

# THE ANTI-DOPING IN SPORT ACT, 2008

(Act 10 of 2008)

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SCHEDULES.

JAMAICA

No. 10–2008

I assent,

[L.S.]

KENNETH O. HALL,  
Governor-General

31st day of July, 2008.

AN ACT to Establish the Jamaica Anti-Doping Commission and for connected matters.

[ 31st July, 2008 ]

BE IT ENACTED by The Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I. Preliminary

1. This Act may be cited as the Anti-Doping in Sport Act, 2008. Short title.
2. In this Act, unless the context otherwise requires— Interpretation.
  - “anti-doping” means related to the prevention or control of doping;
  - “anti-doping organization” means a signatory to the Code that is responsible for adopting rules for initiating, implementing or enforcing any part of the doping control process, and includes—

(a) the International Olympic Committee;

- (b) the International Paralympic Committee;
- (c) the World Anti-Doping Agency (WADA);
- (d) an international sporting federation;
- (e) a major event organization that conducts testing at its events;
- (f) the Commission;
- (g) any other National Anti-Doping Organization;

“Anti-Doping Rules” means any rules made under section 9;

“Anti-Doping Rules violation” shall be construed in accordance with section 10;

“Appeals Tribunal” means the Jamaica Anti-Doping Appeals Tribunal established under section 22;

“athlete” means—

- (a) any person who participates in a sport—
  - (i) as an international-level athlete;
  - (ii) as a national-level athlete (as determined by the Commission),including but not limited to any person in the Registered Testing Pool who is otherwise subject to the jurisdiction of this Act;
- (b) for the purposes of section 10 (2) (h) and anti-doping information and education, any person referred to in paragraph (a) and any other competitor in sport;

“athlete support personnel” means any—

- (a) parent or guardian of an athlete who is a minor;
- (b) medical practitioner or paramedical personnel;
- (c) coach, trainer, manager, official, agent, or team staff;
- (d) any other person,

working with or treating or assisting an athlete participating in, or preparing, for sports competition;

“Code” means the World Anti-Doping Code adopted by the World Anti-Doping Agency on March 5, 2003, at Copenhagen, Denmark and, includes any amendments to the Code adopted by the World Anti-Doping Agency, from time to time;

“Commission” or “JADCO” means the Jamaica Anti-Doping Commission established under section 5;

“competition” or “sporting competition” means a sporting activity consisting of a single race, match, game or athletic contest;

“consequences of Anti-Doping Rules violation” means one or more of the following consequences resulting from an athlete’s or other person’s violation of an Anti-Doping Rule—

- (a) disqualification—this means that the athlete’s results in a particular competition or event are invalidated, with all resulting consequences including forfeiture of any medals, points and prizes;
- (b) ineligibility—this means that the athlete or other person is barred for a specified period of time from participating in any competition or other activity or funding;
- (c) provisional suspension—this means that the athlete or other person is barred temporarily from participating in any competition prior to the final decision of the Appeals Tribunal;

“Court of Arbitration” means the Court of Arbitration for Sport located in Lausanne, Switzerland established by the International Olympic Committee, and the statutes of which came into force on June 30, 1984;

“Disciplinary Panel” means the Jamaica Anti-Doping Disciplinary Panel established under section 18;

“doping” means any violation of the Anti-Doping Rules;

“doping control” means all the steps and processes from test distribution planning, through to ultimate disposition of any appeal including all steps and processes in between, such as provision of whereabouts information, sample collection and handling, results management and hearings;

“doping control teams” means doping control teams operating under the authority of international or national anti-doping organizations;

“event” means a series of individual competitions conducted together under one international sporting federation or National sporting organization or ruling body;

“functions” includes powers and duties;

“in-competition” means the period commencing twelve hours before a competition in which the athlete is scheduled to participate through the end of such competition and the sample collection process related to such competition;

“international event” or “international competition” means, as the case may be, an event or competition where the International Olympic Committee, the International Paralympic Committee, an international sporting federation, a major event organization or another international sporting organization is the ruling body for the event or competition or appoints the technical officials for the event or competition;

“international-level athlete” means an athlete designated by one or more international sporting federations as being within the Registered Testing Pool for an international sporting federation;

“International Olympic Committee” means the organization created by the Congress of Paris on June 23, 1894 and entrusted with the control and development of the modern Olympic Games;

“International Paralympic Committee” means the organization established on September 22, 1989, to enable paralympic athletes to achieve sporting excellence and to inspire and excite the world and entrusted with the control and development of the Paralympics Games;

“international sporting federation” in relation to a particular type of sport or event means the sporting body having international control over that sport or event;

“International Standard” means a standard adopted by the World Anti-Doping Agency in support of the Code, compliance with which is sufficient to conclude that the procedures addressed by that standard are performed properly;

“JADCO TUEC” means the Therapeutic Use Exemption Committee appointed under section 13;

“major event organizations” means the continental associations of National Olympic Committees and other international multi-sport organizations that function as the ruling body for any continental, regional or other international event;

“marker” means a compound, group of compounds or biological parameters that indicates the use of a prohibited substance or prohibited method;

“metabolite” means any substance produced by a biotransformation process;

“minor” means a person under the age of eighteen years;

“National Anti-Doping Organization” means—

- (a) an entity designated by a state as possessing the primary authority and responsibility to adopt and implement rules in that state which are equivalent to the Anti-Doping Rules, direct the collection of samples and the management of test results; and
- (b) where such designation has not been made by the competent public authority of a state, that state’s national Olympic Committee or its designatee;

