

AUSTRALIAN OLYMPIC COMMITTEE

INCORPORATED
A.B.N. 33 052 258 241

President:
John D Coates AC



Level 19
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000
AUSTRALIA

Telephone: 61 2 9247 2000
Facsimile: 61 2 9223 0036
john.coates@olympics.com.au
www.olympics.com.au

MEMORANDUM

TO Presidents & CEOs – National Federations
cc Senator the Hon Kate Lundy MP – Minister for Sport
John Wylie – Chairman, Australian Sports Commission
Simon Hollingsworth – CEO, Australian Sports Commission
Matt Favier – Director, Australian Institute of Sport
Geoff Lipshut – CEO, Olympic Winter Institute of Australia
Directors – State/Territory Institutes & Academies of Sport
FROM John Coates
DATE 12 February 2013
SUBJECT STATUTORY DECLARATION REGARDING ANTI-DOPING
MATTERS

Dear Friends & Colleagues,

Statutory Declaration

On Friday 8 February 2013, the Australian Olympic Committee (AOC) Executive unanimously approved the introduction of a statutory declaration regarding anti-doping matters, as well as changes to a number of documents which will bring it into effect. The introduction of the statutory declaration marks a significant and necessary step in ensuring that no person involved with an Australian Olympic Team, or the AOC more generally, has a history of doping in sport.

Therefore, all Athletes and Officials (excluding minors) seeking membership of an Australian Olympic Team or Shadow Team, and all members of the AOC's Executive, its committees and commission, and AOC staff, will be required to make the statutory declaration.

Any person who does not make the statutory declaration or who, in the AOC's opinion, falsely makes the statutory declaration will be ineligible for such membership, or to receive funding from or to hold any position within the AOC, unless otherwise determined by the AOC. The AOC will also share information with relevant anti-doping organisations on a case by case basis, whether to verify the contents of any statutory declaration made or to report instances where a person (or group of persons) fails to make the declaration at all.

In addition, any person who authorize and corruptly makes a declaration knowing it to be untrue in any material particular, will be guilty of a criminal offence (Section 25 *Oaths Act 1900* (NSW)). These matters will be referred by the AOC to law enforcement agencies and such persons will liable to up to 2 years imprisonment, a fine of 50 penalty units (currently \$5,100) or both, if dealt with summarily. If dealt with on indictment, the penalty is up to 5 years imprisonment.

Implementation

The statutory declaration is brought into effect by changes made to the AOC's Ethical Behaviour By-Law and the Olympic Team Selection By-Law. All "Relevant Persons" must make the statutory declaration "as required by the AOC from time to time."

AOC Executive members will be the first to make the declaration, in the coming weeks. Similarly, any person nominating for election to the AOC Executive will be required to make the statutory declaration as a condition of nomination. All members of the AOC's committees and commissions, and AOC staff, will also be required to make the statutory declaration in the coming weeks.

Relevantly for our National Federations, all Athletes will be required to make the statutory declaration **before** they can be included in any Shadow Team. All Officials will be required to make the statutory declaration **before** they can be selected to any Australian Olympic Team. The AOC can also require Athletes and Officials to make additional declarations at **any time** up until midnight on the day after the Closing Ceremony of the relevant Olympic Games.

It is the responsibility of each National Federation to ensure that all Athletes and Officials make the statutory declaration when required and provide the original to the AOC.

2014 Olympic Winter Games

This process has now been put in place for the upcoming 2014 Olympic Winter Games, by amendments to the 2014 Nomination and Selection Criteria and the Team Membership Agreement. Our Sport Department will shortly be in contact with the relevant sports to implement these changes.

National Federations for winter sports are encouraged to provide the statutory declaration and accompanying notes to their Athletes and Officials as soon as possible, to allow them an opportunity to consider what is required and seek advice, if necessary. To be clear, any person who does not make the statutory declaration or who falsely makes the declaration will be ineligible for inclusion in the Shadow Team or selection to the Australian Olympic Winter Team. Therefore, if you have any reason to believe that any Athlete or Official will not be in a position to make the declaration when required, you should address this as soon as possible so as not to disadvantage other Athletes or Officials in the nomination and selection process.

To assist with implementing the statutory declaration, the AOC will make an authorized witness available at the Team Assembly Sessions to be held in Melbourne and Sydney, in May. Again, please encourage your Athletes and Officials to make use of this service.

Documents

Attached are the following documents:

- Statutory declaration and accompanying notes;
- AOC Ethical Behaviour By-Law (amended and effective 8 February 2013)
Note: A new clause 3.3 requires Relevant Persons to make the statutory declaration and provides consent for the AOC to share information with relevant anti-doping organisations; and
- AOC Olympic Team Selection By-Law (amended and effective 8 February 2013)
Note: Clauses 3.1(4), 3.3, 6.2(6), 7.2(2) and 8.7 require Athletes and Officials to make the statutory declaration.

Please read the documents carefully to ensure you are familiar with what is required. If you have any questions regarding the statutory declaration or its implementation more generally, please contact Claudia Mackie, Senior Legal Counsel (+61 2 8436 2109) or, with respect of the 2014 Olympic Winter Team, Fiona de Jong, Director of Sport (+61 2 8436 2213).

Australian Sports Anti-Doping Authority Amendment Bill 2013

As you may be aware, the above bill was recently introduced into the Senate and seeks to expand ASADA's investigative functions and its ability to share information with other Government Agencies.

The AOC has been invited to make a submission with respect the proposed amendments and attend a public hearing on 1 March 2013, should one be held. The AOC is currently preparing its submission and I will attend the public hearing with our Vice Presidents and the Chair of our Athletes' Commission.

With kind regards,



JOHN COATES



AUSTRALIAN OLYMPIC COMMITTEE INC

ABN 33 052 258 241

Registered Number A0004778J

STATUTORY DECLARATION
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

[Important: you must delete either statement 1 or 2 below in full, depending on which is a true statement of fact by you. However, you must not make any amendments to the statements. If you are unable to declare either statement 1 or 2 in full, you will not be able to make the statutory declaration and must contact the Director of Sport, Australian Olympic Committee on +61 2 9247 2100 for further guidance.]

I, _____, of _____
[name] [residence – full address]

do solemnly and sincerely declare that:

1. I have **not** at any time breached any applicable anti-doping rule or policy, including the World Anti-Doping Code 2009, the Australian Olympic Committee's Anti-Doping By-Law and the anti-doping rules and policies of applicable Anti-Doping Organisations, National Federations and International Federations (as those words are defined in the Australian Olympic Committee's Anti-Doping By-Law) (each an "Applicable Anti-Doping Rule or Policy").

----- - OR -----

2. I have breached an Applicable Anti-Doping Rule or Policy; but
 - (a) the sanction in respect of such breach(es) was formally **eliminated or waived** by the organisation having the authority to do so; or
 - (b) I have **completed** the sanction imposed in respect of such breach(es).

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900 (NSW).

[signature of person making the declaration]

Declared at: _____ on _____
[place] [date]

In the presence of an authorised witness, who states:

I, _____, a _____
[insert name of authorised witness] [insert qualification to be authorised witness^A]

certify the following matters concerning the making of this statutory declaration by the person who made it: [**please cross out any text that does not apply*]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document^{*B} and the document I relied in was _____
[describe identification document relied on]

[insert signature of authorised witness] [insert date]

***A:** Persons who can witness the making of this statutory document are:

Within New South Wales

- a Justice of the Peace registered in New South Wales;
- an Australian legal practitioner;

Outside New South Wales

- an Australian legal practitioner;
- an Australian Notary Public;
- an Australian Consular Officer or British Consular Officer;
- any other person authorised by law to administer an oath in the country or place where the oath is administered.

