

ATHLETICS AUSTRALIA BY-LAWS GOVERNING ELIGIBILITY OF ATHLETES WHO HAVE UNDERGONE SEX REASSIGNMENT TO COMPETE IN WOMEN'S COMPETITION

Preface

As the governing body for world athletics, the IAAF has recognised that in many countries, transsexuals/transgender persons may obtain official recognition in their acquired sex through the formal issue of a sex recognition certificate or other form of identification of sex (passport, identity card, birth certificate, etc.) and, once such recognition is obtained, they are afforded the legal rights of their acquired sex.

Although such cases to date are rare, male to female transsexual/transgender athletes have from time to time sought to compete in their acquired sex in Athletics. The IAAF recognises that male to female transsexual/transgender athletes may compete in women's competition in Athletics subject to their compliance with IAAF Rules and Regulations that are designed to preserve the fairness and integrity of International Competition in Athletics for all female athletes.

Athletics Australia ("AA") takes the same position in relation to competitions held under its jurisdiction

Chapter 1 Scope of By-Laws

1.1 These By-Laws establish a framework for the determination of the eligibility of athletes who have undergone male to female sex reassignment to compete in International Competitions (as defined in IAAF Rules) and in competitions held under the jurisdiction of AA in the female category.

1.2 The By-Laws are of mandatory application to all athletes competing in International Competitions and are adopted by AA for the management of any cases that might arise at competitions under its jurisdiction.

1.3 No male to female transsexual/transgender athlete shall be permitted to compete in the female category of an International Competition or any competition held under the jurisdiction of AA until her case has been evaluated by the IAAF or AA in accordance with these By-Laws.

1.4 These By-Laws do not apply to cases of female to male sex reassignment. The IAAF and AA position in relation to such cases is that, in accordance with Rule 141, a female to male transsexual athlete shall be permitted to compete in the male category of International Competitions or any competition held under the jurisdiction of AA upon production of a sex recognition certificate or other form of identification of sex confirming that he is recognised in law as a male (passport, identity card, birth certificate, etc.) and provided that he is

otherwise eligible to compete in accordance with the Rules, By-Laws and Regulations.

Chapter 2 Notification of cases of sex reassignment to IAAF

2.1 An athlete who has undergone male to female sex reassignment and who seeks to compete in an International Competition in the female category is required to notify the IAAF of her case as soon as possible and, in any event, at least three (3) months before the International Competition in which she seeks to compete. A failure to notify the IAAF at least three (3) months before the relevant International Competition may result in the athlete not being declared eligible to compete in the competition concerned. A male to female transsexual athlete who competes in an International Competition without notification of her case for evaluation in accordance with these By-Laws shall be considered to have committed a breach of IAAF Rules which may result in the imposition of sanctions, including ineligibility from competition.

2.2 Notification by an athlete to the IAAF of a male to female sex reassignment shall be made in confidence to the IAAF Medical Manager (a physician). An athlete may choose to contact the IAAF Medical Manager with such information directly or via her National Federation's team doctor or other supervising physician.

2.3 Notification by an athlete to the IAAF under these By-Laws shall include providing the IAAF with details of the following information at a minimum:

- (i) evidence of acquired sex under applicable law (e.g., sex recognition certificate or other form of legal recognition of acquired sex);
- (ii) details of any sex reassignment procedure undertaken (including date of orchidectomy or other surgical procedure);
- (iii) details of any post re-assignment treatment (name, frequency and duration of treatment and dosage); and
- (iv) details of any post-reassignment monitoring of treatment.

2.4 An athlete who has undergone male to female sex reassignment and who seeks to compete in any competition held under the jurisdiction of AA in the female category is required to notify AA of her case as soon as possible and, in any event, at least one (1) month before the competition in which she seeks to compete. A failure to notify AA at least one (1) month before the relevant competition may result in the athlete not being declared eligible to compete in the competition concerned. A male to female transsexual athlete who competes in a competition without notification of her case for evaluation in accordance with these By-Laws shall be considered to have committed a breach of AA By-Laws which may result in the imposition of sanctions, including ineligibility from competition.

2.5 Notification by an athlete to AA of a case of male to female sex reassignment shall be made in confidence to the AA Medical Manager (a physician). An athlete may choose to contact the AA Medical Manager with such information directly or via a team doctor or other supervising physician.

2.6 Notification by an athlete to AA under these By-Laws shall include providing AA with details of the following information at a minimum:

- (i) evidence of acquired sex under applicable law (e.g., sex recognition certificate or other form of legal recognition of acquired sex);
- (ii) details of any sex reassignment procedure undertaken (including date of orchidectomy or other surgical procedure);
- (iii) details of any post re-assignment treatment (name, frequency and duration of treatment and dosage); and
- (iv) details of any post-reassignment monitoring of treatment.