“national event” means a sporting event involving international-level or national-level athletes that is not an international event;

“national-level athlete” means an athlete, other than an international-level athlete, who is designated by the Commission or the National Anti-Doping Organization to which he is subject, as being within the Commission’s or organization’s Registered Testing Pool;

“national sporting organization” in relation to a particular sport, means—

- (a) in respect of any country, a sporting organization that is recognized by the relevant international sporting federation as being the organization responsible for administering the affairs of that sport, or of a substantial part or section of that sport, in that country; or
- (b) in respect of a country other than Jamaica, if there is no international sporting federation in relation to that sport, a sporting organization that is generally recognized as being responsible for administering the affairs of that sport, or of a substantial part or section of the sport, in that country; or
- (c) in respect of Jamaica, whether or not there is an international sporting federation in relation to that sport, a sporting organization that is recognized by the Government of Jamaica, or is generally recognized, as being responsible for administering the affairs of that sport, or of a substantial part or section of that sport in Jamaica;

“no-advance notice” means doping control which takes place with no advance warning to the athlete and where the athlete is continuously chaperoned from the moment of notification through to the point where a sample is provided;

“out-of-competition” means any doping control which is not conducted in-competition;

“participant” means any athlete or athlete support personnel;

“Prohibited List” means the Prohibited List published by WADA which identifies the prohibited substances and prohibited methods, as amended from time to time;

“prohibited method” means any method so described on the Prohibited List;

“prohibited substance” means any substance so described on the Prohibited List;

“Registered Testing Pool” means the pool of athletes established separately by each international sporting federation or National Anti-Doping Organization, as the case may be, who are subject to both in-competition and out-of-competition testing as part of that federation’s or organization’s test distribution planning;

“sample” or “specimen” means any biological material collected for the purposes of doping control;

“sporting organization” includes an organization that—

- (a) has control in a particular state, or part of a state, or internationally, of one or more sports or sporting events;
- (b) organizes or administers one or more sports or sporting events;
- (c) accredits persons to take part in sporting competition;
- (d) provides teams to compete in sporting competition; or
- (e) trains, or provides finance for a person to take part in sporting competition;

“tampering” means altering for any improper purpose or in an improper way, bringing improper influence to bear, interfering improperly to alter results or prevent normal procedures from occurring;

“team sport” means a sport in which the substitution of athletes is permitted during a competition;

“testing” means the parts of the doping control process involving test distribution planning, sample collection, sample handling and sample transport to the laboratory and “test” shall be similarly construed;

“Therapeutic Use Exemption” or “TUE” means an exemption granted in accordance with the Annex II of the UNESCO Anti-Doping Convention entitled “Standards for Granting

Therapeutic Use Exemptions” and the provisions of this Act and any Rules or Regulations made thereunder;

“trafficking” in relation to a prohibited substance or prohibited method means selling, giving, administering, transporting, sending, delivering or distributing, as the case may be, a prohibited substance or prohibited method to an athlete either directly or indirectly or through one or more third parties, but does not include selling or distributing (by medical personnel or by persons other than an athlete’s support personnel) a prohibited substance for genuine and legal therapeutic purposes;

“UNESCO Anti-Doping Convention” means the International Convention Against Doping in Sport, adopted by the UNESCO General Conference at Paris, France on October 19, 2005, and, includes any amendments to the Convention that have entered into force for Jamaica;

“use” in relation to a prohibited substance or prohibited method means the application, ingestion, injection or consumption by any means whatsoever of any prohibited substance or prohibited method, as the case may be;

“World Anti-Doping Agency” or “WADA” means the body founded by the International Olympic Committee and constituted as a foundation in Lausanne, Switzerland by an instrument of foundation signed on November 10, 1999, and named in that instrument as the World Anti-Doping Agency.

Objects of Act.

3. The objects of this Act are to—

- (a) promote a drug-free environment for sport and provide athletes and athlete support personnel, with protection of their right to participate in drug-free sport, and thus promote health, fairness and equality for all participants in sports; and
- (b) ensure harmonized, coordinated and effective sports anti-doping programmes at the national-level and international-

level with regard to the detection, deterrence and prevention of doping; and

- (c) respect the rights of individuals and national sporting organizations by the application of fair procedures for, and means to oversee, doping control, determination of Anti-Doping Rules Violations and their consequences, and other decisions made in the interest of drug-free sports.

4.—(1) For the purposes of doping control, the following persons are governed by this Act— Application.

- (a) a person who has been selected to compete, as a representative of Jamaica, in an international sporting competition;
- (b) a person who competes in a national sporting competition;
- (c) a person who has been assessed by a Jamaican national sporting organization as having the potential to represent Jamaica in an international sporting competition;
- (d) a person who competes as a member of a team in a sporting competition (whether held, or to be held, in or outside Jamaica) at a level which involves participation of the following—
  - (i) teams that represent Jamaica; or
  - (ii) teams that represent organizations in Jamaica and contain members who have been assessed by a Jamaican national sporting organization as having the potential to represent Jamaica, in an international sporting competition;
- (e) a person who competes in sporting competition and—
  - (i) is receiving financial or other sport-related support from the Government of Jamaica or an agency of the Government; or
  - (ii) is a party to an arrangement with the Government of Jamaica under which the person will receive financial or other sport-related support from the Government or an agency of the Government;

- (f) a person—
  - (i) who has been assessed by a national sporting organization or an international sporting federation as having reached such a standard of performance in the field of sporting activity in which he competes as to be capable of representing in international sporting competition the country of which he is a citizen or in which he is ordinarily resident; and
  - (ii) in respect of whom, the Commission has been requested by a National Anti-Doping Organization of a country other than Jamaica to obtain a sample for testing; or
- (g) a person whose name is entered on the Commission's Registered Testing Pool of international-level and national-level athletes and who—
  - (i) has been notified of his inclusion in the Commission's Registered Testing Pool; and
  - (ii) as a direct result of having his name so entered, is required to file quarterly whereabouts information with the Commission on forms provided by the Commission which specify on a daily basis the locations and times where the athlete will be residing, training or competing.

