INDEX

A samples, 221–2
ABP (Athlete Biological Passport programs), 67, 94–5, 205–15
ADAMS (Anti-Doping Administration and Management System), 67–8, 150, 296–7
administration of prohibited substances and methods, 259–62
admissions, 284, 289–91, 439–41, 450–1, 575–6, 577
advisory opinions, 42–3
aggravating circumstances, 576–7
Anti-Doping Administration and Management System (ADAMS), 67–8, 150, 296–7
anti-doping legislation, national, 7
Appeal Arbitration Procedure, 38–41
appeals
Court of Arbitration for Sport (CAS), 324–5, 463–73, 479–81
international-level, 477
national-level, 477–9
Swiss Federal Supreme Court, 85–7
under the Code, 44–6, 583
appellants, 473
arbitration, 539–41
agreements, 468–70
awards, 37, 505–10, 513–17
Arbitration Procedure, 32–3, 38–41
arbitrators, 31–2
appointment of, 34–5
assistance to authorities, 411, 437–8, 574
Athlete Biological Passport programs (ABP), 67, 94–5, 205–15
athlete support personnel, 181
atypical findings, 581–2, 593–4
automatic disqualification of results, 344–6
automatic publication, 457
B samples, 56, 191–5
BALCO investigation, 77–8, 170–2, 289–91
breach of confidence claims, 319–20
cannabis, 397–8, 446–7
CAS. See Court of Arbitration for Sport
'catch-all' provisions, 99, 103–6
challenges to anti-doping regimes, 483–5, 499–504
challenges to testing and analytical processes, 191, 195–204
cheating, 358–60
claims outside the Code, 517–34
Code. See World Anti-Doping Code
Code for Sports Related Arbitration and Mediation, 25–6
common principles, 20–1
compelling justification defence, 225–30
complaints, 155–6
complicity in committing anti-doping rule violations, 263–5, 434–5
conciliation, 36
confidentiality, 313–21
conservatory measures, 32
contaminated products, 398–400
contracts, inferred, 70
costs, 37–8, 42, 448–9
court challenges, 18
<table>
<thead>
<tr>
<th>INDEX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court of Arbitration for Sport (CAS)</td>
</tr>
<tr>
<td>ad hoc jurisdiction, 43–4</td>
</tr>
<tr>
<td>appeals, 44–6, 324–5, 463–8, 473, 479–81</td>
</tr>
<tr>
<td>awards, 487–92, 513–17</td>
</tr>
<tr>
<td>revisions, 481–2</td>
</tr>
<tr>
<td>composition, 27–9</td>
</tr>
<tr>
<td>eligibility decisions, 530–4</td>
</tr>
<tr>
<td>independence, 23–5</td>
</tr>
<tr>
<td>international-level appeals, 477</td>
</tr>
<tr>
<td>investigations, 65–7, 77–8</td>
</tr>
<tr>
<td>jurisdiction, 71, 72–5, 78–80</td>
</tr>
<tr>
<td>key principles, 46–50</td>
</tr>
<tr>
<td>organisation, 27–9</td>
</tr>
<tr>
<td>panels, 35–7</td>
</tr>
<tr>
<td>pre-Code awards, 54–61, 243–5</td>
</tr>
<tr>
<td>procedural failures, 55–6</td>
</tr>
<tr>
<td>role of, 21–2</td>
</tr>
<tr>
<td>rules, 22–3</td>
