



Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Act 2006

No. 7, 2006

An Act to amend laws, and to deal with transitional matters, in connection with the *Australian Sports Anti-Doping Authority Act 2006*, and for other purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title	2
2	Commencement	2
3	Schedule(s)	2
Schedule 1—Consequential amendments		3
	<i>Administrative Decisions (Judicial Review) Act 1977</i>	3
	<i>Age Discrimination Act 2004</i>	3
	<i>Australian Sports Commission Act 1989</i>	3
	<i>Australian Sports Drug Agency Act 1990</i>	4
	<i>Financial Management and Accountability Regulations 1997</i>	4
	<i>Olympic Insignia Protection Act 1987</i>	4
Schedule 2—Transitional provisions		6
	Part 1—Introduction	6
	Part 2—Assets, liabilities and legal proceedings	8
	Part 3—References to ASDA etc.	10
	Part 4—Appointments of office-holders	13
	Part 5—Continued application of ASDA Act etc.	15
	Part 6—Continued application of ASC non-disclosure provisions etc.	20
	Part 7—Reporting obligations	21
	Part 8—Miscellaneous	23



Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Act 2006

No. 7, 2006

An Act to amend laws, and to deal with transitional matters, in connection with the *Australian Sports Anti-Doping Authority Act 2006*, and for other purposes

[Assented to 7 March 2006]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Act 2006*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	7 March 2006
2. Schedules 1 and 2	At the same time as section 20 of the <i>Australian Sports Anti-Doping Authority Act 2006</i> commences.	

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

- (1) Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

Schedule 1—Consequential amendments

Administrative Decisions (Judicial Review) Act 1977

1 Paragraph 2(b) of Schedule 3

Repeal the paragraph.

Age Discrimination Act 2004

2 Schedule 1 (table item 14)

Repeal the item.

Note: For transitional provisions, see Part 5 of Schedule 2.

3 Schedule 1 (after table item 32)

Insert:

- 32A National Anti-Doping Scheme (within the meaning of the *Australian Sports Anti-Doping Authority Act 2006*)

Australian Sports Commission Act 1989

4 After subsection 7(4)

Insert:

- (4A) The function of the Commission under paragraph (1)(r) may only be performed to the extent that it does not overlap any of the functions of the Australian Sports Anti-Doping Authority.

5 Part VIIA

Repeal the Part.

Note: For transitional provisions, see Part 6 of Schedule 2.

6 After section 57

Insert:

57A Disclosure of information to the Australian Sports Anti-Doping Authority

- (1) The Commission may disclose information to the Australian Sports Anti-Doping Authority if the information:
 - (a) relates to a sports drug and safety matter (within the meaning of the *Australian Sports Anti-Doping Authority Act 2006*); or
 - (b) is otherwise relevant to the performance of the functions of the Australian Sports Anti-Doping Authority.
- (2) If information disclosed under subsection (1) is personal information (within the meaning of the *Privacy Act 1988*), the information is taken to be NAD scheme personal information for the purposes of the *Australian Sports Anti-Doping Authority Act 2006*.

Australian Sports Drug Agency Act 1990

7 The whole of the Act

Repeal the Act.

Note: For transitional provisions, see Part 5 of Schedule 2.

Financial Management and Accountability Regulations 1997

8 Part 1 of Schedule 1 (after table item 116)

Insert:

- | | | |
|------|---|-------|
| 116A | Australian Sports Anti-Doping Authority (the <i>ASADA</i>), comprising: <ol style="list-style-type: none">(a) the Chair, the Deputy Chair and the other members of the ASADA; and(b) the staff mentioned in section 49 of the <i>Australian Sports Anti-Doping Authority Act 2006</i>; and(c) the persons whose services are made available to the ASADA under section 50 of that Act. | Chair |
|------|---|-------|

See Note B

Olympic Insignia Protection Act 1987

9 Section 23 (definition of *national sporting organisation*)

Omit “*Australian Sports Drug Agency Act 1990*”, substitute “*Australian Sports Anti-Doping Authority Act 2006*”.

Schedule 2—Transitional provisions

Part 1—Introduction

1 Definitions

(1) In this Schedule:

ASADA Act means the *Australian Sports Anti-Doping Authority Act 2006*.

ASDA means the Australian Sports Drug Agency that was established by the *Australian Sports Drug Agency Act 1990*.

