



SPÓRT ÉIREANN
SPORT IRELAND

**CONSULTATION ON THE PROPOSED AMENDMENTS TO
THE IRISH ANTI-DOPING RULES 2015 AND THE 2021
WADA CODE REVIEW**

June 2018

Responding to this consultation

Sport Ireland invites written responses to this consultation by **July 4th 2018**.

Please send your responses to:

Siobhán Leonard sleonard@sportireland.ie

or

Siobhán Leonard
Sport Ireland
Top Floor
Block A
Westend Office Park
Blanchardstown
Dublin 15, D15 KPW7

If you have any queries in relation to the consultation process please contact Siobhán Leonard (sleonard@sportireland.ie).

Responses to the consultation

Sport Ireland does not intend to publish the responses to the consultation paper. However, please note that Sport Ireland is subject to freedom of information and data protection legislation. Therefore, if Sport Ireland receives a request under the applicable legislation in relation to this consultation process, and depending on the nature of the request, Sport Ireland may be required to provide the responses in order to comply with the request.

In this regard, please note that comments involving allegations of any kind against a named or otherwise identifiable person or organisation may be viewed as defamatory by the subject of the comments. Those making submissions may be sued directly for any defamatory allegations in a submission and should avoid making such allegations.

Next Steps

After the closing date for the consultation process, Sport Ireland will review all the responses received to the consultation process and decide whether any further amendments need to be made to the Irish Anti-Doping Rules 2015. The amended Irish Anti-Doping Rules 2015 will be provided to Sport Ireland at its meeting in September 2018 to be finalised. It is anticipated that the amended rules will come into effect on 01 January 2019.

PART 1-INTRODUCTION AND BACKGROUND

Introduction

1. This consultation seeks the views of Athletes and National Governing Bodies in relation to the proposed amendments to The Irish Anti-Doping Rules 2015 (the “Rules”). The amended Rules are attached to this consultation paper.
2. Sport Ireland has the power to make Rules under Section 42(2) of the Sport Ireland Act 2015 (the “Act”)¹. These Rules are the fundamental document upon which the Irish Sport Anti-Doping Programme is based.
3. The current version of the Rules commenced on 01 January 2015. The Rules were deemed, on the commencement of the Act, to be the Rules made by Sport Ireland under Section 42(2) of the Act².
4. This consultation also seeks the views of Athletes and National Governing Bodies on the World Anti-Doping Agency’s (“WADA”) review of the World Anti-Doping Code (the “Code”)³.

Background

5. Sport Ireland is established by section 7 of the Act. Sport Ireland is the designated national anti-doping organisation in Ireland and performs the functions and obligations of a national anti-doping organisation as referred to in the Code and the UNESCO Convention.
6. Sport Ireland’s functions under the Act include:
 - i. to facilitate, through the promulgation of guidelines and codes of practice, standards of good conduct and fair play and the elimination of doping in sport;
 - ii. to take such action as it considers appropriate, including testing, to combat doping in sport;
 - iii. to plan, implement, evaluate and monitor education and information

¹ A copy of the Act can be found at <http://www.irishstatutebook.ie/eli/2015/act/15/enacted/en/html>

² Section 45 of the Act.

³ A copy of the Code can be found at <https://www.wada-ama.org/en/what-we-do/the-code>

- programmes for good conduct, fair play and the elimination of doping in sport;
and
- iv. in its capacity as the national doping organisation in the State, to direct the collection of samples, to manage the testing and test results of samples and attend hearings, as required
7. Sport Ireland is also entrusted with implementing, enforcing and amending the Rules having regard to its relevant purpose under the Act to preserve the integrity of sport through the detection, prevention and elimination of doping in sport including the application of sanctions in connection with doping, on such public interest grounds and for the benefit of sportspersons generally.
 8. Sport Ireland has undertaken a review of the current Rules over the course of 2018. Pursuant to Article 18.1 of the Rules, "*Athletes and National Governing Bodies shall be invited to participate in such a process.*" Therefore, Sport Ireland is inviting interested parties to make submissions to Sport Ireland in relation to the proposed amendments to the Rules.
 9. A summary of the main proposed amendments to the Rules are set out in Part 2 of this consultation paper under the following headings:
 - a. General Amendments to the Rules
 - b. Application of the Rules to Athletes and Other Persons (Article 1.3)
 - c. Tampering or Attempted Tampering with any Part of Doping Control (Article 2.5)
 - d. Testing and Investigation (Article 5)
 - e. Results Management (Article 7)
 - f. Disciplinary Proceedings and Procedures (Article 8 and Appendix 2)
 - g. Examples of the Application of Article 10 (Appendix 3)
 10. In addition, Sport Ireland in Part 3 of this consultation paper welcomes comments from Athletes and National Governing Bodies on the provisions and operation of the current Code, including the applicable International Standards. WADA is currently carrying out a review of the Code and a final draft Code will be presented for consideration and approval in November 2019. The revised, 2021 Code, will come into effect on 1 January 2021.