***B:** An **identification document** means any of the following unless it has expired or been cancelled (however an Australian passport is acceptable if it expired no more than 2 years ago):

• a driver's licence or permit with a photograph, whether issued in Australia or another country	• a birth certificate or birth extract, whether issued in Australia, another country or by the United Nations (with an English language translation if not in English)
• a NSW photo card issued under the <i>Photo Card Act 2005</i>	• a Centrelink pension card
• an Australian proof of age card which contains the person's photograph	• a credit card or passbook, or
• an Australian passport (either current or expired less than 2 years ago)	• an account from a bank, building society or credit union, or statement of account up to one year old
• a passport or similar document with the person's photograph and signature issued by another country or by the United Nations	• a Medicare card, pensioner concession card, Department of Veterans' Affairs entitlement card or other entitlement card issued by the Federal or any State Government
• a national identity card with the person's photograph and signature issued by another country or the United Nations (with an English language translation if not in English)	• an electoral enrolment card or other evidence of enrolment as an elector up to 2 years old
• an Australian citizenship certificate or a foreign citizenship certificate (with an English language translation if not in English)	• a student identity card, or a certificate or statement of enrolment up to 2 years old from an educational institution.



AUSTRALIAN OLYMPIC COMMITTEE INC

ABN 33 052 258 241

Registered Number A0004778J

NOTES

STATUTORY DECLARATION REGARDING ANTI-DOPING MATTERS

- This is a statutory declaration made in accordance with New South Wales law. The information below is a guide only. You are strongly encouraged to seek independent legal advice before making the statutory declaration.

ABOUT THE STATUTORY DECLARATION

- The declaration relates to the anti-doping policies applicable to you as a participant in sport. This includes any policies applicable to you as an athlete or official today, as well as those that would have been applicable to you as an athlete or official in the past.
- There are three options:
 - (1) If you have never breached an applicable anti-doping policy, then you should declare the first statement.
 - (2) If you have breached an applicable anti-doping policy but either the sanction for that breach was eliminated or waived by the relevant organisation, or you have completed the sanction, then you should declare the second statement.
 - (3) If you have breached an applicable anti-doping policy but neither of the exceptions in option (2) above apply to you, then you will not be able to make the declaration required and must contact the Director of Sport, Australian Olympic Committee (AOC) on +61 2 9247 2000 for further guidance.
- Generally, the declaration does not capture the use of recreational drugs outside of competition unless specifically prohibited by the applicable anti-doping policy. Further, the declaration does not capture the use of prohibited substances or methods for which you received a Therapeutic Use Exemption.

HOW TO MAKE THE STATUTORY DECLARATION

- An example of a completed statutory declaration is attached at the back of these notes.
- You must delete either statement 1 or 2 in full depending on which is a true statement of fact by you, by drawing a line through every line in the statement. You and your witness must initial the deletion.

- However, you must not make any amendments to the statements or delete only part of a statement. If you are unable to declare either statement 1 or statement 2 in full, you will not be able to make the statutory declaration.
- The declaration must be witnessed by an authorised person as applicable within New South Wales, outside New South Wales in another State or Territory, or in another country. Failure to do so will render it invalid (see list at end of declaration).

CONSEQUENCES OF NOT MAKING A DECLARATION OR MAKING A FALSE DECLARATION

- **Making a false declaration is a criminal offence and may attract significant penalties.**
In particular, any person who wilfully and corruptly makes a declaration knowing it to be untrue in any material particular, will be guilty of a criminal offence (Section 25 Oaths Act 1900 (NSW)). If the offence is dealt with summarily, the penalty is up to 2 years imprisonment, or a fine of \$5,100, or both. If the offence is dealt with on indictment, the penalty is up to 5 years imprisonment.
- In addition to these penalties any person who does not make the statutory declaration or who, in the AOC's opinion, falsely makes the statutory declaration, will be ineligible for membership of any Australian Olympic Team or Shadow Team, or to receive funding from or to hold any position within the AOC unless otherwise determined by the AOC.
- The AOC will share information regarding the statutory declarations with relevant anti-doping organisations and law enforcement agencies, on a case by case basis. This includes if you do not make the statutory declaration as required by the AOC from time to time or if the AOC wishes to verify the contents of any declaration given.

ELIGIBILITY FOR AUSTRALIAN OLYMPIC TEAMS OR POSITIONS WITHIN THE AOC

✓ means eligible

X means ineligible

	No past doping offences	Past doping offence and sanction served	No statutory declaration	Making a false statutory declaration
Athletes	✓	✓	X	X
Officials	✓	✓	X	X
AOC Executive, Committees and Commissions	✓	✓	X	X
AOC Staff	✓	✓	X	X



AUSTRALIAN OLYMPIC COMMITTEE INC

ABN 33 052 258 241

Registered Number A0004778J

STATUTORY DECLARATION
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

[Important: you must delete either statement 1 or 2 below in full, depending on which is a true statement of fact by you. However, you must not make any amendments to the statements. If you are unable to declare either statement 1 or 2 in full, you will not be able to make the statutory declaration and must contact the Director of Sport, Australian Olympic Committee on +61 2 9247 2000 for further guidance.]

I, JOHN JAMES SMITH, of UNIT 1, 1 JAMES STREET, SYDNEY 2000
[name] [residence – full address]

do solemnly and sincerely declare that:

1. I have **not** at any time breached any applicable anti-doping rule or policy, including the World Anti-Doping Code 2009, the Australian Olympic Committee's Anti-Doping By-Law and the anti-doping rules and policies of applicable Anti-Doping Organisations, National Federations and International Federations (as those words are defined in the Australian Olympic Committee's Anti-Doping By-Law) (each an "Applicable Anti-Doping Rule or Policy").

-----OR-----

~~2. I have breached an Applicable Anti-Doping Rule or Policy; but~~

~~(a) the sanction in respect of such breach(es) was formally eliminated or waived by the organisation having the authority to do so; or~~

~~(b) I have completed the sanction imposed in respect of such breach(es).~~

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900 (NSW).

John Smith
[signature of person making the declaration]

Declared at: SYDNEY on 12 FEBRUARY 2013
[place] [date]

In the presence of an authorised witness, who states:

I, SARAH JANE JONES, a SOLICITOR ADMITTED IN NEW SOUTH WALES
[insert name of authorised witness] [insert qualification to be authorised witness^A]

certify the following matters concerning the making of this statutory declaration by the person who made it: [**please cross out any text that does not apply*]

1. ~~*I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and~~
2. ~~*I have known the person for at least 12 months OR~~ *I have confirmed the person's identity using an identification document^{*B} and the document I relied in was NSW DRIVER LICENCE NO. 001 001 001
[describe identification document relied on]

Sarah Jones
[insert signature of authorised witness]

12 FEBRUARY 2013
[insert date]

*A: Persons who can witness the making of this statutory document are:

Within New South Wales

- a Justice of the Peace registered in New South Wales;
- an Australian legal practitioner;

Outside New South Wales

- an Australian legal practitioner;
- an Australian Notary Public;
- an Australian Consular Officer or British Consular Officer;
- any other person authorised by law to administer an oath in the country or place where the oath is administered.

*B: An **identification document** means any of the following unless it has expired or been cancelled (however an Australian passport is acceptable if it expired no more than 2 years ago):

• a driver's licence or permit with a photograph, whether issued in Australia or another country	• a birth certificate or birth extract, whether issued in Australia, another country or by the United Nations (with an English language translation if not in English)
• a NSW photo card issued under the <i>Photo Card Act 2005</i>	• a Centrelink pension card
• an Australian proof of age card which contains the person's photograph	• a credit card or passbook, or
• an Australian passport (either current or expired less than 2 years ago)	• an account from a bank, building society or credit union, or statement of account up to one year old
• a passport or similar document with the person's photograph and signature issued by another country or by the United Nations	• a Medicare card, pensioner concession card, Department of Veterans' Affairs entitlement card or other entitlement card issued by the Federal or any State Government
• a national identity card with the person's photograph and signature issued by another country or the United Nations (with an English language translation if not in English)	• an electoral enrolment card or other evidence of enrolment as an elector up to 2 years old
• an Australian citizenship certificate or a foreign citizenship certificate (with an English language translation if not in English)	• a student identity card, or a certificate or statement of enrolment up to 2 years old from an educational institution.



