



New South Wales

# Combat Sports Bill 2013

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The objects of this Bill are as follows:

- (a) to regulate the combat sport industry by requiring the registration of combatants, industry participants and promoters,
- (b) to require permits for combat sport contests and to approve amateur bodies responsible for amateur combat sport contests,
- (c) to regulate the conduct of combat sport contests, including providing for health and safety requirements,
- (d) to provide for sanctions and the enforcement of the proposed Act, including orders excluding persons from the combat sport industry,
- (e) to provide for the continuation and regulatory functions of the Combat Sports Authority of New South Wales (the *Authority*),
- (f) to confer a right to appeal against certain decisions under the proposed Act to the Administrative Decisions Tribunal (the *Tribunal*),
- (g) to repeal the *Combat Sports Act 2008* and to make other consequential amendments as a result of the enactment of the proposed Act,
- (h) to enact savings and transitional provisions as a result of the enactment of the proposed Act.

## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** sets out the objects of the proposed Act.

**Clause 4** defines words and expressions used in the proposed Act.

**Clause 5** defines *professional combat sport contest*.

**Clause 6** defines the persons who are *industry participants* for the purposes of the proposed Act.

**Clause 7** defines *serological clearance* and *current serological clearance*.

**Clause 8** enables the Minister, on the recommendation of the Authority, to approve a body as an *approved amateur body* for a specified style, or styles, of combat sport for the purposes of the proposed Act.

### Part 2 Registration of combatants and industry participants

#### Division 1 Registration of combatants

**Clause 9** makes it an offence to engage in a combat sport contest as a combatant without being registered in the applicable registration class for the contest.

**Clause 10** provides that the Authority is to determine the registration classes for combatants and that separate classes are to be determined for individual styles of combat sport and for professional and amateur combat sport contests for the same style of combat sport.

**Clause 11** sets out the requirements for applications to the Authority for registration, including requirements that a certificate of fitness and current serological clearance be provided by an applicant.

**Clause 12** prohibits a person under the age of 18 years from being registered for a registration class applicable to any professional combat sport contest.

**Clause 13** empowers the Authority to register combatants if they are fit and proper persons, meet any age or other pre-conditions for registration and are not controlled members of a declared organisation under the *Crimes (Criminal Organisations Control) Act 2012*. The Authority may refuse to register a combatant if of the opinion that it is not in the interests of the health or safety of the person. Registration for the first time in a registration class for a professional combat sport contest must be delayed by the Authority for at least 21 days after the application is made.

**Clause 14** enables the Authority to impose conditions on the registration of a combatant and to revoke or vary any such conditions. The regulations may also prescribe conditions of registration.

**Clause 15** sets the term of registration as 3 years, subject to any extension or reduction under the proposed Act. The Authority may extend the term of registration for the purpose of having all classes of registration of a combatant expire at the same time.

**Clause 16** provides that a person who is, or has been, registered as a combatant for a class of professional combat sport contest cannot be subsequently registered as an amateur combatant for that style of combat sport unless the person has never competed for a monetary prize or other valuable reward. The registration of a person for amateur combat sport contests for a style of combat sport is cancelled if the person is subsequently registered for professional combat sport contests of the same style of combat sport.

**Clause 17** requires the Authority to keep a register of combatants.

## **Division 2 Medical record books**

**Clause 18** requires the Authority to issue each registered combatant with a medical record book. In the case of a combatant with an equivalent record issued by another jurisdiction, the Authority need not issue a medical record book and the equivalent record will be taken to be a medical record book.

**Clause 19** enables regulations to be made for or with respect to medical record books.

## **Division 3 Registration of industry participants and promoters**

**Clause 20** makes it an offence for an individual to carry out an activity as an industry participant or to arrange a combat sport contest without being registered in the applicable registration class as an industry participant or a promoter. It also makes it an offence for a corporation to carry out activities as an industry participant or to arrange a combat sport contest, except where an activity or contest is carried out or arranged by an officer or employee who is registered.

**Clause 21** makes it an offence for a person to hold himself or herself out as being an industry participant or a promoter for the purposes of a combat sport contest unless the person is registered for the relevant class of combat sport contest.

**Clause 22** provides that the Authority is to determine the registration classes for industry participants and promoters and that separate classes are to be determined for individual styles of combat sport and for professional and amateur combat sport contests.

**Clause 23** sets out the requirements for applications to the Authority for registration as an industry participant or promoter.

**Clause 24** prohibits a person under the age of 18 years from being registered for a registration class applicable to a manager, match-maker or promoter.

