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**Recreational athlete suspended for four months for anti-doping rule violation**

The Sports Tribunal has suspended a recreational athlete for four months for the online purchase and use of a prohibited substance, lbutamoren, sold as MK-677, which is banned at all times under the Sports Anti-Doping Rules 2021 (SADR).

At the time of purchase the athlete was not participating in sport and purchased the product to assist with his gym training. The purchase was intercepted at the border by Customs and referred to Medsafe. When he failed to receive his order, the athlete advised the supplier which delivered a replacement product which he used for a few days before he was advised by Medsafe the first order had been confiscated.

In the meantime, he had registered to play football for his local club and became bound by SADR. Upon advice from Medsafe he immediately disposed of the product but given his football membership Medsafe referred the matter to Drug Free Sport New Zealand (DFSNZ) for investigation.

The athlete was provisionally suspended without opposition on 16 August 2021. DFSNZ filed amended proceedings to include a second violation which arose from his admissions. He did not object to the proceedings being dealt with together and admitted the violations, saying he was unaware the product was prohibited, or that he was subject to the anti-doping regime due to his weekend football.

The Tribunal directed the parties to discuss whether an agreed position on sanction could be presented to the Tribunal for consideration. On 7 October a joint memorandum was provided on behalf of DFSNZ and the athlete proposing a 13-month period of ineligibility as an appropriate sanction.

The proposed sanction was based on factors including a relatively young recreational athlete, participating at a very low level of sport with no anti-doping education, whose fault in the unintentional use of a prohibited substance was not significant.

On 22 October the Tribunal issued a Minute seeking further information from the parties to understand how they reached the agreed period of ineligibility. A second joint memorandum was filed by the parties and a hearing held on 17 November.

The Tribunal has the responsibility to determine the applicable sanction for an anti-doping rule violation. It has previously expressed concern about the lack of jurisdiction within the anti-doping code to differentiate sanctions between different levels of athlete, when lower-level athletes faced the same sanctions as elite competitors who receive doping education and support. The Tribunal found the effects of the new 2021 Code which introduced a new category of athlete and provided a more flexible sanctioning regime for recreational athletes had not been reflected by the proposed sanction.

The Tribunal held as a recreational athlete contemplated by SADR 2021, the 13-month proposed sanction was not fair or proportionate on the facts of this case. It considered that in the context of a new regime which provided reduced sanctions for recreational athletes, the degree of fault was at the lower level and a four-month sanction was appropriate in the overall circumstances. He had ordered the product for his gym activity, before he contemplated playing football, and while not subject to the rules. Following his football registration, he did not appreciate he was subject to the anti-doping regime and used the product for a few days after he became bound under the SADR. The Tribunal held he was an example of the sort of person to whom the new rule 10.6.1.3 was intended to apply, having had no anti-doping education, and his participation at a low level of competition.

The Tribunal said while it appreciated the parties' efforts to reach agreement about sanction, it considered "too much emphasis has been placed on the principle of athlete responsibility in this setting, and not sufficient emphasis on the low level of participation, and lack of education about, or awareness of the Code." The Tribunal observed that as there is more education and awareness of the anti-doping rules the scope for leniency will reduce.

The new Code also provides that public disclosure is not mandatory for a recreational athlete pursuant to Rule 14.3.7. Therefore, the athlete will remain anonymous together with all details that would identify him, and the decision relates only to the circumstances that led to the violation.

The decision in this case is available for download from the website of the Sports Tribunal ([www.sportstribunal.org.nz](http://www.sportstribunal.org.nz)). See *Drug Free Sport New Zealand v Anon* (ST 07/21).