

From: Gapsa Stephen
Sent: Monday, 10 March 2014 4:00 PM
To: Lawrence Deirdre
Subject: Combat Sports - Prize fight amendment needed to underpin Queensland's fight discipline reform

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Deirdre,

Further to our discussion, please find the drafts that seek the Minister's request of relevant Ministers to amend legislation to help progress fight discipline reform in Queensland:

- Ministerial Briefing Note – Prize fight amendment needed to underpin Queensland's fight discipline reform
- Ministerial Letter – Request support from Responsible Ministers to amend section 74 'Prize fight' in the Criminal Code Act 1899 and the Police Powers and Responsibilities Act 2000.

The Ministerial Briefing Note and the Ministerial Letter are located at: <G:\SRS\PRP\PROJECTS\Combat Sports\Combat Sports 2014\Request Prize Fight Leg Amendments>

Kind regards

Stephen

Stephen Gapsa
Senior Policy Officer
Policy Research and Planning Branch
Department of National Parks, Recreation, Sport and Racing

Level 8, 111 George Street, Brisbane Q 4000 | PO Box 15187, City East Q 4002

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RTI DL RELEASE - NPRSR

From: Downes Mandy [Mandy.Downes@nprsr.qld.gov.au]
Sent: Tuesday, 11 March 2014 9:55 AM
To: Lawrence Deirdre
Subject: Combat Sports

Follow Up Flag: Follow up
Flag Status: Flagged

Deirdre

Can we please progress correspondence to amend the Criminal Code for Combat Sports? We would like to get something formal in place.

Thanks

Mandy

Mandy Downes | Director
Policy, Research and Planning | Sport and Recreation Services |
Department of National Parks, Recreation, Sport and Racing

L8, 111 George Street, Brisbane Q 4000

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The Queensland Plan: A 30-year vision for Queensland

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Twitter: www.twitter.com/qldplan | #qldplan

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From: HODGES Sharon [Sharon.Hodges@npsr.qld.gov.au]
Sent: Wednesday, 12 March 2014 1:42 PM
To: Gapsa Stephen
CC: O'Neill Jo; Lawrence Deirdre
Subject: combat sports
Attachments: Combat Sports_140307 DRAFT JS.docx

Hi Stephen

Please find attached the amended combat sport brief. Since some of the information in the background was a repeat of the paper I cut it back a little to keep to one page. I made some other amendments to the brief to reflect that we are not yet committed to the Tasmanian model.

Happy to discuss

Kind Regards
Sharon

Sharon Hodges | Director
Industry Capacity and Events | Sport and Recreation Services |
National Parks, Recreation, Sport and Racing
T: 07 3338 9248 | M: [redacted] (6) Personal information

RTI DL RELEASE - NPSR

Committee of Australian Sport and Recreation Officials (CASRO)

Department of National Parks, Recreation, Sport and Racing

Agenda Item No: 6.3

Meeting Date: 20/03/2014

Date Prepared: 12/03/2014

Title: Update Combat Sports Working Group

Purpose

1. To provide an update on progress made by the CASRO Combat Sports Working Group

Recommendations

2. That the Director-General:
 - Notes the contents of the brief.

Background

3. New South Wales chairs the Committee of Australian Sport and Recreation Officials (CASRO) Combat Sports Working Group (Working Group) to investigate key issues in combat sport regulation that could be addressed in a nationally consistent manner across jurisdictions.
4. At the last CASRO meeting (i.e. 26/09/2013) Mr Paul Doom (NSW) verbally briefed on progress made to standardise forms to improve the ability to share information in a consistent manner as attached in the paper.
5. The Working Group has conducted a review of the 'Clearance to Compete' documents to be presented to all individual Boards/Authorities in each jurisdiction for their own consideration.
6. The use of the proposed document is a sensitive issue given that the information to be used to populate the form will constitute the personal and health related information of each combatant. Therefore, such a template must comply with relevant health privacy legislation in each jurisdiction.