(2) Subject to subsection (3), a person who at any particular time—

- (a) is in training, or has at any time within the preceding twelve months trained, to compete in a sporting competition; or
- (b) has, at any time within the preceding twelve months competed in a sporting competition,

is deemed for the purposes of subsection (1) to be a person who competes in a sporting competition.

(3) For the purposes of this Act, a person is deemed not to have been an athlete at a particular time if the person had—

- (a) given prior written notification to the relevant national sporting organization that he had retired from taking part in sporting competition;
- (b) not, since the written notification was given, taken part in a sporting competition; and
- (c) been informed by the Commission that he no longer satisfies the criteria for inclusion in the Registered Testing Pool.

(4) A person who has given written notice of retirement from taking part in sporting competition to the relevant national sporting organization and who is not serving a period of ineligibility may not resume competing unless he has given the Commission at least twelve months prior written notice that he expects to return to competition and is available for no-advance notice out-of-competition testing during the period.

## PART II. Jamaica Anti-Doping Commission Establishment and Functions

5.—(1) There is hereby established for the purposes of this Act, a body to be called the Jamaica Anti-Doping Commission which shall be a body corporate to which section 28 of the Interpretation Act applies.

Establishment of Jamaica Anti-Doping Commission.

(2) The provisions of the First Schedule shall have effect as to the constitution and procedure of the Commission and otherwise in relation thereto.

First Schedule.

6.—(1) The Commission shall perform such functions as are necessary to facilitate the control and prevention of doping in sports, including—

Functions of Commission.

- (a) implementing the policies and programmes of the Government against doping in sport;
- (b) doing all things necessary to comply with and implement any Article of the Code;
- (c) planning, implementing and monitoring information and education programmes aimed at educating athletes, athlete

support personnel, parents, the media and the general public in Jamaica about doping in sport matters, such as—

- (i) the health consequences of doping;
  - (ii) the harm of doping to the ethical values of sport;
  - (iii) prohibited substances and prohibited methods;
  - (iv) therapeutic use exemptions;
  - (v) nutritional supplements;
  - (vi) doping control procedures and results management;
  - (vii) the athlete's rights and responsibilities in regard to doping in sport, and the consequences of committing an Anti-Doping Rules violation;
- (d) establishing a register for the Registered Testing Pool of national-level and international-level Jamaica athletes who are citizens or residents of, and notifying such athletes and relevant national sporting organizations of entries made in the register;
  - (e) directing the anti-doping programme of the Government specific to sports including conducting testing of athletes, planning, coordinating, and implementing the collection of samples, the management of test results and conducting hearings in keeping with the mandatory international standards set out in the Code;
  - (f) testing any athlete whether or not he is a citizen or resident of Jamaica;
  - (g) notifying test results to athletes and, as the case may be, governments of countries other than Jamaica, anti-doping organizations of other countries, or other signatories to the Code in accordance with bilateral or multilateral agreements entered into by Jamaica with such governments, organizations or signatories;
  - (h) entering into reciprocal testing agreements with National Anti-Doping Organizations outside Jamaica, in relation to any athlete;

- (i) encouraging and facilitating the negotiation by any sporting organization and Anti-Doping Organization of any agreement permitting their members to be tested by authorized doping control teams from other countries;
- (j) cooperating with the testing and education initiatives of WADA, and other anti-doping organizations;
- (k) supporting, encouraging, conducting and promoting research about doping in sport matters that contributes to the development and implementation of efficient anti-doping programmes;
- (l) consulting with, advising and assisting—
  - (i) Government departments and agencies, local authorities, the Jamaica Olympic Association, national sporting organizations, and other bodies or persons on any matters concerned with doping in sport issues and related matters;
  - (ii) foreign government and non-governmental organizations and other persons outside of Jamaica, for the purpose of promoting the adoption of uniform international testing procedures for doping in sport;
- (m) publishing and making available the Prohibited List and any revision thereof to athletes and as such all athletes shall be deemed to accept the Prohibited List and any amendments thereto as binding upon them;
- (n) advising the Minister on any doping in sport matters;
- (o) performing any other functions relating to doping in sport that are conferred on the Commission by this or any other enactment; and
- (p) generally taking all steps necessary or desirable to achieve the purposes of this Act.

(2) In the performance of its functions, the Commission—

- (a) shall establish for its use, and for the use of its committees, procedures that are appropriate and fair in the circumstances;
- (b) shall develop appropriate procedures to—
  - (i) reflect the needs of athletes who are under the age of eighteen years; and
  - (ii) reflect the culture and any disabilities or other special concerns of athletes; and
  - (iii) protect each athlete's right to privacy.
- (c) may impose fees or charges for the provision of information, advice or other services, requested of the Commission (other than for information requested by an athlete relating to the athlete).

(3) The powers of the Commission may be exercised in a state other than Jamaica in relation to athletes who are citizens of Jamaica, subject to the approval of the relevant foreign state or relevant national sporting organization of such state.