Chapter 3 Confidential management of cases

3.1 All cases that are notified to the IAAF or AA under these Regulations shall be treated in strict confidence.

3.2 As a necessary pre-condition of her eligibility to compete, an athlete who has undergone male to female sex reassignment shall consent to the disclosure of her medical information to such person or persons as may be required to review such medical information in accordance with these By-Laws (for example, the Expert Medical Panel described below). Medical information for these purposes shall include both information provided pursuant to 2.3 above and any further information collected in the course of implementation of these By-Laws.

3.3 The IAAF or AA Medical Manager and members of the IAAF Medical Department or AA staff involved in the management of an athlete's case under these Regulations shall conduct their activities at all times in strict confidence. All medical information and data relating to an athlete pursuant to these By-Laws shall be treated as sensitive personal information and the IAAF or AA Medical Manager shall ensure at all times that it is processed as such in accordance with applicable data protection and privacy laws.

3.4 Transmission of the athlete's medical data and information to the Expert Medical Panel as provided in these By-Laws shall be done on an anonymous basis without identifying the name of the athlete involved.

3.5 The IAAF or AA shall only retain an athlete's medical data and information as long as it is necessary to keep the athlete's case under review in accordance with IAAF or AA By-Laws and Rules and/or the provisions of these By-Laws or where otherwise required by applicable law.

3.6 Once the athlete's medical information and data no longer serves any of the above purposes, it shall be destroyed or permanently anonymised.

Chapter 4 The Expert Medical Panel

4.1 The IAAF is required by its Rules to appoint a pool of independent international medical experts to review cases that are submitted to it under these By-Laws, one of whom shall be appointed as the Chairman. Members shall be appointed to the pool for an initial period of 4 years. AA shall appoint a similar panel to consider cases relating to competitions under its jurisdiction where the athlete is not seeking to compete internationally.

4.2 The current Chairman and list of international medical experts appointed by the IAAF are set out in Appendix 1 to these By-Laws.

4.3 In the course of exercising its functions under these By-Laws, the IAAF or AA Expert Medical Panel may:

- (i) exchange views on the athlete's case by e-mail, telephone, facsimile or in person;
- (ii) call for any evidence or documents that it considers to be relevant to the athlete's case; or
- (iii) seek any medical, scientific or other specialist advice that it considers necessary in order to review the athlete's case.

Chapter 5 Initial review of notified case by the IAAF

5.1 Following notification of a case to the IAAF or AA under Chapter 2 above, the IAAF or AA Medical Manager shall conduct an initial review of the medical information notified by the athlete to ensure that a complete file has been provided in accordance with the requirements of these By-Laws.

5.2 As part of this initial review, the IAAF or AA Medical Manager may seek such further clinical and/or anamnestic data relating to the athlete as he considers appropriate for assessment of the athlete's case.

Chapter 6 Endocrine assessment

6.1 Following initial review of the case by the IAAF or AA Medical Manager, the athlete shall be asked to submit to an endocrine assessment.

6.2 For the purposes of the endocrine assessment, the athlete shall be required to provide urine and blood (serum) samples which shall be sent for analysis to a laboratory that is accredited to conduct such analyses. If no accredited laboratory is available in the athlete's location, the IAAF or AA shall decide upon the accredited laboratory to be used in each case.

6.3 The athlete shall be fully advised as to the purpose of the endocrine assessment and the fact that it is part of an overall process to be conducted under IAAF or AA Rules in accordance with the provisions of these By-Laws

Where the athlete is a minor, the physician shall provide such explanation to the athlete's parents or legal guardian(s). The athlete (or athlete's parents or legal guardian(s) where the athlete is a minor) shall designate a physician to be recipient of the results of the endocrine assessment on the athlete's behalf.

6.4 The laboratory shall analyse the athlete's urine for at least the following androgenic hormones (including their urinary metabolites): Testosterone, Epitestosterone, Androsterone, Etiocholanolone, 5 α -androstenediol, 5 β -androstenediol, Dihydrotestosterone and Dehydroepiandrosterone.

6.5 The laboratory shall analyse the athlete's blood (serum) for recorded levels of Testosterone and Sex Hormone-Binding Globulin at a minimum. Depending on the circumstances of the case, the IAAF or AA may also decide to analyse for recorded levels of additional hormones/substances, including, but not limited to, Dihydrotestosterone, Luteinizing Hormone, Follicle-stimulating Hormone, Estradiol, Anti-Mullerian Hormone, Inhibin B, 17-OH-Progesterone, Dehydroepiandrosterone Sulfate and Delta 4 Androstenedione.

