

INTERNATIONAL STANDARD ON THERAPEUTIC USE EXEMPTIONS (ISTUE) (FOLLOWING THE FIRST CONSULTATION PHASE)

SUMMARY OF MAJOR PROPOSED CHANGES FOUND IN THE FIRST DRAFT OF THE INTERNATIONAL STANDARD ON THERAPEUTIC USE EXEMPTIONS (ISTUE)

2.0 Code Changes

Code Article 4.4.2

- There is a need for more clarity on who an athlete's NADO is for the purposes of applying for a TUE: for athletes who are not International-Level Athletes. One question that has been flagged for stakeholders is who the athlete's NADO should be for purposes of applying for a TUE e.g. where they are living/competing in multiple jurisdictions.

3.0 Definitions

- The TUE definition was clarified.

4.0 Obtaining a TUE

A restructuring of 4.1- 4.3 was undertaken to make it clear that athletes must apply for and obtain a TUE before using/possessing the substance or method unless a specific exception to apply retroactively applies. In order for the TUE to be granted, all the criteria for obtaining a TUE set out in new ISTUE Article 4.2 must be met. To reflect current realities there is, however, a specific exemption where it would be manifestly unfair not to grant a retroactive TUE (even where all of the criteria in Article 4.2 may not be met). This exemption will continue to be reserved to truly exceptional circumstances; WADA will have the right to review.

- 4.1: (prior 4.3) Now deals with the parameters required to apply for a TUE retroactively. Once one of these conditions is fulfilled, and the athlete has submitted their application, the process moves to 4.2. If an athlete is applying prospectively, 4.1 is not relevant and the process automatically begins at 4.2.
- 4.2: (prior 4.1)). These are the critical criteria for obtaining a TUE. There was some further clarification of these criteria.
 - The concept of a diagnosis being an essential component of the application has been strengthened, and comments/examples have been added to provide additional clarification. The relevant WADA TUEC documents are also now referenced.
 - Removed the reference to acute or chronic condition.
 - Clarified that the use of a Prohibited Substance may be as part of a diagnostic investigation and not only a treatment.
 - The use of permitted alternative medications was clarified in the comment section.
 - It was made clear that the grant of a TUE is based solely on consideration of the conditions set out in Article 4.2 and not whether the Prohibited Substance or Prohibited Method is the most appropriate or safe, or legal in all jurisdictions.
- 4.3: (4.3d on fairness is now a new stand-alone 4.3). As mentioned above, this would be for rare and exceptional situations.

5.0 TUE Responsibilities of ADOs

- 5.1: Referring to Code article and ISTUE 7.0. Clarified that if an athlete already has a valid NADO TUE and is not an international athlete, the TUE remains valid globally and does not require to be formally recognized by another NADO.
- 5.4: It was emphasized that ADOs must fully explain on what grounds a TUE was denied.
- 5.4a: ADOs must provide an explanation of the reason(s) for the grant of a retroactive TUE.
- 5.4c: There was a clarification on what needs to be translated into English or French; diagnosis, dosage, as well as a clear summary of the medical condition and diagnostic tests.
- 5.7: Clarifies the validity of a national level NADO TUE. At present, if an IF refuses to recognize a NADO TUE (and WADA does not overturn that decision), the NADO TUE becomes invalid at all levels. It is proposed to change this such that the matter is instead remitted back to the NADO for re-evaluation, with the possibility of re-granting the TUE at a national level only, assuming that the NADO considers that the ISTUE criteria are met.

6.0 TUE Application Process

- 6.3: A new article explaining clearly that an athlete may only apply to one ADO at a time for a TUE for the same medical condition. Nor may an athlete have more than one TUE for the same medical condition at the same time.
- Comment to 6.14: Clarification on changing of dosages and when one should alert the ADO.