Key Issues

7. Jurisdictions with combat sports authorities/commissions, especially New South Wales and Victoria, have actively encouraged Queensland to adopt similar regulatory models. Under these models, contestants and industry participants, particularly in the professional parts of the combat sports sector, require promoters to obtain permits to conduct contests and participants to register to compete. These legislative regulatory models incur significant budget commitments to establish and continue to incur very high annual administrative/operational costs for government to deliver.
8. Alternatively, Tasmania has introduced an approach that involves minimal regulation. It is an industry partnership model requiring contests to be mandated by sanctioning bodies that are recognised by the Tasmanian Government.

Implications for Queensland

9. Queensland does not currently regulate combat sports.
10. While Queensland is committed to reducing unnecessary regulatory burden, particularly for those combat sports which are successfully self-regulating, there is a desire to improve safety, integrity and risk mitigation measures across combat sports disciplines and activities.
11. Queensland supports, in principle, developing guidelines for greater national consistency for the identified combat sport priority areas.
12. The Working Group has previously been advised that Queensland is still considering options in relation to improving standards of practice across both amateur and professional parts of the combat sports sector through investigation of both regulatory and non-regulatory solutions.
13. On 25 January 2014, the Minister approved for Queensland to progress work on a recommended option to improve fighting discipline standards via a Government Industry Partnership Approach with compliance enforcement through the *Criminal Code Act 1899* and *Police Powers and Responsibilities Act 2000*.
14. Queensland is now investigating the implementation of this partnership model and has commenced discussions with Queensland Police Service regarding the relevant Act amendments.

Position	Name	Ph (Work)	Ph (Mobile)	Initials & Date
Author: (Title) Senior Policy Officer	Stephen Gapsa	3338 9224		
Director / Executive Director:	Mandy Downes / Paige Ridgewell	3338 9212	sch4p4(6) Personal information	
Deputy Director: 14-365	Richard Watson	File C 33389209		4 of 23

From: GAPSA Stephen
Sent: Thursday, 8 May 2014 1:15 PM
To: LAWRENCE Deirdre
Subject: RE: Combat Sports Proposed Minimalist Regulation in Queensland - Operational Model
Attachments: 140508 Enhancing the Self-Regulation of the Queensland Combat Sports Industry.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Hi Deirdre,

As per your below request please find a draft three (3) page operational model that describes options available to Queensland (based on the Tasmanian model and experience of minimalist regulation, enforced by the Tasmanian Police).

I note that NSW also enables Police to enforce a similar provision in section 65 [Direction by police officer to stop contest](#) in the **Combat Sports Act 2013** (NSW):

A police officer present at a [combat sport contest](#) may direct the [referee](#) to stop the contest if, in the police officer's opinion, there is a risk to public health or safety or of substantial damage to property if the contest were to continue.

In the NSW approach an officer must be present whereas in the Tasmanian and proposed Queensland model a police presence is not required.

Please let me know of any changes to the operational model.

Cheers,

Stephen

Stephen Gapsa
Senior Policy Officer
Policy Research and Planning Branch
Department of National Parks, Recreation, Sport and Racing

Level 8, 111 George Street, Brisbane Q 4000 | PO Box 15187, City East Q 4002

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Ph: 07 3338 9224

Fax: 07 3607 2276



From: LAWRENCE Deirdre
Sent: Thursday, 8 May 2014 12:09 PM
To: GAPSA Stephen
Subject: operational model

RTI 14-365

File C

Release

5 of 23

Hi Stephen

Can you please provide me with the operational model (no more than 3 pages) for midday tomorrow.

We will need to send this to Paula to provide input on Monday.

Regards

Deirdre

Deirdre Lawrence | Manager

Policy and Governance

Policy Research and Planning | Sport and Recreation Services |

[Department of National Parks, Recreation, Sport and Racing](#) |

T: 07 3338 9222 | F: 07 3898 0925

RTI DL RELEASE - NPSR

Enhancing the Self-Regulation of the Queensland Combat Sports Industry

Queensland and the Northern Territory are the only Australian jurisdictions not to specifically regulate combat sports such as boxing, kickboxing, wrestling and martial arts. All Australian jurisdictions that do regulate combat sports, except Tasmania, have stand-alone legislation, with linked subordinate legislation. Tasmania administers a minimalistic combat sport regulatory model.

