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E. Proposed Targeted Industry Consultation 2018 – 19
1. Summary of recommendations and proposed further consultation

Objects of the Act
Recommendation 1: That section 3 of the Combat Sports Act 2013 be amended to include an additional object of ‘to promote the development of the combat sports industry’.

Regulatory framework
Recommendation 2: That the Combat Sports Act 2013 be reviewed in five years in order to evaluate whether there is a need for a model under which sports bodies and organisations would be able to apply to the Authority to self-regulate, and whether such a model is viable.

Recommendation 3: That an Industry Advisory Committee (IAC) be established by the Authority under s 82 of the Combat Sports Act 2013, subject to the approval of the Minister, to provide ongoing target industry consultation.

Future Action: In consultation with the proposed IAC, the Authority will review the definition of ‘combat sport’ under the Combat Sports Act 2013 and the current exclusion provisions in the Regulation.

Recommendation 4: That the Combat Sports Act 2013 be amended to create an offence which applies to the failure by an approved amateur body to comply with a condition imposed by the Minister under s 8(4) of the Act.

Recommendation 5: That the offence created by Recommendation 4 above be included in the list of penalty notice offences contained in Schedule 2 of the Combat Sports Regulation 2014.

Future Action: The Authority will consult with the proposed IAC on the current and potential functions of an approved amateur body at amateur combat sport contests.

Future Action: The Authority will conduct further targeted consultation through the proposed IAC in order to establish the nature of payments or incentives that amateur combat sports athletes might receive, and the circumstances in which they are provided, in order to inform any amendment that may be required to the definition of ‘monetary prize or other valuable reward’ in the definition of a professional combat sport contest.

Future Action: The Authority will conduct further targeted consultation through the proposed IAC to determine under which circumstances, if any, a former professional combatant may compete in an amateur combat sport contest or whether a single combatant registration class should be created which would rely on matchmakers to ensure a suitably matched contest.

Recommendation 6: That the Combat Sports Act 2013 be amended:

- to clarify the meaning of s 5(1)(c), without using the term ‘professional combat sport contest’.
- so that a combat sport contest will not be a professional combat sport contest merely because a combatant has previously been registered to engage in, or has previously been a combatant in, professional combat sports contests for the style of combat sport
concerned, provided the combatant has subsequently been permitted by the Authority to register as an amateur.

**Registration**

Recommendation 7: That s 10(2) of the *Combat Sports Act 2013* be amended to state that the Authority **may** determine separate registration classes for the contests referred to in ss 10(2)(a) and (b) of the Act.

Recommendation 8: That the *Combat Sports Act 2013* be amended to enable the Authority to prescribe in the Regulation the eligibility requirements for each combatant, industry participant and promoter registration class including medical clearances, prescribed training (such as completion of the approved concussion/head injury training) and any other requirements determined by the Authority.

Future Action: That further targeted industry consultation be conducted through the proposed IAC and the Medical Advisory Committee (MAC) to determine if s 11(2)(c) of the *Combat Sports Act 2013 should* be amended to include an exception where the Authority already has a current certificate of fitness.

Recommendation 9: That s 13(5) of the *Combat Sports Act 2013 (NSW)* be deleted.

Future Action: The Authority will conduct targeted consultation with the proposed IAC in order to determine whether it is possible to consolidate certain industry participant and promoter registration classes.

Recommendation 10: That ss 22(2) and (3) of the *Combat Sports Act 2013* be amended to state that the Authority **may** determine separate registration classes for industry participants and promoters for the contests referred to in s 22(2)(a) and (b), and s 22(2)(a) and (b).

Future Action: That the Authority and the NSW Police Force review the security determination process to determine if the Act should be amended to reduce unnecessary, additional security determinations.

Future Action: The Authority will consider, in consultation with the proposed IAC, whether it should require persons applying for registration as a matchmaker to satisfy to the Authority that they hold appropriate skills and qualifications to undertake that activity, and whether the Authority should develop minimum matchmaking guidelines through the Authority Rules.

Future Action: The Authority will undertake further consultation with the proposed IAC in order to determine:

- which individuals should be entitled to an exemption from registration under cl 59-62 of the Regulation
- what evidence should be required to satisfy a claim for exemption
- whether there are ambiguous terms in cl 59-62 which should be clarified.

Future Action: The Authority will seek advice from the MAC on whether it would be appropriate to accept serological clearances and certificates of fitness issued outside of Australia, and under what circumstances.
Recommendation 11: That ss 13(1) and 25(1) of the Combat Sports Act 2013 be amended so that, in addition to existing criteria, the Authority must be satisfied that it would not be contrary to the public interest for the person to be registered.

Recommendation 12: That the Combat Sports Regulation 2014 be amended to create new offences of failing to comply with a condition of registration which applies to combatants, industry participants, and promoters.

Future Action: The Authority undertakes further industry consultation through the MAC and the proposed IAC to determine whether changes should be made to the manner and timeframe in which certificates of fitness should be produced to the Authority.

Recommendation 13: That s 14 of the Combat Sports Act 2013 be amended to clarify that conditions specified in the Regulation as conditions which must be imposed on the registration of a combatant under s 14(3) take effect automatically upon registration.

Recommendation 14: That s 27 of the Combat Sports Act 2013 be amended to clarify that conditions specified in the Regulation as conditions which must be imposed on the registration of an industry participant or promoter under s 27(2) take effect automatically upon registration.

Recommendation 15: That s 42 of the Combat Sports Act 2013 be amended to clarify that conditions specified in the Regulation as conditions which must be imposed on a permit to hold a combat sport contest under s 42(2) take effect automatically upon registration.

Recommendation 16: That the Combat Sports Act 2013 be amended to create renewal provisions for registrations of combatants, industry participants, and promoters.

Recommendation 17: That the renewal provisions enable the Authority to prescribe in the Regulation the ongoing eligibility requirements for each combatant registration class including medical clearances, prescribed training (such as approved refresher concussion/head injury training) and any other requirements determined by the Authority.

Recommendation 18: That Government allocate sufficient funds to replace the Ringside Online system with a more robust and functional information management system using the OneGov licensing platform.

Future Action: That subject to further legal advice, the Authority progresses the development of a revised registration system using the OneGov licensing platform which will enable registered promoters, managers, or matchmakers password based access to the following combatant information:

- Full name
- Registration number
- Gender
- Registration classes and status
- Serological clearance and certificate of fitness expiry dates
- Medical suspension and mandatory lay-off records
• Contest results.

Further Action: That targeted industry consultation take place through the proposed IAC and the MAC on the introduction of electronic medical record books.

Combat sport rules
Future Action: That the Authority Rules are reviewed to ensure they align to the objects of the Act, are not boxing centric and include definitions of key combat sport terminology such as “knockdown”.

Recommendation 19: That cl 23 of the Combat Sport Regulation 2013 (NSW) be amended to include a condition that the promoter of the contest must ensure that referees appointed to the contest and attending medical practitioners attend a pre-contest briefing with the CSI, in order to confirm rules that apply to the contest.

Combat sport contests
Recommendation 20: That s 41(2)(b) and s 62(3) of the Combat Sports Act 2013, and other relevant sections, be amended to insert the word ‘serious’ before each occurrence of the word ‘risk’.

Future Action: That further targeted consultation involving the NSW Police Force and the proposed IAC is conducted to review the timeframes required to lodge final fight cards and associated fight card processes.

Recommendation 21: That cl 23 of the Combat Sports Regulation 2014 be amended to include a condition that the promoter of the combat sport contest must submit to the Authority not less than five (5) days before the commencement of the contest an Injured Combatant Evacuation Plan in the manner and form approved by the Authority.

Recommendation 22: That cl 23 of the Combat Sports Regulation 2014 be amended to include a condition that the promoter of the combat sport contest must ensure that referees appointed to the contest and attending medical practitioners attend a pre-contest briefing with the CSI, and that the promoter communicates the information contained in the Injured Combatant Evacuation Plan.

Future Action: That the Authority conduct further targeted consultation through the MAC and the proposed IAC to review weigh-in requirements under the Act and in particular the implications of weight-cutting on a combatant’s health and safety.

Future Action: That further targeted industry consultation take place through the proposed IAC and the MAC on issues associated with the accreditation of medical practitioners.

Recommendation 23: That an Authority Rule is created as soon as practical to require promoters to ensure that, as a minimum, airway support, an oxy-viva mask and oxygen must be available at each combat sport contest in the contest area.

Future Action: That further targeted industry consultation take place through the proposed IAC and the MAC to determine the medical equipment that must be at combat sport contests.
Future Action: That further targeted industry consultation take place through the proposed IAC and the MAC to determine automatic timing requirements for combat sport contests that consider contests conducted in regional NSW.

Recommendation 24: That s. 57(1)(b) and s. 57(3)(b) of the Combat Sports Act 2013 be amended to state the medical practitioner must also record the particulars prescribed by the regulation in the combatant’s medical record book and the combatant’s approved pre and post-contest medical examination forms.

Recommendation 25: That s. 57(1)(e) and s. 57(3)(d) of the Combat Sports Act 2013 be amended to require the medical practitioner to specify in the combatant’s medical record book and the combatant’s approved pre-contest medical examination form if they require the combatant to submit to a specified medical examination before they engage in any combat sport contest or sparring before a specified date.

Recommendation 26: That s. 61(4) of the Combat Sports Act 2013 be amended so that a combatant must not engage in a combat sport contest or any sparring unless the combatant has complied with the direction or directions given by the Authority in the [directed medical examination] notice.

Recommendation 27: That cl. 33(2) and 34(2) of the Combat Sports Regulation 2014 be amended to also require the medical practitioner to record any medical suspension imposed on a combatant in the combatant’s approved pre and post-contest medical examination forms.

Recommendation 28: That cl. 36 of the Combat Sports Regulation 2014 be amended to require any medical suspension imposed on a combatant recorded in the combatant’s approved pre and post-contest medical examination forms to be recorded in the register of combatants.

Further Action: That concussion and head injury training for medical practitioners, referees and CSIs be developed to enable amendments to ss 63, 64 and 66 of the Combat Sports Act 2013 Act to increase the circumstances when a medical practitioner, referee and CSI are required to stop a combat sport contest.

Recommendation 29: That s 66(1) of the Combat Sports Act 2013 be amended to require a referee to stop a combat sport contest if a combatant’s trainer or second indicates that the contest should be stopped due to concerns about the health and safety of the combatant.

Recommendation 30: That the Combat Sports Act 2013 be amended to include a provision authorising a trainer or second to require a referee to stop a combat sport contest if a combatant’s trainer or second indicates, by a signal agreed with the referee before the contest, that the contest should be stopped due to concerns about the health and safety of the combatant.

Future Action: Targeted industry consultation to take place through the proposed IAC and the MAC on the Coroner’s proposals to suspend contests for medical examinations.
Future Action: That further targeted industry consultation take place through the proposed IAC and the MAC on:

- the accreditation of medical practitioners attending combat sport contests
- pre and post-contest medical examinations and certificates of fitness
- medical equipment requirements at contests
- weight cutting risks
- the introduction of base line concussion testing
- mandatory follow up medical examinations post contest.

Recommendation 31: That s 62 of the *Combat Sports Act 2013* be amended so that a person may be given a direction under s 62(3) without a direction first being given under ss 62(1) or (2) of the Act.

**Governance**

Recommendation 32: That s. 85 of the *Combat Sports Act 2013* be amended to also provide CSIs power to enter any premises at which a combat sport contest (or an activity ancillary to the holding of a combat sport contest) or sparring is being carried on, or a premises at a which the CSI reasonably believes such an activity is being carried on, at any reasonable time to:

a. determine whether there has been compliance with, or a contravention of the Act, Regulations or Authority Rules, and
b. generally administer the Act.

Recommendation 33: That ss 78(1)-(4) of the Combat Sports Act 2013 be amended to clarify that those provisions apply to a criminal intelligence report or other criminal information disclosed to the Combat Sports Authority pursuant to section 94(1) of the Act.

Recommendation 34: That s. 33(d) of the *Combat Sports Act 2013* be amended to replace the words “giving of a written caution” with “giving of a written warning” to remove confusion with cautions given under the *Fines Act 1996*.

Recommendation 35: That cl. 40 of the *Combat Sports Regulation 2014* be amended to remove the requirement that a direction given by a CSI must be given in accordance with the rules.

Recommendation 36: That cl. 44(1) and (2) of the *Combat Sports Regulation 2014* be amended to apply to persons working in a combatant’s corner at a professional combat sport contest and an amateur combat sport contest.

Recommendation 37: That s. 101(3) of the *Combat Sports Act 2013* be amended so that the term “accreditation” includes a person participating in combat sports as a promoter.

**Other issues**

Recommendation 38: That the *Combat Sports Act 2013* be amended to use gender inclusive terms such as ‘themselves’ rather than ‘himself or herself’.
Recommendation 39: That the *Combat Sports Regulation 2014* be amended to create a ‘processing component of a fee’ in relation to each registration and contest permit application fee, and require the application fee (other than so much of it as is the processing component of the fee) that is paid in connection with a registration or permit application that is withdrawn or refused to be refunded to the applicant.