AUSTRALIAN OLYMPIC COMMITTEE INC

ABN 33 052 258 241

Registered Number A0004778J

ETHICAL BEHAVIOUR BY-LAW

1. DEFINITIONS

- “AOC”** means the Australian Olympic Committee Inc.
- “Athlete”** means an athlete that:
- (a) receives financial or other assistance from the AOC;
 - (b) is a member of a Shadow Team; or
 - (c) has been nominated for selection to, or selected as a member of, any Team.
- “Benefit”** means a benefit of any kind including, but not limited to, remuneration, commission, service, hospitality or gift.
- "Bullying"** means repeated, unreasonable behaviour directed towards a person, or group of persons, that may cause harm. It includes behaviour that a reasonable person, having regard to all the circumstances, would expect to offend, humiliate, intimidate or threaten the person exposed to the conduct.
- “Child Abuse”** means physical, emotional harming or exploitation of children, whether sexual or otherwise and includes, but not limited to:
- (a) derogatory or inappropriate behaviour;
 - (b) non-accidental injury to children;
 - (c) inappropriate touching;
 - (d) physical, emotional or sexual abuse; or
 - (e) insensitivity towards children with cultural or religious differences.
- “Direct Discrimination”** means when a person (“Discriminator”) treats or proposes to treat another person (“Aggrieved Person”) less favourably on the ground of the Aggrieved Person’s Disability, Race, Sexuality, marital status, Religious Activity, Religious Belief or age, in circumstances that are the same or are not materially different to circumstances in which the Discriminator treats or would treat a person without

or not of the Disability, Race, Sex, Sexuality, marital status Activity, Religious Belief or age.

“Disability”

in relation to a person means:

- (a) a total or partial loss of a part of the body or of the person’s bodily or mental functions;
- (b) the presence in the body of organisms causing or capable of causing disease or illness;
- (c) the malfunction, malformation or disfigurement of a part of the person’s body;
- (d) a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction;
- (e) a disorder, illness or disease that affects a person’s thought processes, perception or reality, emotions or judgments or that results in disturbed behaviour;
- (f) and includes a disability that:
- (g) presently exists;
- (h) previously existed but no longer exists;
- (i) may exist in the future;
- (j) is imputed to a person whether or not that person has a disability.

“Games Period”

means the period commencing at the earlier of:

- (a) the assembly of the Team for the Games under the control and authority of the Chef de Mission; or
- (b) the opening of the Games Accommodation;

and ends at midnight the day after the closing ceremony of the Games or on such later date as the Relevant Person is formally discharged from the relevant Team.

**“Indirect
Discrimination”**

means where a person imposes or proposes to impose a condition, requirement or practice that has or is likely to have the effect of disadvantaging persons of the same Disability, Race, Sex, Sexuality, marital status, Religious Activity, Religious Belief or age as an aggrieved person, but not where the condition, requirement or practice is reasonable in all the circumstances.

“Official”

means all persons who administer, manage, coach, support, assist or are otherwise involved with any Team, the AOC or Team sponsors.

- “Race”** means a person’s race, colour, descent or ethnic origin and includes the culture, custom or beliefs of a particular race.
- “Relevant Persons”** means the persons to whom this By-Law applies as described in clause 2.1.
- “Religious Activity”** means engaging in, not engaging in or refusing to engage in a lawful religious activity.
- “Religious Belief”** means holding or not holding a religious belief.
- “Sex”** means a person’s gender such as their being a man or woman.
- “Sexuality”** means a person’s sexual orientation such as heterosexuality, homosexuality or bisexuality.
- “Shadow Team”** means those Athletes who are recognised by the AOC as potential members of a particular Team.
- “Team”** means any Australian Olympic Team, Australian Olympic Winter Team, Australian Youth Olympic Team, Australian Winter Youth Olympic Team or other team selected by the AOC.
- “Unlawful Harassment”** means conduct which is unwelcome and which a reasonable person would anticipate would offend, intimidate, humiliate or threaten the person exposed to the conduct, and which is based on Disability, Race, Sex, Sexuality, marital status, Religious Activity, Religious Belief or age.
- “Vilification”** means the public act of inciting hatred, contempt or ridicule towards a person based on a person’s Disability, Race, Sex, Sexuality, marital status, Religious Activity, Religious Belief or age, but does not include a public act done reasonably and in good faith for purposes in the public interest, including discussion or debate about any act or matter.
- 1.1 Except so far as the contrary intention appears in this By-Law, an expression has in this By-Law the same meaning as in the Constitution.
- 1.2 Headings are for convenience only and do not affect the interpretation of this By-Law.
- 1.3 Reference to one gender includes each other gender.
- 1.4 The singular includes the plural and the plural includes the singular.
- 1.5 The meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.
- 1.6 A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the document or any part of it.

2. COMPLIANCE WITH THIS BY-LAW

2.1 This By-Law applies to:

- (1) Athletes;
- (2) Officials; and
- (3) Members of the AOC Executive; members of any commission or committee established pursuant to the Constitution of the AOC; officers, employees, contractors, interns and volunteers of the AOC.

2.2 Subject to clause 2.5, all Relevant Persons must not, by their acts or omissions, engage or participate in:

- (1) Direct Discrimination;
- (2) Indirect Discrimination;
- (3) Unlawful Harassment;
- (4) Bullying;

in any area of activity where the Relevant Person is participating in that activity in their capacity as an Athlete, Official, Member of the Executive, officer or employee of the AOC.

2.3 all Relevant Persons must not, by their acts or omissions, engage or participate in:

- (1) Vilification;
- (2) Child Abuse; and
- (3) conduct otherwise prohibited under clause 3 of this By-Law.

2.4 For the avoidance of doubt, the provisions of clauses 2.2(1) and (2) do not apply where Sex, age, Disability, marital status, experience, capabilities and athletic performance or any combination of these factors, are reasonably considered by the AOC to be relevant to any of the following:

- (1) the selection of Athletes and Officials as members of Teams or Shadow Teams;
- (2) any other decisions made or actions taken by a Relevant Person in respect of an Athlete or official as a member of a Team or Shadow Team;
- (3) the termination of the membership of an Athlete or Official as a member of a Team or Shadow Team; or
- (4) decisions about the provision of financial or other assistance by the AOC.

3. APPROPRIATE CONDUCT

- 3.1 All Relevant Persons must at all times act honestly in the exercise of their powers and the performance of their functions to the AOC including any Team selected by the AOC.
- 3.2 All Relevant Persons must provide assistance and disclose honestly and fully all relevant information to the AOC and during the Games Period the Chef de Mission of the relevant Team.
- 3.3 All Relevant Persons must truthfully make the statutory declaration regarding anti-doping matters as required by the AOC from time to time. Relevant Persons consent to the AOC obtaining information from, and disclosing information to, relevant anti-doping organisations regarding anti-doping matters (including the statutory declaration).
- 3.4 All Relevant Persons must:
 - (1) not at any time engage in conduct (whether publicly known or not), which has brought, brings or would have the tendency to bring the Relevant Person or the Relevant Person's sport into disrepute or censure, or which is or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, image or values of the AOC, Team Sponsors, the Team or Shadow Team;
 - (2) not at any time be convicted of, or charged with, any serious offence involving violence, alcohol or drugs, or any sex offence, or any offence relating to any betting or gambling activities on sport, or any offence which is punishable by imprisonment.
- 3.5 Any Relevant Person who has a personal interest or direct or indirect pecuniary interest in any matter involving the performance of that person's duties to the AOC including any Team selected by the AOC must, as soon as possible after the relevant facts have come to that person's knowledge, make full disclosure of the nature of the interest to the AOC.
- 3.6 Officials and members of the Executive, officers and employees of the AOC must not:
 - (1) offer to provide, or promise to provide, a Benefit to another person;
 - (2) provide a Benefit to another person;
 - (3) cause a Benefit to be provided to another person; or
 - (4) cause an offer of the provision of a Benefit, or a promise of the provision of a Benefit, to another person,

with the intention of influencing that person to:

 - (5) enter into a contract with the AOC or appoint that person to any office; or
 - (6) cause the body that employs that person or which that person represents to enter into a contract with the AOC or appoint that person to any office; or
 - (7) to otherwise seek to obtain or retain an improper advantage or benefit to that person or the AOC which that person or the AOC would not otherwise be entitled.
- 3.7 Officials and members of the Executive, officers and employees of the AOC must not solicit nor accept any Benefit from a person or body, corporate or unincorporated, for or in connection with

the performance of that person's duties to the AOC including any Team selected by the AOC unless the receipt of that Benefit has been first approved by the Executive of the AOC.