Combat sports in Queensland are self-regulated with their own competition rules or codes. There are no laws or prescribed minimum standards that regulate competitions. While Queensland does not have specific combat sport laws, there are provisions in the *Summary Offences Act 2005* (Qld) and the *Criminal Code* (Qld) that do apply in the absence of stand-alone combat sport legislation.

Policy Problem(s)

In Queensland there is an absence of information of what constitutes best practice in the combat sports industry to encourage certain wanted and discourage other unwanted behaviours.

- (1) Queensland has no minimum health, safety and public standards of behaviour to manage the *expectations* of the government, combat sports participants and the community to guide the self-regulation of amateur and professional contests in the combat sports industry.
- (2) There is ambiguity on the Queensland Statute Book on the legality or illegality of actions such as striking, kicking, hitting, grappling, throwing or punching in combat sports and the role of the Queensland Police Service (QPS) to enforce applicable Criminal Code provisions.

Market Failure – Incomplete Information – Queensland Combat Sport Industry

The Department of Treasury and Trade's *Regulatory Impact Statement System Guidelines* (2013, p.53) list the types of market failure that include (1) incomplete property rights; (2) market power; (3) incomplete information; and (4) missing and incomplete markets. If markets fail then government may need to respond to improve outcomes for the community and industry. Regulation is one of several options available to government to address a market failure, others options include:

- directly providing services
- affecting process by applying taxes and subsidies
- providing information.

In Queensland there is no State body, nor is there a national body, responsible for combat sports as a whole. Many combat sport organisations are not affiliated with a governing body, or do not have a governing body, that would facilitate consistent, effective and standardised self-regulation, such as ensuring suitable risk management, minimum health, safety and public standards of behaviour.

When market failure arises from incomplete information to the community and industry a Code of Practice will improve industry standards, promote best practice and public confidence. A Code of Practice will provide important information by describing suitable best practice standards. In 2013, Tasmania implemented its *Standards for Boxing and Combat Sport Contests* (June 2013) that is a regulatory model that compliments section 49B(1) of the *Police Offences Act 1935* (Tas).

Queensland – Government-Industry Partnership Approach

On 25 January 2014, the Hon. Steve Dickson, Minister for National Parks, Recreation, Sport and Racing (NPRSR) approved the Department to progress work on minimalist regulation and industry standards that are similar to the regulatory model that was implemented by Tasmania in June 2013.

The Minister considered the *Improving Standards of Practice for Fight Disciplines in Queensland* (Options Paper) that detailed four viable options: (1) Continuation of self-regulation in Queensland; (2) Relying on provisions under existing legislation governing workplace safety, compensation and liability; (3) Establishing stand-alone legislation and a fight discipline authority/board; and (4) a Government-Industry Partnership Approach (minimal regulations and a set of industry standards).

NPRSR's Industry Capacity and Events Unit are developing a government-industry model for a Code of Practice (the Code). The Code will provide the necessary best practice standards to encourage improved risk management and promote the health and safety of industry participants. The Code will address the lack of information available to government, industry and the community and provide contestants and the public with a greater level of information to manage any likely risks. The Code will be voluntary and will address the market failure problem of any incomplete information.

Queensland – Enforce the Criminal Code

Intervention by the Queensland Government, by way of the Queensland Police Service, is warranted when a person's behaviour infringes the criminal law, as set out in the Queensland Criminal Code. Public policy is that properly conducted combat sports are needed in the public interest. It is accepted that combat sports contests are legal except when they pose a risk to the health or safety of participants or when public standards of behaviours may constitute a breach of the peace.

Proposed amendment to *Police Powers and Responsibilities Act 2000*, Chapter 2 General enforcement powers, Part 6 Breaches of the peace, riots and prevention of offences:

52A Power of the Commissioner of Police to prevent offences in combat sport contests

1. Where the Commissioner of Police is of opinion that it is fitting –
 - a. for the health and safety of the participants in a combat sport contest; or
 - b. to prevent a breach of the peace or danger to a contestant or other person –so to do, with the consent of the Minister, enable a police officer to prohibit or otherwise regulate the holding of a combat sports contest.
2. A person holding or organising or managing a combat sport contest which, or any part or time of which, is held contrary to a prohibition in section 52A(1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 20 penalty units.