Recommendation 40: That the NSW Government allocate additional funds and resources to the Office of Sport to:

- assist the Authority undertake further target industry consultation and implement outcomes of that consultation
- effectively regulate the combat sports industry and undertake the functions of the Authority delegated under the Act.
2. Background

2.1 Introduction

The *Combat Sports Act 2013* (the Act) regulates the conduct of amateur and professional combat sports and combat sport contests in NSW. It also establishes the Combat Sports Authority of NSW (the Authority).

Matters regulated by the Act include:

- the constitution, membership, and functions of the Authority
- the registration of combatants, industry participants and promoters
- disciplinary action against combatants, industry participants and promoters
- permit requirements for the holding combat sport contests
- the conduct of combat sports contests
- medical examination requirements of combatants
- the functions of approved amateur bodies
- prohibition orders which prevent an individual from participating in combat sports contests and sparring on health and safety grounds, as well as general prohibition orders which prevent individuals from participating in the combat sports industry
- enforcement powers.

The Act was developed in response to a review of the *Combat Sports Act 2008* which found that:

- emerging combat sports should be regulated until it can be demonstrated that they are sufficiently safe not to justify regulation
- existing health and safety arrangements for combatants were inadequate, particularly for amateur contests
- a more robust ‘fit and proper person’ test was required for those wishing to participate in the combat sports industry, particularly for roles that can influence the outcome of contests and the safety of combatants
- promoters should be accountable for the contests they arrange and hold.¹

Implementing the findings of that review, the Act replaced the *Combat Sports Act 2008* and strengthened the regulation of combat sports in NSW to better promote the health and safety of combatants and the integrity of combat sport contests, including extending the regulatory framework to amateur combat sports contests to which:

- the public are admitted for the payment of a fee;
- are held for a profit; or
- are held on licensed premises or casinos²

2.2 The policy objects of the Act

Section 3 of the Act states the objects of this Act are:

(a) to promote the health and safety of combat sport contestants
(b) to promote the integrity of combat sport contests
(c) to regulate combat sport contests on a harm minimisation basis.

2.3 Inquest into the death of David Browne

In May 2017, the Coroner’s Court of New South Wales (the Coroner) conducted an Inquest into the death David Browne (the Inquest). David Browne, a professional boxer, died on 15 September 2015 as a result of an injury he sustained during a professional boxing contest held on 11 September 2015. The medical evidence established that the cause of the fatal injury was the final blow he sustained during the contest, which knocked him down early in round 12.3

Sections 63, 64 and 66 of the Act include provisions that require the referee, combat sports inspector and the attending medical practitioner to stop a combat sports contest if, in their opinion, ‘a combatant is exhausted or injured to such an extent as to be unable to defend himself or herself or to continue the contest.’

Based on the evidence, the Inquest made the finding that, as a result of concussion and probably combined also with exhaustion, David Browne was, at the end of round 11 “injured... to such an extent as to be unable to defend himself... or to continue the contest.” The Inquest found that, therefore, under each of ss 63, 65 and 66 of the Act, if this had been recognised by the referee, the combat sport inspectors (CSI) or the attending medical practitioner such that they formed the requisite opinion, the contest should have been stopped.4

The Coroner recommended that consideration be given to a number of changes relevant to the sport of boxing in NSW including:

- development of a comprehensive set of rules to govern the conduct of all boxing contests in NSW
- strengthening the obligations on an attending medical practitioner to stop a combat sports contest
- development of relevant training for industry participants and attending medical practitioners, including on when a combatant should be medically examined, and the identification of serious head injuries including concussion
- increased guidance in the Combat Sports Rules regarding medical examinations of combatants during a combat sports contest.5

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3 Coroner’s Court of New South Wales, Findings in the Inquest into the death of David Browne, p 22.
4 Coroner’s Court of New South Wales, Findings in the Inquest into the death of David Browne, p 15.
5 Coroner’s Court of New South Wales, Findings in the Inquest into the death of David Browne, p 23-26.
2.4 Conduct of the Review

In March 2018, the Hon. Stuart Ayres MP, Minister for Sport, directed the Authority to bring forward a comprehensive review of the Act and as part of that review consider the recommendations made by the Coroner arising from the Inquest. The Minister requested that a timeline for the report be developed so that any amendments to the Act arising from the review were brought to Parliament by September 2018.

In April 2018, a Public Consultation Paper (the Consultation Paper) and an online survey (the Survey) consisting of the questions posed in the Consultation Paper were published on the website of the Authority. The consultation sought the views of the public, industry and other stakeholders on a range of issues relevant to the review of the Act, including the recommendations of the Coroner. The Consultation Paper is attached to this report as Attachment A. Public consultation concluded on 11 May 2018. The Authority received ten written submissions and 145 responses to the Survey.

In addition, an independent contractor was engaged to facilitate six public forums across NSW. These forums were attended by stakeholders including combatants, industry participants, promoters, medical practitioners and sporting organisations associated with combat sports which are exempt from regulation under the Act. Members of the Authority and/or representatives of the Office of Sport attended each forum. Two reports were prepared by the consultant summarising key issues raised at the forums and are attached to this report as Attachments B and C.

Section 82 of the Act provides that the Authority may appoint a committee to advise the Authority for the purposes of the Act. A Medical Advisory Committee (the MAC) was established under s 82 to advise the Authority on the recommendations of the Coroner arising from the Inquest and on aspects of this review that relate to a combatant’s health and safety. A summary of the MAC advice and the Authority’s response to that advice is attached to this report as Attachment D.

The Authority has identified through this review a number of areas in which the regulation of combat sports could be improved and the need to more effectively engage with the combat sports industry and other key stakeholders. In the Authority’s view, some of these issues may appropriately be addressed with immediate amendments to the Act, Regulation or the rules made under s 107 of the Act (the Authority Rules). Others, however, require further targeted industry consultation with the combat sports industry due to the nature of the issues and the profound effect the changes may have on the combat sports industry.

To address these issues and ensure the views of industry are fully considered, the Authority proposes to establish an Industry Advisory Committee (the IAC) under s. 82 of the Act. The Authority will invite representatives of each combat sport style (amateur and professional) and each registration class to participate in the proposed IAC which will meet regularly and on an ongoing basis.

The Authority has determined that sufficient, additional funds and resources must be allocated to the Office of Sport to:
• implement the amendments to the Act and the Combat Sports Regulation 2014 (the Regulation) proposed by this report
• assist the Authority undertake further target industry consultation and implement outcomes of that consultation
• effectively regulate the combat sports industry and undertake the functions of the Authority delegated under the Act.

This report focuses on issues that the Authority considers should be addressed as soon as is practicable and the key issues that require further targeted industry consultation before any amendments are made to the Act, Regulation or Authority Rules. A summary of the issues the Authority has identified requiring further targeted consultation is attached to this report as Attachment E. It is proposed that the Authority will report to the Minister for Sport on the outcomes of the targeted industry consultation, including recommendations for further amendments to the Act, in April 2019.

3. Review Issues and Recommendations

3.1 Objects of the Act
As outlined in section 2.2 of this report, the objects of the Act are:

(a) to promote the health and safety of combat sport contestants
(b) to promote the integrity of combat sport contests
(c) to regulate combat sport contests on a harm minimisation basis.

The Consultation Paper sought the views of the public and key stakeholders on whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing these objectives. Most participants at the public consultation forums and within the written submissions to the review expressed support for the current objectives.

Submissions to the review emphasised the value of combat sports and all forms of martial arts to the community of NSW. They noted that these activities have high community participation rates, are consistent with government health and fitness initiatives, and provide opportunities for social cohesion and support, with particular benefits for disadvantaged young people. In recognition of this feedback and the role of government in the development of sport generally, the Authority recommends that the object of the Act be amended to include “to promote the development of the combat sports industry.”

**Recommendation 1:** That section 3 of the *Combat Sports Act 2013* be amended to include an additional object of ‘to promote the development of the combat sports industry’.
3.2 Regulatory Framework

3.2.1 Combat sports

The objectives of the Act as stated in s 3 of the Act are to promote the health and safety of combat sport contestants, to promote the integrity of combat sport contests, and to regulate combat sport contests on a harm minimisation basis. In order to support these objectives, combat sports regulated under the Act are subject to numerous requirements including:

- Mechanisms relating to the health and safety of combatants
- Authority oversight of the registration of combatants, industry participants and promoters and how contests are conducted
- Security determinations made by the Commissioner of Police on applications for registration as a manager, matchmaker or promoter.

Regulatory oversight of combatant safety through medical records was introduced in 1980 with the *Professional Boxing Control Act 1980*. This was in response to concerns raised within the boxing industry around medical record cards. As stated by the Minister for Sport and Recreation in 1980:

> Boxers have been able to hold more than one card; they could easily obtain a replacement for a card allegedly lost. Often the replacement card would not contain details of an unsatisfactory medical examination. Thus an unfit boxer could enter the ring, his lack of condition being unknown to matchmakers or promoters.\(^6\)

Combatant health and safety requirements are discussed in greater detail later in this report, but key requirements are for combatants not to engage in a combat sport contest without a current serological clearance, or if they have been declared unfit by a medical practitioner.\(^7\)

The second key element (Authority oversight of the registration of combatants, industry participants and promoters), was introduced in 1986 with the *Boxing Authority Act 1986* in response to spectator dissatisfaction with decisions that did not appear to have been made on ‘the merits of the fight’, and suspicion generally among the public and the boxing industry of referees and judges appointed by promoters. The Boxing Authority was established to be responsible for the appointment and training of judges, as well as to perform other functions such as controlling titles and sanctioning title fights. Notably, these measures were favoured by the NSW boxing industry.\(^8\)

The final key element (security determinations by police), was introduced in 2013 in response to concerns about the involvement of organised criminal groups in combat sports, and is based on similar mechanisms used in the regulation of the security and tattoo parlour industries.

\(^6\) Mr Booth (Minister for Sport and Recreation), Debates, Legislative Assembly, Parliament of New South Wales, 16 October 1980, p 1765

\(^7\) *Combat Sports Act 2013* (NSW), ss 49, 50.

\(^8\) Mr Cleary, (Minister for Sport and Recreation), Debates, Legislative Assembly, Parliament of New South Wales, 12 March 1986, p 856.
In light of these mechanisms, the regulation of boxing, a martial art or similar sport under the Act is justified where:

- it includes a competitive element which involves significant risks of injury of a kind that warrants medical and serological clearances for combatants
- contests within the sport attract sufficient public interest both as a source of entertainment and as a subject of legal gambling, that there is a need to ensure integrity in the way contests are run, and in the appointment and regulation of industry participants
- there is a sufficient risk of involvement of organised criminal groups that the registration of certain industry participants should be subject to security determinations by NSW Police.

Under section 4 of the Act ‘combat sport’ means: any sport, martial art or activity in which the primary objective of each contestant in a contest, display or exhibition of that sport, art or activity is to strike, kick, hit, grapple with, throw or punch one or more other contestants, but does not include a sport, martial art or activity that is prescribed by the regulations.

This definition is broad and captures boxing and all martial arts styles, competitive or otherwise. As a consequence, the regulatory framework relies on exclusions under the Regulation to avoid over-reach.

There are two forms of exclusions under the Regulation. First, cl 5 of the Regulation excludes several categories of sports, martial arts, and activities based on the nature of the activity. In essence, cl 5 excludes:

- martial arts which involve only light contact or grappling, in a non-competitive context\(^9\)
- competitive martial arts in which the rules penalise the use of force which exceeds light contact or grappling\(^10\)
- competitive martial arts in which no contact is permitted to the head, and all other target zones are covered by protective equipment\(^11\)
- martial arts that involve only limited physical contact, in a predominantly artistic context\(^12\)
- professional wrestling\(^13\)

Second, cl 4 of the Regulation allows sports, martial arts, or activities which would otherwise be covered by the definition of ‘combat sport’ to be excluded from regulation, provided that they are conducted under the rules of, and are sanctioned by, an organisation which is listed in Schedule 1. The requirement for sanctioning organisations and rules is intended to ensure that only legitimate activities are excluded. Currently, organisations representing the

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\(^9\) Combat Sports Regulation 2014 (NSW), cl 5(1)(a) and (b).

\(^10\) Combat Sports Regulation 2014 (NSW), cl 5(1)(c).

\(^11\) Combat Sports Regulation 2014 (NSW), cl 5(1)(d).

\(^12\) Combat Sports Regulation 2014 (NSW), cl 5(1)(e).

\(^13\) Combat Sports Regulation 2014 (NSW), cl 5(1)(f).
following disciplines are listed in Schedule 1: Aikido, Brazilian Jiu-Jitsu, Fencing, Hapkido, Jousting, Judo, Ju-Jitsu, Karate, Kendo, Koshiki Karatedo, Kung Fu (Wu Shu), Paintball, Sumo, Taekwondo, and Wrestling.

In the Consultation Paper, the Authority noted that the list of excluded combat sports and associated organisations in Schedule 1 has not been reviewed since the commencement of the Act, and that there was no criteria or process by which combat sports may be added or removed from the Schedule. The Authority noted that greater clarity around the exclusion provisions may assist in their interpretation and better address risks of harm to combatants, and invited submissions on the following questions:

- Is the definition of combat sport right? If not, why not?
- Should currently excluded sports, martial arts and activities continue to be excluded from the Act or should they be regulated if they fit the definition of combat sport?
- Should any of the excluded, combat sports, martial arts or activities be partially regulated and if so in what way?