ASDA Act means the *Australian Sports Drug Agency Act 1990*.

ASDA drug testing orders means drug testing orders in force under the ASDA regulations immediately before the transition time.

ASDA regulations means the *Australian Sports Drug Agency Regulations 1999* in force immediately before the transition time.

asset means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective;

but does not include a right, power, privilege or immunity conferred by an Act or by regulations or other subordinate legislation made under an Act.

assets official, in relation to an asset other than land, means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

financial liability means a liability to pay a person an amount, where the amount, or the method for working out the amount, has been determined.

land means any legal or equitable estate or interest in real property, whether actual, contingent or prospective.

liability means any liability, duty or obligation, whether actual, contingent or prospective, but does not include a liability, duty or obligation imposed by an Act or by regulations or other subordinate legislation made under an Act.

modifications includes additions, omissions and substitutions.

transition time means the commencement of this Schedule.

- (2) Subject to subitem (1), an expression used in this Schedule that is also used in the ASADA Act has the same meaning in this Schedule as it has in that Act.

Part 2—Assets, liabilities and legal proceedings

2 Vesting of assets of ASDA

- (1) This item applies to the assets of the ASDA immediately before the transition time.
- (2) At the transition time, the assets cease to be assets of the ASDA and become assets of the Commonwealth without any conveyance, transfer or assignment. The Commonwealth becomes the successor in law in relation to the assets.

3 Vesting of liabilities of ASDA

- (1) This item applies to the liabilities of the ASDA immediately before the transition time.
- (2) At the transition time, the liabilities cease to be liabilities of the ASDA and become liabilities of the Commonwealth without any conveyance, transfer or assignment. The Commonwealth becomes the successor in law in relation to the liabilities.

4 Certificates relating to vesting of assets other than land

- (1) This item applies if:
 - (a) any asset other than land vests in the Commonwealth under this Part; and
 - (b) there is lodged with an assets official a certificate that:
 - (i) is signed by the Minister; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has become vested in the Commonwealth under this Part.
 - (2) The assets official may:
 - (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and
 - (b) make such entries in the register as are necessary having regard to the effect of this Part.
 - (3) A certificate under paragraph (1)(b) is not a legislative instrument.
-

5 Substitution of Commonwealth as a party to certain pending proceedings

- (1) If:
- (a) any proceedings to which the ASDA was a party were pending in any court or tribunal immediately before the transition time; and
 - (b) the proceedings were, or were related to:
 - (i) proceedings taken by the ASDA in the exercise of a right that is vested in the Commonwealth by item 2; or
 - (ii) proceedings taken against the ASDA in respect of a liability that is vested in the Commonwealth by item 3;
- the Commonwealth is substituted for the ASDA, from the transition time, as a party to the proceedings.

- (2) To avoid doubt, if:
- (a) any proceedings to which the ASDA was a party were pending in any court or tribunal immediately before the transition time; and
 - (b) the proceedings were not, and were not related to:
 - (i) proceedings taken by the ASDA in the exercise of a right that is vested in the Commonwealth by item 2; or
 - (ii) proceedings taken against the ASDA in respect of a liability that is vested in the Commonwealth by item 3;
- section 25B of the *Acts Interpretation Act 1901* applies in relation to the proceedings.

Note: After the transition time, the ASADA will be a party to the proceedings. This is because the body corporate that is the ASDA continues in existence as the ASADA after the transition time (see section 20 of the ASADA Act and section 25B of the *Acts Interpretation Act 1901*).

- (3) The regulations may determine that one of subitems (1) and (2), rather than the other of those subitems, applies in relation to a particular proceeding or a class of proceedings.

Part 3—References to ASDA etc.

6 References in certain instruments to ASDA

(1) If:

- (a) an instrument was in force immediately before the transition time; and
- (b) the instrument is an instrument covered by one or more of the following subparagraphs:
 - (i) an instrument that was made by the ASDA; or
 - (ii) an instrument to which the ASDA was a party; or
 - (iii) an instrument that was given to, or in favour of, the ASDA; or
 - (iv) an instrument under which any right or liability accrues or may accrue to the ASDA; or
 - (v) any other instrument in which a reference is made to the ASDA; and
- (c) a reference in the instrument to the ASDA is a reference to the ASDA as an entity with a particular power or capacity (for example, as party to a contract or the holder of real or personal property); and
- (d) the ASDA does not have that power or capacity;

the reference has effect after the transition time as if it were a reference to the Commonwealth.

