



Australian Sports Anti-Doping Authority Amendment Bill 2009

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Australian Sports Anti-Doping Authority Amendment Bill 2009

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Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of the Australian Sports Anti-doping Authority Amendment Bill 2009 (the Bill) is to amend the *Australian Sports Anti-Doping Authority Act 2006* to:

- create the position of Chief Executive Officer (CEO) to replace the position of the Australian Sports Anti-Doping Authority (ASADA) Chair
- establish an Advisory Group to provide advice to ASADA on sports doping matters
- establish an Anti-Doping Rule Violation Panel to deliberate on anti-doping rule violations
- ensure the Act remains consistent with the World Anti-Doping Code.

Background

Anti-drug measures and sport

Various substances have been used to enhance athletic performance since ancient times. The ancient Greeks used hallucinogens and other cultures used cola and other stimulants to overcome the effects of injury, improve endurance and give them the competitive 'edge' on their opponents. This 'tradition' continued into the modern sporting era as a number of athletes in the late nineteenth and early twentieth centuries used caffeine and strychnine to enhance sporting prowess.¹

1. C Yesalis, A Kopstein and M Bahrker, 'Difficulties in estimating the prevalence of drug use amongst athletes', in W Wilson and E Derse, eds, *Doping in elite sport: the politics of drugs in the Olympic Movement*, Human Kinetics, Champaign, 2001.

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While the first official ban on substances to stimulate performance by a sporting organisation was introduced by the International Amateur Athletic Federation in 1928, it was not until an athlete died of drug-related complications during the 1960 Olympic Games that the International Olympic Committee (IOC) was prompted to develop a definition of doping and a schedule of banned substances and to commence official drug testing.²

In February 1999, the World Anti-Doping Agency (WADA), which is co-funded by the IOC and member governments, was formed. By 2003, a number of governments, including the Australian Government, as well as sporting organisations had agreed to adopt a World Anti-Doping Code.³ The Code applies to all athletes and all those who work with them in their preparation for, or participation in Olympic competition. All National Olympic Committees and International Sports Federations must sign the Code. WADA reviews and publishes a list of prohibited drugs annually.⁴

As governments were not bound by the WADA code, in October 2005 the United Nations Education, Science and Cultural Organisation (UNESCO) adopted the *International Convention against Doping in Sport*.⁵ Parties to the Convention of which Australia is one, are required to implement the Code.

Australian Sports Drug Agency

Australia commenced drug testing of athletes in 1988 and following recommendations made by a Senate Committee, it established an independent, statutory sports drug agency in 1990.⁶

As a signatory to the WADA Code and the *International Convention against Doping in Sport*, the Australian Government was required to implement Code-compliant anti-doping policies. The legislation which established the Australian Sports Drug Agency (ASDA), was amended in 2004 to ensure it complied with the WADA Code in relation to a number of matters concerning drug testing. ASDA also had responsibility for drug education, but it

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2. R Jolly, *The Olympics: an overview*, Research paper no.32, 2007–08, Parliamentary Library, Canberra, 2008, viewed 12 October 2009, <http://www.aph.gov.au/library/pubs/rp/2007-08/08rp32.pdf>
 3. The World Anti-Doping Agency (WADA) Code can be found at: http://www.wadaama.org/rtecontent/document/code_v2009_En.pdf
 4. Jolly, op. cit.
 5. The text of the Convention, viewed 13 October 2009, can be found at: http://portal.unesco.org/en/ev.php-URL_ID=31037&URL_DO=DO_TOPIC&URL_SECTION=201.html
 6. Senate Standing Committee on Environment, Recreation and the Arts, *Drugs in sport*, Interim report, Australian Government Publishing Service, Canberra, May 1989.

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was not empowered to deal with violations such as possession of, and trafficking in prohibited substances or methods. These matters were normally investigated by particular sporting organisations, at times in conjunction with the Australian Sports Commission (ASC).

In 2004, following a much-criticised investigation by Cycling Australia and the ASC into doping allegations against a member of the Australian Cycling Team, there were calls for the establishment of an independent anti-doping investigatory Board.⁷ In response, the Howard Government introduced legislation to create the Australian Sports Anti-Doping Authority (ASADA). In introducing the legislation the Government noted that since it first announced its *Tough on Drugs in Sport* strategy in 1999, its approach had been to balance the protection of athletes' rights and civil liberties against the need for strong powers to ensure effective and robust investigation of doping allegations. The development of ASADA has been consistent with this approach.⁸

Australian Sports Anti-Doping Authority

Legislation to establish ASADA enjoyed a smooth passage through Parliament; introduced in December 2005, it commenced operation in March 2006.