A combat sport contest includes, but is not limited to boxing, kickboxing, wrestling and martial arts.

Section 52A in the *Police Powers and Responsibilities Act 2000* could relate to the prevention of offences in the Criminal Code, which would most likely include 72 Affray and 74 Prize fight.

74 Prize fight – Criminal Code

74 in the Criminal Code enables a person who is a contestant, spectator or an aider or an abettor to a prize fight to be guilty of a misdemeanour and to be liable for one year's imprisonment.

The *Criminal Code Act 1899* (as at 1934, p.718) contained a note in relation to 74 Prize Fight that stated: *For the common law, see Halsbury's Laws of England (2nd ed.), Vol. 9, p. 313.* At p.313 of *Halsbury's Laws of England – Being a Complete Statement of the Whole Law of England* in Volume IX the text determined that prize fighting occurs within the context of an unlawful assembly:

481. Prize-fighting is illegal, and a meeting for the purpose of holding a prize-fight is an unlawful assembly, and all persons present for the purpose of encouraging the principals to fight may be convicted of the offence of taking part in an unlawful assembly or of an assault.

482. All persons who convene or who take part in the proceedings of an unlawful assembly are guilty of the offence of taking part in an unlawful assembly. Persons present by accident or from curiosity alone without taking any part in the proceedings are not guilty of that offence, even though such persons possess the power of stopping the assembly and fail to exercise such power.

These two entries in *Halsbury's Laws of England* (1933) clarify that an illegal fight, known as a prize fight, was and is intrinsically linked with that of an unlawful assembly. Therefore, a contestant, spectator or an aider or an abettor to a prize fight can be guilty of being in an unlawful assembly. The Criminal Code and Other Acts Amendment Bill 2008 relocated the offence of unlawful assembly from the Criminal Code (Qld) to section 10A in the *Summary Offences Act 2005* (Qld).

The Criminal Code (Qld) never has contained a definition of "prize fight". However, the definition and distinction between a prize fight and a boxing match was made in the common law.

Common Law – Defining an illegal prize fight versus a legal sparring exhibition

Bare knuckle fighting was often referred to as "prize fighting" whereas "sparring exhibitions" related to sport. In *R v Silvester* [1841] NSW SupC 15 (15 February 1841) Dowling, CJ of the Superior Courts of New South Wales ruled in a prize fight case in which one of the contestants had been killed. Later, in the case of *Pallante v Stadiums Pty Ltd Mclnerney*, Mclnerney J pointed out the common law approach that distinguished between self-regulated sports played within rules for participants and spectators and an unregulated prize fight with contestants and spectators that breach the peace.

In summing up the case of *Pallante v Stadiums Pty Ltd Mclnerney* J concluded that the common law authorities were inconclusive on what constituted a "prize fight" as opposed to what constituted a boxing (combat sport) contest. Hence, the determination of whether a match was an unlawful fight or a permitted boxing contest would ultimately be a question to be determined by a jury.

The case of *Pallante v Stadiums Pty Ltd* [1976] is a precedent case on the issue of consent and to what extent a contestant consents to being subjected to lawful assaults by an opponent. Of all the Australian jurisdictions to regulate combat sports, it is Tasmania that uses a minimalistic approach to regulate combat sport through provisions enforced by Police found in the *Police Offences Act 1935*. An opportunity exists in Queensland to amend the *Police Powers and Responsibilities Act 2000* to include a similar provision that relates to prevent fight-related offences under the Criminal Code.

From: GAPSA Stephen
Sent: Monday, 19 May 2014 10:00 AM
To: DEVENNY Paula; O'NEILL Jo
CC: LAWRENCE Deirdre
Subject: Draft SRS Regulatory Model for Combat Sports Industry in Queensland
Attachments: 140508 Enhancing the Self-Regulation of the Queensland Combat Sports Industry.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Paula and Jo,

Please find attached a draft regulatory model for SRS in relation to enhancing the self-regulation of combat sports in Queensland.

The proposed regulatory model consists of two parts:

- A Code of Practice (voluntary) – A Code of Practice that addresses the best practice elements for combat sports in Queensland; and
- Proposed amendment to the *Police Powers and Responsibilities Act 2000* – seeks to prevent the offences in the Criminal Code of Affray, Grievous bodily harm and Prize fighting.