There was broad agreement from combatants, industry participants, and promoters who attended the public forums that combat sports organisations that demonstrate effective governance and health and safety arrangements could be excluded from regulation.\(^\text{14}\) However, a number of combatants stated to the review that they welcomed the independent regulation provided by the Authority.

In public forums and submissions to the review, some respondents noted the need to review which sports are regulated and which are excluded, as they perceived existing arrangements to be confusing and subjective. In particular, there were perceived inconsistencies in the level of risk of harm to combatants between some regulated and exempt sports. There was broad agreement during public forums that any combat sport involving ‘full contact to the head’ should be fully regulated in a way that is consistent with the objects of the Act, with attendees noting that some of the sports that are currently excluded by Schedule 1 of the Regulation involve the same level of risk as fully regulated combat sports.\(^\text{15}\)

In order to address such concerns, a number of participants at public forums proposed that the current arrangements for regulated and excluded combat sports be reviewed with support for a system under which:

- a ‘registration’ process would be introduced allowing amateur combat sports associations to apply to be excluded from full regulation, where they were able to demonstrate sufficient governance and health and safety standards to self-regulate
- sports organisations that are currently excluded by the Regulation would be regulated under the same system as any sports organisations that sought ‘registration’.


Participants noted that the ‘registration’ status of excluded sports organisations under such a model would need to be regularly audited to ensure that standards were maintained, with mechanisms for increased regulatory oversight where such audits revealed concerns about the health, safety, and integrity of sporting activities.\textsuperscript{16}

The Authority is not philosophically opposed to a move towards mechanisms that will permit the combat sport industry to work towards greater self-regulation upon demonstrating satisfactory health, safety, and governance processes. However, the Authority does not consider that the combat sports industry is currently capable of undertaking such a role and that the integrity of contests and safety of combatants must remain a priority.

Further, the Authority determined that any proposed self-regulation model would first need to be supported by effective administrative processes, appropriate compliance incentives and powers, and sufficient resources to administer the model. The Authority recommends that further consideration be given to the introduction of a self-regulation model for the combat sports industry in five years.

Recommendation 2 That the \textit{Combat Sports Act 2013} be reviewed in five years in order to evaluate whether there is a need for a model under which sports bodies and organisations would be able to apply to the Authority to self-regulate, and whether such a model is viable.

The definition of ‘combat sport’ in the Act is very broad and covers boxing and all martial arts, competitive or otherwise, unless excluded by the operation of cl 5 or Schedule 1 of the Regulation. Prior to 2013, the definition was very narrow, encompassing ‘any sport, martial art or activity in which the primary objective of each contestant in a contest, display or exhibition of that sport, art or activity is to strike, kick, hit, grapple with, throw or punch one or more other contestants…’, and which was prescribed in the regulations.

The Act and regulations prior to 2013 prescribed eight sports as ‘combat sports’. They included wrestling, which appears to have referred to professional wrestling and was subject only to minimal regulation, and jiu-jitsu, which would effectively have been unregulated due to the lack of an established professional sector. Excluding these, and several duplicative entries which prescribed different names for the same sport, the only fully regulated ‘combat sports’ prior to 2013 were boxing, kickboxing in all its styles, including Muay Thai, and Mixed Martial Arts, in their professional forms. These remain the principal combat sport styles for which the Authority currently registers combatants, industry participants and promoters.

The 2013 Act changed the definition so that rather than ‘combat sports’ being defined as sports which had certain characteristics and were prescribed by the Regulation, it became defined as a sport which displayed those characteristics and was not excluded by the Regulation. This reversal was intended to ensure that any emerging ‘combat sports’ would be regulated until such time that they were able to demonstrate that they were sufficiently safe

to not justify regulation.\textsuperscript{17} Whilst this policy is sound, the approach taken in its implementation has resulted in an extremely broad definition of ‘combat sport’.

It may be possible to resolve industry concerns and confusion by amending the definition of ‘combat sport’ so as to once again exclude martial arts and similar activities for which regulation under the Act cannot be justified, while retaining the ability to capture emerging combat sports (i.e. sports that should be regulated under the Act), without the need for legislative action. Commonalities between those sport styles that are currently subject to full regulation, such as full-contact strikes to the head with the hands or elbows, may be a useful starting point.

**Recommendation 3:** That an Industry Advisory Committee be established by the Authority under s 82 of the *Combat Sports Act 2013*, subject to the approval of the Minister, to provide ongoing target industry consultation.

**Future Action:** In consultation with the proposed IAC, the Authority will review the definition of ‘combat sport’ under the *Combat Sports Act 2013* and the current exclusion provisions in the Regulation.

### 3.2.2 Amateur combat sports

The introduction of the Act extended regulatory oversight to amateur combat sport contests, which had previously been subject to limited regulation. This was due to concerns that the health and safety protections for amateur combatants were inadequate. Factors contributing to these concerns included the number of domestic and international sanctioning bodies of amateur combat sports, with differing rules, resources, and significant disparities in their capacity to self-regulate, and uncertainty in some instances in determining whether an event was a professional or amateur contest and therefore subject to regulation under the Act.

While a similar degree of regulatory oversight now applies to professional and amateur contests, s 8 of the Act allows the Minister, upon application, to approve an organisation as an ‘approved amateur body’ (AAB). This is intended to afford high performing bodies a degree of self-regulation, with the Act and Regulation conferring upon them certain functions that would otherwise be performed by the Authority and CSI. For example, AABs may conduct matchmaking for amateur combat sport contest and appoint and oversee the performance of referees, judges and timekeepers officiating at such contests.\textsuperscript{18}

Currently, the Minister’s approval in relation to an AAB may be made subject to conditions under s 8(3). However, there is no mechanism by which any form of disciplinary action can be commenced against an AAB as existing provisions relating to disciplinary action do not apply to AABs. The Authority recommends that the Act be amended to create an offence which applies to an AAB which fails to comply with a condition imposed by the Minister under s 8(4),

\textsuperscript{17} The Hon G Upton, Minister for Sport and Recreation, *Debates*, Legislative Assembly, Parliament of New South Wales, 23 October 2013, p 58.

\textsuperscript{18} See for example, *Combat Sports Act 2013*, s 20(6).
with a corresponding entry in the list of penalty notice offences under Schedule 2 of the Regulation.

Clause 47 of the Regulation lists the functions of an AAB at amateur combat sport contests. The Authority has identified some confusion around these functions, and will seek advice from the proposed IAC on the current and potential functions of an AAB at amateur combat sport contests.

Recommendation 4: That the Combat Sports Act 2013 be amended to create an offence which applies to the failure by an approved amateur body to comply with a condition imposed by the Minister under s 8(4) of the Act.

Recommendation 5: That the offence created by Recommendation 4 above be included in the list of penalty notice offences contained in Schedule 2 of the Combat Sports Regulation 2014.

Future Action: The Authority will consult with the proposed IAC on the current and potential functions of an approved amateur body at amateur combat sport contests.

3.2.3 Professional combat sports

The Consultation Paper noted that some combatants registered as amateurs may receive a financial reward from approved amateur bodies, as an incentive for winning a prize such as an Olympic or Commonwealth Games medal, or to allow the combatant to dedicate themselves to the sport on a full time basis. A broad interpretation of ‘monetary prize or other valuable reward’ under s 5 of the Act could have the effect of rendering any contest that such a combatant participates in as a professional combat sport contest under the Act (and subject to professional contest requirements under the Act).

Concerns have been expressed to the Authority that the restrictions on a combatant being registered as an amateur combatant once they have been registered as a professional creates problems in certain sports. The current approach prevents for example, ‘masters’ combatants competing in amateur combat sport contests once their professional careers are over. It also prevents former professional combatants from interstate or overseas competing in amateur contests of the same style at events such as the Commonwealth or Olympic Games in NSW, a restriction not usually applied to non-combat sports.

The majority of respondents to the online survey considered the definition of ‘professional combat sport contest’ to be suitable. However, some agreed with the concern outlined in the Consultation Paper regarding potential difficulties around the provision of financial support to amateur athletes by the government and other sporting bodies. Some suggested that the definition of ‘professional combat sport contest’ should be changed to exclude financial rewards obtained in connection with preparation for, or participation in, combat sports at the Commonwealth and Olympic Games level.

Other respondents suggested that combatant registration classes and the definition of contests should be aligned to a combatant’s skill level rather than retaining the amateur and professional distinction. Most, however, did not support the ability of professional
combatants being allowed to compete in amateur contests after competing in a professional combat sport contest of that style. Additionally, some respondents argued that a person registered in any professional sport style (e.g. professional boxing) should not be allowed to register as an amateur combatant in another sport style (e.g. amateur kick boxing) which in their view increased the risk of mismatched fights.

However, some respondents, and representatives of Boxing Australia in particular, noted that under AIBA (International Boxing Association) rules, professional boxing combatants may return and compete in amateur contests under certain circumstances, and that the NSW legislation was significantly compromising amateur boxing in NSW. Other respondents suggested that a professional combatant should not be permitted to register as an amateur combatant until a significant period of time had elapsed after they ceased competing at a professional level.

Regarding the possible impact of the current definition of ‘professional combat sport contest’ on legitimate financial support or rewards provided to amateur athletes, the Authority does not consider that the intention of the legislation is to capture amateur athletes who are provided a stipend, scholarship, or similar payments by the government or sporting bodies so that they can dedicate themselves to full time training, or as an incentive for performing on the international stage at an elite level.

In principle, the Authority supports amendment to the legislation to clarify the definition of ‘monetary prize or other valuable reward’. However, in order to ensure that any amendments achieve their desired result, further consultation will need to take place in order to ascertain the nature of legitimate rewards, payments, and other incentives amateur athletes may currently receive.

The Authority recommends that targeted consultation take place through the proposed IAC in order to establish the nature of payments or incentives that amateur combat sports athletes might receive, and the circumstances in which they are provided. Following that consultation, the Authority will consider whether amendments to s 5 of the Act are required, and if so, how to ensure that any revised definition is not misused to circumvent regulation of professional combat sport contests.

**Future Action:** The Authority will conduct further targeted consultation through the proposed IAC in order to establish the nature of payments or incentives that amateur combat sports athletes might receive, and the circumstances in which they are provided, in order to inform any amendment that may be required to the definition of ‘monetary prize or other valuable reward’ in the definition of a professional combat sport contest.

**Future Action:** The Authority will conduct further targeted consultation through the proposed IAC to determine under which circumstances, if any, a former professional combatant may compete in an amateur combat sport contest or whether a single combatant registration class should be created which would rely on matchmakers to ensure a suitably matched contest.
While concerns expressed in relation to the definition of ‘professional combat sport contest’ during consultations were limited to the potential for amateur athletes who receive financial support from the government and sporting bodies to be captured by the definition, a review of the provision has revealed a further issue.

Section 5 of the Act states:

(1) In this Act:

**professional combat sport contest** means a combat sport contest:

(a) where at least one of the combatants is competing for a monetary prize or other valuable reward, or

(b) where at least one of the combatants is registered, or has been previously registered, in a registration class applicable to professional combat sport contests for the style of combat sport concerned, or

(c) where at least one of the combatants has previously been a combatant in a professional combat sport contest for the style of combat sport concerned.

This appears to have been adapted from s 3 of the *Combat Sports Act 2008* (NSW), which defines a professional combat sport contest as:

(a) a contest, display or exhibition of a combat sport between combatants for a monetary prize or other reward in money or money’s worth, or

(b) a contest, display or exhibition of a combat sport between persons otherwise than for a monetary prize or other reward in money or money’s worth, where:

(i) at least one of the combatants has at any time been a combatant in a contest, display or exhibition that is referred to in paragraph (a) (the earlier event), and

(ii) the combat sport involved in the earlier event was, at the time of the earlier event, within the definition of combat sport

Other than the addition in the 2013 Act of a subsection relating to a combatant’s current or previous registration status, there is one significant difference between the current and previous definitions of ‘professional combat sport contest’.

In the 2008 Act, a contest which is not being conducted for a monetary prize or other reward is still classified as a ‘professional combat sport contest’ if at least one of the combatants has *previously competed for a monetary prize or other reward*. In the 2013 Act, a contest which is not being conducted for a monetary prize or reward is classified as a ‘professional combat sport contest’ if at least one of the combatants has *previously been a combatant in a ‘professional combat sport contest’.*

While it can be inferred that s 5(1)(c) is intended to apply to contests involving a combatant who has previously competed in a contest falling under s 5(1)(a) and (b), it is unclear why the term ‘professional combat sport contest’ is used in such a way in s 5(1)(c), the purpose of
which is to define that very term. This circularity within s 5(1) creates problems which are more than merely theoretical, and the Authority has identified at least one person caught up in the interaction between s 5(1) and s 16 of the Act.

Except in limited circumstances, s 16 of the Act restricts a combatant who has been registered as a professional combatant in a style of combat sport, or who has engaged in a professional combat sports contest in that style, from subsequent registration as an amateur combatant in that style.19

Section 16 of the Act states:

**Effect of registration as professional**

(1) A person who is, or has been, registered as a combatant for a registration class applicable to a professional combat sport contest, or who has competed as a combatant in a professional combat sport contest, must not subsequently be registered for a registration class applicable to amateur combat sport contests for the same style of combat sport unless the Authority is satisfied that the person has not previously competed in a combat sport contest for that style of combat sport for a monetary prize or other valuable reward.

(2) On registration as an amateur combatant in any such case, any registration of the person for the registration class applicable to professional combat sport contests for the style of combat sport is cancelled.