6.6 The report of the analysing laboratory in respect of the above analyses shall be transmitted confidentially to the athlete's designated physician and to the IAAF or AA Medical Manager. A summary document of the process involved shall be available for the examining physician's use if need be.

Chapter 7 Referral of case to an Expert Medical Panel

7.1 Upon receipt of all the athlete's medical information and data, including the results of the endocrine assessment, the athlete's case is required to be referred by the IAAF or AA Medical Manager to an Expert Medical Panel.

7.2 Any Expert Medical Panel constituted to review a case under these By-Laws shall normally comprise the Chairman and a minimum of two other persons from the panel of experts at Appendix 1. In exceptional cases, the Chairman or another appointed person may sit as a single independent expert to review a case.

7.3 The composition of the Expert Medical Panel shall be decided in each case by the IAAF or AA Medical Manager and, unless otherwise unavailable, the Chairman shall sit in each case. The IAAF or AA Medical Manager may consult with the Chairman as regards the appointment of any particular

member of the Panel from the panel of experts at Appendix 1 depending on the circumstances of the case.

7.4 In each case, the members of the Expert Medical Panel shall sign confidentiality undertakings and shall confirm in writing that they have no conflicts of interest.

7.5 The Expert Medical Panel once constituted shall review the athlete's medical information and data forwarded by the IAAF Medical Department or AA and it shall determine in the first instance whether it has sufficient information upon which to make a determination as regards the athlete's eligibility in accordance with these By-Laws. To enable it to make such a determination, the Expert Medical Panel may call for such additional information, data or specialist advice as it considers necessary. Exceptionally, the Expert Medical Panel may require the athlete to undergo further medical assessment.

7.6 Upon referral of an athlete's case, the Expert Medical Panel may make a recommendation to the IAAF or AA based on the evidence before it as to whether or not the athlete should be declared provisionally eligible to compete in Athletics in the female category whilst further assessment of the case is conducted. If the Expert Medical Panel makes such a recommendation, the IAAF or AA Medical Manager shall take a decision on the athlete's provisional eligibility taking account of the recommendation that it has received.

7.7 If the IAAF or AA Medical Manager decides that the athlete shall not be eligible to compete whilst undergoing further assessment of the case, he shall notify the decision to the athlete and her designated physician and to AA.

The IAAF's or AA's decision in this regard shall not be subject to review but the athlete shall be entitled to an expedited follow up of the case and to a final decision taken as regards her eligibility under these By-Laws.

7.8 If the IAAF or AA Medical Manager decides that the athlete should be declared provisionally eligible to compete whilst undergoing further assessment of the case, he shall notify the decision to the athlete and her designated physician and to AA . At the same time, he shall notify the athlete that, in accordance with IAAF Rules, if it is later decided under these By-laws that the athlete was not eligible to have competed during that period, all the athlete's competition results as from the date of notification of provisional eligibility shall be annulled (including, where applicable, the results of any team in which the athlete has competed) and all medals, awards, certificates and prizes forfeited.

Chapter 8 Recommendation of Expert Medical Panel on Athlete's Eligibility

8.1 The Expert Medical Panel shall conduct a comprehensive review of the athlete's case and make an informed recommendation as to the athlete's eligibility to compete in women's competition.

8.2 In conducting its review of the athlete's case, the Expert Medical Panel shall have access to all potentially relevant information, including:

- (i) the athlete's full medical file, including details of any sex reassignment procedure undertaken (in particular, the date of orchidectomy) and all post reassignment treatment and monitoring conducted to date;
- (ii) the results of any blood analyses conducted, including reported levels of androgenic hormones;
- (iii) the results of any urine analyses conducted, including reported levels of androgenic hormones and their urinary metabolites;
- (iv) the results of any further medical assessment conducted at the request of the Panel; and
- (v) any other information the Expert Medical Panel determines to be relevant to assessment of the athlete's case, including any written submission and/or further documents as may be requested from the athlete.

8.3 The Expert Medical Panel's recommendation as regards the athlete's eligibility to compete in women's competition shall take into consideration the following factors at a minimum:

- (i) the age of the athlete;
- (ii) whether the athlete's sex reassignment took place pre or post-puberty;
- (iii) the nature of the sex reassignment procedure undertaken;
- (iv) the period of time since the completion of the athlete's sex reassignment procedure;
- (v) the athlete's androgen levels; and
- (vi) the nature, duration and results of any treatment and monitoring undertaken following completion of the sex reassignment procedure.