</tr>
<tr>
<td>World Anti-Doping Code, 165–6</td>
</tr>
<tr>
<td>criminal investigations, 82–5. See also investigations</td>
</tr>
<tr>
<td>criminal law, 7, 19–20</td>
</tr>
<tr>
<td>cross appeals, 473</td>
</tr>
<tr>
<td>defences to violations, 190–1, 225–8</td>
</tr>
<tr>
<td>disqualification of results, 344–6, 347–52, 447–8, 475–6</td>
</tr>
<tr>
<td>ECJ (European Court of Justice), 504</td>
</tr>
<tr>
<td>employment contracts, 528–30</td>
</tr>
<tr>
<td>endogenous steroids, 111–12</td>
</tr>
<tr>
<td>enhancement of sport performance, 551</td>
</tr>
<tr>
<td>estoppel principle, 366</td>
</tr>
<tr>
<td>European Court of Justice (ECJ), 504</td>
</tr>
<tr>
<td>evasion of doping control, 230</td>
</tr>
<tr>
<td>evidence, 282–3</td>
</tr>
<tr>
<td>expedition, 37</td>
</tr>
<tr>
<td>fault. See also no fault defence; no significant fault defence assessment of, 372–4, 555–6, 559–64</td>
</tr>
<tr>
<td>definition of, 335–6, 369–70</td>
</tr>
<tr>
<td>degrees of, 423–8</td>
</tr>
<tr>
<td>discretion on, 554–5, 594</td>
</tr>
<tr>
<td>high degree, 559–60</td>
</tr>
<tr>
<td>low level, 560–3</td>
</tr>
<tr>
<td>mid-range, 563</td>
</tr>
<tr>
<td>financial sanctions, 448–9, 501–2</td>
</tr>
<tr>
<td>fixed sanctions, 54–5, 57–8</td>
</tr>
<tr>
<td>fundamental rights. See human rights</td>
</tr>
<tr>
<td>hearings, 321–7</td>
</tr>
<tr>
<td>appeals, 324–5</td>
</tr>
<tr>
<td>due process, 321–4</td>
</tr>
<tr>
<td>fairness, 321–4</td>
</tr>
<tr>
<td>impartiality, 325–7</td>
</tr>
<tr>
<td>timely, 595</td>
</tr>
<tr>
<td>hospital treatment, 390–1</td>
</tr>
<tr>
<td>ICAS (International Council of Arbitration for Sport), 23, 26–7</td>
</tr>
<tr>
<td>identification of prohibited substances, 107–9</td>
</tr>
<tr>
<td>impossibility of use of prohibited substances, 216–17, 220–1, 230–1</td>
</tr>
<tr>
<td>in-competition testing, 295–6</td>
</tr>
<tr>
<td>ineligibility. See also sanctions</td>
</tr>
<tr>
<td>breach of orders, 582</td>
</tr>
<tr>
<td>commencement of period, 449–50</td>
</tr>
<tr>
<td>lifetime bans, 445–6</td>
</tr>
<tr>
<td>participation during, 269–71, 435–6, 454–5</td>
</tr>
<tr>
<td>periods of, 223–4, 352–3</td>
</tr>
<tr>
<td>prompt admissions, 577</td>
</tr>
<tr>
<td>reduction in period, 368–9, 393–5, 436–9, 441</td>
</tr>
<tr>
<td>status during, 451–4</td>
</tr>
<tr>
<td>inferences, drawing of, 284–5, 289–91</td>
</tr>
<tr>
<td>inferred contracts, 70</td>
</tr>
<tr>
<td>information. See personal information intelligence gathering, 65–7</td>
</tr>
<tr>
<td>intentional conduct, 353–61, 364–8</td>
</tr>
<tr>
<td>International Convention against Doping in Sport (UNESCO), 87–90</td>
</tr>
</tbody>
</table>
INDEX