Minister may  
give  
directions to  
Commission.

7.—(1) The Minister may, after consultation with the Chairman of the Commission, give to the Commission directions in writing of a general character as to the policy to be followed by the Commission in the performance of its functions, as appear to the Minister to be necessary in the public interest and the Commission shall give effect thereto.

(2) Directions given under subsection (1) shall not relate to—

- (a) a particular athlete, or particular athlete support personnel; or
- (b) doping control.

(3) The Commission shall comply with any directions given under subsection (1).

8.—(1) The Commission may, with the written approval of the Minister, delegate any of its functions under this Act (other than the power of delegation) to any member, officer or agent of the Commission.

Power to delegate.

(2) A delegation under subsection (1) is revocable by the Commission and the delegation of a function shall not preclude the performance of the delegated function by the Commission.

### PART III. Anti-Doping Rules

9. The Commission may, with the approval of the Minister, make rules (in this Act referred to as the “Anti-Doping Rules”) generally for controlling the occurrence of doping in sports and for carrying out the objects of this Act, and without limiting the generality of the foregoing, such rules may provide for—

Commission may make Rules.

- (a) initiating, implementing or enforcing any part of the doping control process;
- (b) analysis of samples;
- (c) athlete whereabouts information;
- (d) consequences of Anti-Doping Rules violation;
- (e) assessment of costs for disciplinary hearings;
- (f) results management.

10.—(1) Except in any case where an athlete holds a Therapeutic Use Exemption Certificate and is in compliance with the terms of such Therapeutic Use Exemption Certificate, the athlete shall be liable for the presence of any prohibited substance or its metabolites or markers found in his body.

Anti-Doping Rules violation.

(2) Subject to the exception mentioned in subsection (1), a reference in this Act to an Anti-Doping Rules violation shall mean any one of the following—

- (a) the presence of a prohibited substance or its metabolites or markers in an athlete’s specimen;
- (b) the use or attempted use of a prohibited substance or a prohibited method;

- (c) refusing, or failing without compelling justification, to submit sample collection after notification as authorized in applicable Anti-Doping rules or otherwise evading sample collection;
- (d) violation of applicable requirements regarding athlete availability for out-of-competition testing, including failure to provide required whereabouts information and missed tests which are declared based on reasonable rules which comply with the International Standard for testing;
- (e) tampering, or attempting to tamper, with any part of doping control;
- (f) possession of prohibited substances or prohibited methods;
- (g) trafficking in any prohibited substance or prohibited method;
- (h) administration or attempted administration of a prohibited substance or prohibited method to any athlete, or assisting, encouraging, aiding, abetting, covering up or any type of complicity involving an Anti-Doping Rules violation or any attempted violation.

#### Therapeutic Use Exemption

Therapeutic  
Use  
Exemption  
Certificate.

11.—(1) An athlete with a medical condition requiring the use of a Prohibited Substance or Prohibited Method, shall first obtain a Therapeutic Use Exemption Certificate in accordance with the provisions of this Act, the Anti-Doping Rules and the International Standard for Therapeutic Use Exemption, from JADCO TUEC or as the case may require the international sporting federation under whose control the athlete competes.

(2) Notwithstanding the provisions of subsection (1), an international-level athlete or athlete who participates in international events shall apply to the international sporting federation concerned for the Therapeutic Use Exemption Certificate, except in emergency situations, no later than twenty-one days before the athlete's participation in an international sporting event or otherwise provided for in the Anti-Doping rules of that international sporting federation, and provide to JADCO TUEC a copy of such an application prior to the international event.

(3) The application for a Therapeutic Use Exemption Certificate from an athlete shall—

- (a) be made immediately after the athlete becomes aware that the use of a Prohibited Substance or Prohibited Method is required; and
- (b) subject to any circumstance of emergency, be obtained prior to the athlete's participation in any competition or event.

(4) Where an athlete who is subject to testing and has been granted a Therapeutic Use Exemption Certificate by an international sporting federation, the athlete shall immediately report the granting of the Therapeutic Use Exemption Certificate to WADA, JADCO TUEC and to the relevant national sporting organization and shall provide to JADCO TUEC all the relevant information and documentation.

(5) Every national level athlete and athlete participating in national events shall obtain a Therapeutic Use Exemption Certificate from the JADCO TUEC, unless such an athlete has previously received a Therapeutic Use Exemption Certificate from an international sporting federation and such Therapeutic Use Exemption Certificate is still valid and the grant of which has been previously reported to the JADCO TUEC and the Commission.

12.—(1) An application for a Therapeutic Use Exemption Certificate to the JADCO TUEC shall be made in accordance with the International Standard for Therapeutic Use Exemption.

Application to be in accordance with international standards.

(2) The athlete on whose behalf the application has been made shall provide written consent for the transmission of—

- (a) all information pertaining to the application to the JADCO TUEC, and as required, other independent medical or scientific experts and to all necessary staff involved in the management or review of Therapeutic Use Exemptions;
- (b) the decision of JACO TUEC to be distributed to WADA and to other relevant Anti-Doping Organizations under the provisions of the Code.

Appointment  
of the  
JADCO  
Therapeutic  
Use  
Exemption  
Committee.

13.—(1) The Commission shall appoint a Committee to be known as the Jamaica Anti-Doping Therapeutic Use Exemption Committee (in this Act, known as “JADCO TUEC”) consisting of six duly qualified medical practitioners.