- 3.8 Relevant Persons are not permitted to make improper use of information acquired by virtue of their position in any Team selected by the AOC or relationship with the AOC or to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to the AOC. This includes but is not limited to use of information related to any betting or gambling on sport. This duty precludes all Relevant Persons from breaching the confidentiality of the affairs of the AOC and any member of any Team selected by the AOC and from misusing information obtained by virtue of their position in any Team selected by the AOC or relationship with the AOC and from acting without the proper authority of the AOC.

4. BREACHES OF THIS BY-LAW

- 4.1 If a breach of this By-Law occurs at any time other than during a Games Period, then the breach and any sanctions to be applied will be determined by the AOC in its sole and absolute discretion. To the extent that the AOC requires assistance and information from the Relevant Person in relation to the determination of the breach and/or sanctions, clause 3.2 applies.
- 4.2 If a breach of this By-Law occurs at any time during a Games Period, then the breach and any sanctions to be applied will be determined by the Chef de Mission of the relevant Team or his or her authorised delegate(s) in their respective sole and absolute discretion. To the extent that the Chef de Mission requires assistance and information from the Relevant Person in relation to the determination of the breach and/or sanctions, clause 3.2 applies.
- 4.3 Any sanctions imposed under clauses 4.1 or 4.2 are non-exclusive and Relevant Persons may be subject to additional sanctions in accordance with any other terms applicable to that persons relationship with the AOC, including any conditions of employment.

5. GENERAL

- 5.1 A breach of this By-Law will provide the basis for the sanctions set out in clause 4. It does not otherwise provide the basis for any claim by an individual against a Relevant Person, the AOC or its Executive, officers or employees and to the extent that this By-Law is inconsistent with any Team Membership Agreement applicable to that person, the terms of the Team Membership Agreement prevail over the terms of this By-Law.
- 5.2 This By-Law is governed by the laws applicable in the State of New South Wales.

ADOPTED as a By-Law of the AOC
by the Executive on 10 May 2002
effective from that date.

AMENDED on 12 April 2005
effective from that date.

AMENDED on 7 September 2005
effective from that date.

AMENDED on 21 November 2008
effective from that date.

AMENDED on 14 August 2009
effective from that date.

AMENDED on 19 August 2011
effective from that date.

AMENDED on 8 February 2013
effective from that date.



AUSTRALIAN OLYMPIC COMMITTEE

(ABN 33 052 258 241)

(Registered Number A0004778J)

OLYMPIC TEAM SELECTION BY-LAW

1. DEFINITIONS & INTERPRETATION

1.1 In this By-Law, the following words have the following respective meanings:

“AOC”	means the Australian Olympic Committee Inc.
“AOC Anti-Doping By-Law”	means AOC Anti-Doping By-Law as in force from time to time.
“Athlete”	means those athletes who: <ul style="list-style-type: none">(a) participate in a particular sport;(b) are recognised by the NF controlling that sport in Australia or the AOC as competitors suitable and eligible for nomination to the AOC for selection in a Team;(c) have signed a Consent to Shadow Team Membership Form annexed to the Nomination Criteria; and(d) if a minor, has also provided a Parents/Guardians Acknowledgment for Minors Form signed by a parent or guardian in the form annexed to the Nomination Criteria.
“CAS”	means the Court of Arbitration for Sport.
“CAS Costs”	means the costs and expenses of the Court of Arbitration for Sport of and incidental to an appeal to the Court of Arbitration for Sport as provided for in clause 12.
“Games”	means an Olympic Games and Olympic Winter Games.
“IF”	means an International Federation.
“NF”	means a National Federation.
“Nomination Criteria”	means the criteria in respect of a particular sport adopted by the NF controlling that sport in Australia for the nomination of Athletes to the AOC for selection as a member of a Team.
“Officials”	means the armourers, assistant section managers, boatmen, chiropractors, coaches, conditioners, farriers, gear stewards, grooms,

massage therapists, medical practitioners, mechanics, meteorologists, nutritionists, physiotherapists, psychologists, section managers, shipwrights, sports scientists, technicians, veterinarians and other officials of the Team;

“Party”	means an Athlete or National Federation who or which is a party to an appeal to the Court of Arbitration for Sport as provided for in clause 11.
“Qualification System”	means the participation and qualification criteria howsoever named for a particular sport in respect of a particular Games and any other conditions regarding eligibility to compete in those Games as determined from time to time by the IOC and the IF controlling that sport and in accordance with the requirements of the Olympic Charter.
“Selection Criteria”	means the criteria in respect of a particular sport adopted by the AOC for selection for Athletes as members of a particular Team.
“Shadow Team”	means those Athletes who are recognised by the AOC as potential members of a particular Team.
“Team”	means an Australian Olympic Team or an Australian Olympic Winter Team.
“Team Member”	means an Athlete or Official selected by the AOC as a member of a particular Team;
“Team Membership Agreement”	means the AOC’s Australian Team Membership Agreement for Athletes or Officials for a particular Games in respect of which they have been selected.
“Written Notice”	means notice in writing by letter, facsimile, email or other written means of communication.

1.2 This By-Law is to be interpreted as follows:

- (1) Words not defined in this By-Law have the meaning ascribed to them in the Constitution of the AOC unless a contrary meaning appears from the context.
- (2) Unless the context otherwise requires, reference to:
 - (a) the singular includes the plural and the plural includes the singular and words importing one gender include the others;
 - (b) persons include incorporated and unincorporated bodies, partnerships, joint ventures and associations and vice versa and their legal personal representatives, successors and permitted assigns and substitutes; and
 - (c) a party includes the party’s executors, administrators, successors and permitted assigns and substitutes.
- (3) To the extent that this By-Law is inconsistent with the Code of Sports – Related Arbitration of the Court of Arbitration for Sport, this By-Law prevails and amends the Code to that extent.
- (4) If a person to whom this By-Law applies consists of more than one person, then this By-Law

binds them jointly and severally.

- (5) A reference to time, day or date by which an obligation or act must be performed or otherwise is to time, day or date of Sydney, Australia.
- (6) The meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.
- (7) A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the document or any part of it;
- (8) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (9) Headings are for convenience only and do not form part of this By-Law or affect its interpretation.

2. APPLICATION OF THIS BY-LAW

This By-Law applies to:

- (1) Athletes;
- (2) Officials;
- (3) NFs; and
- (4) the AOC.

3. SHADOW TEAM

3.1 Each NF will:

- (1) advise the AOC of the Athletes who consent to being members of the Shadow Team within its sport;
- (2) provide or make available to each Athlete and all other individuals and organisations with a legitimate interest in the nomination and selection procedures for a particular Games:
 - (a) the AOC's Guide to Olympic Team Selection;
 - (b) its Nomination Criteria (and all amendments thereto) adopted in respect of selection to a particular Team pursuant to clause 5;
 - (c) the Selection Criteria for the sport controlled by the NF in respect of selection to a particular Team; and
 - (d) this AOC Olympic Team Selection By-Law.
- (3) cause each such Athlete to sign a Consent to Shadow Team Membership Form, provide a copy to the AOC and retain the original signed Consent Form; and
- (4) cause each such Athlete to make the statutory declaration regarding anti-doping matters as required by the AOC from time to time and provide the original to the AOC, in accordance with the time frames advised by the AOC to each NF from time to time in respect of a particular Games.