International Council of Arbitration for Sport (ICAS), 23, 26–7
international law, 19
International Standard for Laboratories (ISL), 113, 141–8
International Standard for Testing and Investigations (ISTI), 113, 124–41
filing failures, 136–7
missed tests, 137
results management, 138–41
whereabouts rules, 135–6, 181–2, 233–6, 237–41, 301–4
International Standard for the Protection of Privacy and Personal Information (ISPPPI), 148–56. See also personal information
International Standard for Therapeutic Use Exemptions (ISTUE), 112–24
International Standards, 4–6, 64–6, 91–3, 96
investigations, 65–7, 77–8, 81–2, 124–41, 297–9
ISL (International Standard for Laboratories), 113, 141–8
ISPPPI (International Standard for the Protection of Privacy and Personal Information), 148–56. See also personal information
ISTI (International Standard for Testing and Investigations), 113, 124–41
filing failures, 136–7
missed tests, 137
results management, 138–41
whereabouts rules, 135–6, 233–41, 301–4, 431, 584, 593
ISTUE (International Standard for Therapeutic Use Exemptions), 112–24
jurisdiction
Court of Arbitration for Sport, 71, 72–5, 78–80
World Anti-Doping Code, 158–60
key principles developed before code on anti-doping matters, 46–50
laboratories, 113, 141–8
lex mitior doctrine, 49, 56–7, 239–41, 455–7
lifetime bans, 445–6
limitation period for proceedings under the Code, 272–3
medals, reallocation of, 458–62
multiple violations, 441–6, 577–8
mutual recognition, 320–1
national anti-doping organisations (NADOs), 18–19
negligence. See no significant fault defence
no fault defence, 183, 232, 350, 367–70, 374–5, 378–9, 390–3, 403, 594
notices, 314–15
nutritional supplements, 409–14
obligation to bring proceedings, 306–10
Olympic Movement Anti-Doping Code (OMADC), 2, 16–17
Ordinary Arbitration Procedure, 32–3
out-of-competition testing, 296
participation whilst ineligible, 269–71, 435–6, 454–5
performance enhancing substances, 592
personal information, 148–56
accuracy, 151–2
disclosure, 153–4
retention, 154
right of access, 154–5
security, 154
personality rights, 495–9
pre-Code awards, 54–61, 243–5
pre-Code challenges to anti-doping regimes, 483–5
privacy, 67–8
proceedings, obligation to bring, 306–10
prohibited association, 265–9, 435
Prohibited List, 96–107, 592–3
catch-all provisions, 99, 103–6
challenges to, 101–2
consequence of inclusion, 97
inclusion on, 100–1
inclusions, 102–3
non-specified substances, 98–9
review of, 97–8
specified substances, 98–9, 106–7
prohibited methods
administration of, 259–62
attempts to use, 204–5, 215–21
impossibility of use, 216–17, 220–1
internet purchases, 248
manipulation as, 243–6
meaning of, 110
possession of, 246–54
testing, 198–9
trafficking in, 254–9
use of, 204–5, 222–3
prohibited substances. See also specified substances
administration of, 259–62
attempted use, 215–21, 593
attempts to use, 204–5
bases for inclusion, 590
challenges to test results, 109
competition only, 249–50
explanations for the presence of, 556–9
identification of, 107–9
impossibility of use, 216–17, 220–1, 230–1
internet purchases, 248
naturally occurring in the body, 110
no intent to enhance performance, 589
non-performance enhancing, 591
performance enhancing, 592, 594
possession of, 246–54
presence of, 182–3
trafficking in, 254–9
use of, 204–5
prompt admissions, 577
proof of anti-doping rule violations
under the Code, 274–91
admissions, 284, 289–91
burden of, 275–7, 280–2, 287–8
evidence, 282–3
inferences, drawing of, 284–5, 289–91
silence in the face of allegations, 285–7
standard of, 277–80, 287–8, 550–1
proportionality principle, 340–4, 366, 404, 405–9, 492–4
provisional measures, 32
provisional suspensions, 310–12, 451, 472–3, 583–4
public disclosure before final hearing, 315–16
public international law, 19
public reporting after decisions, 316–19
reallocated results and medals, 458–62
recreational drugs, 589, 591. See also cannabis
reporting, 313–21
 restraint of trade, 503, 504–5
results management, 138–41
decisions, 312
process, 299–306
responsibility for, 292–4
retirement, 313
results, reallocated of, 458–62
retirement of athletes, 313
sample collection violations, 224–5, 243–6
sanctions, 328–46, 429–33. See also ineligibility
amendments to the regime, 571–2, 578–81
determination process, 565–9
financial, 448–9, 501–2
INDEX