(2) To avoid doubt, if:

- (a) an instrument was in force immediately before the transition time; and
- (b) the instrument is an instrument covered by one or more of the following subparagraphs:
 - (i) an instrument that was made by the ASDA; or
 - (ii) an instrument to which the ASDA was a party; or
 - (iii) an instrument that was given to, or in favour of, the ASDA; or
 - (iv) an instrument under which any right or liability accrues or may accrue to the ASDA; or
 - (v) any other instrument in which a reference is made to the ASDA; and

- (c) a reference in the instrument to the ASDA is a reference to the ASDA as an entity with a particular power or capacity; and

- (d) the ASADA has that power or capacity;

section 25B of the *Acts Interpretation Act 1901* applies in relation to the reference.

Note: After the transition time, the reference to the ASDA will be construed as a reference to the ASADA. This is because the body corporate that is the ASDA continues in existence as the ASADA after the transition time (see section 20 of the ASADA Act and section 25B of the *Acts Interpretation Act 1901*).

- (3) The regulations may determine that one of subitems (1) and (2), rather than the other of those subitems, applies in relation to a particular reference or class of references.

7 Provision of services by the ASADA under contract

- (1) This item applies if:
 - (a) under a contract entered into by the ASDA before the transition time, the ASDA was under an obligation to provide:
 - (i) drug testing services (within the meaning of the ASDA Act); or
 - (ii) safety checking services (within the meaning of the ASDA Act); or
 - (iii) other services (including information technology services) relating to sports drug and safety matters; and
 - (b) apart from this item, this Schedule would have the result that the Commonwealth would be obliged to provide those services.
- (2) The functions of the ASADA include the provision of those services under the contract on behalf of the Commonwealth.
- (3) The ASADA Act has effect as if the services provided by the ASADA were provided under paragraph 21(1)(k) of that Act.
- (4) Subitems (2) and (3) do not apply to a service if the contract specified that the service was to be provided by the ASDMAC (within the meaning of the ASDA Act) on behalf of the ASDA.

8 Provision of services by the ASDMAC under contract

- (1) This item applies if:
 - (a) under a contract entered into by the ASDA before the transition time, the ASDA was under an obligation to provide:
 - (i) drug testing services (within the meaning of the ASDA Act); or
 - (ii) safety checking services (within the meaning of the ASDA Act); or
 - (iii) other services (including information technology services) relating to sports drug and safety matters; and
 - (b) apart from this item, this Schedule would have the result that the Commonwealth would be obliged to provide those services; and
 - (c) the contract specified that some or all of the services were to be provided by the ASDMAC (within the meaning of the ASDA Act) on behalf of the ASDA.
- (2) The functions of the ASDMAC include the provision of the paragraph (1)(c) services under the contract on behalf of the Commonwealth.
- (3) The ASADA Act has effect as if the services provided by the ASDMAC were provided under paragraph 52(1)(d) of that Act.

9 Transfer of appropriated money

- (1) For the purposes of the operation of an Appropriation Act after the transition time, references to the Australian Sports Drug Agency are to be read as references to the Australian Sports Anti-Doping Authority.
- (2) In this item:
Appropriation Act means an Act appropriating money for expenditure out of the Consolidated Revenue Fund.

Part 4—Appointments of office-holders

10 Termination of ASDA appointments

- (1) This item applies to a person who, immediately before the transition time, held office as a member of the ASDA.
- (2) Despite section 20 of the ASADA Act, the person ceases to hold that office at the transition time.
- (3) Neither this Act nor the ASADA Act prevents the person from being appointed as an ASADA member.

11 Automatic re-appointment of ASDMAC members other than the ASDMAC Chair

- (1) This item applies to each person who:
 - (a) was a member (other than the Chairman) of the ASDMAC (as constituted under the ASDA Act); and
 - (b) held office under an instrument of appointment (the *original instrument*) under section 65D of the ASDA Act;immediately before the transition time.
- (2) Despite section 51 of the ASADA Act, the person ceases to hold that office at the transition time.
- (3) The person is taken to have been appointed as an ASDMAC member (other than the Chair) at the transition time by instrument of appointment (the *notional instrument*) under section 54 of the ASADA Act.
- (4) For the purposes of section 55 of the ASADA Act, the person's notional instrument is taken to specify the period:
 - (a) starting at the transition time; and
 - (b) ending at the end of the period specified in the person's original instrument.