- 3.2 The AOC will recognise each Athlete of which it is advised pursuant to clause 3.1 as a member of the Shadow Team in respect of a particular Games on condition that each Athlete:
- (1) is and continues to be eligible to participate in a particular Games as an Australian competitor pursuant to the applicable Qualification System unless expressly agreed otherwise in writing by the AOC on an Athlete by Athlete basis;
 - (2)
 - (a) has not at any time engaged in conduct (whether publicly known or not and whether before or after the date of selection), which has brought, brings or would have the tendency to bring the Athlete or the Athlete's sport into disrepute or censure, or which is or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, image or values of the AOC or Team Sponsors, or as a result of which the Athlete's membership would not be or would not likely be in the best interests of the Australian Olympic Team or Shadow Team;
 - (b) has not at any time (whether before or after the date of selection) been convicted of, or charged with, any serious offence involving violence, alcohol or drugs, or any sex offence, or any offence relating to any betting or gambling activities on sport, or any offence which is punishable by imprisonment;
 - (c) has and will continue to honestly and fully disclose information to the Athlete's NF and the AOC concerning any conduct that might be in breach of (a) or (b) above or concerning any criminal offence of whatever nature, with which the Athlete has been charged, or of which the Athlete has been convicted, and consents to the Athlete's NF and the AOC making enquiries to relevant authorities for any details of the Athlete's criminal record (if any), including details of any charges pending or any spent convictions disclosable by law, and consents to those authorities providing that information in answer to those enquiries; and
 - (d) acknowledges that any matter arising under (a), (b) or (c) above is to be determined, or breach thereof excused, by the AOC in its sole and absolute discretion.
 - (3) has not breached the AOC Anti-Doping By-Law, unless the Athlete has already been sanctioned for the breach and has completed the sanction imposed;
 - (4) has been available for sample collection and has provided accurate and up to date whereabouts information on a regular basis to the Athlete's NF and as that NF directs pursuant to the World Anti-Doping Code; and
 - (5) has not breached the AOC Ethical Behaviour By-Law.

3.3 The AOC may recognise an Athlete as a member of a Shadow Team in respect of a particular Games notwithstanding that the Athlete has not been chosen as such by the relevant NF. In such case, the recognition of the Athlete concerned will be conditional on the Athlete signing a Consent to Shadow Team Membership Form and making the statutory declaration regarding anti-doping matters as required by the AOC from time to time.

3.4 Similarly, the AOC may exclude an Athlete from being a member of a Shadow Team in respect of a particular Games notwithstanding that the Athlete has been chosen by the relevant NF. In such case, the AOC shall advise the Athlete and the relevant NF of this decision and the basis upon which the decision has been made. This decision is within the AOC's sole and absolute discretion and is deemed to be a non-selection decision for the purpose of Clause 11 and in particular Clauses 11.14 and 11.15 of this By-Law.

4. SELECTION CRITERIA

- 4.1 In respect of each sport on the programme of a Games and for each Games, the AOC will adopt Selection Criteria and will forward a copy of the same to the NF for the relevant sport.
- 4.2 The Selection Criteria will, at all times, be subject to any applicable Qualification System. In the event that the Selection Criteria are inconsistent in any way with any applicable Qualification System, the latter will prevail to the extent of that inconsistency. The Selection Criteria are not inconsistent with any applicable Qualification System merely because the Selection Criteria impose a higher qualification standard or lesser number of participants than as stated in any applicable Qualification System.

5. NOMINATION CRITERIA

- 5.1 In respect of each Team and subject to the prior written approval of the AOC, each NF will adopt Nomination Criteria by the latter of:

- (1) a reasonable time (and as a guide 12 months) prior to its first nomination event for the relevant Games; or
- (2) such other date as the AOC may in its absolute discretion determine for a particular sport, discipline or event for the relevant Games or categories of sports, disciplines or events for those Games.

AOC approval may be given subject to such conditions as the AOC determines.

- 5.2 Nomination Criteria in respect of a particular Team will be at all times subject to:

- (1) the applicable Qualification System; and
- (2) the applicable Selection Criteria.

In the event that the Nomination Criteria are inconsistent in any way with the applicable Qualification System and the Selection Criteria, the latter will prevail to the extent of that inconsistency.

- 5.3 An NF must not alter or amend any Nomination Criteria without the prior written approval of the AOC.

- 5.4 Each NF must apply its Nomination Criteria:

- (1) fairly so as to ensure that no Athlete is nominated to the AOC where another Athlete is or other Athletes are entitled to be nominated in priority; and
- (2) to determine which Athletes the NF will nominate to the AOC to participate in disciplines or team events where:
 - (a) under the applicable Qualification System for a Games the AOC has qualified to participate in an event and there is a need to determine the Athlete or Athletes who will be nominated to participate in that event; and
 - (b) the number of Athletes who have satisfied the requirements of clause 6.1 exceed the number(s) permitted under clause 6.2.

5.5 Each NF must promptly develop and submit to the AOC for its approval its policy for assisting and counselling Athletes seeking nomination and selection and must not alter or amend this policy without the prior written approval of the AOC. The NF's policy in this regard must conform to best practice and, without limiting this in any way, must require the NF to:

- (1) regularly advise Athletes seeking nomination and selection as to their individual performances and progress against all applicable criteria;
- (2) counsel unsuccessful aspirants for nomination and selection; and
- (3) fully co-operate with and assist the Tribunal and CAS in any appeal pursuant to clause 11.

6. NOMINATION OF ATHLETES

6.1 Only those NFs that have adopted an anti-doping policy that conforms with the World Anti Doping Code pursuant to the AOC's Anti-Doping By-Law may nominate Athletes for selection to a particular Team.

6.2 In respect of nomination to the AOC for selection to a particular Team, each NF will only nominate those Athletes who have:

- (1) demonstrated to the satisfaction of the NF that they are not suffering any physical or mental impairment that would prevent them and each of them from competing in the relevant Games to the highest possible standard;
- (2) demonstrated that they have complied with the applicable Qualification System for the relevant Games (unless expressly agreed otherwise in writing by the AOC on an Athlete by Athlete basis);
- (3) met the applicable Nomination Criteria and in the case of team events or disciplines, the team has qualified under the applicable Qualification System;
- (4) in the case of events or disciplines for individual Athletes, met the applicable Nomination Criteria;
- (5) signed the Athlete Nomination Form as issued by the AOC from time to time; and
- (6) made the statutory declaration regarding anti-doping matters as required by the AOC from time to time.

6.3 In the case of any event or discipline of a particular Games, an NF may not nominate more Athletes than permitted under the applicable Qualification System or any lesser number(s) as may be:

- (1) stipulated in writing by the AOC; or
- (2) otherwise agreed between the AOC and the NF.

6.4 An NF must not represent that its nomination of any Athlete to the AOC will guarantee or secure selection to the relevant Team.

6.5 Each NF is solely responsible for securing at its cost and expense all permissions and clearances required in respect of its nominated Athletes to participate in the relevant Games. The NF specifically acknowledges that the responsibility and liability of the AOC in respect of injury or illness to any Athlete whilst a member of a Team will be limited in the manner to be described in any applicable Team Membership Agreement.

- 6.6 In respect of any particular Team, the AOC will advise each NF of the deadline or deadlines as the case may be by which each NF must advise the AOC of its nominations. All nominations by the NF must occur before the applicable deadline, provided that the AOC may at its sole and absolute discretion extend this deadline:
- (1) where a nomination by an NF has been set aside on appeal and, in the AOC's opinion, there is insufficient time to re-nominate Athletes between the date of the appeal decision and the deadline originally advised by the AOC;
 - (2) where an appeal against non-nomination has been commenced prior to the initial applicable deadline, to allow an NF to make a nomination to the AOC subsequent to and consistent with the outcome of the appeal; or
 - (3) where the AOC considers it is in the best interests of the Team.

