

# Sport and the Law 4<sup>th</sup> Edition

## Contents

Foreword

Acknowledgments

### 1 The sport/law intersection

Introduction

How the law comes into sport

What is sport?

Amateur or professional: a valid distinction?

A two-tier system

What is law?

How is law made?

How the law comes into sport

Remedies under the law

The balance sheet

The Court of Arbitration for Sport

Dispute resolution

Rules and conventions

Codes

The legal view of sport

Does 'sports law' exist?

### 2 Commercialisation and politics in sport

Pay TV and new media

The effect on sport

How commercialism affects sport

The role of government

Sport and politics

### 3 The legal nature of sporting organisations

Legal personality: the problem

The unincorporated voluntary association

What should a constitution contain?

Protection of non-contractual rights

Incorporation

Duties of directors, officers and committee members

Duties of directors at common law

Duties under the Corporations Act

Duties under state associations legislation

Corporate governance in sport

### 4 Contracts

What constitutes a contract?

Illegal agreements

The parties

Remedies

Sporting agreements

Other sporting contracts

Olympic Team agreement

- Inducing breach of contract
- The contract of employment
- Restraint of trade
- Standard form contracts
- Competition laws
- Selection

#### 5 Sports sponsorship and sporting reputation

- Types of sponsorship arrangement
- The formal sponsorship contract
- Sponsorship conflicts
- Restrictions on tobacco and alcohol advertising
- The use of sportspeople in advertising
- 'Right of personality'
- The *Trade Practices Act 1974* (Cth)
- Passing off
- Ambush marketing
- Protecting Olympic symbols
- Intellectual property rights
- Defamation

#### 6 The conduct of sporting tribunals

- Domestic tribunals
- Legal intervention
- Disciplinary proceedings
- The laws of natural justice
- Conduct prejudicial to an organisation
- Decision-making
- Compensation for tribunal decisions made in error
- Jurisdiction of the courts
- Running an effective tribunal: the practicalities

#### 7 Sports injuries and compensation

- How do the courts view injuries in sport?
- When the law becomes involved
- Recent changes in the law
- Who gets sued?
- Negligence
- Waivers and exclusions
- Dangerous recreational activity
- What is a risk warning?
- Express right to contract out of liability
- Intentional injury: assault
- Who gets sued: the cases
- Obligations of participants
- Liability of the manager or coach
- Pregnancy and participation
- Liability of sporting bodies
- Liability of referees
- Liability of organisers
- Obligations of the occupier
- The over-zealous fan

- Liability of volunteers
- Good Samaritans
- Vicarious liability
- Transmission of infectious diseases in sport
- Compensation legislation
- The NSW Sporting Injuries Insurance Scheme
- Faulty equipment
- Effect of the civil liability legislation

#### 8 Insurance and risk management

- The insurance crisis and responses
- What is risk?
- Risk management is essential
- Risk standards
- Risk of injury
- Other business risks
- Concepts of risk management
- The role of insurance
- General rules for persons insuring
- Alternative insurance arrangements

#### 9 Criminal liability

- Standard of proof
- Criminal law
- Assault
- Murder and manslaughter
- Criminal negligence
- Policy issues
- Violence in sport
- The sporting crowd
- Compensation

#### 10 Discrimination and other issues

- What is discrimination at law?
- Laws against discrimination
- Women and sport
- Discrimination in employment
- Discrimination in a sporting context
- Use of facilities
- Provision of services
- Discrimination and sporting clubs
- Penalty in disciplinary proceedings
- Licensing
- Single-sex sport
- Determining the sex of competitors

#### 11 Sport and taxation

- Income tax in Australia
- What is income?
- How does this fit with the idea of money received in sport?
- Income from outside Australia
- Exempt income

- Deductions
- Capital gains tax
- Tax-averaging provisions
- Fringe benefits tax
- Provisional tax

## 12 Anti-doping

- The evidence
- Why athletes use drugs
- A brief history of regulation
- The WADA Code
- Prohibited Substances and Methods: the Prohibited List
- Therapeutic use of substances
- Testing: the practicalities
- Hearings
- Sanctions from January 2009
- Other violations
- Reductions in penalty
- Appeals
- Restraint of trade as an issue
- Human rights and the WADA Code
- Impact of the WADA Code

- Notes
- Table of cases
- Table of statutes

Index