PART 2-SUMMARY OF PROPOSED AMENDMENTS TO THE RULES

In Part 2 of the consultation paper, Sport Ireland has provided a summary of the proposed amendments to the Rules. For details of all of the amendments to the Rules, please see the document attached to this consultation paper.

Proposed General Amendments to the Rules

11. Sport Ireland has reviewed and updated the Rules to :
 - a. amend the references to the “Irish Sport Council” to Sport Ireland as established under Section 7 of the Act.
 - b. refer to relevant powers and functions of Sport Ireland under the Act.
 - c. incorporate relevant comments from the Code and where necessary, to make minor changes to the comments to reflect the Irish position. The comments annotating the Code are used to interpret the Code and the Rules. Therefore, Sport Ireland proposes amending the Rules to include the comments to assist with the interpretation of these Rules.
 - d. make amendments to the definitions set out in Appendix 1 to the Rules, where necessary.

Application of the Rules to Athletes and Other Persons-Article 1.3

12. Sport Ireland’s jurisdiction in respect of anti-doping is set out in the Act and the Code. Sport Ireland has made the proposed amendments to Article 1.3 to further clarify the extent of Sport Ireland’s anti-doping jurisdiction in respect of Athletes and other Persons to whom the Code and the Rules apply.

Article 2.5-Tampering or Attempted Tampering with any Part of Doping Control

13. In footnote No.9 of the Rules, Sport Ireland has included the following comment from the Code which provides that:

“Offensive conduct towards a Doping Control official or any other Person involved in Doping Control which does not otherwise constitute Tampering shall be addressed in the rules of National Governing Bodies.”

14. Sport Ireland is bringing this proposed amendment to the attention of the National Governing Bodies as a matter to be addressed in the rules of the National Governing Bodies, if not already provided for in such rules.

Testing and Investigation-Article 5

15. The Rules incorporate the International Standard for Testing and Investigations and all Athletes and other Persons are deemed to accept these standards⁴.

16. A new Article 5.8.4.2 has been inserted in the Rules. This Article provides that Sport Ireland, in the course of its investigations and in accordance with the International Standards, where it considers it appropriate to do so, can make a written demand to an Athlete or other Person to furnish information, including documentation, that may evidence or lead to the discovery of evidence of an anti-doping rule violation. Further Sport Ireland may require an Athlete or other Person to attend an interview and/or provide a statement setting out the Athlete's or other Persons' knowledge of the relevant facts and circumstances.

17. The possible consequences for failing to comply with investigations under the Rules are set out in Articles 5.8.5 and 5.8.6.

18. Article 5.8.5 provides that if an Athlete or other Person fails or refuses to comply with an investigation, without acceptable justification, that Athlete or other Person may be referred to the National Governing Body for consideration under the applicable National Governing Body's rules of conduct and the Athlete or other Person may be sanctioned accordingly.

19. Further, Article 5.8.6 provides that if an Athlete or other Person subverts or attempts to subvert the investigation process (e.g. by providing false misleading or incomplete information and/or by destroying potential evidence) proceedings may be brought against him or her for violation of Article 2.5 (Tampering or Attempted Tampering).

20. These proposed amendments to the Rules have been made by Sport Ireland to set out and further clarify Sport Ireland's investigative powers under the Code, the International Standards, the Act and these Rules.

⁴ Article 5.1 of the Rules

Results Management-Article 7

21. Sport Ireland has the responsibility for results management and anti-doping rule violations. Results management and the investigation of potential anti-doping rule violations proceed under Article 7.1 of the Rules where (i) Sport Ireland has initiated and directed Sample collection or, (ii) if no Sample collection is involved, where Sport Ireland first provides notice to an Athlete or other Person of the alleged anti-doping rule violation and then pursues that alleged anti-doping rule violation.
22. Article 7.6 relates to the notification of Athletes or other Persons where Sport Ireland has determined that an Athlete or other Person has a case to answer in respect of an alleged anti-doping rule violation(s). Sport Ireland has amended the time periods for notification in Article 7.6 to 14 days from the date of the Notification, to the Athlete or other Person. This date will be evident on the Notification document to the Athlete or other Person. Previously, the time period in Article 7.6.1.5.2 was 10 days from receipt of the Notification by the Athlete or other Person, and was 14 days from receipt of the Notification by the Athlete or other Person in Article 7.6.1.6.
23. Sport Ireland has made the proposed changes to the time periods for notification as a means of simplifying the notification process to Athletes and other Persons of anti-doping rule violations.

Disciplinary Proceedings and Procedures (Article 8 and Appendix 2)

24. Article 8 sets out Sport Ireland's disciplinary proceedings for the determination of alleged anti-doping rule violations.
25. Article 8.6.1 has been changed to make it clear which references to the Irish Sport Anti-Doping Disciplinary Panel in the Rules, may, where the context requires, be applicable to the disciplinary panel of a National Governing Body.