As Minister Rod Kemp had previously announced, the new agency assumed the existing drug testing, education and advocacy functions of ASDA, and included the current Australian Sports Drug Medical Advisory Committee. ASADA It also took over the ASC's policy development, approval and monitoring roles and had the power to

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7. In December 2003, drug paraphernalia discovered at an Australian Institute of Sport (AIS) cycling facility in Adelaide was linked to an elite cyclist. Following investigation, the cyclist received a two year suspension. During the inquiry, the cyclist made allegations against five other cyclists. In June 2004, Senator John Faulkner accused the AIS and the Sports Minister Senator of mishandling the case. A retired Justice of the West Australian Supreme Court, Robert Anderson QC, was appointed to review the case. While Anderson found that the case had been handled appropriately, he recommended establishment of an independent body to investigate and prosecute similar cases in the future.

A discussion paper was released by the Department of Communications, Information Technology and the Arts which canvassed opinion on options to deal with the issue. See: Department of Communications, Information Technology and the Arts (DCITA), *Discussion paper about proposed legislation affecting Australian arrangements for the investigation and hearing of sports doping allegations*, DCITA, 2004, viewed 12 October 2009,

http://fulltext.ausport.gov.au/fulltext/2004/feddep/SDIB_discussion_paper/SDIB_Discussion_paper.pdf

8. R Kemp, (Minister for the Arts and Sport), *New body to take up the fight against drugs in sport*, media release, n.d., viewed 13 October 2009, http://www.minister.dcita.gov.au/kemp/media/media_releases_for_2005/new_body_to_take_up_the_fight_against_drugs_in_sport?SQ_DESIGN_NAME=printer%20friendly

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investigate all allegations of Anti-Doping Rule Violations outlined in the World Anti-Doping Code. Where appropriate, it was to prepare and present cases to the Court of Arbitration for Sport and other sports' tribunals.⁹

The Chief Executive Officer (CEO) of the ASDA, Richard Ings was appointed as CEO of ASADA. Ings has remained in the position since that time.¹⁰ Members of the ASADA Board were Geoff Levy, John Black, Jennifer Clark, Nicole Livingstone, Professor Andrew McLachlan and Dr Brian Sando. In March 2007, Professor McLachlan and Sando were reappointed for three years.¹¹ In June 2008, Clark and Livingstone were also reappointed for three years.¹²

The proposed structure of ASADA was extensively criticised at the time by the Australian Olympic Committee (AOC). The AOC considered there was insufficient provision for the separation of the ASADA's policy making, administrative, investigative and prosecution functions.¹³ It particularly noted that there needed to be proper protection of the rights and roles of Australian sports organisations, athletes and athlete support personnel. The investigative regime to be put in place did not require ASADA to put its case to an independent hearing before declaring an athlete guilty, the AOC noted. And once an investigation was complete, ASADA alone had the power to determine whether an athlete should be sanctioned. The AOC expressed serious concern that one body should have such power.¹⁴

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9. R Kemp, (Minister for the Arts and Sport) *Path clear for new anti-doping body*, media release, 2 March 2006, viewed 13 October 2009, http://www.minister.dcita.gov.au/kemp/media/media_releases/path_clear_for_new_anti_doping_body
 10. Australian Sports Drug Agency, *Anti-doping update*, vol. 8, no. 4, 2006, viewed 12 October 2009, http://www.asada.gov.au/news/bulletins/previous/asda_ad_update_0601.pdf
 11. Australian Sports Anti-Doping Authority, *Annual Report 2006–07*, viewed 12 October 2009, http://www.asada.gov.au/resources/reports/current/ar07/management_accountability.htm#asadamembers
 12. K Ellis, (Minister for Sport), *Reappointments made to anti-doping authority*, media release, 12 June 2008, viewed 12 October 2009, <http://www.health.gov.au/internet/ministers/publishing.nsf/Content/mr-yr08-ke-ke018.htm?OpenDocument&yr=2008&mth=6>
 13. Australian Olympic Committee, submission to Department of Communications, Information Technology and the Arts, Inquiry into the Australian Sports Anti-Doping Authority Bill 2005 and Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Bill 2005, January 2006, viewed 13 October 2009, http://corporate.olympics.com.au/files/61/Holland_DrIan_AOC_Submission12Jan05.pdf
 14. Ibid.