(2) The appointment of every member of the JADCO TUEC shall be evidenced by an instrument in writing, which shall state the period of office of the member not exceeding three years, as the Commission may specify in the instrument and each member shall be eligible for re-appointment.

(3) The Commission shall appoint one of the members of the JADCO TUEC to be the Chairperson thereof.

(4) The JADCO TUEC shall act independently of the Commission and shall not have any other official responsibility within the Commission.

(5) Where any member of the JADCO TUEC is connected with an athlete (having regard to their familial, business or other relationship) or has an interest in any national sporting organization or international sporting federation, such a member is excluded from considering any application for Therapeutic Use Exemption from that athlete or as the case may be any athlete who is a member or participant in a sporting event organized or sanctioned by the international sporting federation or national sporting organization in which he has an interest.

Functions  
of JADCO  
TUEC.

14. The functions of the JADCO TUEC shall be to—

- (a) receive and examine applications from national-level athletes for Therapeutic Use Exemption Certificates;
- (b) grant Therapeutic Use Exemption Certificates;
- (c) revoke Therapeutic Use Exemption Certificates;
- (d) perform any other functions that are conferred or imposed on it by this Act.

Notification  
of  
Therapeutic  
Use  
Exemption.

15.—(1) The JADCO TUEC shall promptly notify the Commission of its decision to grant a Therapeutic Use Exemption Certificate.

(2) The Commission upon being notified by JADCO TUEC of the grant of a Therapeutic Use Exemption Certificate shall notify WADA thereof.

16. Where the JADCO TUEC has made a decision to grant or deny the grant of a Therapeutic Use Exemption Certificate to an athlete, WADA at the request of the athlete or on its own initiative, may review the grant or denial of the Therapeutic Use Exemption Certificate and where WADA determines that the granting or denial of such Therapeutic Use Exemption Certificate did not comply with the International Standard for Therapeutic Use Exemption in force at the time then, WADA may reverse the decision to grant or to deny the Therapeutic Use Exemption Certificate.

WADA may review and reverse TUE Certificate.

17. The Commission shall recognize the results of laboratory analysis by other anti-doping organizations once conducted in accordance with the WADA International Standard for Testing.

Recognition of results of other Anti-Doping Organizations.

#### PART IV. Disciplinary Panel; Appeals

18. There is established for the purposes of this Act, a body to be called the Jamaica Anti-Doping Disciplinary Panel and the provisions of the Second Schedule shall have effect as to the constitution and procedure of the Disciplinary Panel and otherwise in relation thereto.

Establishment of the Jamaica Anti-Doping Disciplinary Panel. Second Schedule.

19. Where it appears that there has been an Anti-Doping Rules violation, the Commission shall refer the matter to the Disciplinary Panel.

Commission to refer findings for hearing.

20.—(1) The functions of the Disciplinary Panel shall be to—

Functions of the Anti-Doping Disciplinary Panel.

- (a) receive, examine and hear evidence relating to an Anti-Doping Rules violation;
- (b) conduct disciplinary hearings related to Anti-Doping Rules violations referred to it by the Commission;
- (c) determine whether a violation of the Anti-Doping Rules has occurred;
- (d) impose consequences of Anti-Doping Rules violations;

- (e) perform any other functions that are conferred or imposed on the Disciplinary Panel by this Act.

(2) The Disciplinary Panel shall consequent on receiving a written reference from the Commission asserting an Anti-Doping rules violation—

- (a) within fourteen days of the date of receipt of the reference, commence a hearing;
- (b) within twenty days of the date of receipt of the reference, issue a written decision;
- (c) within thirty days of the date of receipt of the reference, issue written reasons for the decision given in paragraph (b).

Appeals.

21.—(1) Subject to section 23, where—

- (a) any athlete or other person who is the subject of the decision being appealed;
- (b) the Commission;
- (c) the relevant international sporting federation;
- (d) relevant national sporting organization;
- (e) the Jamaica Olympic Association;
- (f) WADA,

is aggrieved by a decision of the Disciplinary Panel that person or body may within fourteen days of the decision of the Disciplinary Panel and in the prescribed manner, lodge an appeal with the Appeals Tribunal established under section 22 against any decision of the Disciplinary Panel.

(2) Every decision of the Disciplinary Panel in respect of a Anti-Doping Rules violation shall remain in effect during the appeal process unless the Appeal Tribunal otherwise orders.

Establishment  
of Jamaica  
Anti-Doping  
Appeals  
Tribunal.  
Third  
Schedule.

22.—(1) For the purposes of an appeal under section 21, there is hereby established an Appeals Tribunal to be called the Jamaica Anti-Doping Appeals Tribunal constituted in accordance with the Third Schedule.

(2) The functions of the Appeals Tribunal shall be—

- (a) to hear and determine issues arising from a decision of the Disciplinary Panel—
  - (i) that an Anti-Doping Rules violation was committed;
  - (ii) imposing consequences of an Anti-Doping Rules violation;
  - (iii) that an Anti-Doping Rules violation was not committed;
  - (iv) that an anti-doping organization lacks jurisdiction to rule on an Anti-Doping Rules violation or consequences of an Anti-Doping Rules violation;
  - (v) to impose a provisional suspension as a result of a provisional hearing;
- (b) to determine the consequences of an Anti-Doping Rules violation to be imposed;
- (c) to perform any other functions that are conferred or imposed on the Appeals Tribunal by virtue of this Act.

(3) The Appeals Tribunal shall, consequent on the lodging of an appeal under subsection (1)—

- (a) within twenty-one days of lodging, receive, hear and examine the evidence relating to the appeal;
- (b) within thirty days of the date of lodging, issue a written decision;
- (c) within sixty days of the date of lodging, issue written reasons for the decision.