12 Automatic re-appointment of the ASDMAC Chair

- (1) This item applies to the person who:
-

- (a) was the Chairman of the ASDMAC (as constituted under the ASDA Act); and
 - (b) held office under an instrument of appointment (the *original instrument*) under section 65D of the ASDA Act;immediately before the transition time.
- (2) Despite section 51 of the ASADA Act, the person ceases to hold that office at the transition time.
- (3) The person is taken to have been appointed as the ASDMAC Chair at the transition time by instrument of appointment (the *notional instrument*) under section 54 of the ASADA Act.
- (4) For the purposes of section 55 of the ASADA Act, the person's notional instrument is taken to specify the period:
 - (a) starting at the transition time; and
 - (b) ending at the end of the period specified in the person's original instrument.

Part 5—Continued application of ASDA Act etc.

13 Continued application of ASDA Act etc.

- (1) For the purposes of this item, the following provisions are the *core operative provisions*:
- (a) Part 3 of the ASDA Act;
 - (b) Part 3A of the ASDA Act;
 - (c) Part 3B of the ASDA Act;
 - (d) Part 3C of the ASDA Act;
 - (e) sections 66, 66A, 67, 67A, 67C, 72, 72A and 73 of the ASDA Act;
 - (f) Part 1 of the ASDA Act, to the extent to which it relates to a provision mentioned in any of the above paragraphs;
 - (g) item 14 of the table in Schedule 1 to the *Age Discrimination Act 2004*.
- (2) Despite the repeal of the core operative provisions by this Act:
- (a) the core operative provisions; and
 - (b) the ASDA regulations; and
 - (c) the ASDA drug testing orders;
- continue to have effect after the transition time, subject to the modifications set out in items 14, 15 and 16, as if those repeals had not happened.

14 Modifications of provisions of the ASDA Act

For the purposes of item 13, the modifications of provisions of the ASDA Act are as follows:

- (a) a reference in the provisions of the ASDA Act to the transition time is a reference to the transition time within the meaning of this Schedule;
- (b) a reference in the provisions of the ASDA Act to the Agency is, except in relation to matters that occurred before the transition time, to be construed as a reference to the ASADA;
- (c) a reference in the provisions of the ASDA Act to the ASDMAC is, except in relation to matters that occurred before the transition time, to be construed as a reference to the ASDMAC as constituted under the ASADA Act;

- (d) omit paragraph 4A(2)(f) of the ASDA Act;
- (e) the ASDA Act does not authorise the amendment of a drug testing scheme after the transition time;
- (f) in section 17Y of the ASDA Act, insert “, before the transition time,” after “may”;
- (g) in paragraph 17ZC(1)(a) of the ASDA Act, insert “, before the transition time,” after “requested”;
- (h) in subparagraph 17ZC(1)(c)(vi) of the ASDA Act, insert “before the transition time” after “failure by the person”;
- (i) in paragraph 17ZC(2)(d) of the ASDA Act, insert “, before the transition time,” after “failed”;
- (j) section 67 of the ASDA Act does not apply to information obtained after the transition time in the course of, or in relation to, the provision under contract of:
 - (i) drug testing services (within the meaning of the ASDA Act); or
 - (ii) safety checking services (within the meaning of the ASDA Act); or
 - (iii) other services (including information technology services) relating to sports drug and safety matters;
- (k) subsection 67(3) of the ASDA Act does not apply to a disclosure for the purposes of the NAD scheme;
- (l) if a disclosure of information is covered by paragraph (k), the disclosure is authorised by this paragraph;
- (m) in paragraph 67C(2)(b) of the ASDA Act, insert “before the transition time,” before “the Agency requests,”;
- (n) section 72 of the ASDA Act does not apply to an act done, or omitted to be done, after the transition time;
- (o) such other modifications (if any) as are prescribed by regulations made for the purposes of this paragraph.