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The AOC's concerns were justified to some extent when swimmer Ian Thorpe was pursued by ASADA during a ten month investigation after one of his urine samples returned unusual levels of two hormones.¹⁵ As one source notes, despite the fact that ASADA scientists had failed to find any proof against Thorpe, the drugs body continued to follow the matter. As a result, according to the source, Thorpe had been unjustly compared by some with 'some of Australia's most notorious athletes'.¹⁶ Thorpe was eventually cleared by ASADA.

Further incidents suggested that there was a case for re-consideration of ASADA's powers. In one, another swimmer, Elke Graham, refused to divulge information relating to a person she claimed had offered her illegal drugs during her career.¹⁷ John Coates from the AOC iterated a point he had made earlier that despite ASADA having what he believed were excessive powers in one area, in this instance it had no power to compel Graham to give evidence.¹⁸

While the Howard Government appeared willing to review the legislation, the Labor Opposition was convinced that the competency of ASADA was in question.¹⁹ Following the election of the Rudd Government in 2007, the new Government was faced with yet another incident in which the competency of ASADA was called into question. In March 2008, the Australian newspaper revealed that the doping body had conducted a trial in conjunction with Medicare which cross referenced the names to prescription data with the intention of uncovering use of banned substances.²⁰ A number of athletes were convinced

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15. Testosterone and luteinising hormone (LH).
 16. A Harvey, 'Officials knew Thorpe had no case to answer', *Sunday Telegraph*, 8 April 2007, viewed 13 October 2009, http://parlinfo/parlInfo/download/media/pressclp/Q1QM6/upload_binary/q1qm64.pdf;fileType=application/pdf#search=%22ian%20thorpe%20%20drugs%22
 17. A further incident involved a retired discus thrower Werner Reiterer who refused to name athletes and officials he alleged in his book *Positive* were involved with banned substances. While the AOC and Athletics Australia attempted to force Reiterer to testify in the Court of Arbitration for Sport, following legal advice the matter was settled privately. See more information in D Williams, 'Bad news bearer', *Time Pacific Magazine*, no. 9, 5 March 2001, viewed 12 October 2009, <http://www.time.com/time/pacific/magazine/20010305/drugs.html>
 18. M McDonald, 'Thorpe blasts Elke as Coates joins drugs row', *The Australian*, 24 October 2007, viewed 13 October 2009, http://parlinfo/parlInfo/download/media/pressclp/QWOO6/upload_binary/qwoo63.pdf;fileType=application/pdf#search=%22ian%20thorpe%20%20drugs%22
 19. The Sports Minister, George Brandis, was quoted as saying that the Government was prepared to look at any proposals put forward by Coates and K Lundy (Shadow Minister for Sport, Recreation and Health Promotion), *Another ASADA debacle*, media release, 2 April 2007 and McDonald, op. cit.
 20. S Parnell and M McDonald, 'Doping checks may end', *The Australian*, 15 March 2009, p.7.

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that ASADA had ‘gone too far’ and that it was infringing athletes’ rights, and even some commentators who supported ASADA’s efforts to uncover doping cheats were uncomfortable with the ‘Big Brother’ tactics used.²¹ ASADA was forced to abandon the Medicare trial and to accept an order from the Privacy Commission to review its procedures for collecting information.²²

In July 2009, it was reported in the *Australian* that the Government had initiated an independent review of ASADA. The review concluded that the body was ‘so distracted by internal power struggles that the federal government has decided to purge its senior management and come up with a new organisational structure’.²³ The Minister for Sport, Kate Ellis, confirmed that she had commissioned the review in September 2009, but it appears its report is not publicly available.²⁴ One journalist has speculated that the review ‘uncovered long standing conflict’ between the ASADA Chair Richard Ings and other ASADA members, and that the resignations of two ASADA members Geoff Levy and Nicole Livingstone were directly linked to those problems. Moreover, the Chair ‘had issues with other staff and experienced a high turnover rate’.²⁵

The journalist claimed further:

ASADA’s framework had ‘built into it a tension resulting from a fusion of roles of chair and chief executive’ which ‘fails to differentiate the leadership of ASADA members from the administration of ASADA’s day-to-day operations’.