**Clause 25** empowers the Authority to register industry participants and promoters if they are fit and proper persons, meet any age or other pre-conditions for registration and are not controlled members of a declared organisation under the *Crimes (Criminal Organisations Control) Act 2012* and are not the subject of a determination by the Commissioner of Police that they are not fit and proper persons or that registration is contrary to the public interest (an *adverse security determination*).

**Clause 26** requires applications for registration for a registration class applicable to a manager, match-maker or promoter to be referred to the Commissioner of Police for investigation and determination of whether the applicants are fit and proper persons or it is contrary to the public interest for the applicants to be registered.

**Clause 27** enables the Authority to impose conditions on the registration of an industry participant or promoter and to revoke or vary any such condition. The regulations may also prescribe conditions of registration.

**Clause 28** sets the term of registration as 3 years, subject to any extension or reduction under the proposed Act. The Authority may extend the term of registration for the purpose of having all classes of registration of an industry participant or promoter expire at the same time.

**Clause 29** requires the Authority to keep a register of industry participants and promoters.

## **Division 4 Disciplinary and other provisions**

**Clause 30** sets out the grounds on which disciplinary action may be taken by the Authority against a registered combatant, industry participant or promoter. The grounds include contravening the proposed Act or regulations or rules under the proposed Act, contravening a law of another jurisdiction that would constitute such a contravention in this State, contravening a condition of registration or a permit or not being a fit or proper person to be registered.

**Clause 31** requires the Authority to give a show cause notice to a person before taking disciplinary action against the person and to consider any response by the person to the notice. The notice is to specify the grounds for proposed disciplinary action, the proposed disciplinary action and the time within which the person given the notice is to respond to the notice.

**Clause 32** enables the Authority to suspend a registration when a show cause notice is given, pending a decision about whether to take disciplinary action.

**Clause 33** provides that the Authority may take disciplinary action against a registered combatant, industry participant or promoter if the Authority is of the opinion that there are grounds on which the action may be taken and that the person has not shown sufficient reasons why action should not be taken. The disciplinary actions that may be taken are cancelling registration, suspending registration, reducing the period of registration, imposing or varying a condition on registration or giving a written caution.

**Clause 34** requires the registration of a match-maker, manager or promoter to be cancelled by the Authority if the Authority is advised that the person is the subject of an adverse security determination or becomes aware that the person is a controlled member of a declared organisation under the *Crimes (Criminal Organisations Control) Act 2012*. The Commissioner of Police may investigate and determine whether to make an adverse security determination at the Commissioner's discretion or at the request of the Authority.

**Clause 35** enables the Authority to suspend a registration for a specified time or indefinitely and to impose conditions on a suspension. The Authority may also specify a pre-condition for future registration of a person whose registration is cancelled.

**Clause 36** creates offences prohibiting registered combatants, industry participants or promoters from doing things permitted by their registration during any period while that registration is suspended.

**Clause 37** provides for the surrender, and subsequent cancellation, of registration.

## **Part 3 Regulation of combat sport contests**

### **Division 1 Permits to hold combat sport contests**

**Clause 38** makes it clear that the proposed Division applies to both single combat sport contests and 2 or more combat sport contests held on one occasion at the same venue.

**Clause 39** makes it an offence for an individual to hold a combat sport contest without having a permit to promote the contest. It also makes it an offence for a corporation to hold a combat sport contest, except where a contest is held by an officer or employee who holds a permit.

**Clause 40** sets out the requirements for applications to the Authority for permits to hold combat sport contests.

**Clause 41** empowers the Authority to grant a permit to hold a combat sport contest to a person if the person is registered as a promoter of the applicable class and, if the contest is an amateur contest, the contest has been approved by an applicable approved amateur body. A permit must be refused if the Commissioner of Police advises that there is a risk to public health or safety or of substantial damage to property if it is granted.

**Clause 42** enables the Authority to impose conditions on a permit to hold a combat sport contest and to revoke or vary any such condition. The regulations may also prescribe conditions of permits.

**Clause 43** requires the Authority, as soon as practicable after granting a permit, to notify the Commissioner of Police in writing of the details of the combat sport contest for which the permit is granted.

**Clause 44** enables the Authority to revoke a permit at any time before the combat sport contest is held but allows a permit to be revoked within 24 hours before the contest only if the Authority is satisfied that special circumstances exist warranting that action.

**Clause 45** empowers a police officer of the rank of Assistant Commissioner or above to revoke a permit to hold a combat sport contest if satisfied that there is a risk to public health or safety or of substantial damage to property.