15 Modifications of the ASDA regulations

For the purposes of item 13, the modifications of the ASDA regulations are as follows:

- (a) a reference in the ASDA regulations to the transition time is a reference to the transition time within the meaning of this Schedule;

- (b) a reference in the ASDA regulations to the Agency is, except in relation to matters that occurred before the transition time, to be construed as a reference to the ASADA;
- (c) a reference in the ASDA regulations to the ASDMAC is, except in relation to matters that occurred before the transition time, to be construed as a reference to the ASDMAC as constituted under the ASADA Act;
- (d) the ASDA regulations do not authorise the amendment of the ASDA drug testing orders after the transition time;
- (e) in regulations 7 and 7B of the ASDA regulations, insert “, before the transition time,” after “may”;
- (f) in subregulation 13A(1) of the ASDA regulations, insert “, before the transition time,” after “may”;
- (g) a request under subregulation 13A(1) of the ASDA regulations has no effect to the extent (if any) to which it requires a competitor to keep the ASADA informed of where the competitor can be found after the transition time;
- (h) in subregulation 15(1) of the ASDA regulations, insert “, before the transition time,” after “may”;
- (i) in subregulation 15(2) of the ASDA regulations, insert “before the transition time” after “provided by a competitor”;
- (j) in regulation 16 of the ASDA regulations, insert “before the transition time” after “provided by a competitor”;
- (k) in subregulation 17(1) of the ASDA regulations, insert “(in accordance with subregulation 15(1) or (3))” after “may”;
- (l) in paragraph 49(1)(b) of the ASDA regulations, insert “, before the transition time,” after “asks the competitor”;
- (m) in subregulation 49A(1) of the ASDA regulations, insert “, before the transition time,” after “failed to comply”;
- (n) in paragraph 49C(1)(b) of the ASDA regulations, insert “before the transition time” after “could be made”;
- (o) in subregulation 64(1) of the ASDA regulations, insert “under Part 2” after “competitor”;
- (p) in subregulation 64(2) of the ASDA regulations, insert “, before the transition time,” after “may”;
- (q) in subregulation 64(2A) of the ASDA regulations, insert “, under subregulation (2),” after “approval”;
- (r) in paragraph 64(3)(b) of the ASDA regulations, insert “before the transition time” after “competitor”;

- (s) in paragraph 64(4)(b) of the ASDA regulations, insert “given before the transition time” after “sample”;
- (t) in subregulations 64(5) and (5A) of the ASDA regulations, insert “, before the transition time,” after “If”;
- (u) in subregulations 64(5B) and (5C) of the ASDA regulations, insert “before the transition time” after “decision made by the ASDMAC”;
- (v) omit regulations 65, 66, 67, 68, 69 and 70 of the ASDA regulations;
- (w) in subregulation 71(1) of the ASDA regulations, insert “before the transition time,” after “may,”;
- (x) omit regulation 81 of the ASDA regulations;
- (y) such other modifications (if any) as are prescribed by regulations made for the purposes of this paragraph.

16 Modifications of the ASDA drug testing orders

For the purposes of item 13, the modifications of the ASDA drug testing orders are as follows:

- (a) a reference in the ASDA drug testing orders to the Agency is, except in relation to matters that occurred before the transition time, to be construed as a reference to the ASADA;
- (b) such other modifications (if any) as are prescribed by regulations made for the purposes of this paragraph.

17 ASADA’s transitional functions

The functions of the ASADA include any functions conferred on it by:

- (a) a provision of the ASDA Act; or
- (b) the ASDA regulations; or
- (c) the ASDA drug testing orders;

continued in effect by item 13.

18 ASDMAC’s transitional functions

The functions of the ASDMAC include any functions conferred on it by:

- (a) a provision of the ASDA Act; or
- (b) the ASDA regulations; or
- (c) the ASDA drug testing orders;

continued in effect by item 13.

19 Disclosure of NAD scheme personal information

- (1) A disclosure of NAD scheme personal information for the purposes of any of the following:
- (a) a provision of the ASDA Act continued in effect by item 13;
 - (b) the ASDA regulations continued in effect by item 13;
 - (c) the ASDA drug testing orders continued in effect by item 13;
- is an exception to the prohibition in subsection 71(1) of the ASADA Act.

Note: A defendant bears an evidential burden in relation to a matter in this subitem (see subsection 13.3(3) of the *Criminal Code*).

- (2) If a disclosure of NAD scheme personal information is covered by subitem (1), the disclosure is authorised by this subitem.

Part 6—Continued application of ASC non-disclosure provisions etc.