601
timely admissions, 450–1
timely hearings, 595

trafficking in prohibited substances and methods, 254–9, 298, 432–4

transitional provisions, 455–7, 584–5
tribunals, 18

TUE (therapeutic use exemptions), 112–24, 473–4, 563–4

TUEC (Therapeutic Use Exemption Committees), 114–15, 117–18, 120

UNESCO International Convention against Doping in Sport, 87–90

violations of the World Anti-Doping Code, 167–79

complicity in committing, 263–5
general approach, 271–2
multiple, 441–6, 577–8
perpetrators, 181–90

WADA. See World Anti-Doping Authority

whereabouts rules, 135–6, 181–2, 233–41, 301–4, 431, 584, 593

whistleblowers, 67

World Anti-Doping Authority

(WADA)
appeals, 86–7
guidelines, 94–5
International Standards, 4–6, 64–6, 91–3, 96
laboratories, 146–7
reductions in periods of ineligibility, 438–9
technical documents, 94–5

World Anti-Doping Code

acceptance by signatories, 68–72
adoption of, 3–4
agreement to, 179–81
amendments, 535–7, 570–89, 596
appeals, 463–73
Articles, 64
1, 167–8
2, 167–8
2.1, 182–3, 593

team sanctions, 583
team testing, 457–8
technical documents (WADA), 94–5
testing, 124–41

challenges to, 191, 195–204
in-competition, 295–6
missed tests, 301–4

out-of-competition, 296
prohibited methods, 198–9
responsibility for, 292–4
results, 296–7

teams, 457–8
testosterone, 111–12
Therapeutic Use Exemption Committees (TUEC), 114–15, 117–18, 120
therapeutic use exemptions (TUE), 112–24, 473–4, 563–4
third-party joinder, 35–6
threshold requirement for the detection of a substance, 100–1
team sanctions, 583
2009 Code, 331–2
2015 Code, 329–7, 342–4
silence in the face of allegations, 285–7
special provisions
Appeal Arbitration Procedure, 38–41
Ordinary Arbitration Procedure, 32–3

specified substances, 106–7, 400, 428–9, 446–7, 549, 563–4, 572–3. See also prohibited substances
stimulants, 103, 105–6
strict liability, 47–51, 101, 182–3, 344–6
suspensions. See also ineligibility; sanctions

provisional, 310–12, 451, 472–3, 583–4

Swiss Federal Supreme Court, 85–6, 487–8, 490–2, 494
Swiss Federal Tribunal, 75–7, 506–10
tampering with doping control, 241–3, 298
team sanctions, 583
team testing, 457–8
technical documents (WADA), 94–5
testing, 124–41

challenges to, 191, 195–204
in-competition, 295–6
missed tests, 301–4

out-of-competition, 296
prohibited methods, 198–9
responsibility for, 292–4
results, 296–7

teams, 457–8
testosterone, 111–12
Therapeutic Use Exemption Committees (TUEC), 114–15, 117–18, 120
therapeutic use exemptions (TUE), 112–24, 473–4, 563–4
third-party joinder, 35–6
threshold requirement for the detection of a substance, 100–1
team sanctions, 583
2009 Code, 331–2
2015 Code, 329–7, 342–4
silence in the face of allegations, 285–7
special provisions
Appeal Arbitration Procedure, 38–41
Ordinary Arbitration Procedure, 32–3

specified substances, 106–7, 400, 428–9, 446–7, 549, 563–4, 572–3. See also prohibited substances
stimulants, 103, 105–6
strict liability, 47–51, 101, 182–3, 344–6
suspensions. See also ineligibility; sanctions

provisional, 310–12, 451, 472–3, 583–4

Swiss Federal Supreme Court, 85–6, 487–8, 490–2, 494
Swiss Federal Tribunal, 75–7, 506–10
tampering with doping control, 241–3, 298
team sanctions, 583
team testing, 457–8
technical documents (WADA), 94–5
testing, 124–41

challenges to, 191, 195–204
in-competition, 295–6
missed tests, 301–4

out-of-competition, 296
prohibited methods, 198–9
responsibility for, 292–4
results, 296–7

teams, 457–8
testosterone, 111–12
Therapeutic Use Exemption Committees (TUEC), 114–15, 117–18, 120
therapeutic use exemptions (TUE), 112–24, 473–4, 563–4
third-party joinder, 35–6
threshold requirement for the detection of a substance, 100–1
I.