A key source of conflict revolves around whether ASADA -- well regarded for its investigative and intelligence-gathering powers -- should be so hardline and prosecutorial, or more preventive and educational. Revelations in *The Australian* last year of a since-abandoned project to search athletes’ medical records for any evidence of doping served only to inflame tensions between Ings and ASADA members.²⁶

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21. J Magnay, ‘Medicare enlisted for fight against “loophole seekers”’, *Sydney Morning Herald*, 15 March 2008, p. 76.
 22. S Parnell, ‘Secret list of athletes led to drugs inquiry’, *The Australian*, 24 July 2008, p. 3.
 23. S Parnell, ‘Overhaul for anti-doping agency’, *The Australian*, 10 July 2009, viewed 13 October 2009, <http://www.theaustralian.news.com.au/story/0,25197,25759008-5018524,00.html>
 24. K Ellis (Minister for Sport), *Australian Sports Anti-Doping Authority Amendment Bill 2009*, media release, 16 September 2009, viewed 13 October 2009, <http://www.health.gov.au/internet/ministers/publishing.nsf/Content/sp-yr09-ke-kesp160909.htm>
 25. Parnell, ‘Secret list of athletes’, op. cit.
 26. Ibid.

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According to the report, the Government had received in principle support for its planned reforms.²⁷

There have been no other reports which back up these speculative comments, however, and it may be that the comments from Ings as reported the same article may more accurately reflect the fundamental objective of this Bill—that it is part of an appropriate review and reform process for ASADA.²⁸

Committee consideration

On 16 September 2009 the Selection of Bills Committee recommended that this Bill was not referred to a committee for consideration. Details of the committee meeting are at: http://www.aph.gov.au/Senate/committee/selectionbills_ctte/reports/2009/rep1409.pdf

Financial implications

According to the Explanatory Memorandum to this Bill, there will be no financial impact associated with the Bill. The position of CEO will replace the office of the ASADA Chair, and remuneration for the position will be determined by the Remuneration Tribunal. If no determination is in operation the CEO would be paid remuneration and allowances as prescribed by the regulations. Similarly, remuneration and allowances for the ADRVP and the Advisory Group to be established under the amendments will be determined by the Remuneration Tribunal.

Key issues

The key aim of this Bill is to put in place new governance arrangements for ASADA. The Explanatory Memorandum notes that the new arrangements reflect findings of the independent review of the Authority undertaken by the Government in the second half of 2008. The review is reported to have found that ASADA was ‘not operating under optimal structural and governance arrangements, and that some changes were required to enable a clearer identification and understanding of the ASADA’s main operational functions’.²⁹ As noted in the previous section, as it appears this review is not publicly available, it is not possible to assess to what extent the amendments fully reflect its recommendations. This

27. Ibid.

28. Ibid.

29. Explanatory Memorandum, Australian Sports Anti-Doping Authority Amendment Bill 2009, p. 1.

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point having been made, it had should be noted that the intertwined nature of the governance arrangements of ASADA have been the subject of previous criticism.³⁰

There has been little press coverage or other comment made in relation to the Bill, although one report hints that the underlying reasons for the changes indeed reflect arrangements under which roles and responsibilities have been blurred.³¹ This in turn may have caused internal disruptions as have been alleged. These may possibly have meant that the Authority has not been able to deliver the best outcomes in terms of implementing Australia's anti-doping program and coordinating national anti-doping efforts.

This Bill attempts to diffuse what can be seen as a tension between the roles of the chair of an organisation and a chief executive officer, which as has been argued, is a feature of the current ASADA. This will occur through the creation of a new chief executive position, the occupant of which will assume financial and administrative responsibilities expected of the head of an agency under the *Financial Management and Accountability Act 1997* and the *Public Service Act 1999*.

Similarly, this Bill proposes to makes a more marked distinction between the administrative and the investigative and adjudication functions of ASADA. A specialist advisory group will be created for the sole purpose of providing advice to the CEO about matters relating to the CEO's functions. Unlike the current 'ASADA members' this group will not have adjudicatory or administrative functions. A rule violation panel will also be established. This panel will take on the quasi judicial role of deliberating on rule violations. It will not be involved in day to day anti-doping policy issues; that task will be confined to the administrative sector.

Main provisions

Please note that not all provisions in the Bill will be discussed in this Digest.