20 Continued application of non-disclosure provisions—ASC officials

- (1) This item applies in relation to any protected information (within the meaning of Part VIIA of the *Australian Sports Commission Act 1989*) disclosed to the ASC before the transition time.
- (2) Despite the repeal of that Part by this Act, Part VIIA of that Act continues to have effect after the transition time, in relation to the protected information, as if that repeal had not happened.

21 Disclosure of ASC information to the ASADA

- (1) This item applies to information held by the ASC if the information was obtained before the transition time, and the information:
 - (a) relates to a sports drug and safety matter; or
 - (b) is otherwise relevant to the performance of the functions of the ASADA.

- (2) The ASADA may, by writing, request the ASC to disclose to the ASADA specified information.

Note: For specification by class, see subsection 46(3) of the *Acts Interpretation Act 1901*.

- (3) The ASC must comply with a request under subitem (2).
- (4) Repealed Part VIIA of the *Australian Sports Commission Act 1989* (as that Part continues to have effect because of item 20) does not apply to a disclosure of protected information (within the meaning of that Part) in compliance with a request under subitem (2).
- (5) A request under subitem (2) is not a legislative instrument.
- (6) If information disclosed in compliance with a request under subitem (2) is personal information, the information is taken to be NAD scheme personal information for the purposes of the ASADA Act.

Part 7—Reporting obligations

22 First annual report for ASADA

- (1) This item applies if the transition time is in April, May or June of a financial year (the *first year*).
- (2) Section 74 of the ASADA Act does not apply in relation to the first year.
- (3) Section 74 of the ASADA Act applies in relation to the next financial year (the *next year*) as if the next year also included the period:
 - (a) starting at the transition time; and
 - (b) ending at the end of the first year.

23 Final annual report for ASDA

ASADA must prepare final annual report for ASDA

- (1) For the transitional reporting period (see whichever of subitems (4) and (5) applies), the ASADA must prepare the report referred to in section 9 of the *Commonwealth Authorities and Companies Act 1997* for the ASDA.
- (2) A report for the ASDA must include the matters described in section 63 of the ASDA Act as in force immediately before the transition time.
- (3) The obligation under section 9 of the *Commonwealth Authorities and Companies Act 1997* imposed on the final directors of the ASDA to prepare an annual report for the transitional reporting period is satisfied if the report is prepared by the ASADA.

Transitional reporting periods

- (4) If the transition time is in the financial year that started on 1 July 2005, the period that:
 - (a) started at the beginning of that financial year; and
 - (b) ended immediately before the transition time;is the *transitional reporting period*.
- (5) If the transition time is on 1 July 2006, the financial year that started on 1 July 2005 is the *transitional reporting period*.

Miscellaneous

- (6) For the purposes of this item, references to a financial year in:
- (a) section 63 of the ASDA Act; and
 - (b) section 9 of the *Commonwealth Authorities and Companies Act 1997*;
- are taken to be references to the transitional reporting period.
- (7) In this item:
- final director*** means a person who was a director (as defined in the *Commonwealth Authorities and Companies Act 1997*) of the ASDA immediately before the transition time.

Part 8—Miscellaneous

24 Exemption from stamp duty and other State or Territory taxes

- (1) No stamp duty or other tax is payable under a law of a State or a Territory in respect of an exempt matter, or anything connected with an exempt matter.
- (2) For the purposes of this item, an *exempt matter* is:
 - (a) the vesting of an asset or liability under this Schedule; or
 - (b) the operation of this Schedule in any other respect.
- (3) The Minister may certify in writing:
 - (a) that a specified matter is an exempt matter; or
 - (b) that a specified thing was connected with a specified exempt matter.
- (4) In all courts, and for all purposes (other than for the purposes of criminal proceedings), a certificate under subitem (3) is prima facie evidence of the matters stated in the certificate.

25 Constitutional safety net

- (1) If the operation of this Schedule would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this item:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

26 Certificates taken to be authentic

A document that appears to be a certificate made or issued under a particular provision of this Schedule:

- (a) is taken to be such a certificate; and
- (b) is taken to have been properly given;

unless the contrary is established.

27 Delegation by Minister

- (1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Schedule to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

28 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Schedule to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.
- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:
 - (a) the amendments or repeals made by this Act; or
 - (b) the enactment of this Act or the ASADA Act.

*[Minister's second reading speech made in—
House of Representatives on 7 December 2005
Senate on 9 February 2006]*

(193/05)