Please consider and provide any feedback in relation to the draft. I am happy to discuss any elements in the draft paper.

Many thanks,

Stephen

Stephen Gapsa
Senior Policy Officer
Policy Research and Planning Branch
Sport and Recreation Services
Department of National Parks, Recreation, Sport and Racing

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A combat sport contest includes, but is not limited to boxing, kickboxing, wrestling and martial arts.

Section 52A in the *Police Powers and Responsibilities Act 2000* could relate to prevention of offences that include the Criminal Code's s.72 Affray, s.74 Prize fight and s.320 Grievous bodily harm.¹

¹ O'Reagan, R.S. (1992-1993) 'Consent to Assaults Under the Queensland Criminal Code', *University of Queensland Law Journal*, pp.287-291.

74 Prize fight – Criminal Code

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From: DOWNES Mandy [Mandy.Downes@nprsr.qld.gov.au]
Sent: Tuesday, 17 June 2014 12:14 PM
To: O'NEILL Jo
CC: HODGES Sharon; GAPSA Stephen; LAWRENCE Deirdre
Subject: FW: PRP input into the SRS BN on Combat Sports
Attachments: 140508 Enhancing the Self-Regulation of the Queensland Combat Sports Industry.docx

Jo.

A few paras to include in the brief you are preparing on Combat Sports.

Regards

Mandy

Mandy Downes | Director
Policy, Research and Planning |
Sport and Recreation Services |
Department of National Parks, Recreation, Sport and Racing

L8, [111 George Street, Brisbane Q 4000](#)
T: [07 3338 9212](tel:0733389212) § 4(6) Personal information
F: 07 3607 2276
E: mandy.downes@nprsr.qld.gov.au

From: GAPSA Stephen
Sent: Tuesday, 17 June 2014 11:55 AM
To: DOWNES Mandy
Subject: PRP input into the SRS BN on Combat Sports

Hi Mandy,

Deirdre has passed the following input.

Please let me know of any changes.

Many thanks,

Stephen

Hi Jo,

Further to our discussion, please find information for your consideration to incorporate into the Briefing Note on Combat Sports:

- On 25 January 2014, the Minister NPRSR approved the Department to progress work on a government-industry partnership approach (similar to Tasmania) that involves articulating minimum industry standards and enabling regulatory enforcement only where a public fight discipline contest is deemed to pose a danger to health or safety of

contestants or under public standards of behaviour.

- On 5 May 2014, the Minister NPRSR wrote to the Attorney-General and Minister for Justice and the Minister for Police, Fire and Emergency Services to seek their support to explore amendments to the *Criminal Code Act 1899* and the *Police Powers and Responsibilities Act 2000* (PPRA 2000) to provide a legislative basis for the introduction of minimal regulation for combat sport in Queensland.
- On 10 June 2014, officers of the Policy, Research and Planning Branch held a meeting with Senior Sergeant Chris O'Shea, Queensland Police Service (QPS), to discuss the regulatory model proposed in the paper *Enhancing the Self-Regulation of the Queensland Combat Sports Industry* (refer Attachment 1). The QPS was of the view that the legislative amendments to the PPRA would need the voluntary Code of Practice for Combat Sports to be published to enable the QPS to properly administer and to enforce the PPRA powers relating to the regulation combat sports. The Code of Practice would guide and inform QPS officers in the enforcement of health, safety and public standards of behaviour at public combat sport contests to prevent or minimise injury or death.
- The QPS is working on a formal response to the proposed regulatory model. The QPS advised that any legislative amendments to be made would preferably need to be made before December 2014.

Kind regards

Stephen Gapsa

Senior Policy Officer

Policy Research and Planning Branch

Sport and Recreation Services

Department of National Parks, Recreation, Sport and Racing

Level 8, 111 George Street, Brisbane Q 4000 | PO Box 15187, City East Q 4002

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RTI DL RELEASE - NPRSR

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When market failure arises from incomplete information to the community and industry a Code of Practice will improve industry standards, promote best practice and public confidence. A Code of Practice will provide important information by describing suitable best practice standards. In 2013, Tasmania implemented its *Standards for Boxing and Combat Sport Contests* (June 2013) that is a regulatory model that compliments section 49B(1) of the *Police Offences Act 1935* (Tas).