(4) An appeal shall not in its entirety exceed three months except in extenuating circumstances.

23. Where an appeal is in respect of an international event or a case involving an international-level athlete, the decision of the Disciplinary Panel may be appealed directly to the Court of Arbitration.

Appeals of international level athlete.

Appeals of  
decisions to  
deny  
Therapeutic  
Use  
Exemption  
Certificate.

24.—(1) Any decision by WADA reversing the grant of a Therapeutic Use Exemption Certificate or, as the case be, the refusal to grant may be appealed directly by the athlete or the Commission to the Court of Arbitration.

(2) Where an international-level athlete has made an application for a Therapeutic Use Exemption Certificate and the international sporting federation has refused to grant such Therapeutic Use Exemption Certificate, the athlete may appeal exclusively to the Court of Arbitration in respect of the refusal to grant the Therapeutic Use Exemption Certificate.

(3) Where the JADCO TUEC has refused to grant a Therapeutic Use Exemption Certificate to a national-level athlete, the athlete may make an appeal to the Appeals Tribunal.

(4) Where the Appeals Tribunal reverses the decision of the JADCO TUEC to grant a Therapeutic Use Exemption Certificate, WADA may appeal to the Court of Arbitration.

#### Miscellaneous

Confidentiality.

25.—(1) Every—

- (a) member of the Commission;
- (b) officer and employee of the Commission;
- (c) expert retained by the Commission to assist in its investigations and deliberations;
- (d) member of the Appeals Tribunal;
- (e) member of the JADCO TUEC;
- (f) member of the Disciplinary Panel,

shall keep secret and confidential all information coming to his knowledge in the course of the administration of this Act, except in so far as the Commission authorizes that person to release that information.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars.

26.—(1) The Minister may make regulations generally for giving <sup>Regulations.</sup> effect to the provisions of this Act and without prejudice to the generality of the foregoing, the regulations may provide for—

- (a) the determination and collection of fees and charges in connection with the exercise of the functions of the Commission;
- (b) the keeping of such records as the Minister may require for the purposes of this Act;
- (c) the forms to be used for the purposes of this Act; and
- (d) anything required by this Act to be prescribed.

(2) Regulations made under subsection (1) may provide for the imposition of a penalty on summary conviction in a Resident Magistrate Court of a fine not exceeding one million dollars or a term of imprisonment of not exceeding six months or both such fine and imprisonment.

## FIRST SCHEDULE

(Section 5 (2))

## Constitution and Procedure of the Jamaica Anti-Doping Commission

- |                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Constitution of Commission. | 1. The Commission shall consist of the following members—<br>(a) not less than nine and not more than thirteen persons who the Minister is satisfied are of high integrity and able to exercise sound judgment in fulfilling their responsibilities under this Act (hereinafter referred to as “appointed members”);<br>(b) the Executive Director of the Commission and the Permanent Secretary or his nominee (hereinafter referred to as “ex-officio members”).                                     |
| Tenure of office.           | 2. The appointed members of the Commission shall be appointed by the Minister by instrument in writing and shall, subject to the provisions of this Schedule, hold office for a period of three years.                                                                                                                                                                                                                                                                                                 |
| Re-appointment.             | 3. Every appointed member shall be eligible for re-appointment.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Chairman.                   | 4.—(1) The Minister shall appoint a chairman and a deputy chairman from among the appointed members.<br>(2) In the case of absence or inability to act of the chairman the deputy chairman shall perform the functions of the chairman.<br>(3) In the case of absence or inability to act of both the chairman and deputy chairman, the Minister may appoint any other member to perform the functions of the chairman or, as the case may be, the deputy chairman, during such absence or incapacity. |
| Acting appointments.        | 5. If any member is absent or unable to perform his duties due to absence or illness the Minister may appoint any person to act in the place of that member, so, however, that such appointment shall be made in the same manner and from among the same category of persons as would be required in the case of a substantive appointment.                                                                                                                                                            |
| Revocation of appointment.  | 6. The Minister may at any time revoke the appointment of any member of the Commission if such member—<br>(a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;                                                                                                                                                                                                                                                                                  |

- (b) is convicted and sentenced to a term of imprisonment;
- (c) fails without reasonable excuse to carry out any of the functions conferred or imposed on him under this Act; or
- (d) engages in such activities as are reasonably considered prejudicial to the interest of the Commission.

Remuneration  
of members.

7. There shall be paid to the members of the Commission such remuneration (whether by way of honorarium, salary, fees or allowances) as the Minister with responsibility for the public service may determine.

Quorum.

8. Five members of the Commission shall form a quorum at any meeting.

Resignation.

9.—(1) An appointed member other than the chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument, that person shall cease to be a member.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

Filling of  
vacancies.

10. If any vacancy occurs in the membership of the Commission, such vacancy shall be filled by the appointment of another member.

Protection  
of members.

11.—(1) No proceedings shall be brought or instituted before any court or tribunal personally against any member of the Commission in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

(2) Where any member is exempt from liability by reason only of the provisions of this paragraph, the Commission shall be liable to the extent that it would be if that member were an employee or agent of the Commission.

Gazetting of  
membership.

12. The names of all members of the Commission as first constituted and every change therein, shall be published in the Gazette.

## Administration and Finance

Appointment of officers and other employees.

13.—(1) The Commission shall appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, an Executive Director, a Secretary and such other officers, employees and agents as it considers necessary for the proper carrying out of its functions.

