functions of the Disciplinary Panel

18 The Disciplinary Panel shall have the functions provided for in the BSADA Rules and the functions provided for in the International Standards for Results Management published on the website of the World Anti-Doping Agency at the following web address: www.wada-ama.org.

Right to appeal decision to the Appeal Panel

19 Subject to section 23, when a person is aggrieved by a decision of the Disciplinary Panel, the appeal procedure shall be as regulated in the BSADA Rules and the Code.

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PART 4

THE BERMUDA ANTI-DOPING APPEAL PANEL

Establishment of the Appeal Panel

20 There is established the Bermuda Anti-Doping Appeal Panel (hereinafter referred to as the Appeal Panel”), which must satisfy the requirements within the definitions of “operational independence” and “institutional independence” in the Code.

Composition and appointment of the Appeal Panel

21 (1) The Appeal Panel shall comprise nine persons appointed by the Minister as follows—

- (a) three legal practitioners of not less than five years’ standing, one of whom shall be the Chairman and the other two who shall each be a Vice-Chairman;
- (b) three medical practitioners of not less than five years’ standing; and
- (c) three persons each of whom is, or has previously been, a sports administrator or athlete.

(2) The members of the Appeal Panel shall hold office for a period of three years and are eligible for reappointment.

(3) Where a member of the Appeal Panel dies, is unable to perform his duties or resigns, the Minister may appoint a person to fill the vacancy.

(4) The appointment of a person as a member of the Appeal Panel to fill the vacancy occurring under subsection (3), shall be for the unexpired portion of the term of the member to whose office that person has been appointed and such a person is eligible for reappointment.

Functions of the Appeal Panel

22 The Appeal Panel shall have the functions provided in the BSADA Rules and the Code.

PART 5

MISCELLANEOUS

Appeal to Court of Arbitration for Sport

23 (1) For cases arising from participation in an international event or in cases involving an international-level athlete, the decision may be appealed exclusively to the Court of Arbitration for Sport.

(2) For cases that come under article 13.2.2 of the Code, the International Olympic Committee, the International Paralympic Committee and the relevant

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international federation shall have the right to appeal to the Court of Arbitration for Sport regarding the decision of the appellate body.

(3) Any party filing an appeal in accordance with subsection (2) shall be entitled to the assistance from the Court of Arbitration for Sport to obtain all relevant and required information from the anti-doping organization whose decision is being appealed and the information shall be provided if so directed by the Court of Arbitration for Sport.

Regulations

24 The Minister may make regulations, subject to the negative resolution procedure—

- (a) for the keeping of such records as the Minister may require for the purposes of this Act;
- (b) for the determination and collection of fees and charges in connection with the exercise of the functions of the BSADA; and
- (c) generally, for carrying out the purposes and provisions of this Act.

Act binds the Crown

25 This Act binds the Crown.

Consequential Amendment

26 The Government Authorities (Fees) Act 1971 is amended in Part B - Government Authorities of the First Schedule by deleting “Anti-Doping in Sport Act 2011” and substituting it with the “Anti-Doping in Sport Act 2023”.

Repeal

27 This Act repeals the Anti-Doping in Sport Act 2011.

Savings

28 There shall continue to be a Board of the BSADA established under the repealed Act and the Chairman and each other member of the Board appointed or elected under the repealed Act shall continue in office until his term under the repealed Act expires.

Commencement

29 This Act shall come into operation on a day to be appointed by the Minister by notice published in the Gazette.

[Assent Date: 06 December 2023]

[Operative Date: 22 December 2023]