7. SELECTION OF ATHLETES

- 7.1 Selection of Athletes to a Team will be conducted solely by the AOC according to the applicable Selection Criteria.
- 7.2 Selection of each Athlete to a particular Team will be conditional upon the AOC confirming to its own satisfaction that the Athlete has met the Nomination Criteria and the Selection Criteria and that the Athlete:
- (1) has signed the applicable Team Membership Agreement for that Team;
 - (2) has made the statutory declaration regarding anti-doping matters as required by the AOC from time to time;
 - (2) has continued to satisfy the applicable Qualification System (unless expressly agreed otherwise in writing by the AOC on an Athlete by Athlete basis);
 - (3)
 - (a) has not at any time engaged in conduct (whether publicly known or not and whether before or after the date of selection), which has brought, brings or would have the tendency to bring the Athlete or the Athlete's sport into disrepute or censure, or which is or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, image or values of the AOC or Team Sponsors, or as a result of which the Athlete's membership would not be or would not likely be in the best interests of the Australian Olympic Team;
 - (b) has not at any time (whether before or after the date of selection) been convicted of, or charged with, any serious offence involving violence, alcohol or drugs, or any sex offence, or any offence relating to any betting or gambling activities or on sport, or any offence which is punishable by imprisonment;

- (c) has and will continue to honestly and fully disclose information to the Athlete's NF and the AOC concerning any conduct that might be in breach of (a) or (b) above or concerning any criminal offence of whatever nature, with which the Athlete has been charged, or of which the Athlete has been convicted, and consents to the Athlete's NF and the AOC making enquiries to relevant authorities for any details of the Athlete's criminal record (if any), including details of any charges pending or any spent convictions disclosable by law, and consents to those authorities providing that information in answer to those enquiries; and
 - (d) has acknowledged that any matter arising under (a), (b) or (c) above is to be determined, or breach thereof excused, by the AOC in its sole and absolute discretion.
- (43) has not breached the AOC Anti-Doping By-Law, unless the Athlete has already been sanctioned for the breach and has completed the sanction imposed;
 - (5) has been available for sample collection and has provided accurate and up to date whereabouts information on a regular basis to the Athlete's NF and as that NF directs pursuant to the World Anti Doping Code;
 - (6) has achieved results of medical assessment and testing to the complete satisfaction of the AOC; and
 - (7) has satisfied any additional preconditions advised in writing to the Athlete by the AOC prior to or at the time of selection.

8. SELECTION OF OFFICIALS

- 8.1 The selection by the AOC of Officials to any Team will be solely conducted by the AOC in its absolute discretion.
- 8.2 The AOC may advise NFs in respect of any Team of the AOC's determination of the number of Officials that may be selected as members of the Team and the positions available to Officials. Any requirements of the AOC concerning Officials are guidelines only and are not nomination or selection criteria. The AOC may amend these requirements at any stage, whether generally or specifically to an individual Official's position.
- 8.3 Each NF will develop standards to govern the NF's nomination of Officials to the AOC for selection as members of a particular Team. These standards will be subject to the approval of the AOC and must be provided to the AOC no later than 12 months prior to the Games in which the Team will participate.
- 8.4 NFs may nominate to the AOC persons the NF considers suitable for selection as Officials of a Team but in so doing will only nominate those persons it believes:
 - (1) are suitable and qualified to fill the required positions in respect of the section of the Team concerning the sport controlled by the NF;
 - (2) has capabilities, skills and experience that accord with the requirements of the AOC as advised from time to time; and
 - (3) will work efficiently and harmoniously with the Chef de Mission and Deputy Chefs de Mission of the relevant Team appointed by the AOC.
- 8.5 All nominations of Officials by an NF must be on the form issued from time to time by the AOC.

- 8.6 The AOC may select any person as an Official of a particular Team and is not obliged to follow the nominations of any NF.
- 8.7 The selection of each Official will be conditional upon him or her signing the applicable Team Membership Agreement for the Team to which the Official is selected and making the statutory declaration regarding anti-doping matters as required by the AOC from time to time,.
- 8.8 There is no appeal against any Official's selection or non-selection by the AOC.

9. OLYMPIC APPEALS CONSULTANTS

For each Games, the AOC will appoint one or more independent senior lawyers (each designated "the Olympic Appeals Consultant"). They will be available to discuss with an Athlete, who may have appealed or may wish to appeal, the reasons for non-nomination by the NF to the AOC or non-selection by the AOC, after the Athlete has discussed the reasons with those responsible for counselling under clause 5.5(2). Each Olympic Appeals Consultant will not provide legal advice to Athletes concerning the prospects of success of any appeal but will ensure that the Athlete fully understands the reasons for the decision in question, and the process of any appeal and will facilitate a consultative process between the Athlete and the NF or the AOC as the case may be. The AOC and the NF will fully co-operate with each Olympic Appeals Consultant.

10. NF APPEALS TRIBUNALS

- 10.1 Each NF must establish an Appeals Tribunal that will consist of the following persons appointed by the Board of the NF, with appointments of persons referred to in (1) and (3) from a list co-ordinated by the AOC:

- (1) a barrister or solicitor or other legally qualified person who will act as Chairman;
- (2) a person with a thorough knowledge of the Sport and who preferably has had recent international competition experience in the Sport; and
- (3) one other person of experience and skills suitable to the function of the Tribunal and familiar with the Olympic selection process and documentation;

who will constitute a quorum for the purpose of hearing and determining any appeal pursuant to clause 11.1(1), provided that with the consent of all parties to an appeal, the Tribunal may be constituted by two members, one of whom must be a barrister or solicitor or other legally qualified person who will act as Chairman.

- 10.2 No person appointed by an NF to its Appeals Tribunal may hear and consider any appeal pursuant to clause 11.1(1) if he or she is a member of the Board of the NF or its selection panel or if by reason of his or her relationship with:

- (1) the appellant;
- (2) any member of the Board of the NF;
- (3) any member of the NF's selection panel; or
- (4) any persons whose interests may be affected by the outcome of the appeal;

he or she would be reasonably considered to be other than impartial.

- 10.3 Should an appellant or other party to an appeal challenge the impartiality of any member of the Appeals Tribunal, the challenge will be determined by the Chairman sitting alone.
- 10.4 Each Appeals Tribunal will be bound by the following requirements:
- (1) it must observe the principles of natural justice;
 - (2) it is not bound by the rules of evidence and may inform itself as to any matter in such manner as it thinks fit;
 - (3) it will conduct its hearings with as little formality and technicality and with as much expedition as the proper consideration of the matter permits;
 - (4) hearings may occur in such manner as the Chairman decides, including telephone or video conferencing;
 - (5) each appellant must establish one or more grounds of appeal to the reasonable satisfaction of the Tribunal with full regard to the importance and gravity of the issue;
 - (6) the parties to an appeal will not be entitled to be represented by a barrister or solicitor save with the leave of the Appeals Tribunal, which leave will only be given in exceptional circumstances and, if given, may be given unconditionally or on such conditions as the Appeals Tribunal thinks fit;
 - (7) if a question of law arises during the course of a hearing, the parties may seek an adjournment in order to obtain legal advice;
 - (8) it will give its decision, and may give an oral decision, on any appeal as soon as practicable at the conclusion of or after the hearing, and will provide the chief executive officer of its NF, the appellant and other parties to the appeal with a statement of the reasons for its decision as soon as practicable after the hearing; and
 - (9) whilst the Appeals Tribunal will as a matter of usual practice refer the question of re-nomination back to the relevant NF for determination in accordance with the applicable Nomination Criteria, where it determines to uphold any appeal against the non-nomination of an Athlete, then it may itself conclusively determine the issue of re-nomination where:
 - (a) it has determined that:
 - (i) it would be impractical to refer the issue of re-nomination back to the NF in the time available in which entries to the Games must be submitted by the AOC; or
 - (ii) there has been such a disregard of the Nomination Criteria by or on behalf of the NF that a reasonable person could reasonably conclude that it is unlikely the Nomination Criteria will be properly followed and/or implemented; and
 - (b) prior to making the determination in paragraph (a), it has advised the parties and all persons whose interests may be affected by the outcome of the appeal of:
 - (i) the possibility of it making such a determination; and
 - (ii) that it may itself conclusively determine the issue of re-nomination; and

permitting the parties and all such persons the opportunity to make submissions and give evidence in respect thereof.

- (10) Where the Appeals Tribunal refers the question of re-nomination back to the relevant NF for determination in accordance with the applicable NF Nomination Criteria and the Appeals Tribunal's reasons to uphold the appeal, the NF determination of re-nomination after such referral will be final and binding on the Athletes, and all other persons whose interests may be affected, subject to any appeal to CAS from that determination as provided in Clause 11.14.