(2) Notwithstanding sub-paragraph (1)—

- (a) a salary in excess of the prescribed rate shall not be assigned to any post without the prior approval of the Minister; and
- (b) an appointment shall not be made to any post to which a salary in excess of the prescribed rate is assigned without the prior approval of the Minister.

(3) In this section “prescribed rate” means such rate as the Minister with responsibility for the public service may by order prescribe.

Pensions, gratuities and other retiring benefits.

14. The Commission may, with the written approval of the Minister—

- (a) enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; or
- (b) make regulations,

for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, relating to employees of the Commission, and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the legal personal representatives of such employees.

Funds and resources of Commission.

15.—(1) The funds and resources of the Commission shall consist of—

- (a) such funds as may be provided by Parliament for the Commission in the annual Estimates of Revenue and Expenditure;
- (b) revenues from fees and charges imposed by the Commission for any services provided by it or the use of any facility;
- (c) such sums as may be allocated, from time to time, to the Commission from research or education grants or from loan funds; and

(d) all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

(2) The expenses of the Commission, including the remuneration of members and employees, shall be paid out of the funds of the Commission.

Power to invest moneys.

16. All moneys of the Commission, not required to be expended for the purpose of meeting any of the obligations or discharging any of the functions of the Commission may be invested in such securities as the Commission may, after consultation with the Minister responsible for finance, consider appropriate and the Commission may sell all or any of such securities.

Account and audit.

17.— (1) The Commission shall keep proper accounts and other records in relation to its business, and shall prepare annually, in respect of each financial year, a statement of accounts in a form satisfactory to the Minister, being a form which conforms with established accounting principles.

(2) The accounts of the Commission shall be audited annually by an auditor or auditors appointed by the Commission and approved by the Minister.

(3) The members, officers and employees of the Commission shall—

(a) grant to the auditor appointed under sub-paragraph (2), access to all books, documents, cash and securities of the Commission; and

(b) give to the auditor on request, all such information as may be within their knowledge in relation to the Commission's operations.

(4) The auditor's fees and any expenses of the audit shall be paid by the Commission.

(5) The Auditor-General shall be entitled at all reasonable times to examine the accounts and other records in relation to the business of the Commission.

Annual  
report and  
estimates.

18.—(1) The Commission shall, within six months after the end of each financial year, or within such longer period as the Minister may in special circumstances allow, cause to be made, and transmit to the Minister, a report dealing generally with the activities of the Commission during the preceding year, including—

- (a) a statement of its accounts audited in accordance with paragraph 17;
- (b) a statement of the outcomes and findings of its annual testing programme, including statistical information on—
  - (i) the provision of samples by athletes;
  - (ii) the testing of samples so provided; and
  - (iii) the extent of the participation of national sporting organizations in testing programmes operated or supported by the Commission;
- (c) the results of Anti-Doping research undertaken by, or supported by the Commission;
- (d) a summary of the education and public information programmes undertaken by, or supported by the Commission; and
- (e) particulars of the extent to which the Commission has complied with, and achieved the objectives of any strategic plan, and the operational plan, in force during the financial year to which the report relates.

(2) The Minister shall cause copies of the report together with the annual statement of accounts and the auditor's report thereon to be laid on the Table of the House of Representatives and of the Senate.

(3) The Commission shall, before a date specified by the Minister, submit to the Minister for his approval, estimates of revenue and expenditure for the ensuing year.

Exemption  
from income  
tax

19. The income of the Commission shall be exempt from income tax.

## SECOND SCHEDULE

(Section 18)

## Constitution of the Jamaica Anti-Doping Disciplinary Panel

- Constitution of Disciplinary Panel. 1.—(1) The Disciplinary Panel shall consist of not more than nine persons appointed as follows—
- (a) a chairman and two vice chairmen each of whom shall be legal practitioners of not less than 10 years of experience;
  - (b) three persons, each of whom have been duly qualified medical practitioners for not less than five years;
  - (c) three additional members each of whom shall be or has previously been a sports administrator or an athlete.
- (2) The chairman or in his absence, the vice chairman shall appoint three members from the panel to hear and determine each case.
- (3) Every hearing shall comprise of the chairman or a vice chairman as chairman of the hearing panel, one medical practitioner member and one sports administrator or athlete member.
- Tenure of Office. 2. The members shall be appointed by the Minister by instrument in writing and shall, subject to the provisions of this Schedule, hold office for a period of three years.
- Re-appointment. Acting Appointments. 3. Every member shall be eligible for re-appointment.
4. If any member is absent or unable to act, the Minister may appoint any person to act in the place of that member, so, however, that such appointment shall be made in the same manner and from among the same category of persons as would be required in the case of a substantive appointment.
- Revocation of appointment. 5. The Minister may at any time revoke the appointment of any member of the Disciplinary Panel if such member—
- (a) becomes of unsound or becomes permanently unable to perform his functions by reason of ill health;
  - (b) is convicted and sentenced to a term of imprisonment;
  - (c) fails without reasonable excuse to carry out any of the functions conferred or imposed on him under this Act; or

(d) engages in such activities as are reasonably considered prejudicial to the interest of the Commission.

Remuneration  
of members.

6. There shall be paid to the members of the Disciplinary Panel such remuneration (whether by way of honorarium, salary, fees or allowances) as the Minister may determine.

Resignation.

7.—(1) Any member other than the chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument, that person shall cease to be a member.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

Filling of  
vacancies.