Section 16 makes it clear that it is possible for a combatant who has competed in a ‘professional combat sport contest’ to become registered as an amateur, provided they can satisfy the Authority that they have never competed for a monetary or valuable reward. In such a case, any registration they currently hold as a professional will be cancelled.

In recognition of the fact that a combatant’s current or prior registration status is relevant to the definition of a ‘professional combat sport contest’ under s 5(1), s 5(2)(a) of the Act adds:

Despite subsection (1), a combat sport contest is not a professional combat sport contest merely because:

(a) a combatant has been previously registered to engage in professional combat sport contests for the style of combat sport concerned, if that registration of the combatant was cancelled under section 16 (2) [emphasis added]

While it does not appear that the interpretation of s 5(2)(a) has ever been tested, it appears too narrow to address the interactions between the full set of circumstances under which a ‘professional’ combatant can be registered as an amateur under s 16, and the circumstances in which a contest is deemed to be a ‘professional combat sport contest’. Its failure to address amateur combatants who have previously competed in a professional contest, and its focus

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19 For convenience, for the remainder of this section it will be assumed that all discussion of professional combatants, amateur combatants, and combat contests relate to the same style of combat sport.
on prior professional registration and its cancellation, may result in at least two possible consequences that do not appear to have been intended by the legislature.

The first is in the case of a hypothetical combatant who was registered as a professional, and competed in a ‘professional combat sport contest’, but is able to satisfy the Authority that they did not compete for a monetary prize or valuable reward, and gains registration as an amateur under s 16. As someone who has previously competed in a ‘professional combat sport contest’ under s 5(1)(b), any subsequent amateur combat sport contest they compete in is, by operation of s 5(1)(c), a ‘professional combat sport contest’.

The second is in the case of a hypothetical combatant who was registered as a professional, but allowed their registration to expire without competing in a ‘professional combat sport contest’, and gains registration as an amateur under s 16(1). As their professional registration has expired, it could be argued that there is no registration to be cancelled under s 16(2). On a strict reading of s 5(2)(a), any subsequent amateur contest that combatant participated in would also be a ‘professional combat sport contest’.

The end result of these two scenarios is that every subsequent amateur contest in which the two hypothetical combatants participate may be, on a strict reading of the Act, a ‘professional combat sport contest’. Due to operation of s 5(1)(c), the same will be true for their opponents, and any combatants their opponents go on to compete against in the future, despite none of the combatants concerned ever having competed for monetary reward. As a result, it is possible that there are an uncertain and ever growing number of amateur combatants in NSW who have unknowingly participated in ‘professional combat sport contests’ in contravention of s 9, an offence carrying a penalty of 50 penalty units, six months imprisonment, or both.

It is clear that this is not the intended result of the legislation, and it may be possible to interpret ss 5 and 16 in a way that does not give rise to this concern. Nor is there any suggestion that the Authority would pursue enforcement of s 9 of the Act against amateur combatants who had complied with all relevant regulatory requirements and were only in contravention of the Act due to a legislative error. However, the mere existence of this ambiguity illustrates the unnecessary complexity of the current legislation.

The Authority recommends that s 5(1)(c) be amended to clarify its meaning, and without the use of the term ‘professional combat sport contest.’ Further, the Act should be amended in such a fashion that the exclusion under the existing s 5(2)(a) applies to combatants in the style of combat sports concerned who have been permitted to register as amateur combatants under the existing s 16(1), rather than those whose professional registrations have been cancelled under the s 16(2). It should also apply to combatants who have previously competed in a professional combat sport contest and not just those who have previously been registered as a professional, as s 16(1) explicitly envisages that it will be possible for such combatants to be registered as amateurs in limited circumstances.

Recommendation 6: That the Combat Sports Act 2013 be amended:

• to clarify the meaning of s 5(1)(c), without using the term ‘professional combat sport contest’.
so that a combat sport contest will not be a professional combat sport contest merely because a combatant has previously been registered to engage in, or has previously been a combatant in, professional combat sports contests for the style of combat sport concerned, provided the combatant has subsequently been permitted by the Authority to register as an amateur.

3.3 Registration
3.3.1 Combatants
Section 9 of the Act states:

Requirement for registration

A person must not engage in a combat sport contest as a combatant unless the person is registered as a combatant of the registration class applicable to that contest.

Section 10(2) of the Act states that the Authority is to determine separate combatant registration classes for different styles of combat sport, and professional and amateur combatants. Combatants are currently registered in eight different classes, comprised of professional and amateur combatants in the following combat sport styles:

- Boxing in any of its styles
- Kickboxing in any of its styles, including Muay Thai
- Mixed Martial Arts in any of its styles
- Other martial arts

There is little difference in the application requirements between the eight classes, regardless of combat style or professional or amateur status. Applicants are subject to a basic ‘fit and proper person’ test, and must provide a current serological clearance issued within 12 months (under 18 years) or 6 months (over 18 years) of making the application and a certificate of fitness issued within 28 days of making the application. A simple exam must also be completed.

The consultation paper noted that the multiple registration classes imposed high administrative burdens on the regulation of combat sport in NSW and made registration onerous and confusing for combatants. During public forums, attendees noted that the requirement to register as a combatant in different sports styles did not seem to have any benefits, and was burdensome if a combatant wanted to add an additional sport style after their initial registration. Some also suggested creating a single combatant class and relying on matchmakers and sporting organisations to ensure contests were appropriately matched.

Despite the obvious efficiency benefits that may be gained by reducing the number of combatant registration classes, there may also be certain risks. The Authority does not require applicants for registration in combatant classes to demonstrate any proficiency in the combat sport style for which they are applying. However, the current separation of classes informally separates applicants having sufficient confidence in their proficiency in a combat sport style to seek registration in that class. Combining registration classes may result in some registered
combatants knowingly agreeing to participate in a contest being conducted in a combat sport style other than the style in which they are most confident, giving rise to an increased risk of injury.

The Authority is of the view that separate registration classes should only be necessary when a skill, qualification/training or level of competency is required to undertake the activity, or where separate classes are required to ensure the health and safety of combatants. Consequently, the Authority will refer the issue for further consultation through the proposed IAC (see Attachment E). The Authority will also seek advice on the creation of a composite registration that will more easily allow registered persons to add classes.

However, the Authority proposes an immediate amendment to s 10(2) such that it gives the Authority the discretion to determine separate registration classes, rather than imposing a requirement to do so. The Authority also proposes that the Act be amended to enable it to prescribe in the Regulation the eligibility requirements for each registration class including medical clearances, prescribed training (such as completion of the approved refresher concussion/head injury training) and any other requirements determined by the Authority.

Under s 11(2)(d), an application need not be accompanied by a current serological clearance if the Authority already holds a current serological clearance for the applicant. No equivalent exception applies to a certificates of fitness. Introducing such an exception would help streamline the application process for combatants who wish to add additional combat sport styles to their registration. However, the Authority has determined that such an amendment should not be made further targeted industry consultation is conducted through the proposed IAC and the MAC.

Recommendation 7: That s 10(2) of the Combat Sports Act 2013 be amended to state that the Authority may determine separate registration classes for the contests referred to in ss 10(2)(a) and (b) of the Act.

Recommendation 8: That the Combat Sports Act 2013 be amended to enable the Authority to prescribe in the Regulation the eligibility requirements for each combatant, industry participant and promoter registration class including medical clearances, prescribed training (such as completion of the approved concussion/head injury training) and any other requirements determined by the Authority.

Future Action: That further targeted industry consultation be conducted through the proposed IAC and the MAC to determine if s 11(2)(c) of the Combat Sports Act 2013 should be amended to include an exception where the Authority already has a current certificate of fitness.

Under s 13(5) of the Act, the Authority must not register a first time applicant as a professional combatant in a style of sport until 21 days after the application is made. The consultation paper noted that some have suggested that this ‘cooling-off period’ was an unnecessary barrier to the planning of combat sport contests, and the same view was expressed during public consultation. The Authority agrees that the provision serves no obvious policy purpose, and recommends that s 13 be amended accordingly.
Recommendation 9: That s 13(5) of the *Combat Sports Act 2013* (NSW) be deleted.

3.3.2 Industry participants and promoters
As is the case with combatants, Part 2, Division 3 of the Act requires industry participants and promoters to be registered, and s 22 of the Act requires the Authority to determine separate registration classes for each kind of industry participant and promoter, further separated by professional and amateur combat sport contests, and the style of combat sport concerned. The result is that the Authority currently administers 64 classes of industry participants and promoters.

The consultation paper noted that administering 64 registration classes of industry participants and promoters creates a regulatory burden which appears to create confusion and an unnecessary separation of roles. During public consultation, stakeholders noted that separate registration classes should be maintained for industry participants whose roles require expertise which is specific to that class. This includes classes such as referees who require a high level of knowledge of a given combat sport style, and may be required to enforce different rules depending on whether the contest is a professional or amateur contest. Other suggested that separate registration classes for trainers and seconds was unnecessary and that these classes could be combined into a ‘cornerperson’ registration class. Additionally, a single ‘promoter’ class could be created in relation to all combat sport styles, amateur or professional, as unlike activities such as refereeing or judging, an expert knowledge of a particular combat sport style may not be necessary to fulfil the function of a promoter.

As with combatant registration, the Authority will further consider possible consolidation of industry participant and promoter registration classes in consultation with the proposed IAC (see Attachment B), but recommends that s 22 be amended immediately so that it no longer imposes a requirement on the Authority to determine separate registration classes for industry participants and promoters.

**Future Action:** The Authority will conduct targeted consultation with the proposed IAC in order to determine whether it is possible to consolidate certain industry participant and promoter registration classes.

Recommendation 10: That ss 22(2) and (3) of the *Combat Sports Act 2013* be amended to state that the Authority may determine separate registration classes for industry participants and promoters for the contests referred to in s 22(2)(a) and (b), and s 22(2)(a) and (b).

3.3.3 Security determinations
Section 26 of the Act requires the Authority to refer all applications for registration in a registration class applicable to a matchmaker, manager or promoter to the Commissioner of Police for an investigation into either or both off the following:

(a) whether the applicant is a fit and proper person to be registered
(b) whether it would be contrary to the public interest for the person to be registered.
The security determination requirements under the Act were identified through the public consultation process as an issue causing concern due to the time taken to complete a determination and the need to be subjected to repeat determinations if an individual applies for an additional manager, matchmaker or promoter class. The Authority has determined that consultation with the NSW Police Force should be undertaken to determine if a security determination should be valid for a period of time or continue to be conducted each time a person adds a manager, matchmaker or promoter class.

**Future Action:** That the Authority and the NSW Police Force review the security determination process to determine if the Act should be amended to reduce unnecessary, additional security determinations.

### 3.3.4 Functions of matchmakers

The consultation paper noted that applicants for registration as a referee, judge and timekeeper class are required to provide relevant qualifications and a skills and endorsement document from an AAB or other acceptable sporting organisation. By contrast, there are limited eligibility criteria around required skills or qualifications for other industry participants. During public consultation forums participants suggested that matchmakers could be required to demonstrate prior to registration that they had the experience to match combatants in a fair and safe manner.

Responses to the online survey on the role of industry participants also focused on matchmakers, suggesting that the definitions of ‘industry participant’ under s 6 of the Act should be amended to specify that matchmakers are responsible for ensuring that contests are appropriately matched.

As part of the review on the possible consolidation of combatant and industry participant registration classes, the Authority will consult with the proposed IAC in order to determine whether greater responsibilities should be imposed on registered matchmakers to ensure combat sport contests are suitably matched. The Authority will also consider whether the Authority should develop minimum matchmaking guidelines through the Authority Rules.

Any proposed consolidation of industry participant classes may have flow-on effects for existing provisions. For example, the exemption from registration currently provided to AABs under section 39(5)(c) of the Act when acting as a matchmaker may be incompatible with a new structure of industry participant classes. During consultation with the proposed IAC the Authority will also seek advice on the implications of removing this exemption, and similar issues.

**Future Action:** The Authority will consider, in consultation with the proposed IAC, whether it should require persons applying for registration as a matchmaker to satisfy to the Authority that they hold appropriate skills and qualifications to undertake that activity, and whether the Authority should develop minimum matchmaking guidelines through the Authority Rules.
### 3.3.5 Exemptions from registration

Section 102 of the Act permits the Authority to exempt certain persons or classes of persons from the operation of the provisions of the Act. Under this section, the Regulation provides that combatants and industry participants who are not ordinarily resident in NSW are not required to be registered if they satisfy certain conditions. This may include producing evidence of registration with an interstate or overseas authority, or an approved national or international sporting organisation, and in the case of combatants, a current certificate of fitness and current serological clearance obtained within Australia.

The majority of respondents to the online survey considered the combatant exemption provisions to be appropriate, although some suggested that requirements around serological and medical fitness certificates should be made more flexible in their application to interstate and overseas combatants. For instance by accepting equivalent serological clearance certificates and certificates of fitness issued by overseas medical practitioners, provided that they were issued in countries with comparable medical standards to Australia. Others suggested that overseas documents should only be accepted from credible international regulatory and sanctioning bodies.

Some respondents suggested that all overseas and interstate combatants should be registered in NSW to overcome the potential for submission of fraudulent registration documents and to more easily record and monitor medical suspensions and contest outcomes. They acknowledged that this could result in additional costs to combatants who would need to be registered or licensed in multiple states.