11. APPEALS PROCESS FOR ATHLETES

- 11.1 Any appeal or dispute regarding an Athlete's nomination or non-nomination by an NF to the AOC will be addressed according to the following procedure:
 - (1) the appeal or dispute will be first determined by the Appeals Tribunal established by the NF controlling the relevant sport pursuant to clause 10; and
 - (2) any appeal from the determination of the Appeals Tribunal under clause 11.1(1) will be heard by the Appeals Arbitration Division of CAS.
- 11.2 In the event that there is more than one appeal to an Appeals Tribunal or to CAS that impacts upon the nomination (or selection) of a team to compete in a Games as part of a team sport, or in respect of the same position for an individual Athlete, then such appeals must so far as is practicable be consolidated and heard together.
- 11.3 If the Appeals Tribunal or CAS is of the view that the outcome of an appeal against non-nomination, re-nomination, non-selection or re-selection may affect the interests of any person in addition to the appellant, it must, so far as is practicable, require that notice be given to such other person and will permit that person to participate in the hearing of the appeal as an affected party, to make submissions and to be bound by the award. The AOC is an interested party to any such appeal to CAS and the parties are required to provide the AOC with the relevant appeal papers and permit the AOC to participate and make submissions at the hearing of the appeal.
- 11.4 Should a person who receives notification pursuant to the preceding clause 11.3 elect not to participate in the hearing as an affected party and be bound by the decision then, that person will forfeit his or her right of appeal against the decision.
- 11.5 The sole grounds for any appeal to an Appeals Tribunal are that:
 - (1) the applicable Nomination Criteria have not been properly followed and/or implemented;
 - (2) the appellant was not afforded a reasonable opportunity by the NF to satisfy the applicable Nomination Criteria;
 - (3) the nomination decision was affected by actual bias; or
 - (4) there was no material on which the nomination decision could reasonably be based.
- 11.6 Subject to clause 11.9, any appeal by an Athlete against non-nomination to the AOC must be made to the Appeals Tribunal. Any appeal must accord with the following procedure:

- (1) the appellant must serve a written Notice of Appeal upon the chief executive officer of the relevant NF or its authorised delegate within 48 hours of the appellant having received written notice of the decision against which the appeal is made (or within such time as the chief executive officer of the relevant NF or its authorised delegate may allow); and
 - (2) the appellant must serve a written notice of the Grounds of Appeal, accompanied by a non-refundable deposit of \$100 payable to the NF, upon the chief executive officer of the relevant NF or its authorised delegate, by no later than the close of business 5 working days after serving the Notice of Appeal (or within such time as the chief executive officer of the relevant NF or its authorised delegate may allow).
- 11.7 Within 48 hours of the NF having been served the Notice of Appeal, the NF's selection panel must serve the appellant with a written statement as to the reasons for the decision against which the appeal is made, and at the hearing of the appeal the NF may make any oral submissions to support those reasons.
- 11.8 The decision of the Appeals Tribunal will be binding on the parties and, subject only to any appeal to CAS pursuant to clause 11.11, it is agreed that neither party will institute or maintain proceedings in any court or tribunal other than the said Appeals Tribunal. In particular, and without restricting the generality of the foregoing and for further and better assurance notwithstanding that such provisions have no applicability, there will be no right of appeal under sections 34 and 34A of the Commercial Arbitration Act, 2010 (NSW) or equivalent in any of the Australian states or territories or to apply for the determination of a question of law under section 271 of such Act or equivalent in any of the Australian states or territories.
- 11.9 Where an Athlete wishes to appeal a decision against non-nomination and the relevant NF so agrees in writing, the appeal to the Appeals Tribunal may be directly referred to the Appeals Arbitration Division of CAS and in which instance the Grounds of Appeal must be one or more of the grounds described in clause 11.5 and the CAS panel will be vested with the powers of the Appeals Tribunal.
- In such instance,
- (1) the appeal will be solely and exclusively resolved by CAS according to the Code of Sports-Related Arbitration and applying the law of New South Wales ;
 - (2) CAS may extend the time limits set out in clause 11.6;
 - (3) the provisions of clause 11.12 will apply to any such appeal in so far as they are relevant;
 - (4) there will be no subsequent appeal from the decision of CAS;
 - (5) the parties consent to the Grounds of Appeal, the names of the arbitrators and the date for hearing being made public and the award and the reasons being made public.
- 11.10 The sole grounds for any appeal against a decision of the Appeals Tribunal are:
- (1) that there was a breach of the rules of natural justice by the Appeals Tribunal; or
 - (2) that the decision of the Appeals Tribunal was in error on a question of law.
- 11.11 Subject to this By-Law, any appeal from a decision of the Appeals Tribunal must be solely and exclusively resolved by the Appeals Arbitration Division of CAS according to the Code of Sports-Related Arbitration and applying the law of New South Wales.

- 11.12 The decision of CAS will be final and binding on the parties and it is agreed that neither party will institute or maintain proceedings in any court or tribunal other than CAS. In particular, and without restricting the generality of the foregoing and for further and better assurance notwithstanding that such provisions have no applicability, there will be no right of appeal under sections 34 and 34A of the Commercial Arbitration Act, 2010 (NSW) or equivalent in any of the Australian states or territories or to apply for the determination of a question of law under section 27I of such Act or equivalent in any of the Australian states or territories.
- 11.13 An Athlete wishing to appeal to CAS against a decision of an Appeals Tribunal must serve a written Notice of Appeal to CAS, upon the chief executive officer of the NF or its authorised delegate, within 48 hours of the Athlete having received written notice of the Appeals Tribunal decision (or within such time as the chief executive officer or its authorised delegate may allow) and must then file a Statement of the Grounds of Appeal with CAS by no later than the close of business 5 working days after serving the Notice of Appeal (or within such time as CAS may allow). An extension of time may be granted under this clause only in extenuating circumstances outside the control of the Athlete concerned.
- 11.14 Subject to the Olympic Charter and this By-Law, any appeal or dispute, regarding an Athlete's selection or non-selection as a member of a Team or Shadow Team by the AOC, or regarding re-nomination under clause 10.4(10)) or clause 11.19 by the NF or re-selection under clause 11.20 by the AOC, will be solely and exclusively resolved by the Appeals Arbitration Division of CAS according to the Code of Sports-Related Arbitration and applying the law of New South Wales. The decision of CAS will be final and binding on the parties and no party will institute or maintain proceedings in any court or tribunal other than CAS. In particular, and without restricting the generality of the foregoing and for further and better assurance notwithstanding that such provisions have no applicability, there will be no right of appeal under sections 34 and 34A of the Commercial Arbitration Act, 2010 (NSW) or equivalent in any of the Australian states or territories or to apply for the determination of a question of law under section 27I of such Act or equivalent in any of the Australian states or territories.
- 11.15 An Athlete wishing to appeal to CAS against non-selection to a Team or Shadow Team by the AOC, or re-nomination or re-selection as the case may be, must serve a written Notice of Appeal to CAS upon the AOC Secretary-General or Director of Sport within 48 hours of having received written notice of the decision (or within such time as the AOC Secretary-General or Director of Sport may allow) and must then file a Statement of the Grounds of Appeal with CAS by no later than the close of business 5 working days after serving the Notice of Appeal (or within such time as CAS may allow).
- 11.16 The sole grounds of appeal against non-selection, re-nomination or re-selection are that the decision:
- (1) was affected by actual bias; or
 - (2) is obviously or self-evidently so unreasonable or perverse that it can be said to be irrational.
- 11.17 All appeals to CAS will be heard by a panel comprising three arbitrators, unless the parties agree to a sole arbitrator pursuant to R50 of the Code of Sports-Related Arbitration. The parties consent to the Grounds of Appeal, the names of the arbitrators and the date of hearing being made public and the award and the reasons being made public.
- 11.18 The power of the CAS panel to review the facts and the law pursuant to Rule 57 of the Code of Sports Related Arbitration will be initially limited to determining whether the appellant has made out one or more of the grounds of appeal pursuant to clauses 11.10 or 11.16 as appropriate.
- 11.19 If CAS determines to uphold any appeal against non-nomination of an Athlete, it will as a matter of usual practice refer the question of re-nomination back to the relevant NF selection panel for

determination in accordance with the applicable Nomination Criteria. CAS may itself conclusively determine the issue of re-nomination where CAS:

- (1) has determined that:
 - (a) it would be impractical to refer the issue of re-nomination back to the NF in the time available in which entries to the Games must be submitted by the AOC; or
 - (b) that there has been such a disregard of the Nomination Criteria by or on behalf of the NF that a reasonable person could reasonably conclude that it is unlikely the Nomination Criteria will be properly followed and/or implemented; and
- (2) prior to making the determination in paragraph (1), has advised the parties and all persons whose interests may be affected by the outcome of the appeal of:
 - (a) the possibility of it making such a determination; and
 - (b) that it may itself conclusively determine the issue of re-nomination; and

permitting the parties and all such persons the opportunity to make submissions and give evidence in respect thereof.