8. If any vacancy occurs in the membership of the Disciplinary Panel such vacancy shall be filled by the appointment of another member, so, however, that such appointment shall be made in the same manner and from the same category of persons as would be required in the case of the original appointment.

Protection  
of members.

9.— (1) No proceedings shall be brought or instituted before any court or tribunal personally against any member of the Disciplinary Panel in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

(2) Where any member is exempt from liability by reason only of the provisions of this paragraph, the Disciplinary Panel shall be liable to the extent that it would be if that member were an employee or agent of the Disciplinary.

Gazetting of  
Membership.

10. The names of all members of the Disciplinary Panel as first constituted and every change therein, shall be published in the Gazette.

## THIRD SCHEDULE

(Section 22)

## Constitution of The Jamaica Anti-Doping Appeals Tribunal

- |                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Constitution of Appeals Panel. | <p>1. The Appeals Tribunal shall consist of six persons—</p> <p>(a) a chairman and vice chairman being both persons who have served as either a Judge of the Court of Appeal or of the Supreme Court;</p> <p>(b) persons who have served in—</p> <p style="padding-left: 40px;">(i) the post of a Director of Public Prosecutions or a senior member of staff of the Office of the Director of Public Prosecutions;</p> <p style="padding-left: 40px;">(ii) sports administration for at least ten years;</p> <p style="padding-left: 40px;">(iii) sports medicine for at least ten years.</p> |
| Tenure of Office.              | <p>2. The members of the Appeals Tribunal shall be appointed by the Minister by instrument in writing and shall, subject to the provisions of this Schedule, hold office for a period of three years.</p>                                                                                                                                                                                                                                                                                                                                                                                      |
| Re-appointment.                | <p>3. Every member shall be eligible for re-appointment.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Acting Appointments.           | <p>4. If any member of the Appeals Tribunal is absent or unable to perform his duties, the Minister may appoint any person to act in the place of that member, so, however, that such appointment shall be made in the same manner and from among the same category of persons as would be required in the case of a substantive appointment.</p>                                                                                                                                                                                                                                              |
| Revocation of appointment.     | <p>5. The Minister may at any time revoke the appointment of any member of the Commission if such member—</p> <p>(a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;</p> <p>(b) is convicted and sentenced to a term of imprisonment;</p> <p>(c) fails without reasonable excuse to carry out any of the functions conferred or imposed on him under this Act; or</p> <p>(d) engages in such activities as are reasonably considered prejudicial to the interest of the Commission.</p>                                                |
| Resignation.                   | <p>6. There shall be paid to the members of the Appeals Tribunal such remuneration (whether by way of honorarium, salary, fees or allowances) as the Minister may determine.</p>                                                                                                                                                                                                                                                                                                                                                                                                               |

Resignation. 7.—(1) Any member other than the chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument, that person shall cease to be a member.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

Filling of vacancies. 8. If any vacancy occurs in the membership of the Appeals Tribunal, such vacancy shall be filled by the appointment of another member, so, however, that such appointment shall be made in the same manner and from the same category of persons as would be required in the case of the original appointment.

Protection of members. 9.—(1) No proceedings shall be brought or instituted before any court or tribunal personally against any member of the Appeals Tribunal in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

(2) Where any member is exempt from liability by reason only of the provisions of this paragraph, the Appeals Tribunal shall be liable to the extent that it would be if that member were an employee or agent of the Appeals Tribunal.

Gazetting of Membership. 10. The names of all members of the Appeals Tribunal as first constituted and every change therein, shall be published in the Gazette.

Passed in the Senate this 25th day of July, 2008.

OSWALD G. HARDING, O.J., C.D., Q.C.  
President.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Clerk to the Houses of Parliament.

Passed in the Senate this 25th day of July, 2008.

OSWALD G. HARDING, O.J., C.D., Q.C.

President.

This printed impression has been carefully compared by me with the Bill which has passed the House of Representatives and Senate, and has been found by me to be a true and correct printed copy of the said Bill.

Clerk to the Houses of Parliament.

## MEMORANDUM OF OBJECTS AND REASONS

The Government has decided that as part of its fight against the illicit use of drugs in sport to enact legislation to establish the Jamaica Anti-Doping Commission as the agency responsible for regulating and controlling doping in sport. The decision to enact legislation follows the adoption by the Government of the World Anti-Doping Programme and the World Anti-Doping Code and becoming a party to the UNESCO Convention Against Doping in Sport and signatory to the Copenhagen Declaration on Anti-Doping in Sport.

The Government recognizes that the fight against doping in sport requires a comprehensive approach that involves education, prevention, international collaboration, detection, deterrence, rehabilitation and research by Government, sporting and medical communities. This Bill seeks to provide the basis for the Jamaica Anti-Doping Programme in furtherance of Jamaica's continued efforts to eradicate doping in sport.

The Bill provides for the establishment of the following bodies—

- (a) Jamaica Anti-Doping Commission;
- (b) The Jamaica Anti-Doping Disciplinary Panel;
- (c) The Jamaica Anti-Doping Appeals Panel;
- (d) The Jamaica Anti-Doping Therapeutic Use Exemption Committee.

The Act gives the Commission several functions among which are the testing of athletes, the making of Anti-Doping Rules and the implementation of information and education programmes against doping in sport.

OLIVIA GRANGE  
Minister of Information, Culture, Youth and Sports

# ABILL

ENTITLED

AN ACT to Establish the Jamaica Anti-Doping Commission and for connected matters.

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As passed in the Honourable House  
of Representatives.

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