The Authority will further consult with the MAC on whether it is appropriate to accept serological clearances and certificates of fitness issued outside of Australia.

While there was general support during public consultation for the existing exemptions from registration in NSW, the Authority has identified a number of areas in which cl 59 – 62 of the Regulation could be improved in order to provide greater clarity. For example, while combatants and industry participants from interstate or overseas may be exempt from registration in NSW if they are registered with an ‘approved sporting organisation’ or ‘international sporting organisation’, there is ambiguity around what is meant by these terms. Similarly, persons seeking exemption on such grounds must provide the Authority evidence of their registration with such bodies, but there is little guidance in the Regulation on the evidence that is required to satisfy a claim for exemption.

The Authority has determined that it will undertake further consultation with the proposed IAC to determine which persons not ordinarily resident in NSW should be entitled to claim an exemption, and the evidence required to satisfy their claim.

**Future Action:** The Authority will undertake further consultation with the proposed IAC in order to determine:

- which individuals should be entitled to an exemption from registration under cl 59-62 of the Regulation
- what evidence should be required to satisfy a claim for exemption
• whether there are ambiguous terms in cl 59-62 which should be clarified.

Future Action: The Authority will seek advice from the MAC on whether it would be appropriate to accept serological clearances and certificates of fitness issued outside of Australia, and under what circumstances.

3.3.6 Public interest test
Under s 26 of the Act, the Authority must refer applications for registration as matchmakers, managers or promoters to the Commissioner of Police for a determination as to whether the person is a fit and proper person to be registered and/or whether it would be contrary to the public interest for the person to be registered. In comparison, when the Authority makes a decision as to whether a combatant, industry participant, or promoter should be registered under ss 13 and 25 of the Act, it is not specifically open to the Authority to take into account public interest considerations. The Authority considers that it would be in the interest of the integrity of the combat sport industry for public interest considerations to be taken into account when it makes decisions relating to registrations.

Under ss 13(1)(e) and 25(1)(e) of the Act, the Regulation may prescribe any other matter of which the Authority need be satisfied for the purposes of those subsections, which would include public interest considerations. However, in order to maintain consistency with the security determination provisions under s 26 of the Act (and the current location of the ‘fit and proper person’ consideration which applies to the Authority’s registration decisions), the Authority recommends that ss 13 and 25 be amended to require the Authority to be satisfied that it would not be contrary to the public interest for an applicant to be registered, in addition to the existing criteria.

Recommendation 11: That ss 13(1) and 25(1) of the Combat Sports Act 2013 be amended so that, in addition to existing criteria, the Authority must be satisfied that it would not be contrary to the public interest for the person to be registered.

3.3.7 Conditions on registration
Under ss 14(3) and 27(2) of the Act, the Regulation may specify conditions that may or must be imposed by the Authority on the registration of a combatant (s 14) or industry participants or promoters (s 27). Conditions that must be imposed on these registrations are listed in cl 7 and 19, respectively.

There is currently no offence for failure to comply with a condition of registration. Any failures to comply are currently dealt with by way of a warning or disciplinary action which may result in a caution, suspension of registration, or cancellation of registration. Particularly for professional combatants, a suspension of registration can be a significant penalty, and under the existing scheme the Authority lacks an enforcement option which can be used in instances that call for a harsher measure than a caution but do not warrant the severity of a suspension. The Authority recommends that the Act be recommended to create an offence of failing to comply with a condition of registration for combatants, industry participants, and promoters.

Under cl 7(a) and (b) of the Regulation, registered combatants are required to undergo annual medical checks and provide an updated certificate of fitness to the Authority. In practice, it is
common for combatants not to provide updated certificates of fitness unless they intend to compete, resulting in disciplinary action and a suspension.

The Authority considers that the current provisions requiring registered combatants to undergo annual medical checks and provide an updated certificate of fitness could be moved to a new provision. This provision could also state that failure to meet those requirements will result in automatic suspension of the combatant’s registration until an updated certificate of fitness is provided to the Authority. This would remove the need to take disciplinary action against combatants who have chosen not to provide updated medical certificates on the grounds that they do not intend to compete in the near future. It would also avoid the proposed new offence provision from applying to such combatants. However, the Authority has determined that amendments to the Act to support this amendment should not be made until the MAC undertakes its review of the certificate of fitness procedures as outlined in Attachment E and the ramifications of that review on this issue is considered by the Authority.

Recommendation 12: That the Combat Sports Regulation 2014 be amended to create new offences of failing to comply with a condition of registration which applies to combatants, industry participants, and promoters.

Future Action: The Authority undertakes further industry consultation through the MAC and the proposed IAC to determine whether changes should be made to the manner and timeframe in which certificates of fitness should be produced to the Authority.

Under the Act, the conditions on registration discussed above for combatants apply similarly for conditions imposed on industry participants, and promoters. The Authority has received legal advice that in order to give effect to these ‘imposed’ conditions, the Authority must individually impose the conditions on each registered person and provide a copy of those conditions.

Similar requirements apply to permits issued for combat sport contests under s 42, where conditions which must be imposed by the Authority on a permit are listed in cl 23 of the Regulation. The Authority recommends that ss 14, 27, and 42 be amended to clarify that conditions specified in the Regulation which must be imposed by the Authority take effect automatically upon registration.

Recommendation 13: That s 14 of the Combat Sports Act 2013 be amended to clarify that conditions specified in the Regulation as conditions which must be imposed on the registration of a combatant under s 14(3) take effect automatically upon registration.

Recommendation 14: That s 27 of the Combat Sports Act 2013 be amended to clarify that conditions specified in the Regulation as conditions which must be imposed on the registration of an industry participant or promoter under s 27(2) take effect automatically upon registration.

Recommendation 15: That s 42 of the Combat Sports Act 2013 be amended to clarify that conditions specified in the Regulation as conditions which must be imposed on a permit to hold a combat sport contest under s 42(2) take effect automatically upon registration.
3.3.8 Renewal provisions

Under ss 15 and 28 of the Act, registrations of combatants, industry participants, and promoters expire after a period of three years. Currently, there are no renewal provisions in the Act, which requires registered persons to provide all necessary paperwork and pay the full application fee in order to re-apply after three years. This creates significant regulatory burden for the Authority and the industry. During public consultation, respondents suggested that renewal provisions should be included in the Act to streamline the re-application process. The Authority recommends that the Act be amended to insert renewal provisions for all registrations. The provisions should state that a renewal application may be made no earlier than six weeks before the registration expires and provide that registered persons may continue to carry on the activities authorised by their registration if a duly made application is made prior to the expiry date.

The renewal provisions should enable the Authority to determine renewal eligibility requirements for each registration class including medical clearances, prescribed training (such as approved refresher concussion/head injury training) and any other requirements determined by the Authority.

Recommendation 16: That the Combat Sports Act 2013 be amended to create renewal provisions for registrations of combatants, industry participants, and promoters.

Recommendation 17: That the renewal provisions enable the Authority to prescribe in the Regulation the ongoing eligibility requirements for each combatant registration class including medical clearances, prescribed training (such as approved refresher concussion/head injury training) and any other requirements determined by the Authority.

3.3.9 Ringside On-line

Submissions to the review outlined concerns and frustration with the Authority’s registration system Ringside Online. Many argued the system would not allow them to upload required documents and that the system was difficult to navigate. The Authority is aware of the limitations of the Ringside Online system. The Authority, through the Office of Sport, is currently working with the Department of Finance, Services & Industry to develop a revised combat sports information management system using the OneGov licensing platform.

The project will be progressed in three stages with a revised registration system introduced in 2018-19. It is proposed that this will be followed by a contest management system to enable on-line contest permit applications, access to a combatant’s registration status to prescribed persons, on-line fight card lodgement and the introduction of electronic medical record books. The development and implementation of the OneGov licensing platform solution (OneGov) will require the allocation of sufficient funds to meet the needs of industry.

Recommendation 18: That Government allocate sufficient funds to replace the Ringside Online system with a more robust and functional information management system using the OneGov licensing platform.
3.3.10 Register of combatants

Under cl 8 of the Regulation, the information on the register of combatants can be made available in prescribed circumstances. For instance, clause 8(b) permits a combatant’s name, gender and registration status to be made available to promoters, managers, or matchmakers.

Participants at the public consultation forums raised concerns that there is no public register of combatants to enable promoters, managers and matchmakers to check the registration status of combatants so that they may ensure combatants to be included in the final fight card are:

- registered for the style of sport to be contested
- have submitted to the Authority current serological certificates and certificates of fitness
- are appropriately matched by checking all contest results.

However, a number of participants, in particular combatants, raised concerns about being identified as a combatant in a public register. It was considered that making this information public may be a risk to their safety and compromise employment prospects.

The current limitations with access to combatant registration details has resulted in promoters sending large lists of combatant’s names to the Authority to confirm their registration status before submitting the final fight card for the contest, and matchmakers making decisions based on public contest information.

The Authority has determined that it does not support, at this time, amendments to the Act to enable the creation of a public register of combatants. However, it is proposed that an amendment to cl 8 be made in order to enable the provision of a wider range of information to prescribed registration classes through the OneGov licensing platform. However, this amendment should not be made until a secure access system has been developed with OneGov and further consideration given to any privacy or legal issues relating to the release of combatant medical information.

**Future Action:** That subject to further legal advice, the Authority progresses the development of a revised registration system using the OneGov licensing platform which will enable registered promoters, managers, or matchmakers password based access to the following combatant information:

- Full name
- Registration number
- Gender
- Registration classes and status
- Serological clearance and certificate of fitness expiry dates
- Medical suspension and mandatory lay-off records
- Contest results
3.3.11 Medical record books

Section 18 of the Act requires the Authority to issue each registered combatant with a medical record book in the form that the Authority thinks fit. Medical record books are currently in a printed form that includes the combatant’s photograph and details of each contest in which they compete including medical examination details and medical suspensions. Combatants must produce their medical record book to persons, including an attending medical practitioner, in circumstances prescribed in cl 13 and cl 35 of the Regulation.

Section 58(b) of the Act states that a promoter must not permit a combatant to engage in the contest unless the promoter is satisfied that the attending medical practitioner has sighted the medical record book of the combatant. Submissions made to the review raised concerns with the current requirement for combatants to be issued printed medical record books and take them to each weigh-in and contest. It was argued that printed medical record books are easily lost in a combat sport environment resulting in combat sport contests being delayed or cancelled due to the failure of a combatant to produce a medical record book, even when their records and medical clearances may be up to date.

The Authority has determined that a combatant’s medical records should be maintained and accessed electronically rather than through a printed book that is easily misplaced, lost or destroyed. The Authority has determined that it will seek advice from the proposed IAC, the MAC and the Office of Sport in relation to the introduction of electronic medical record books using the OneGov licensing platform. The Authority will also seek advice on legal and procedural issues associated with the storage and access of combatant’s medical records. Upon receipt of the advice, and development of an electronic medical record book, the Authority will make recommendations to the Minister for further legislative amendment.

**Further Action:** That targeted industry consultation take place through the proposed IAC and the MAC on the introduction of electronic medical record books.

3.4 Combat sport rules

The Authority does not develop or approve the comprehensive sport contest rules (the Sport Rules) used by each style of combat sport. This is the responsibility of the relevant sporting body. However, the Authority has made rules (the Authority Rules) pursuant to section 107 of the Combat Sports Act 2013 (the Act) in respect to combat sports in NSW. The Authority Rules are not a comprehensive set of sport contest rules and must be read in conjunction with the Act and the Regulation which address issues including:

- Mandatory medical suspension / lay off periods
- Mandatory protective equipment
- Circumstances when a contest must be stopped by a referee, medical practitioner or CSI
- Contest scoring requirements
- Ring and cage specifications
- Referee, judge and timekeeper roles and functions at professional contests
- Medical equipment requirements.
While combat sport contests are conducted in accordance with the relevant Sport Rules, the contest must not be conducted in a manner that contravenes an Authority Rule or any provision of the Act or the Regulation. The Inquest determined that there is confusion in the boxing industry about which rules apply to contests. As a consequence, the Coroner recommended [Coroner’s Recommendation 1(a)] that the review of the Act consider whether the combat sport legislative scheme should be amended to provide a comprehensive set of rules to govern the conduct of all boxing contests in NSW.

Most submissions to the review and feedback obtained during the public consultation forums did not support the Authority developing and/or approving a comprehensive set of rules for all boxing contests or any other style of combat sport. This was due to the perception that the Authority did not have the skills and knowledge to undertake the task and that there may be numerous sets of rules needed for each style of combat sport. Others argued there was no need for the Authority to become involved in the approval of sport rules as contests must be conducted in accordance with rules set by the relevant national or international sporting body.

However, some respondents to the review argued that the Authority should approve and communicate the entire set of rules for each sport style as they felt there was confusion in the industry about which rules apply to a contest. Some submissions stated that this would only be successful if the approval process involved experienced combat sport industry representatives.

It was generally agreed by individuals that attended the public forums that combat sport rules should be accessible through a single location such as the Authority website even if not approved by the Authority. It was also generally agreed that if the Authority continued to create overriding Authority Rules that they must be relevant to amateur and professional contests and each style of sport.