There are two Schedules in the Bill.

Part 1 of Schedule I contains proposed amendments to the *Australian Sports Anti-Doping Authority Amendment Act 2006* (the Act) and the *Australian Sports Commissions Act 1989* (**items 1–125**).

Part 2 of Schedule I includes transitional provisions (**items 126–138**). These transitional provisions seek to ensure that ASADA will be able to continue to carry out its functions once the Act is amended and that current obligations and responsibilities will be carried over to the amended Act.

30. See for example the AOC criticism as noted in footnote 13.

31. Parnell, 'Overhaul for anti-doping agency', op. cit.

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Schedule 2 contains proposed amendments to the Act with the aim of ensuring consistency with the WADA Code (**items 1–22**).

Schedule 1 Part 1

New governance structure

In general, amendments in Schedule 1 of the Bill propose to change the governance structure and decision-making arrangements of ASADA, abolishing the position of ASADA Chair and establishing the ASADA CEO, Advisory Group and ADRVP.

Item 45 proposes to **replace section 20** of the Act, establishing ASADA and proposes to **insert new sections 20A, 20B and 20C** into the Act, which will provide for ASADA's new constitution and function as well as for new Crown privileges and immunities which ASADA does not enjoy under the existing Act. **Item 20** also proposes to **insert new section 20D** into the Act, providing that there will be a CEO of ASADA.

The CEO

Items 46–58 propose amendments setting out the functions and powers of the CEO.

Items 46–53 propose amendments, which will effectively transfer ASADA's current functions to the CEO.³²

These functions include:

- advising the ASC about sports doping and safety matters that should be included in agreements under which the ASC gives money to sporting organisations
- supporting, encouraging, developing and implementing initiatives that increase the skills and knowledge about sports doping and safety matters of people involved in sporting activities and
- collecting, analysing, interpreting and disseminating information about sports doping and safety matters.

Item 54 proposes to **replace section 22** in the Act, to the effect that the CEO will have the power 'to do all things necessary or convenient' in connection with the performance of his or her functions.

Item 51 proposes to **insert new subsection 21(1A)** into the Act, requiring the CEO to consider the advice and recommendations of the Advisory Group or an advisory committee whenever he or she performs a function or exercises a power. While the

32. **Items 48 and 49 of Schedule 1** propose additional functions of the CEO, some of which are related to the establishment of the Advisory Group and ADRVP.

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Advisory Group may give advice and make recommendations to the CEO, it 'cannot give directions to the CEO' (see below).

Item 59 proposes to **insert new sections 24A–24P** into the Act, providing for how the CEO will be appointed; the terms and conditions of the CEO's appointment; engagement of staff to assist the CEO; the CEO's delegation powers and the CEO's power to establish advisory committees.

Under **proposed subsection 24(2)**, ADRVP and Advisory Group members will not be eligible to be appointed as CEO.

Advisory Group

Items 61–78 propose amendments to the Act in relation to the establishment, function and powers of the Advisory Group.

As mentioned above, the Advisory Group will provide advice and make recommendations to the CEO on matters relating to the CEO's functions (**proposed subsection 25A(1)**). The Group may only provide this advice at the CEO's request. The Advisory Group will not be able to give any directions to the CEO (**proposed subsection 25A(3)**).

The Minister can only appoint a person as a member of the Advisory Group if that person has appropriate knowledge or experience in particular areas, which include sports medicine, sports law and ethics (**proposed subsection 27(2)**).

The CEO and members of the ADVRP cannot be appointed as members of the Advisory Group (**proposed subsection 27(3)**).

Anti-Doping Rule Violation Panel (ADVRP)

Item 78 proposes to **insert new sections 40–50E** into the Act. These new sections will establish the ADRVP and provide for the ADVRP's membership, appointment of members, the terms and conditions of such appointments as well as the holding of ADVRP meetings.

The CEO and Advisory Group members will not be eligible for appointment to the ADVRP. The Explanatory Memorandum considers this restriction necessary 'to ensure that the operations of ASADA are not clouded by role confusion and to avoid conflicts that could arise through individuals trying to perform multiple and often overlapping) functions'.³³

ADVRP members must disclose potential or actual conflicts of interest to the Minister, and in certain circumstances, to the ADVRP (**proposed sections 48 and 49**). In addition, an ADVRP member must not participate in sporting administration body deliberations or

33. Explanatory Memorandum, op. cit., p. 16.

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decisions relating to a matter if that member has participated in ADRVP deliberations or decision on the same matter (**proposed section 50**).