Queensland – Government-Industry Partnership Approach

On 25 January 2014, the Hon. Steve Dickson, Minister for National Parks, Recreation, Sport and Racing (NPRSR) approved the Department to progress work on minimalist regulation and industry standards that are similar to the regulatory model that was implemented by Tasmania in June 2013.

The Minister considered the *Improving Standards of Practice for Fight Disciplines in Queensland* (Options Paper) that detailed four viable options: (1) Continuation of self-regulation in Queensland; (2) Relying on provisions under existing legislation governing workplace safety, compensation and liability; (3) Establishing stand-alone legislation and a fight discipline authority/board; and (4) a Government-Industry Partnership Approach (minimal regulations and a set of industry standards). NPRSR's Industry Capacity and Events Unit are developing a government-industry model for a Code of Practice (the Code). The Code will provide the necessary best practice standards to encourage improved risk management and promote the health and safety of industry participants. The Code will address the lack of information available to government, industry and the community and provide contestants and the public with a greater level of information to manage any likely risks. The Code will be voluntary and will address the market failure problem of any incomplete information.

Queensland – Enforce Existing Provisions in the Criminal Code

Actions in combat sport, such as striking, kicking, hitting or punching are caught in the Criminal Code as criminal offences such as s.74 Affray; s.74 Prize fight and s.320 Grievous bodily harm. However, the law recognises these actions as lawful if individuals consent to a set of rules in a sport i.e. boxing.

Public policy is that properly conducted combat sports are needed in the public interest. In the common law it is accepted that combat sport contests are legal except when they pose a risk to the health or safety to participants or when public behaviour may constitute a breach of the peace.

The legislated public policy position is set out in the Criminal Code in Pt.2 'Offences against public order', Ch.9 'Breaches of the peace' that contains the offence of s.74 Affray and s.74 Prize fight. Also, in Pt.5 'Offences against the person and relating to marriage and parental rights and duties', Ch.29 'Offences endangering life or health' sets out the criminal offence of s.320 Grievous bodily harm.

Intervention by the Queensland Government, by way of the Queensland Police Service, is already warranted when a person's behaviour infringes criminal law offences, as set out in the Criminal Code. It is proposed however that legislative amendments are needed to clarify where combat sport behaviours become illegal (i.e. criminal acts), the penalties and police powers to prevent offences.

Importantly, the proposed self-regulatory approach will not mandate standards of practice or require the licensing of combat industry participants or events or recognition of industries bodies.

It is proposed that a provision be inserted in the *Police Powers and Responsibilities Act 2000* to confer powers on the Commissioner of Police to prevent, prohibit or stop combat sports contests.

Proposed amendment to Police Powers and Responsibilities Act 2000, Chapter 2 General enforcement powers, Part 6 Breaches of the peace, riots and prevention of offences:

52A Power of the Commissioner of Police to prevent offences in combat sport contests

1. Where the Commissioner of Police is of opinion that it is fitting –
 - a. for the health and safety of the participants in a combat sport contest; or
 - b. to prevent a breach of the peace or danger to a contestant or other person –so to do, with the consent of the Minister, enable a police officer to prohibit or otherwise regulate the holding of a combat sports contest.
2. A person holding or organising or managing a combat sport contest which, or any part or time of which, is held contrary to a prohibition in section 52A(1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 20 penalty units.

A combat sport contest includes, but is not limited to boxing, kickboxing, wrestling and martial arts.