The Authority has determined that it is not appropriate that it become involved in the development and/or approval of all combat sport rules. The Authority determined it will continue to make Authority Rules that address the objects of the Act focusing on the health and safety of combatants and the integrity of combat sports.

The Authority has also determined that it will undertake a review of each Authority Rule and seek advice from the proposed IAC and the MAC to ensure they remain relevant to each style of combat sport. Subject to this review, the Authority Rules and relevant provisions of the Act and Regulation will:

- be placed on the Authority website
- be referenced in combat sport contest permits
- be communicated at the pre-contest briefing involving the promoter, medical practitioner and the CSI
- include concussion as a reason that a combatant is subject to a mandatory suspension / lay off period with specified return to competition requirements
- be included in the concussion and head injury training being developed by the Authority that will have to be completed by registered persons, applicants for registration and
medical practitioners seeking accreditation with the Authority prior to making an application and during the term of registration as deemed appropriate by the Authority [Coroner’s Recommendation 2(a)]

- specify there must be a clear pre-determined means (confirmed at the pre-contest briefing with the CSI) whether by bell, hammer, prescribed hand signal or another method, by which the medical practitioner or CSI can indicate the need to stop a contest, or suspend a contest for the purposes of a medical examination [Coroner’s Recommendation 3(a and b)]

- include a definition of a knockdown and other key combat sport terminology to provide clarity to industry [Coroner’s Recommendation 3(h)]

Future Action: That the Authority Rules are reviewed to ensure they align to the objects of the Act, are not boxing centric and include definitions of key combat sport terminology such as “knockdown”.

Recommendation 19: That cl 23 of the Combat Sport Regulation 2013 (NSW) be amended to include a condition that the promoter of the contest must ensure that referees appointed to the contest and attending medical practitioners attend a pre-contest briefing with the CSI, in order to confirm rules that apply to the contest.

3.5 Combat sport contests
3.5.1 Contest permits

3.5.1.1 Risks to public health or safety and property
Under s 41(2)(b) of the Act the Authority must refuse to grant a permit for a combat sport contest ‘if the Commissioner of Police has advised the Authority that there is a risk to public health or safety or a risk of substantial damage to property if the contest were held’.

The NSW Police Force has expressed concerns that the Act may be interpreted as requiring the Commissioner of Police to issue a notice to the Authority that a combat sport contest permit should not be issued when there is any risk to public health or safety or any risk of substantial damage to property if the contest were held. The NSW Police Force has requested that any provisions relating to the Commissioner of Police or the NSW Police Force undertaking a risk assessment be amended to specify that there must be a serious risk to public health or safety, or a serious risk of substantial damage to property.

Recommendation 20: That s 41(2)(b) and s 62(3) of the Combat Sports Act 2013, and other relevant sections, be amended to insert the word ‘serious’ before each occurrence of the word ‘risk’.

3.5.1.2 Lodgement of fight cards
Clause 23(a) of the Regulation imposes a condition on the holder of a combat sport contest permit that the promoter must finalise the names of the combatants and lodge the fight card with the Authority not less than 5 days before the day of the contest, or within any shorter period the Authority may approve. Clause 23(b) states that the promoter of the contest must ensure that only combatants that are included on the fight card, and approved by the Authority, engage in the contest.
Upon approval, the Authority forwards the lodged final fight card to the police station nearest the contest and the NSW Police Force undertake a final risk assessment of the contest. Section 45 of the Act authorises the Commissioner of Police, at any time before a combat sport contest is held, to revoke the permit if satisfied that if held there would be a risk to public health or safety, or of substantial damage to property.

Participants at the public forums raised concerns with the conditions imposed under cl 23(a) and (b) of the Regulation relating to the lodgement of fight cards no less than 5 days before a combat sport contest. They argued that it does not provide the industry flexibility to replace combatants that withdraw from a contest close to a fight or are removed as a result of police intervention. They suggested that final fight cards be submitted one or two days before the contest and for permission to replace combatants at the last minute subject to providing the authority a reasonable reason.

Participants at the public forums also raised concerns with inconsistent decisions made by the NSW Police Force in relation to the removal of combatants from approved fight cards. Some participants raised examples of combatants being removed from fight cards due to concerns raise by police in one region but that same combatant being allowed to compete shortly after in a different police region.

The Authority is to seek advice from the NSW Police Force and the proposed IAC to determine if conditions in relation to the lodgement of final fight cards may be amended to provide industry more flexibility while at the same time enabling the Authority to effectively regulate the contest including:

- enabling promoters to lodge final fight cards no later than two (2) business days before a contest.
- enabling promoters to request approval from the Authority to amend an approved fight card up to 24 hours before the commencement of a contest if a combatant is withdrawn due to concerns raised by the NSW Police Force or for medical reasons.
- requiring final fight cards to specify the names of each combatant in individual contests unless exempt by the Authority (e.g. amateur boxing contests in which individual bouts are yet to be determined).
- enabling the Authority to set minimum matchmaking guidelines for combat sport contests through advice provided by an proposed IAC.
- requiring the contest matchmaker to make a declaration when the final fight card is lodged that:
  - each contest on a fight card has been appropriately matched and meets the Authority’s guidelines to ensure the health and safety of combatants and the integrity of the contest, or
  - matches will be appropriately matched if exempted by the Authority (e.g. amateur boxing contests in which individual bouts are yet to be determined).
- requiring all combatants listed on a lodged final fight card to be appropriately registered combatants with current serological certificates and certificates of fitness, or an exempt person that has satisfied to the Authority they meet the relevant exemption provisions
which may allow overseas combatants to provide a current serological certificate at the pre-contest medical examination.

**Future Action:** That further targeted consultation involving the NSW Police Force and the proposed IAC is conducted to review the timeframes required to lodge final fight cards and associated fight card processes.

### 3.5.2 Evacuation Plan

The Coroner recommended [Coroner’s Recommendation 5] that promoters must submit to the Authority an Evacuation Plan for the contest venue prior to holding a boxing contest. The Coroner recommended that the plan must include:

I. the street address of the venue and the route by which paramedics can access the ring from the street with a stretcher and medical equipment and evacuate a patient safely;
II. the identity of the person who will call emergency services in the event of an injury;
III. the information about the patient which must be conveyed, including the state of consciousness, bleeding, breathing, and any apparent head injury;
IV. confirmation that the plan has been discussed with the attending medical practitioner prior to the contest; and
V. the location of the nearest hospital with neurosurgical facilities.

The Coroner’s recommendation included that the attending medical practitioner, the promoter and all industry participants present at the contest must inspect the route for the execution of the evacuation plan at the venue before the commencement of a boxing contest.

Public consultation included a wide range of views on the issue. Some supported the recommendation while others considered that the contest location is already required to have an evacuation plan. Others argued that the requirement to develop and submit an evacuation plan would require a level of expertise outside that of a promoter. Others argued a promoter has enough to do at the contest without also undertaking an evacuation rehearsal. Some argued that an Evacuation Plan is unnecessary.

The Authority considered advice provided by the MAC on this issue and formed a view that the Coroner’s recommendation was in relation to the evacuation of a combatant after suffering a serious injury. Consequently, the Authority determined that the promoter of a combat sport contest must be required to submit to the Authority an Injured Combatant Evacuation Plan in a manner and form approved by the Authority no later than five days before the scheduled commencement of the combat sport contest. This is to be achieved through the imposition of a condition on all combat sport contest permits.

The Authority also determined that the promoter should communicate the Evacuation Plan to the attending medical practitioner, contest referees, CSI and any other appropriate persons at the pre-contest briefing held by the CSI.

The Authority did not support the Coroner’s recommendation [Coroner’s Recommendation 5(b)] that the attending medical practitioner, promoter and all industry participants present at the contest must inspect the route for the execution of the evacuation plan at the venue
before the commencement of a boxing contest. The Authority determined that it would be impractical for each industry participant to inspect the evacuation route.

**Recommendation 21:** That cl 23 of the *Combat Sports Regulation 2014* be amended to include a condition that the promoter of the combat sport contest must submit to the Authority not less than 5 days before the commencement of the contest an Injured Combatant Evacuation Plan in the manner and form approved by the Authority.

**Recommendation 22:** That cl 23 of the *Combat Sports Regulation 2014* be amended to include a condition that the promoter of the combat sport contest must ensure that referees appointed to the contest and attending medical practitioners attend a pre-contest briefing with the CSI, and that the promoter communicates the information contained in the Injured Combatant Evacuation Plan.

### 3.5.3 Weigh-ins

The Act and Regulation sets out the manner in which combat sport contest weigh-ins must be conducted for professional and amateur combat sport contests. For professional contests a CSI is required to attend the weigh-in. The Regulations require all weigh-ins to occur within the 24 hour period before the commencement of the contest and combatants must weigh-in on the same set of scales. The legislation does not include any specific provisions relating to ‘weight cutting’.

In 2017 a female Muay Thai combatant in Western Australia died after cutting weight. The Western Australia Coroner’s Court is currently undertaking an inquest into the death. Many respondents raised concerns with current weigh-in processes and risks associated with ‘weight-cutting’. Respondents raised numerous options including introducing a requirement for ‘staggered’ weigh-ins conducted over a number of weeks/days, conducting weigh-ins close the start of the contest and introducing dehydration tests as part of the pre-contest medical examination.

There was no consensus on the issue and it was raised by some that ‘staggered’ weigh-ins would have a financial impact on the sport. Also, concerns were raised about the impact of ‘staggered’ weigh-ins on interstate and overseas combatants competing in NSW, and NSW combatants that compete interstate or overseas under different weigh-in standards.

The Authority has determined that there is a need to review weigh-in provisions in the Act and Regulation due to information obtained through the review of the Act and advice from the MAC. This will be conducted through the review of pre-and post-medical examinations as recommended by the MAC and will consider the effects of significant weight cutting currently being examined by the WA Coroner’s Court. It is proposed that as a minimum the Authority develop and communicate a “Weight-Cutting Risks” Fact Sheet. Further amendments to the Act and Regulation may arise from the review.

**Future Action:** That the Authority conduct further targeted consultation through the MAC and the proposed IAC to review weigh-in requirements under the Act and in particular the implications of weight-cutting on a combatant’s health and safety.
3.5.4 Accrediting Medical Practitioners

Division 3 and Division 4 of the Act prescribe the functions of medical practitioners attending combat sport contests. The provisions include undertaking pre and post-contest medical examinations on combatants, recording medical examination results and any medical suspension periods in the combatant’s medical record book, and directing referees to stop contests in circumstances prescribed in s 63 of the Act.

Medical practitioners that exercise functions under the Act at combat sport contests (attending medical practitioners) are directly engaged by the contest promoter. The MAC considered the Coroner’s Recommendation [Recommendation 2(a)] to investigate and implement mechanisms, including an accreditation process, which will best ensure that every relevant industry participant and attending medical practitioner complete training on

- the rules applicable to combat sports contests in New South Wales
- the roles of industry participants, attending medical practitioners and promoters in boxing contests
- when a contestant should be medically examined during a contest and when a contest should be stopped on account of the condition of the combatant
- the identification, significance and risks associated with serious head injuries including concussion.

The MAC recommended that medical practitioners that attend a combat sport contest must be accredited by the Authority and that accreditation be subject to the practitioner demonstrating to the Authority that they possess appropriate Advanced Life Support skills/qualifications and satisfactorily completing concussion/head injury training to be developed and approved by the Authority. The MAC also recommended that the details of accredited medical practitioners be placed on the Authority website to enable promoters to identify and engage accredited medical practitioners across NSW.

While the Authority determined that attending medical practitioners should be accredited by the Authority and continue to be engaged by promoters, amendments to the Act and Regulation to support the initiative cannot be made until the following issues are considered through further industry consultation involving the proposed IAC and the MAC.

- Development and implementation of concussion and head injury training that must be undertaken to become an accredited medical practitioner and a registered combatant, industry participant and promoter
- Confirmation that the skills and qualifications recommended by the MAC as a pre-requisite for accreditation as an attending medical practitioner are appropriate and viable for the combat sports industry
- The Category 1 and 2 Concussion / Head Injury Indicators developed by the MAC which, if observed, will require a referee, medical practitioner or CSI to stop a contest, or suspend a contest for the purpose of conducting a medical examination on a combatant, are reviewed by the proposed IAC
• The Authority develops with the assistance of the proposed IAC a strategy to ensure there are sufficient accredited medical practitioners to attend combat sport contests conducted in regional NSW.

The MAC also considered the Coroner’s recommendation as to whether a paramedic should also be required to attend a combat sport contest in addition to the attending medical practitioner [Coroner’s Recommendation 6]. The MAC considered that it was an issue that may require further consultation with the combat sports industry. The Authority determined that consideration of introducing a legislative requirement for a paramedic to also attend a contest should be considered at a later time. However, the Authority determined that it will encourage promoters to engage one or more paramedics to attend large combat sport contests to support the attending medical practitioner.

Future Action: That further targeted industry consultation take place through the proposed IAC and the MAC on issues associated with the accreditation of medical practitioners.

3.5.5 Medical Equipment
The promoter of a combat sport contest must ensure medical equipment listed in the Authority Rules are at each combat sport contest. The Authority Rules require limited medical equipment to be at the contest. The Authority also recommends attending medical practitioners to have a basic doctor’s bag kit, disposal gloves and gauze swabs, and that Oxyviva / oxygen be present at the contest.