<table>
<thead>
<tr>
<th>World Anti-Doping Code (cont.)</th>
<th>INDEX</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.10, 265–9, 435</td>
<td>11, 457–8</td>
</tr>
<tr>
<td>2.2, 204–5, 221</td>
<td>13, 463–73, 583</td>
</tr>
<tr>
<td>2.3, 224–5, 228–9, 430–1</td>
<td>14, 313–21</td>
</tr>
<tr>
<td>2.4, 233–6, 431, 593</td>
<td>14.3, 315–19</td>
</tr>
<tr>
<td>2.5, 241–3, 430–1</td>
<td>17, 272–3</td>
</tr>
<tr>
<td>2.6, 246–54</td>
<td>24, 162–3</td>
</tr>
<tr>
<td>2.7, 254–9, 432–3</td>
<td>25, 584–5</td>
</tr>
<tr>
<td>2.8, 259–62, 432–3</td>
<td>certainty, 160</td>
</tr>
<tr>
<td>2.9, 263–5, 434–5</td>
<td>clarity, 160</td>
</tr>
<tr>
<td>3, 274–91</td>
<td>consistency, 8–9</td>
</tr>
<tr>
<td>4.3.1, 591</td>
<td>Court of Arbitration for Sport, 165–6</td>
</tr>
<tr>
<td>7, 294–313, 581–2</td>
<td>decisions, 9–10</td>
</tr>
<tr>
<td>7.3, 593–4</td>
<td>flexibility, 589–90, 595–6</td>
</tr>
<tr>
<td>7.5, 583–4</td>
<td>global acceptance, 157–8</td>
</tr>
<tr>
<td>7.9, 310–12</td>
<td>inconsistent application, 80–1</td>
</tr>
<tr>
<td>8, 321–7</td>
<td>as international agreement, 7–8</td>
</tr>
<tr>
<td>9, 344–6</td>
<td>international approach to</td>
</tr>
<tr>
<td>10, 328–44, 346–7</td>
<td>interpretation, 163–4</td>
</tr>
<tr>
<td>10.1, 347–52</td>
<td>International Standards. See</td>
</tr>
<tr>
<td>10.11, 449–51</td>
<td>International Standards</td>
</tr>
<tr>
<td>10.11.2, 450–1</td>
<td>international support, 87–8</td>
</tr>
<tr>
<td>10.11.3, 451</td>
<td>interpretation, 13–15, 163–6</td>
</tr>
<tr>
<td>10.12, 451–4</td>
<td>jurisdiction, 158–60</td>
</tr>
<tr>
<td>10.13, 457</td>
<td>notes to, 163</td>
</tr>
<tr>
<td>10.2.3, 353–61</td>
<td>other sporting rules, 595–6</td>
</tr>
<tr>
<td>10.3, 352–3</td>
<td>parts of, 63–8</td>
</tr>
<tr>
<td>10.5, 393–5</td>
<td>responsibility for doping control, 294–5</td>
</tr>
<tr>
<td>10.5.1, 231–3, 573–4</td>
<td>signatories, 68–72</td>
</tr>
<tr>
<td>10.5.1.1, 395–400</td>
<td>sources of law, 13–15</td>
</tr>
<tr>
<td>10.5.2, 230–3, 404–6, 573–4, 594</td>
<td>support for, 539</td>
</tr>
<tr>
<td>10.5.3, 411, 437–8, 574</td>
<td>text, 10–13</td>
</tr>
<tr>
<td>10.5.4, 575–6</td>
<td>transitional provisions, 455–7, 584–5</td>
</tr>
<tr>
<td>10.6, 436–8, 576–7</td>
<td>2015 Code, comments on, 541–7</td>
</tr>
<tr>
<td>10.6.2, 577</td>
<td>uncertainty, 589–90, 595–6</td>
</tr>
<tr>
<td>10.6.4, 441</td>
<td>violations. See violations</td>
</tr>
<tr>
<td>10.7, 441–6, 577–8</td>
<td>World Anti-Doping Program, 62–3</td>
</tr>
</tbody>
</table>