Section 52A in the *Police Powers and Responsibilities Act 2000* could relate to prevention of offences that include the Criminal Code's s.72 Affray, s.74 Prize fight and s.320 Grievous bodily harm.¹

S.74 'Prize fight' – Criminal Code

S.74 in the Criminal Code enables a person who is a contestant, spectator or an aider or an abettor to a prize fight to be guilty of a misdemeanour and to be liable for one year's imprisonment. The *Criminal Code Act 1899* (as at 1934, p.718) contained a note in relation to s.74 'Prize fight' that stated: *For the common law, see Halsbury's Laws of England (2nd ed.), Vol. 9, p. 313.* At p.313 of *Halsbury's Laws of England – Being a Complete Statement of the Whole Law of England* in Volume IX stated categorically that prize fighting occurs in the context of an unlawful assembly. *Halsbury's Laws of England* (1933) clarified that the common law holds that an illegal fight, known as a prize fight, was and is intrinsically linked with that of an unlawful assembly. Therefore, a contestant, spectator or an aider or an abettor to a prize fight can be guilty of being in an unlawful assembly. Importantly, the Criminal Code has never contained a definition of "prize fight". However, the definition and distinction between a prize fight and a boxing match is made in the common law.

Common Law – Defining an illegal prize fight versus a legal sparring exhibition

Bare knuckle fighting was often referred to as "prize fighting" whereas "sparring exhibitions" related to playing a sport. In *Pallante v Stadiums Pty Ltd*, McInerney J stated the common law approach that distinguished between self-regulated sports played within rules for participants and spectators and an unregulated prize fight with contestants and spectators that were likely to breach the peace.

The case of *Pallante v Stadiums Pty Ltd* [1976] is a precedent case on the issue of consent and to what extent a contestant consents to being subjected to lawful assaults by an opponent. Of all the Australian jurisdictions to regulate combat sports, it is Tasmania that uses a minimalistic approach to regulate combat sport through provisions enforced by Police found in the *Police Offences Act 1935*.

An opportunity exists in Queensland to amend the *Police Powers and Responsibilities Act 2000* to include a similar provision that relate to prevent fight-related offences under the Criminal Code.

¹ O'Reagan, R.S. (1992-1993) 'Consent to Assaults Under the Queensland Criminal Code', *University of Queensland Law Journal*, pp.287-291.

From: WILLIS Don [Don.Willis@npsr.qld.gov.au]
Sent: Wednesday, 24 September 2014 10:41 AM
To: LAWRENCE Deirdre
Subject: Combat sports meeting with QPS 23 Sept 2014
Attachments: 140923 Meeting - SRS-NPRSR - QPS.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Deirdre

Here is a summary of the discussion we had yesterday with QPS on combat sports, for your comment/alteration. Once you are happy with it I will then onforward to other meeting attendees.

D

Don Willis | Principal Policy Officer
Policy, Research and Planning | Sport and Recreation Services |
Department of National Parks, Recreation, Sport and Racing
T: 07 3338 9224
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npsr-email-signature



RTI DL RELEASE - NPSR

Enhancing Self-Regulation of Combat Sport in Queensland

Meeting of Tuesday 23 September 2014 10:15am to 11:15am

Queensland Police Service Headquarters, Roma Street, Brisbane

QPS Attendees: Senior Sergeant Chris O'Shea, Senior Sergeant Andrea Reeves, Senior Sergeant Ian Carroll

NPRSR Attendees: Deirdre Lawrence (Manager, Policy and Governance), Sharon Hodges (Director, Industry Capacity and Events), Don Willis (Principal Policy Officer, Policy, Research and Planning)

Discussion was held regarding the proposal in the NPRSR information paper for an amendment to be made to the *Police Powers and Responsibilities Act 2000* (PPRA) to empower the Commissioner of Police along the lines as provided for under Tasmania's *Police Offences Act 1935* (s. 49B(1)).

QPS representatives indicated their view that such an amendment was not appropriate given that the primary purpose of the PPRA is to consolidate police powers rather than to detail offences.

QPS representatives also advised their view that such an amendment was not necessary given that the PPRA (s. 52) already contain sufficient powers to enable police to act in response to incidents that may arise at combat sports events. Their view is that it would be more appropriate for an amendment to be made to the "Prize Fighting" provision of the Criminal Code (s. 74), to update the current provision which has been in place since 1899 including its associated penalty, to reflect contemporary circumstances and so better enable its enforcement by police.

QPS representatives advised that police are rarely, if ever, called upon to enforce section 74 of the Criminal Code. They suggested that NPRSR could enquire from Department of Justice and Attorney-General (DJAG) about whether data/statistics exist on the number of occasions the provision has been utilised over recent years.