Australia Sports Drug Medical Advisory Committee

The operation of the Australian Sports Drug Medical Advisory Committee (ASDMAC) will not be changed under the proposed amendments to the Act. Proposed amendments relating to the ASDMAC will only seek to clarify that the ASDMAC will interact with the CEO of ASADA (**items 79–82**).

Schedule 2

Schedule 2 sets out proposed amendments to definitions used in the Act with the intention of better aligning Australia's anti-doping legislation with changes to the WADA Code that came into force in January 2009. The changes in essence reflect the need to widen the scope for collection of samples and new definitions about what constitutes illegal substances. It is proposed that definitions relating to samples that may be collected and types of doping methods for example, will be broadened to include the manipulation or substitution of **any** human biological material which may be used to conceal drug use by individuals. This is because it is thought that the previous definition restricted materials to human fluid, tissue or breath. The revised definition will allow for the collection of samples such as human hair, which it is argued can provide information on drug consumption patterns for up to a year.³⁴ Urine tests, on the other hand, can only detect illegal substances between two and five days after they have been ingested. The 2009 WADA Code defines a sample as any biological matter collected for doping control.³⁵

The Minister for Sport Kate Ellis made the point in her second reading speech on the Bill that these proposed amendments will not disadvantage athletes, nor will they impinge on athletes' rights.³⁶ It is possible in fact to argue that the potential for less invasive tests to be conducted constitutes a bonus for athletes, who are at times subject to embarrassing testing procedures. As one commentator puts it, athletes can now be asked 'to strip naked between the knees and the chest and give a urine sample witnessed in full-frontal view by a stranger'.³⁷ Such requirements may be needed less in the future as testing becomes more sophisticated. The proposed amendments may help to facilitate advancements of this nature.

34. A O'Connor, 'Athletes facing tests on their hair to catch out drugs cheats', Timesonline, 29 May 2008, viewed 15 October 2009, <http://www.timesonline.co.uk/tol/sport/olympics/article4023153.ece>

35. WADA Code, op. cit.

36. K Ellis, Second reading speech: Australian Sports Anti-Doping Authority Amendment Bill 2009, House of Representatives, *Debates*, 16 September 2009, pp.9712–14.

37. G Parker, 'Dose of hypocrisy on sports drugs', *West Australian*, 15 September 2007, p. 21.

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Similarly, it is proposed that the existing reference in the ASADA Act to ‘sports drug and safety matter’ will be altered to ‘sports doping and safety matter’ to encompass other methods which may be used by athletes to gain unfair advantage in competition. This includes methods such as gene doping, which in the future may be able to provide extra genes that are identical to those of an athlete and which can enhance performance.³⁸

Concluding comments

Minor amendments to the ASADA Act are proposed in this Bill to help ensure that Australian legislation remains consistent with the WADA Code. The proposed amendments are likely to broaden the scope for the identification of potential drug cheats and, as such, will be of benefit in the attempt to control doping in elite sporting competition. At the same time, the proposed amendments may have an added benefit in helping to ensure that the rights and privacy of elite athletes are better protected. Both the Government and the Opposition have consistently supported the dual objectives of a tough stance on drug cheats balanced by concern that the means used to combat doping do not unnecessarily impinge on the rights of athletes in general.

The major amendments proposed in this Bill address concerns about the distribution of powers within ASADA. These were raised when the Authority was established in 2006. The failure of the organisation to resolve recent issues, which have led to accusations of incompetency, suggest that there was some substance to the concerns. The restructure proposed makes considerable inroads towards the Government’s stated goal of optimising the structural and governance arrangements for the Authority. If further suggestions that existing arrangements may be responsible for internal divisions in the Authority are correct, then these amendments may also help to rectify this problem. This will occur as the roles and responsibilities of the administrative, policy making, investigative and prosecutorial sections of the Authority are more clearly identified and designated.

38. Gene doping has been specifically banned by WADA. It is discussed in C Brownlee, ‘Gene doping will athletes go for the ultimate high?’, *Science News*, 30 October 2004, viewed 25 October 2009, <http://www.thefreelibrary.com/Gene+doping%22:+will+athletes+go+for+the+ultimate+high%3F-a0125066321>

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