## **Division 2      General conduct of combat sport contests**

**Clause 46** authorises regulations to be made for or with respect to the conduct of combat sport contests, including the health and safety of combatants, the attendance of combat sport inspectors and matters relating to weigh-ins for contests.

**Clause 47** prohibits a combat sport contest from being held at a place prescribed by the regulations for the purposes of the proposed section.

**Clause 48** requires the promoter of a combat sport contest to ensure that each combatant and industry participant involved holds the applicable registration and also requires each match-maker for a combat sport contest to ensure that each combatant involved holds the applicable registration.

**Clause 49** prohibits a promoter from permitting a combatant to engage in a combat sport contest unless the combatant has a current serological clearance. A combatant will also be prohibited from engaging in a contest without a current serological clearance.

**Clause 50** prohibits a combatant from engaging in a combat sport contest or sparring if the combatant is the subject of a medical certificate certifying that the combatant is unfit to engage in a particular contest or should not engage in a contest before a specified date. Such a certificate may be disregarded if the Authority so directs after considering a medical practitioner's report.

**Clause 51** makes it an offence for a promoter to permit a combatant to engage in a combat sport contest if the combatant is the subject of a medical certificate certifying that the combatant is unfit to engage in a particular contest. Such a certificate may be disregarded if the Authority so directs after considering a medical practitioner's report.

**Clause 52** requires the promoter of a combat sport contest to ensure that each combatant complies with requirements for the wearing or use of protective clothing or equipment.

**Clause 53** requires the promoter of a combat sport contest to ensure that an attending medical practitioner is present at or before the contest.

**Clause 54** requires the promoter of a combat sport contest who becomes aware that a combatant has died or been admitted to hospital within 48 hours of the contest to notify the Authority in writing of the death or admission.

**Clause 55** prohibits a person from entering or remaining on the contest area of a combat sport contest unless the person is a combatant, is involved in the control or management of the contest, is a combat sport inspector or is another authorised person.

**Clause 56** imposes a duty on the combat sport inspector present at a combat sport contest to record the result and provide the record to the Authority as soon as practicable.

## **Division 3      Medical examinations of combatants**

**Clause 57** defines the *pre-contest medical examination functions* and the *post-contest medical examination functions* of a medical practitioner in relation to a combatant in a combat sport contest. Both kinds of functions involve a medical examination and a certification as to fitness or unfitness. If a medical examination is a pre-contest examination, a combatant who does not have a current serological clearance must be certified as being unfit to engage in a combat sport contest.

**Clause 58** makes it an offence for a combatant to engage in a combat sport contest without being examined on the day by a medical practitioner exercising the pre-contest medical examination functions. It will also be an offence for the promoter to permit a combatant to engage in a combat sport contest if the combatant has not been so medically examined and unless the promoter is also satisfied that the medical practitioner has sighted the combatant's medical record book.

**Clause 59** requires a combatant to submit to being examined by a medical practitioner exercising the post-contest medical examination functions.

**Clause 60** requires the promoter of a combat sport contest to arrange for the post-contest medical examination functions to be exercised in relation to a combatant who is unable to be examined at the end of a contest.

**Clause 61** confers on the Authority power to direct combatants to submit to medical and other examinations by qualified persons relating to the health or safety of combatants. It will be an offence if the combatant fails to comply with a direction.

#### **Division 4 Directions not to hold contests and ending of contests**

**Clause 62** confers power on the Authority, at or after the weigh-in for a combat sport contest, to direct the contest not to be held if of the opinion that there is likely to be a contravention of the proposed Act or regulations or rules under the proposed Act. A police officer attending a combat sport contest may also direct the contest not to be held if satisfied there is a risk to public health or safety or substantial damage to property.

**Clause 63** requires the attending medical practitioner to direct the referee to stop a combat sport contest if the medical practitioner is of the opinion that a combatant is so exhausted or injured as to be unable to defend himself or herself or to continue the contest.

**Clause 64** requires a combat sport inspector present at a combat sport contest to direct the referee to stop the combat sport contest if the inspector is of the opinion that a combatant is so exhausted or injured as to be unable to defend himself or herself or to continue the contest and in other specified circumstances.

**Clause 65** enables a police officer present at a combat sport contest to direct the referee to stop the contest if the police officer is of the opinion that there is a risk to public health or safety or of substantial damage to property.

**Clause 66** requires the referee to stop a combat sport contest if of the opinion that a combatant is so exhausted or injured as to be unable to defend himself or herself or to continue the contest and in other specified circumstances. It will be an offence if a referee fails to stop a combat sport contest immediately after being directed to do so by an attending medical practitioner, a combat sport inspector or a police officer.