Proceedings before the Irish Sport Anti-Doping Disciplinary Panel

26. The Irish Sport Anti-Doping Disciplinary Panel is appointed under Article 8 of the Rules. Article 8.2.3 confirms that the Irish Sport Anti-Disciplinary Panel has all of the powers

necessary for, and incidental to the exercise of its functions under the Act, the Code, the Rules and the Arbitration Act 2010 or otherwise. Article 16.2 of the Rules provides that the Rules constitute an agreement to arbitrate and that proceedings under the Rules before the Irish Sport Anti-Doping Disciplinary Panel constitute an arbitration to which the Arbitration Act 2010 applies. It is proposed that Article 16.2 be amended to include reference to the fact that section 10 of the Arbitration Act 2010 applies to such proceedings. Section 10 of the Arbitration Act 2010 refers to the power of the High Court in arbitral proceedings to make certain Orders, which can include the making of Orders in relation to the compellability of witnesses and the discovery and production of documentation.

Irish Sport Anti-Doping Disciplinary Panel Disciplinary Procedures

27. Previously, the Irish Sport Anti-Doping Disciplinary Panel's procedures were contained in a separate document titled the *Irish Sport Anti-Doping Disciplinary Panel Rules*. It is proposed that this document will be incorporated into the Rules at Appendix 2 as the *Irish Sport Anti-Doping Disciplinary Panel's Disciplinary Procedures* (the "Disciplinary Procedures"). The changes shown in Appendix to the Rules are in comparison to the existing *Irish Sport Anti-Doping Disciplinary Panel Rules*.

28. The Disciplinary Procedures also contain the following proposed amendments:

- a. to redefine the role of secretary to the Panel to the role of Registrar.
- b. to provide for a system of call overs to be held at regular intervals as a means to deal with procedural issues and to facilitate effective and efficient case management of cases referred to the Irish Sport Anti-Doping Disciplinary Panel.
- c. to increase the period for the issuing of decisions of the Irish Sport Anti-Doping Disciplinary Panel from 15 working days to 20 working days.

29. Sport Ireland has made these proposed amendments as a means of ensuring that cases are dealt with as effectively and efficiently as possible, and to ensure that the Irish Sport Anti-Doping Disciplinary Panel has the necessary support to perform its functions.

The Role of the Registrar and case management

30. The functions of the Registrar are set out in the Disciplinary Procedures and include assisting the Irish Sport Anti-Doping Disciplinary Panel with the case management of its cases to include the procedure and time-table to be followed. The Registrar can hold call overs to (i) issue directions as regards fixing the date, time and venue of the hearing, (ii) establishing a schedule for the exchange of written submissions and evidence and (iii) deal with applications for adjournments. The parties will be invited to attend such hearings. The Registrar may also assist the Irish Sport Anti-Doping Disciplinary Panel with the drafting of its decisions, but it is important to note that the Registrar has no role in the making of such decisions.

Time period for the written decisions of the Irish Sport Anti-Doping Disciplinary Panel

31. In relation to the decisions of the Irish Sport Anti-Doping Disciplinary Panel, it is proposed to increase the time period for the issuing of the written, reasoned decision from 15 working days to 20 working days. The written decisions issued by the Irish Sport Anti-Doping Disciplinary Panel are often complex and detailed. Therefore, it is proposed to amend the period to 20 days, in order to provide the Panel with a reasonable period of time, in which to consider and draft its written decisions.

Appendix 3-Examples of the Application of Article 10

32. Sport Ireland proposes including at Appendix 3 to the Rules *Examples of the Application of Article 10*. This reproduces Appendix 2 of the Code and it is proposed to include this as an Appendix to the Rules for ease of reference and to provide examples of how the Consequences set out in the Code and the Rules can be applied.

PART 3-WADA REVIEW OF THE CODE

33. The Code is the fundamental and universal document upon which the World Anti-Doping Program is based. Its purpose is to advance the anti-doping effort through universal harmonisation of core anti-doping elements.
34. In January 2003, the first Code was approved. At the time, WADA committed to ensuring that the Code would be a living document, subject to periodic review. In keeping with that commitment, in February 2006 and November 2011, WADA's Foundation Board initiated Review Processes with amendments being incorporated within the 2009 and 2015 Codes respectively.
35. On 16 November 2017, WADA's Foundation Board initiated the 2021 Code Review Process, which will also involve simultaneous review of the International Standards.
36. A final draft Code is being presented for consideration and approval at the fifth World Conference on Doping in Sport, to be held in November 2019 in Katowice, Poland.
37. The revised, 2021 Code, will enter into effect on 1 January 2021.
38. As part of this consultation process, Sport Ireland welcomes submissions from Athletes and National Governing Bodies in relation to the provisions of the current Code and its operation. Further information on the 2021 Code review can be found at this link <https://www.wada-ama.org/en/what-we-do/the-code/2021-code-review>.

PART 4-RELEVANT DOCUMENTATION ATTACHED TO THIS CONSULATION PAPER

Appendix 1

39. The Irish Anti-Doping Rules 2015-Version 2.0. This document sets out the proposed amendments to the Rules.