

[Act 1997 No 100]



New South Wales

# Sports Drug Testing Amendment Bill 1997

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The *Sports Drug Testing Act 1995* (*the State Act*) presently confers functions relating to the sports drug testing of State competitors on the Australian Sports Drug Agency established under the *Australian Sports Drug Agency Act 1990* of the Commonwealth (*the Commonwealth Act*). When the State Act was enacted, it conferred functions on the Agency in relation to State competitors by including provisions that were based on the provisions of the Commonwealth Act. However a number of changes to the Commonwealth Act have subsequently been made, resulting in inconsistencies between the State Act and the Commonwealth Act and the Agency no longer being able to drug test State competitors.

The object of this Bill is provide that, instead of the State Act mirroring the provisions of the Commonwealth Act in relation to the Agency's drug testing functions, the relevant sports drug testing provisions of the Commonwealth Act (and regulations) will apply as laws of the State. This means that the drug

---

testing of State competitors will be done in accordance with the relevant Commonwealth sports drug testing laws (as applied as laws of the State) rather than under the separate and inconsistent provisions of the State Act. The Bill also provides that any future amendment of the Commonwealth laws will automatically apply at the State level unless the regulations under the State Act provide for the amendment to be modified in its application (or to be excluded from so applying).

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Sports Drug Testing Act 1995* set out in Schedule 1.

## Schedule 1 Amendments

**Schedule 1 [1]-[3]** and **[5]-[8]** make amendments that are consequential on the proposed Act providing for the Commonwealth sports drug testing laws to apply as laws of the State. The Agency will, as a result of the proposed Act, no longer carry out sports drug testing functions under the provisions of the State Act, but rather under the new applied provisions scheme.

**Schedule 1 [4]** inserts the definitions of *applied provisions* (meaning the Commonwealth sports drug testing laws that will apply as State laws as a result of the proposed Act) and *Commonwealth sports drug testing laws*. This term refers to the provisions of Part 3 of the Commonwealth Act (that Part deals with the requesting, collecting and testing of samples by the Agency) and the regulations made under those provisions.

**Schedule 1 [9]** enables the Agency to exercise its functions under the applied provisions in relation to State competitors and at the State level generally. Also, the Agency will continue to have such other functions as may be conferred or imposed on it by or under the State Act.

**Schedule 1 [10]** recasts the existing provision specifying the functions of the Agency under the State Act in order to take into account the new applied provisions scheme.

**Sports Drug Testing Amendment Bill 1997 [Act 1997 No 100]**

Explanatory note

---

**Schedule 1 [11]** re-inserts existing section 12 of the State Act (that section is repealed by Schedule 1 [13]) in the appropriate Part of the State Act. The retained provision requires the Agency to give notice to, and obtain the consent of, a parent or guardian of a State competitor who is under the age of 18 years before the Agency collects or accepts a sample for drug testing from the competitor.

**Schedule 1 [12]** and **[13]** replace the existing provisions in the State Act relating to the Agency's sports drug testing functions at the State level with the new applied provisions scheme. Under this scheme, the Commonwealth sports drug testing laws will apply as laws of the State (with necessary modifications such as the Commonwealth laws extending to State competitors). Future amendments to the Commonwealth laws will automatically apply at the State level unless regulations under the State Act are made within 6 months of the amendments to modify or exclude the application of the amendments.

**Schedule 1 [15]** restates an existing provision that requires the Agency to notify the Director-General of the Department of Sport and Recreation about State competitors who are listed in the Agency's register under the Commonwealth Act. That register records the names of those competitors who have refused to provide samples or who have returned positive test results.

**Schedule 1 [14]** is a consequential amendment.

**Schedule 1 [16]** provides that the Commonwealth Administrative Appeals Tribunal will have the same functions and jurisdiction under the applied provisions in relation to State competitors as it has at the Commonwealth level.

**Schedule 1 [17]-[19]** make a number of amendments that are consequential on the introduction of the applied provisions scheme.

**Schedule 1 [20]** removes from the regulation making power under the State Act the reference to the making of regulations about collecting samples from State competitors under the age of 18 years. As a result of the proposed Act, the collection of samples will be carried out under the applied provisions and not under the provisions of the State Act or the regulations under the State Act.