### **Part 4 Prohibition orders**

#### **Division 1 Procedure before orders are made**

**Clause 67** requires the Authority to give a person a show cause notice, and to consider any response by the person to that notice, before making a prohibition order against the person. The notice is to specify the grounds for the proposed prohibition order, the type of proposed prohibition order and the time within which the person given the notice is to respond to the notice.

**Clause 68** requires the Authority to consult with the Director-General of the Department of Trade and Investment before issuing a show cause notice in respect of licensed premises.

**Clause 69** makes it an offence for a person subject to a show cause notice for a proposed health and safety prohibition order to engage in a contest or sparring before a determination is made as to whether to issue the order.

#### **Division 2 Health and safety prohibition orders**

**Clause 70** defines a *health and safety prohibition order* as an order made by the Authority that prohibits a person from participating as a combatant in all combat sport contests and all sparring.

**Clause 71** authorises the Authority to make a health and safety prohibition order against a person if of the opinion that it is in the interests of the health or safety of the person to do so and that the person has not shown sufficient reasons why the order should not be made. An order may be for a specified term and may be made whether or not other action is taken. It will be an offence to contravene a health and safety prohibition order.

**Clause 72** provides for the cancellation or suspension of registration as a combatant in the event of a health and safety prohibition order being made against the combatant, depending on the term of the order.

**Clause 73** enables the review of a health and safety prohibition order by the Authority at the request of the person subject to the order.

### **Division 3      General prohibition orders**

**Clause 74** defines a *general prohibition order* as an order made by the Authority that prohibits a person from one or more of engaging in combat sport contests or sparring, promoting combat sport contests, engaging in a profession, occupation or business related to combat sport, permitting a combat sport contest on specified premises or attending premises where training or a combat sport contest or weigh-in is held.

**Clause 75** authorises the Authority to make a general prohibition order against a person if of the opinion that there are grounds for taking disciplinary action against the person, or there would be if the person were registered, and that the person has not shown sufficient reasons why the order should not be made. An order may be for a specified term and may be made whether or not other action is taken. It will be an offence to contravene a general prohibition order.

**Clause 76** provides for the cancellation or suspension of registration of a person in the event of a general prohibition order being made that prohibits the person from carrying out an activity authorised by the registration, depending on the term of the order.

## **Part 5      Review by Administrative Decisions Tribunal**

**Clause 77** sets out decisions under the proposed Act for which a review by the Tribunal may be sought.

**Clause 78** contains restrictions on the disclosure of the existence or content of criminal intelligence report or other criminal information by the Tribunal or in hearings of the Tribunal and provides that the Commissioner of Police is to be a party to proceedings before the Tribunal involving an adverse security determination or other advice given by the Commissioner to the Authority.

## **Part 6      Combat Sports Authority**

**Clause 79** constitutes the Combat Sports Authority of New South Wales.

**Clause 80** provides for the Authority to consist of a nominee of the Commissioner of Police and between 4 and 6 other persons appointed by the Minister of whom one is to be a medical practitioner and one is to be a Judge or former Judge or a person who has been an Australian lawyer for at least 7 years.

**Clause 81** sets out the functions of the Authority, including to supervise and regulate professional and amateur combat sport in New South Wales and to promote awareness of issues relating to combat sports.

**Clause 82** enables the Authority to appoint advisory committees.

**Clause 83** provides that a member who is a Judge or former Judge or who has been an Australian lawyer for at least 7 years must be present at meetings of the Authority where matters relating to disciplinary action, prohibition orders or proceedings for offences are decided.

## **Part 7      Enforcement powers**

**Clause 84** enables the Authority to appoint Public Service employees as combat sport inspectors. Classes of persons nominated by an approved amateur body for a combat sport may also be appointed as combat sport inspectors for the purposes of amateur combat sport contests. Regulations under the proposed Act may also provide for police officers to exercise functions of combat sport inspectors.

**Clause 85** confers functions on combat sport inspectors, including monitoring compliance with the proposed Act and attending combat sport contests and weigh-ins for contests. A combat sport inspector may enter and inspect premises and exercise other powers for the purposes of exercising the inspector's functions.

**Clause 86** enables the Authority to require any person (by written notice) to provide information or records, or authorise another person to do so, that is relevant to specified matters, including whether a person is a fit and proper person to be registered, whether a prohibition order should be made and investigations of possible contraventions of the proposed Act, regulations or rules.