The Coroner recommended [Coroner’s Recommendation 4] that as a minimum the following medical equipment be present at a combat sport contest:

• airway support
• an oxy-viva mask
• oxygen.

Submissions to the review generally were of the view that oxygen, airway equipment, a stretcher and a defibrillator should be at a contest. Many stated the required equipment should be a decision made by the medical practitioner while one person suggested the Authority should prescribe what equipment should be at a contest. Some respondents suggested an ambulance should always be present. Many respondents argued that the financial implications of requiring additional medical equipment must be considered.

Respondents were not in full agreement on who should be responsible for ensuring all required medical equipment is present at a contest. Respondents generally considered that the promoter should be responsible for the provision of oxygen and a stretcher but the attending medical practitioner for all medical equipment. Some suggested the Authority should provide some of the equipment.

The MAC considered and supported the Coroner’s recommendations. The MAC also identified a range of additional medical equipment that should be at all combat sport contests to ensure the health and safety of combatants (Attachment D). The Authority has determined that the Authority Rules should be amended as soon as practical to require the promoter of
a contest to ensure airway support, an oxy-viva mask and oxygen be at each contest in the contest area. However, the Authority is to undertake further industry consultation before mandating that the additional medical equipment recommended by the MAC be at all combat sport contests.

**Recommendation 23:** That an Authority Rule is created as soon as practical to require promoters to ensure that, as a minimum, airway support, an oxy-viva mask and oxygen must be available at each combat sport contest in the contest area.

**Future Action:** That further targeted industry consultation take place through the proposed IAC and the MAC to determine the medical equipment that must be at combat sport contests.

### 3.5.6 Automatic timing systems

The Coroner recommended that automatic timing systems are introduced for all boxing contests [Coroner’s Recommendation 7]. The Authority determined that the recommendation should be supported and apply to all combat sport styles but that further targeted industry consultation is required before amending the Regulation or Authority Rules to require a promoter to ensure that automatic timing systems are at all contests. The consultation is to determine if automatic timing systems are accessible to all promoters, particularly those in regional NSW and address the needs of each style of combat sports.

**Future Action:** That further targeted industry consultation take place through the proposed IAC and the MAC to determine automatic timing requirements for combat sport contests that consider contests conducted in regional NSW.

### 3.5.7 Pre and post-contest medical examinations

Attending medical practitioners must undertake pre and post-contest medical examinations on every combatant at a combat sport contest. Medical practitioners must record details of the examination result in the combatant’s medical record book.

Medical record books are retained by the combatant. Until electronic medical record books are introduced, and to enable the Authority to record results of the examination in the combatant register (including any medical suspension periods certified by the medical practitioner), the Act and Regulation must be amended to require medical practitioners to include medical examination results in the pre-and post-contest medical examination forms approved by the Authority. These forms are collected by CSIs and returned to the Authority for recording purposes.

**Recommendation 24:** That s. 57(1)(b) and s. 57(3)(b) of the *Combat Sports Act 2013* be amended to state the medical practitioner must also record the particulars prescribed by the regulation in the combatant’s medical record book and the combatant’s approved pre and post-contest medical examination forms.

**Recommendation 25:** That s. 57(1)(e) and s. 57(3)(d) of the *Combat Sports Act 2013* be amended to require the medical practitioner to specify in the combatant’s medical record book and the combatant’s approved pre-contest medical examination form if they require
the combatant to submit to a specified medical examination before they engage in any combat sport contest or sparring before a specified date.

Recommendation 26: That s. 61(4) of the *Combat Sports Act 2013* be amended so that a combatant must not engage in a combat sport contest or any sparring unless the combatant has complied with the direction or directions given by the Authority in the [directed medical examination] notice.

Recommendation 27: That cl. 33(2) and 34(2) of the *Combat Sports Regulation 2014* be amended to also require the medical practitioner to record any medical suspension imposed on a combatant in the combatant’s approved pre and post-contest medical examination forms.

Recommendation 28: That cl. 36 of the *Combat Sports Regulation 2014* be amended to require any medical suspension imposed on a combatant recorded in the combatant’s approved pre and post-contest medical examination forms to be recorded in the register of combatants.

3.5.8 Stopping contests

Section 63 of the Act state that the attending medical practitioner must direct the referee to stop a combat sport contest (where the referee has not already done so) if, in the opinion of the medical practitioner, a combatant is exhausted or injured to such an extent as to be unable to defend himself or herself or to continue the contest. Sections 64(a) and 66(a) impose the same duty on CSIs and referees.

A key recommendation of the Coroner was that consideration be given as to whether the obligations on an attending medical practitioner to stop a combat sports contest currently expressed in s. 63 of the *Combat Sports Act 2013* should be amended to better protect the health and safety of combat sport participants, in particular in circumstances where:

(i) in the opinion of the medical practitioner there is a serious impairment of the combatant/boxer’s ability to defend him or herself; or

(ii) there is a likelihood of serious injury to the combatant/boxer’s health if the contest were to continue; or

(iii) it is desirable to do so in the interests of the safety or welfare of the combatant.

While the Coroner proposed changes only to the medical practitioner’s duty to stop a contest, the Authority considers that consistency should be maintained to the extent that it is possible between the duties of medical practitioners, referees, and CSIs to stop a contest on combatant safety grounds. The changes proposed by the Coroner introduce further medical considerations such as the likelihood of serious injury, which should not be imposed on referees and CSIs without adequate training. The Coroner’s proposed changes may also introduce uncertainties for medical practitioners, referees, and CSIs, which must be addressed with training and guidance.
As noted in the Coroner’s findings, ‘Boxing is an inherently dangerous activity and it exposes contestants to a risk of serious injury’. Without appropriate training and guidance, a requirement that a contest be stopped based on the likelihood of serious injury, in a sport where such a likelihood exists to varying degrees in every moment of every contest, may create confusion for those with a duty to stop contests.

The Authority also notes that while a degree of subjectivity will always be involved in the decision to stop a contest, the first two considerations proposed by the Coroner, which relate to the combatant’s ability to defend himself or herself and the likelihood of serious injury, involve an appropriate degree of objectivity. The third consideration, however, which relates to the desirability of stopping a contest in the interests of the safety and welfare of a combatant, appears to be a largely subjective decision. In light of the risks that are acknowledged as being inherent to the sport boxing, this too may create confusion and prove difficult to apply without appropriate guidance.

The MAC has developed two categories of indicators of concussion and head injury which will be used to both develop education and training for industry participants, CSI and medical practitioners, and to inform decisions to stop contests or conduct medical examinations.

The Authority fully supports the intent of the Coroner’s recommendation, which is to better protect the health and safety of combatants. However, it has determined that amendments to the stoppage provisions in the Act should be not be made until adequate concussion and head injury training has been developed and approved by the Authority for medical practitioners, referees, and CSIs.

Further Action: That concussion and head injury training for medical practitioners, referees and CSIs be developed to enable amendments to ss 63, 64 and 66 of the Combat Sports Act 2013 Act to increase the circumstances when a medical practitioner, referee and CSI are required to stop a combat sport contest.

3.5.9 Direction by combatant’s trainer and second to stop a contest

As noted in the Coroner’s findings in the Inquest, by convention, a trainer can ‘throw in the towel’ to indicate their combatant cannot continue. Although no attempt was made by either corner to stop the contest in question, the Coroner noted that at the time of Mr Browne’s contest that the Authority Rules did not officially provide such a power to the trainer. This situation has since been resolved.

Under most boxing rules, a combatant’s corner does not have the authority to stop a fight by ‘throwing in the towel’. In such an event, the referee exercises their discretion to stop the fight, although it is a sufficiently observed convention to be considered an unspoken rule of combat sports.

The Authority considers that the views of seconds and trainers, as industry participants who are most familiar with their combatant, should carry weight in the event that they form the view that a contest should be stopped. The Authority recommends that the referee should be

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20 Findings in the Inquest into the death of David Browne, Coroner’s Court of New South Wales, p 1.
required to stop a contest when directed to do so by a combatant’s trainer or second. This position is in line with the recommendations of the Hon. Lynda Voltz MP in December 2017 that were included in the *Combat Sports Amendment (Referee’s Duty to Stop Contest) Bill 2017*.

Under s 66(2), a referee must stop a combat sport contest immediately after being directed under Part 3 to stop the contest by the attending medical practitioner or CSI who each have a duty under ss 63 and 64 to direct the referee that a contest should be stopped.

In the Authority’s view, it may not be appropriate to impose such a duty on a combatant’s trainer and second. As participants with a personal or professional interest in seeing their combatant win, it may be unreasonable to expect a combatant’s corner to form a view that a contest should be stopped with an objective mind. The Authority recommends that s 66(1) be amended to insert an additional circumstance in which a combat sport contest must be stopped, being where a combatant’s trainer or second has indicated by a signal agreed with the referee before the contest that the contest should be stopped due to concerns about the health and safety of the combatant.

**Recommendation 29:** That s 66(1) of the *Combat Sports Act 2013* be amended to require a referee to stop a combat sport contest if a combatant’s trainer or second indicates that the contest should be stopped due to concerns about the health and safety of the combatant.

**Recommendation 30:** That the *Combat Sports Act 2013* be amended to include a provision authorising a trainer or second to require a referee to stop a combat sport contest if a combatant’s trainer or second indicates, by a signal agreed with the referee before the contest, that the contest should be stopped due to concerns about the health and safety of the combatant.

### 3.5.10 Suspending a contest for the purpose of conducting a medical examination of a combatant

Recommendation 3 of the Coroner proposed a number of changes to the Combat Sports Rules, in order to facilitate medical examinations during contests. These recommendations were that:

(a) there be a clear pre-determined means, whether by bell, hammer, prescribed hand signal or another method, by which the attending medical practitioner can indicate the need for or desirability of a medical examination of a combatant during the contest;

(b) at the commencement of a combat sport contest the referee and the attending medical practitioner must confer to agree on a means by which the referee can indicate the need for or desirability of a medical examination of a combatant during the contest;

(c) the attending medical practitioner must examine a combatant during a combat sport contest on the occurrence of prescribed “trigger” events, which should include:

(i) knockdown caused by a blow to the head;

(ii) suspicion of concussion; or

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(iii) a direction to that effect by the Combat Sports Inspector or referee.

(d) an examination must include a medical assessment to ascertain whether or not the combatant is suffering from a concussion having regard to the “pocket concussion guide” or another applicable guidance document;

(e) the attending medical practitioner may examine the combatant at any other stage during a combat sport contest, including during a round and during the break between rounds including to carry out medical assessment to ascertain whether or not the combatant is suffering from a concussion having regard to the “pocket concussion guide” or another applicable concussion tool;

(f) the round must be stopped to enable an examination as referred to in (c) to (e) to take place during a round, and if necessary the time between rounds must be extended to enable such examination to take place;

(g) the referee must confer with the attending medical practitioner about the need for a medical examination following any round in which a combatant receives a significant number of heavy blows to the head or appears to be suffering from signs and symptoms consistent with a concussion;

(h) there be a clear definition of a knockdown; and

(i) the attending medical practitioners must position themselves to allow effective communication with referees and to ensure as far as reasonably practicable that they have an unobstructed view of the combatants.

In making these recommendations, the Deputy State Coroner noted that John McDougall, the President of the ANBF, had made a submission expressing concerns about knockdowns being used as a ‘trigger’ for a medical assessment. The Deputy State Coroner noted this concern, and anticipated ‘...that the ANBF’s views will be taken into account by the Minister, Office of Sport and CSA as part of the appropriate consultation with relevant sporting bodies.’

There was some support during public consultations for the introduction of a power allowing the referee, attending medical practitioner, or combat sports inspector to suspend a contest during a round in order to conduct a medical examination. However, there were also significant concerns raised around the proposal, particularly in relation to the use of a knockdown as a ‘trigger’ event for an examination.

During public consultation forums, participants noted the difficulty of introducing legislation or rules about suspending a contest, without significantly altering the nature of combat sport contests unless the suspensions were brief and did not unreasonably impact on the fairness of contests. Forum participants in general, including combatants, indicated that it would be appropriate for a medical practitioner to conduct a medical examination following any round in which a combatant received a significant number of heavy blows to the head or appeared

21 Findings of the Inquest into the death of David Browne, Coroner’s Court of New South Wales, p 26.
to be suffering from a concussion, but that this should be done between rounds so as not to alter the fairness of the contest.

Respondents to the online survey also raised significant concerns. Some noted that the impact on the sport of boxing would be significant, stating that suspending a contest would ‘ruin’ boxing or ‘be the end of professional boxing in New South Wales’. Others raised concerns that combatants may seek to manipulate the rule to their advantage by feigning injury in order to obtain time to recover. Others suggested that if there were sufficient concerns about a combatant’s health to justify a suspension for a medical examination, the contest should be stopped outright.

As with the recommendations regarding the circumstances in which a medical practitioner should stop a contest, the combatant health and safety concerns which underpin the Coroner’s recommendations have the full support of the Authority. However, as the public consultations have identified, there are a number of difficulties arising from a proposal to suspend a combat sport contest during a round for a medical examination, particularly in the terms proposed by the Coroner.

Suspensions also have the potential to change outcomes, not just for the contest but for the health and safety of combatants. Where an examination takes place due to a ‘trigger’ event, but the medical practitioner determines that the contest can continue, the time taken to conduct the examination may assist the combatant to recover. Not only could this have an impact on the outcome of the contest, but it may prolong a contest that was on the verge of a conclusion, exposing one or both combatants to further risks of injury. While on balance it can be assumed that medical examinations during a round will have a net positive effect on combatant health and safety, the possibility of adverse outcomes in individual cases is not merely theoretical.