8.4 Upon due consideration of the athlete's case, the Expert Medical Panel shall recommend that the athlete is eligible to compete in women's competition if it determines that her medical treatment following sex reassignment has been administered in a verifiable manner and for a sufficient length of time to minimise any advantage in women's competition.

8.5 The applicable standard of proof for the Expert Medical Panel in making its recommendation as regards the athlete's eligibility in accordance with the criteria in 8.4 above shall be to the comfortable satisfaction of the Panel.

8.6 If the Expert Medical Panel's recommendation is that the athlete does not meet the criteria in paragraph 8.4, it shall provide its reasons in writing and may further recommend:

- (i) conditions under which it would be acceptable for the athlete to compete in women's competition; and

(ii) a schedule of monitoring of the athlete's prescribed medical treatment with a view to the athlete being eligible to compete once the conditions so determined have been met (Pre-Competition Monitoring).

Chapter 9 IAAF or AA decision on Eligibility

9.1 The recommendation of the Expert Medical Panel shall be communicated in writing to the IAAF or AA Medical Manager who shall decide upon the athlete's eligibility taking account of the recommendation that has been made.

9.2 The decision of the IAAF regarding the athlete's eligibility is required to be notified to the athlete and her designated physician and, where necessary, AA and her Member Association. The IAAF or AA decision may be appealed exclusively to CAS in accordance with the provisions of IAAF Rule 60.23 and following and/or the AA By-Laws.

9.3 The IAAF or AA may decide that the athlete is eligible to compete in women's competition subject to meeting any conditions for competition as recommended by the Expert Medical Panel. In this event, the athlete shall not compete until such conditions have been met, including satisfactory compliance with any schedule of Pre-Competition Monitoring.

9.4 The athlete shall be responsible for complying with any prescribed medical treatment during the period of Pre-Competition Monitoring and shall provide the IAAF Medical Department or AA with satisfactory evidence of such compliance, as it may request. The IAAF or AA Medical Manager may consult with the Chairman of the Expert Medical Panel at any stage during this period as he considers necessary.

9.5 At the end of the period of Pre-Competition Monitoring, the athlete's case shall be referred back to the Expert Medical Panel to make a recommendation on the athlete's eligibility to compete in women's competition. For this purpose, the IAAF Medical Department or AA shall provide the Expert Medical Panel with all evidence of the athlete's compliance with the prescribed medical treatment, including the results of any tests that have been conducted as part of such treatment during the Pre-Competition Monitoring period.

9.6 Upon receipt of the athlete's further medical information and data, the Expert Medical Panel shall make a recommendation on the athlete's eligibility to compete provided that it is satisfied that the athlete has met the conditions for competition that it has previously determined. If the athlete meets the conditions determined by the Expert Medical Panel, the athlete is required to be notified by the IAAF or AA that the athlete is eligible to compete in women's competition with immediate effect. If the athlete does not meet the conditions determined by the Expert Medical Panel, the athlete

shall be notified by the IAAF or AA that the athlete is not eligible to compete until such time as the conditions are met. In this event, the Expert Medical Panel may recommend that the athlete undergoes a further period of Pre-Competition Monitoring before reviewing her case again.

9.7 The athlete's eligibility for competition shall in each case be subject to ongoing monitoring by the IAAF or AA to ensure compliance with the conditions for eligibility determined by the Expert Medical Panel (Competition Monitoring). The Expert Medical Panel may determine in this regard a minimum periodicity of Competition Monitoring which may be supplemented by random unannounced testing conducted by the IAAF or AA at any time. For Competition Monitoring purposes, the IAAF or AA may collect urine and/or blood samples from the athlete.

9.8 If an athlete refuses to be tested by the IAAF or AA for Competition Monitoring purposes or if, when tested, is found not to be compliant with the conditions determined by the Expert Medical Panel, the athlete shall not be eligible to compete in Athletics for a minimum period of 2 weeks and until the Expert Medical Panel is satisfied that the athlete is so compliant.

Chapter 10 Entry into force

10. These By-Laws were adopted by the AA Board on **XX YY 1012** and shall enter into force on **AA BB 2012**.

APPENDIX 1

LIST OF INTERNATIONAL MEDICAL EXPERTS

[Name and Area of Expertise]

Prof. Louis J. Gooren (NED) (Chairman) - Endocrinology

Prof. Martin Ritzen (SWE) - Pediatrics/endocrinology

Prof. Myron Genel (USA) - Pediatrics/endocrinology

Prof. Angelica Lindén Hirschberg (SWE) - Gynecology/endocrinology

Prof. Guy G. T'Sjoen (BEL) - Endocrinology

APPENDIX 2

LIST OF AUSTRALIAN MEDICAL EXPERTS

[Name and Area of Expertise]

To be inserted