NPRSR representatives outlined the approach being taken with respect to the development of the voluntary code of practice for combat sports. It was pointed out that the code cannot be seen to be mandatory in any respect nor for it to act as a trigger for QPS to take enforcement action.

From: Richard Buchanan [<mailto:Richard.Buchanan@justice.qld.gov.au>]
Sent: Tuesday, 22 April 2014 10:35 AM
To: GAPSA Stephen
Cc: Rhett Moxham
Subject: RE: Request for advice on sporting injuries and workers compensation scheme (insurance) in Queensland

Hello Stephen

The situation in Queensland is essentially unchanged.

Schedule 2 of the *Workers' Compensation and Rehabilitation Act 2003* states that a person who performs work under a contract of service as a professional sportsperson is not a worker while the person is—

- (a) participating in a sporting or athletic activity as a contestant; or
- (b) training or preparing for participation in a sporting or athletic activity as a contestant; or
- (c) performing promotional activities offered to the person because of the person's standing as a sportsperson; or
- (d) engaging on any daily or other periodic journey in connection with the participation, training, preparation or performance.

There is an exemption for jockeys by special arrangement with Racing Queensland.

Note this relates to sportspeople working under a contract of service, ie. as an employee (eg. member of an NRL team). These people should enquire as to what private insurance their employer has in place.

Sportspeople who are self-employed (eg. prize fighters) are excluded from the workers' compensation scheme as are all self-employed people. This applies whether or not the sums earned are modest and the person maintains a day job. They should seek their own private insurance.

Amateur sports are not able to be covered by the workers' compensation scheme because there is no suggestion of consideration (money) or any sort of employment relationship. Participants should enquire as to what private insurance the organising entity has in place.

Workers' compensation insurance is solely provided by WorkCover Queensland. Suncorp has no role in workers' compensation insurance.

I hope this is of assistance.

Regards

Richard Buchanan
Principal Policy Officer
Workers' Compensation Policy and Legal Services
Office of Fair and Safe Work Queensland
Department of Justice and Attorney-General
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(07) 3247 4731
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RTI DL RELEASE - NPSR

From: GAPSA Stephen [<mailto:Stephen.Gapsa@npsr.qld.gov.au>]
Sent: Tuesday, 22 April 2014 9:11 AM
To: richard.buchanan@qld.gov.au

Subject: Request for advice on sporting injuries and workers compensation scheme (insurance) in Queensland

Hi Richard,

I am writing to request information on the Queensland Government position in relation to the workers compensation scheme (insurance) and sporting injuries.

Sport and Recreation Services (SRS), Department of National Parks, Recreation, Sport and Racing (NPRSR) are examining the issues relating to the regulation of boxing and combat sports in Queensland.

At present, Queensland does not have stand-alone legislation to regulate boxing and combat sports. Outside of the context of sport, such as fight disciplines, actions that involve striking, kicking, hitting, grappling, throwing or punching are caught as offences under the **Criminal Code Act 1899** (Qld), for example, sections **74** Prize fight; **246** Assaults Unlawful; **320** Grievous bodily harm; **323** Wounding and **335** Common Assaults.

The Australian Government's Department of Tourism and Recreation issued its **Report on the interdepartmental committee inquiry into boxing and other combat sports (1974, p.23)** stated:

Queensland

The State Government Insurance Office covers all workers' compensation cases. Injuries relating to amateur sports are not covered, not [nor] are professional combatants who are deemed to be self-employed. Personal accident policies only would apply.

I understand that Queensland's SGIO was corporatised into SUNCORP METWAY and then SUNCORP.

Request for Information

I would appreciate if you could clarify the contemporary Queensland Government position relating to sporting injuries and the workers compensation scheme (insurance). In what circumstances would sporting injuries be covered under Queensland's workers compensation scheme?

If you have any questions relating to my query please do not hesitate to contact me on (07) 3338 9224.

I look forward to your advice in relation to this matter at your own convenience.

Kind regards

Stephen

Stephen Gapsa

Senior Policy Officer

Policy Research and Planning Branch

Department of National Parks, Recreation, Sport and Racing

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RTI DELETED - NPSR