There are also issues around the use of a knockdown as a ‘trigger’ event for an examination. In practice there can be considerable ambiguity in identifying a knockdown, which is commonly defined as where a punch causes any part of the combatant’s body other than the feet touch the canvas, and includes circumstances such as where a combatant would have fallen but is held up by the ropes. While there are often clear knockdowns, in other cases the referee must indicate to the judges scoring the contest whether there has been a knockdown, or merely a slip or fall. Given the speed at which such events occur, there is a high level of subjectivity involved in such a decision, and it may not be appropriate that a combatant who is showing no other signs of injury is required to be examined based on a subjective decision made by a referee.

Further, while the Coroner has made it clear that the proposed changes are relevant ‘to the sport of boxing in NSW’, the wording of the suggested changes around suspensions of contests are in broad terms, and refer to ‘combat sport contests’. Attempts to implement these changes in relation to other combat sports may have far greater consequences than in boxing. For example, in the sport of Mixed Martial Arts, a knockdown may result in the contest continuing on the ground, and the combatant who has been knocked down often remains competitive from that position.
To address concerns such as those outlined above, the MAC has developed specific indicators of concussion and head injury to guide medical practitioners and industry participants as to whether a contest should be stopped or suspended for the purposes of undertaken a medical examination. Suspending or stopping contests based on such objective, clearly identified signs may lessen concerns about the impact of adopting the Coroner’s recommendations on the industry, while providing greater certainty to attending medical practitioners and industry participants.

The indicators developed by the MAC incorporates two categories of concussion and head injury indicators, with Category 1 comprised of indicators that call for a contest to be immediately stopped, and the Category 2 indicators that identify the need to suspend the contest for a medical examination after which the contest may be stopped or recommence depending on the examination findings.

The Authority recommends that further targeted industry consultation take place through the proposed IAC and the MAC on the proposals of the Coroner to suspend contests for medical examinations. This consultation should take into account matters such as:

- Category 2 concussion/head injury signs developed by the MAC to guide when a referee, medical practitioner and combat sports inspector must suspend a contest for the purpose of a medical examination
- The impact on each style of combat sport of the proposals, in both an amateur and professional context
- The implications of the proposals on the combat sports industry in New South Wales.

**Future Action: Targeted industry consultation to take place through the proposed IAC and the MAC on the Coroner’s proposals to suspend contests for medical examinations.**

### 3.5.11 Other medical related issues

The MAC considered a range of other medical related issues relating to combat sport contests. These included the nature and extend of pre and post-contest medical examinations and certificates of fitness, the risks of significant pre-contest weight cutting, the introduction of Category 1 and 2 concussion/head injury signs requiring contests to be stopped or suspended, the introduction of base line concussion tests and the need for greater medical equipment at contests. The Authority considered the recommendations and determined that further targeted consultation is required before amendments to the Act, Regulation or Authority Rules are made due to the potential technical difficulties, training requirements, costs and impact on the conduct of combat sport in NSW. Consequently, the Authority will refer the issues for further consultation through the proposed IAC and the MAC (see Attachment E) to review the recommendations and provide advice in relation to:

- initial and annual certificate of fitness medical assessment criteria to ensure it addresses health risks relevant to combat sport.
- pre and post-medical examination forms and assessment criteria to determine whether:
  - they remain appropriate to assess the health and safety of a combatant
o the examination can be completed within the time available to the attending medical practitioner
o the pre-contest examination may be undertaken at the contest weigh-in
o mandatory medical suspension and lay-off periods for knockouts, technical knockouts and concussion are appropriate.
- combatant weight-cutting practices to determine if they are dangerous, the impact of dehydration on a combatant, and dehydration testing protocols.
- a requirement for combatants to undertake a base-line concussion test using SCAT 5 prior to registration and renewal, and that medical practitioners use the result to determine when a combatant is fit to engage in a contest after suffering a concussion and/or when subject to a mandatory medical suspension/lay-off period.
- the feasibility of developing an electronic system to record SCAT 5 results available to medical practitioners
- the acceptance of serological clearances and certificates of fitness issued outside Australia
- the feasibility of requiring combatants diagnosed as suffering a concussion to attend a medical practitioner within 24 hours of the contest and to be prohibited from sparring.

Future Action: That further targeted industry consultation take place through the proposed IAC and the MAC on:
- the accreditation of medical practitioners attending combat sport contests
- pre and post-contest medical examinations and certificates of fitness
- medical equipment requirements at contests
- weight cutting risks
- the introduction of base line concussion testing
- mandatory follow up medical examinations post contest.

3.5.12 Direction not to participate in a contest
Under s 62(1), the Authority or a CSI can direct a person not to hold a combat sport contest where, in their opinion, there is likely to be a contravention of the Act, Regulation, or rules if the contest is held.

Similarly, s 62(2) permits a police officer to direct a person not to hold a combat sport contest if satisfied that there is a risk to public health or safety or a risk of substantial damage to property if the contest is held.

Under s 62(3), a person who gives a direction under this section may also direct a person not to act as an industry participant in relation to the combat sport contest, or participate as a combatant in the contest.

The Authority understands that in some circumstances, a person to whom a direction not to hold a contest must be given, such as the promoter, may be difficult to locate. The Authority recommends that s 62 be amended so that a person may be given a direction under s 62(3) without a direction first being given under ss 62(1) or (2).
Recommendation 31: That s 62 of the Combat Sports Act 2013 be amended so that a person may be given a direction under s 62(3) without a direction first being given under ss 62(1) or (2) of the Act.

3.6 Governance

3.6.1 Functions of the Combat Sports Authority
Schedule 1 of the Act prescribes the constitution and procedure of the Authority. Members are appointed by the Minister for a term of four years and members may not be appointed for a total period that exceeds six years. There are currently six members of the Authority.

The functions of the Authority outlined in s. 81(1) of the Act are:

- in accordance with the Act and the regulations, to supervise and regulate professional and amateur combat sport in NSW
- to advise the Minister on matters related to combat sports and the Act
- to promote awareness of issues relating to combat sports.

The Authority has such other functions as are conferred or imposed on it by or under the Act or any other Act. The Authority may also do all such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise of its functions.

The Authority has considered the functions and constitution of the Authority outlined in the Act and does not consider that any amendments are currently required. The Authority intends to delegate further administrative functions to persons employed by the Office of Sport to minimise the number of administrative decisions that must be referred to the Authority.

3.6.2 Compliance and enforcement
The Authority may, with the approval of the Chief Executive of the Office of Sport, appoint a Public Service employee to be a CSI for the purposes of the Act. The Authority may also appoint a class of persons nominated in writing by an approved amateur body as a CSI for amateur combat sport contests. A member of the Authority is not permitted to be appointed as a CSI.

Section 85 of the Act outlines functions and enforcement powers conferred or imposed on CSI under the Act. They include:

- to monitor, and report to the Authority on, the compliance of combatants, promoters, industry participants and other persons with the requirements of this Act, the regulations, the rules and any registration or permit granted under this Act
- to attend, in accordance with this Act and the regulations, combat sport contests and weigh-ins for combat sport contests.

Under the Act a CSI may, not earlier than 24 hours before the scheduled start of a combat sport contest, enter premises used or proposed to be used, or that the inspector reasonably believes are used or proposed to be used, for the contest for the purpose of monitoring compliance with the conditions of a permit issued in respect of the contest.
A CSI may also enter premises for the purpose of attending a weigh-in for a combat sport contest. A CSI who enters premises under this section may:

- take photographs, film and audio, video and other recordings of any part of the premises used or to be used for a combat sport contest or weigh-in or that are set aside for the use of combatants, promoters or industry participants, and
- ask questions of the promoter, the combatants and any other industry participant or other person involved in the contest or weigh-in, and
- inspect, make copies of, or take extracts from, any records or documents relating to the contest or weigh-in.

The Authority has powers under the Act to request the provision of information in circumstances prescribed in s. 86 of the Act. The circumstances include:

- whether a person should be or continue to be registered under this Act
- whether a permit should be granted or revoked under this Act
- an application for approval of a body as an approved amateur body under this Act
- the investigation of whether a provision of this Act or the regulations or rules or a condition of a registration or permit or approval under this Act has been contravened
- whether a prohibition order should be made, revoked or varied.

The Authority has determined that it could be argued that the functions and powers of CSIs provided under s.85 of the Act are not be sufficient to ensure persons at the contest are generally complying with the Act. For instance, asking questions of a trainer in a combatant’s corner as to whether they are appropriately registered under the Act. It is recommended that the Act be amended to provide a CSI sufficient authority to enter premises to determine whether there has been compliance with, or a contravention of the Act, Regulations or Authority Rules, and to generally administer the Act.

Recommendation 32: That s. 85 of the Combat Sports Act 2013 be amended to also provide CSIs power to enter any premises at which a combat sport contest (or an activity ancillary to the holding of a combat sport contest) or sparring is being carried on, or a premises at which the CSI reasonably believes such an activity is being carried on, at any reasonable time to:

- determine whether there has been compliance with, or a contravention of the Act, Regulations or Authority Rules, and
- generally administer the Act.

Under section 94(1) of the Act, the Commissioner of Police may disclose to the Authority a criminal intelligence report or other criminal information about an applicant for registration as a combatant, industry participant or promoter, or about a registered combatant, industry participant or promoter. Section 94(2) of the Act provides that the information disclosed may be considered by the Authority in the making of decisions that are reviewable by the NSW Civil and Administrative Tribunal (NCAT).
Sections 78(1)-(4) protect criminal intelligence reports and other criminal information from disclosure in administrative review proceedings before the Tribunal. However, those sections only protect such information in the context of "a determination made" (being a reference to a determination made under section 26(2), 34(3) or 34(4)) or "advice given" (being a reference to advice given under section 41(2)(b)). The Commissioner has informed the Authority that amendments to the Act are required as a "disclosure" under section 94(1) does not involve the making of a determination or the giving of advice. The Commissioner has argued that protections in sections 78(1)-(4) should apply equally to criminal intelligence reports and other criminal information disclosed under section 94(1).

Recommendation 33: That ss 78(1)-(4) of the Combat Sports Act 2013 be amended to clarify that those provisions apply to a criminal intelligence report or other criminal information disclosed to the Combat Sports Authority pursuant to section 94(1) of the Act.

The review has identified a number of provisions of the Act requiring amendment to support the Authority’s Graduated Enforcement Framework.

Recommendation 34: That s. 33(d) of the Combat Sports Act 2013 be amended to replace the words “giving of a written caution” with “giving of a written warning” to remove confusion with cautions given under the Fines Act 1996.

Recommendation 35: That cl. 40 of the Combat Sports Regulation 2014 be amended to remove the requirement that a direction given by a CSI must be given in accordance with the rules.

Recommendation 36: That cl. 44(1) and (2) of the Combat Sports Regulation 2014 be amended to apply to persons working in a combatant’s corner at a professional combat sport contest and an amateur combat sport contest.

Recommendation 37: That s. 101(3) of the Combat Sports Act 2013 be amended so that the term “accreditation” includes a person participating in combat sports as a promoter.
3.7 Other issues
The Authority recognises that participation in the combat sports industry is not limited to one gender. The Authority considers that the Act should be amended throughout to use gender inclusive terms such as ‘themselves’ rather than ‘himself or herself’.

Recommendation 38: That the Combat Sports Act 2013 be amended to use gender inclusive terms such as ‘themselves’ rather than ‘himself or herself’.

Public consultation raised issues with the Authority refund of fee process which many people found unclear as to what, if any, fees are refundable upon an application being withdrawn by the applicant or refused by the Authority. To overcome this issue it is recommended that a processing component for each fee payable under the Act be developed and included in the schedule of fees prescribed in the Regulation. This amount would include all administrative costs incurred by the Authority in processing an application including NSW Police Force security determinations costs. The application fee (other than so much of it as is the processing component of the fee) that is paid in connection with a registration or permit application that is withdrawn or refused would be refunded to the applicant.

Recommendation 39: That the Combat Sports Regulation 2014 be amended to create a ‘processing component of a fee’ in relation to each registration and contest permit application fee, and require the application fee (other than so much of it as is the processing component of the fee) that is paid in connection with a registration or permit application that is withdrawn or refused to be refunded to the applicant.

The Authority has determined that sufficient, additional funds and resources must be allocated to the Office of Sport to implement the amendments to the Act and the Regulation proposed by this report. The funds and resources are also required to assist the Authority undertake further target industry consultation and implement outcomes of that consultation, and effectively regulate the combat sports industry and undertake the functions of the Authority delegated under the Act.

Recommendation 40: That the NSW Government allocate additional funds and resources to the Office of Sport to:

- assist the Authority undertake further target industry consultation and implement outcomes of that consultation
- effectively regulate the combat sports industry and undertake the functions of the Authority delegated under the Act.
Attachments

A. Public Consultation paper

B. Report on the Public Consultation Forums (ARTD Consultants)

C. Additional Stakeholder Forum Report (ARTD Consultants)

D. Summary of responses to the Coroner’s recommendations arising from the Inquest into the death of David Browne

E. Proposed Targeted Industry Consultation 2018 – 19