**Clause 87** prevents a person relying on the excuse of self-incrimination for not complying with a requirement to provide information or a document under proposed section 86, if the information or document is required for the purposes of investigation of contraventions of the proposed Act, regulations or rules, and also prohibits any such information or document from being used as evidence against the person in civil or criminal proceedings (other than proceedings arising out of false or misleading information or of obstruction under the proposed Act).

**Clause 88** enables the Commissioner of Police to require a person (by written notice) to provide information for the purposes of determining whether to make an adverse security determination about the person.

**Clause 89** makes it an offence, without reasonable cause, to fail to comply with a notice under the proposed Part.

**Clause 90** makes it an offence for a person, without reasonable excuse, to hinder or obstruct a combat sport inspector, police officer, referee or medical practitioner in the exercise of a function under the proposed Act or regulations made under the proposed Act.

**Clause 91** makes it clear that complying with a requirement made by a combat sport inspector or a notice under the proposed Part will not create any liability to another person.

## **Part 8 Miscellaneous**

**Clause 92** makes it an offence for a person to provide any information or produce any document in connection with specified requirements of, or made under, the proposed Act that the person knows is false or misleading in a material particular.

**Clause 93** enables the Minister and the Authority to delegate functions.

**Clause 94** authorises the Commissioner of Police to disclose criminal intelligence report or other criminal information to the Authority about an applicant for registration as a combatant, an industry participant or a promoter or about a registered industry participant or promoter. The proposed section also enables the Authority to consider any such information when determining any such application or disciplinary proceedings or whether to make a prohibition order.

**Clause 95** provides that the Commissioner of Police, any other police officer and the Authority are not required to give reasons for determining a matter or taking an action under the proposed Act if to do so would disclose a criminal intelligence report or other criminal information.

**Clause 96** provides for the means of service of documents under the proposed Act.

**Clause 97** enables the Authority to recover any fee or other money due to it as a debt in a court of competent jurisdiction.

**Clause 98** provides for the issuing and effect of evidentiary certificates by the Authority as to matters relating to registration, combat sport contests and other things under the proposed Act for use in proceedings.

**Clause 99** provides that proof is not required in legal proceedings of certain matters relating to the Authority, including the constitution of the Authority and the appointment of, or the holding of office by, any member of the Authority.



**Clause 100** protects the Authority, members of the Authority, approved amateur bodies, combat sport inspectors, medical practitioners and referees exercising functions under the proposed Act from personal liability for acts or omissions done or omitted to be done in good faith for the purposes of executing the proposed Act.

**Clause 101** enables the Authority to enter into arrangements with sporting bodies, law enforcement agencies and other agencies in Australia and elsewhere for the provision of information by and to the Authority relating to specified matters relevant to the proposed Act.

**Clause 102** enables the Authority to exempt a person or a specified class of persons from the proposed Act or specified provisions of the proposed Act. An exemption may be conditional or unconditional and may be revoked or varied.

**Clause 103** makes a director of a corporation, or a person concerned in the management of a corporation, liable for an offence under the proposed Act or regulations under the proposed Act that is committed by the corporation if the director or person knowingly authorised or permitted the contravention.

**Clause 104** provides for proceedings for offences under the proposed Act or regulations under the proposed Act to be dealt with summarily before the Local Court or the Supreme Court in its summary jurisdiction.

**Clause 105** enables penalty notices to be issued for offences under the proposed Act or regulations under the proposed Act, being offences prescribed by the regulations.

**Clause 106** contains the general regulation-making power for the proposed Act and specifies other matters about which regulations may be made, including exemption from the proposed Act.

**Clause 107** enables the Authority to make rules for or with respect to any aspect of engagement in combat sports in New South Wales and specifies particular matters about which rules may be made. Any such rule must be approved by the Minister and cannot be inconsistent with the proposed Act or any regulation under the proposed Act.

**Clause 108** requires the Authority to give notice in writing to the affected persons of decisions relating to applications, registration, permits or registration pre-conditions. It also requires the Minister to give notice in writing to amateur combat sport bodies of decisions relating to the approval of the body as an approved amateur body.

**Clause 109** repeals the *Combat Sports Act 2008*.

**Clause 110** provides for the review of the proposed Act by the Minister after the period of 5 years from the date of assent to the proposed Act.

## **Schedule 1 Constitution and procedure of the Authority**

**Schedule 1** contains provisions relating to the constitution and members of the Authority and procedures for meetings of the Authority.

## **Schedule 2 Savings and transitional provisions**

**Schedule 2** contains savings and transitional provisions consequent on the enactment of the proposed Act.

## **Schedule 3 Consequential amendment of other Acts**

**Schedule 3** contains amendments to other Acts consequent on the enactment of the proposed Act.