Where CAS refers the question of re-nomination back to the relevant NF for determination in accordance with the applicable Nomination Criteria and the reasons for CAS' determination to uphold the appeal, the NF determination of re-nomination after such referral will be final and binding on the Athletes and all other persons whose interests may be affected, subject to any appeal to CAS as provided in Clause 11.14.

11.20 If CAS determines to uphold any appeal against non-selection of an Athlete, it will as a matter of usual practice refer the question of re-selection back to the AOC for determination in accordance with the applicable Selection Criteria and this AOC Olympic Team Selection By-Law. CAS may itself conclusively determine the issue of re-selection where CAS:

- (1) has determined that it would be impractical to refer the issue of re-selection back to the AOC in the time available in which entries to the Games must be submitted by the AOC; and
- (2) prior to making the determination in paragraph (1), it has advised the parties and all persons whose interests may be affected by the outcome of the appeal of:
 - (a) the possibility of it making such a determination;
 - (b) that it may itself conclusively determine the issue of re-selection; and

permitting the parties and all such persons the opportunity to make submissions and give evidence in respect thereof.

11.21 If CAS determines to uphold any appeal against re-nomination or re-selection, it will conclusively determine the issue of re-nomination or re-selection as the case may be once and for all between the parties, subject to permitting the parties and all persons who may be affected by the determination, the opportunity to make submissions and give evidence in respect thereof.

12. COSTS AND EXPENSES OF APPEAL PROCESS

Under Rule 64 of the Code of Sports-related Arbitration, CAS determines which party will bear the costs of any appeal or in which proportion the parties will share these costs and expenses.

In all appeals to CAS pursuant to this By-Law, the following provisions will apply with regard to the costs of the appeal under Rules 64 of the Code of Sports-related Arbitration.

12.1 CAS Appeal where there is a Sole Arbitrator

- (1) Where the parties have agreed to a sole arbitrator pursuant to clause 11.17, any party instituting the appeal (whether under clauses 11.9, 11.11 or 11.14) must pay the CAS appeal fee of \$1000 associated with the appeal. The AOC will pay the CAS Costs which, by agreement between CAS and the AOC, are fixed at \$2,500.
- (2) If such an appeal is successful the AOC will reimburse the application fee of \$1000 to the party who paid it.
- (3) If such an appeal is unsuccessful, the AOC will not reimburse the application fee and, in its absolute discretion, the AOC may also require the unsuccessful party to repay to the AOC one half of the CAS Costs referred to in clause 12 (1), namely \$1,250.

12.2 CAS Appeal to a Panel of Three Arbitrators

- (1) Where the parties do not agree to a sole arbitrator as provided for in clause 11.17, any party instituting the appeal (whether under clauses 11.9, 11.11 or 11.14) must pay the CAS application fee of \$1000 associated with that appeal. The AOC will contribute the sum of \$2,500 towards the CAS Costs and the parties shall, subject to any award of CAS to the contrary, be liable to pay to CAS, in equal shares, any CAS Costs in excess of \$2,500.
- (2) In the event that CAS requires payment in advance of the estimated CAS Costs, the parties shall make such advance payment in equal shares.
- (3) As part of its award in respect of any appeal heard by a panel of three of its arbitrators, CAS may make a ruling regarding the payment of the CAS Costs in excess of \$2,500 including a ruling that one party reimburse to the other party on account of estimated CAS Costs.
- (4) If the appeal to the three member CAS panel is successful, the AOC will reimburse the application fee of \$1000 to the party who paid it.
- (5) If the appeal to the three member CAS panel is unsuccessful, the AOC will not reimburse the application fee and, in its absolute discretion, the AOC may also require the unsuccessful party to repay to the AOC one half of the contribution towards the CAS Costs which the AOC has made pursuant to clause 12 (4), namely a reimbursement of \$1,250.

12.3 Provisions Applicable to all Appeals

- (1) In consideration of the AOC's commitments contained in clause 12(1) and 12(4), in any appeal before CAS (whether under clauses 11.9, 11.11 or 11.14) the costs of the successful party will be limited to the sum of \$5,000 under any award by CAS on a contribution towards that successful party's legal costs (being costs other than any CAS Costs paid or payable by the successful party).
- (2) In determining whether to make a ruling in any award that one party makes any, and if so what, contribution towards the CAS Costs (to the extent that those CAS Costs have not been paid by the AOC or contributed to by the AOC as provided for in clause 12(1) and 12(4)) CAS will have particular regard to:
 - (a) whether and to what extent the Athlete concerned has utilized an Olympic Appeals Consultant before commencing his or her appeal;

- (b) whether and to what extent the NF concerned has co-operated with and assisted any Olympic Appeals Consultant utilized by the Athlete concerned;
- (c) whether and to what extent the successful party's relevant factual and legal position had been disclosed to the other party or parties prior to the commencement of the appeal;
- (d) the failure of any party to fully disclose his, her or its relevant factual and legal position to the other party before or at the commencement of the appeal; and
- (e) the matters referred to in R64.5 and such other matters as the CAS panel deems relevant.

13. INDEMNITY

Each NF must indemnify the AOC and its directors, officers, employees, servants and agents from and against all claims, demands, actions, proceedings, costs and expenses (including reasonable legal costs calculated on a solicitor and client basis) and liability to third parties arising out of or incidental to any breach of this By-Law by the NF.

The AOC must indemnify each NF and its directors, officers, employees, servants and agents from and against all claims, demands, actions, proceedings, costs and expenses (including reasonable legal costs calculated on a solicitor and client basis) and liability to third parties arising out of or incidental to any breach of this By-Law by the AOC.

14. APPLICATION OF LAWS

This By-Law is governed by the laws applicable in the State of New South Wales.

ADOPTED as a By-Law of the AOC by the Executive on 1 February 2002

AMENDED by the Executive on 22 March 2002
EFFECTIVE immediately

AMENDED by the Executive on 21 March 2003
EFFECTIVE immediately

AMENDED by the Executive on 19 June 2003
EFFECTIVE immediately

AMENDED by the Executive on 20 November 2003
EFFECTIVE immediately save for the continued application of Clause 5.1 in respect of nomination and selection of athletes for the Games of the XXVIIIth Olympiad

AMENDED by the Executive on 3 June 2004
EFFECTIVE immediately

AMENDED by the Executive on 19 November 2004
EFFECTIVE immediately

AMENDED by the Executive on 18 November 2005
EFFECTIVE immediately

AMENDED by the Executive on 20 March 2008
EFFECTIVE immediately

AMENDED by the Executive on 30 June 2008
EFFECTIVE immediately

AMENDED by the Executive on 21 November 2008
EFFECTIVE immediately

AMENDED by the Executive on 21 April 2009
EFFECTIVE immediately

AMENDED by the Executive on 19 August 2011
EFFECTIVE immediately

AMENDED by the Executive on 23 November 2011
EFFECTIVE immediately

AMENDED by the Executive on 8 February 2013
EFFECTIVE immediately