

# PRESERVING INTEGRITY IN AUSTRALIAN SPORT

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## **Litigation and Dispute Resolution Alert**

By: Christien Corns, Rebecca Murray

## **THE GOVERNMENT'S RESPONSE TO THE WOOD REVIEW**

The Commonwealth Government has recently announced landmark sports regulatory reforms in an effort to tackle the growing global threat to the integrity of sport. The reforms are in response to the report released on 1 August 2018 following a review led by James Wood QC (**Wood Review**) which addressed key domestic and international threats to national sports integrity and made numerous recommendations.

The Government has accepted two key recommendations, being the establishment of a national "sports court" known as the National Sports Tribunal (**NST**); and the establishment of a streamlined sports commission to be known as Sport Integrity Australia (**SIA**).

## **NATIONAL SPORTS TRIBUNAL**

### **A federal sports court**

As an independent statutory authority, the NST will operate as a centralised national "sports court" on an initial two year pilot basis.

A key focus of the NST will be to address the perceived inconsistent and unpredictable approach currently taken by some national sporting codes to a range of different issues across Australian sport including dispute resolution processes and doping.

### **Procedures**

The NST will be chaired by a panel of sports law experts with private arbitration powers and other dispute resolution capacities.

The NST will have significant evidentiary powers including powers to order witnesses to appear to produce evidence or documents and powers to make its own investigations and to consider information independent of parties' submissions.

### **Opt-in / opt-out**

The NST will operate across two divisions (with an appellate division), being the Anti-Doping Division and General Division. A further avenue of appeal will remain open to the Court of Arbitration for Sport (Appeals Division).

While the Anti-Doping Division will be the default dispute resolution body for anti-doping matters, it will operate on a conditional "opt-out" basis. Accordingly, (with prior approval of SIA), major sporting codes will be able to revert to their existing in-house dispute resolution procedures.

Conversely, the General Division will operate on an "opt-in" basis whereby parties must reach agreement (and for some matters, seek the NST's approval) before a dispute may be heard. It is not intended that broader issues more suited to the regular judicial system, such as commercial contractual disputes or employment matters, are brought before the NST, nor is the NST intended to determine sanctions for on-field incidents or minor behavioural issues.

## **SPORT INTEGRITY AUSTRALIA**

### **A "one-stop shop"**

The Government has also committed to addressing increasing threats of corruption by streamlining the Australian Sports Anti-Doping Authority (**ASADA**), the National Integrity of Sport Unit and the integrity division of Sport Australia into a "*one-stop shop*" for athletes and stakeholders. It is hoped that this will increase efficiency and access to services for stakeholders as well as promote more efficient intelligence sharing between national and international sports regulation bodies.

### **Law-enforcement powers**

SIA will be authorised to deal with "information" as it is broadly defined in the *Privacy Act 1988* (Cth) and have the capacity to both collect and use "sensitive information" about a person without consent. SIA will also have powers to conduct phone and online surveillance for the purposes of combating suspected instances of corruption in sport.

## **OTHER SIGNIFICANT REFORMS**

Additional significant proposed reforms include:

### **Federal match-fixing laws**

Inconsistent state and territory match-fixing legislation will be superseded by new federal match-fixing laws under the *Criminal Code Act 1995*. These laws will aim to address threats associated with the huge growth of online betting and its susceptibility to organised crime.

### **Removing the privilege against self-incrimination**

Under the proposed reforms, for a period of two years, ASADA and the Sports Betting Integrity Unit will have increased funding and new investigative powers, before eventually being combined into SIA. As part of these reforms, those under ASADA investigation would no longer be able to claim a privilege against self-incrimination and can be compelled to respond to ASADA's enquiries.

## Establishing whistleblower protections

The Government also proposes to enact new whistleblower protections to encourage stakeholders to report doping and integrity breaches in Australian sport.

## KEY CONTACTS



**CHRISTIEN CORNS**  
PARTNER

MELBOURNE  
+61.3.9640.4248  
[CHRISTIEN.CORNS@KLGATES.COM](mailto:CHRISTIEN.CORNS@KLGATES.COM)

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