

PROFESSIONAL COMBAT SPORTS AMENDMENT BILL

Consideration in Detail

Resumed from an earlier stage of the sitting.

Debate was interrupted after clause 46 had been agreed to.

Clause 47: Section 48A inserted —

Mr T.K. WALDRON: I move —

Page 25, lines 1 to 8 — To delete the lines and substitute —

- (2) If after its inquiry the Commission is satisfied on the balance of probabilities that a contest is a sham contest, it —
 - (a) may order any person who is legally required to pay money or money's worth to a contestant for participating in the contest not to pay the contestant without the written consent of the Commission; and
 - (b) may order that an amount of money not more than the money or money's worth (if any) paid or payable to a contestant or industry participant who, in the opinion of the Commission, has participated in, or been involved in any capacity in conducting, the contest be paid to the Commission.

Clause 47 relates to sham contests and inquiries into them. This amendment is a new inclusion that covers provisions previously included in the offences area of the old legislation. The amendment clarifies the standard of proof that the commission will apply when determining whether a sham contest has taken place as a civil standard; in other words, on the balance of probabilities not beyond reasonable doubt. This provides clarity for both the industry and the commission when a sham contest inquiry is undertaken.

When the commission has determined a sham contest has taken place, this amendment allows the commission to order a person who is legally required to pay a contestant for participating in a contest not to pay that contestant without the written consent of the commission. This will make it easier for the commission to recover the forfeited amounts when a sham contest is found to have taken place and it will provide clarity and certainty to the industry.

When a contestant or industry participant has been found to have been involved in a sham contest, this amendment also allows the commission to order the contestant or industry participant to pay the commission an amount of money not more than the amount payable to them for their involvement in the contest. For example, if a contestant has been paid \$1 000 for participating in a contest and it is found to be a sham, the commission may order the contestant to pay \$1 000 to the commission. This amendment will act as a deterrent and it addresses some of the issues encountered during the Green–Briggs fight in ensuring that an amount of money is paid. In the Green–Briggs fight, nothing stipulated that that funding had to be paid; it was due only to agreement that we were allowed to withhold that money.

Mr R.H. COOK: I want to clarify with the minister, from the context of the provision, this amendment obviously relates specifically to the powers of the commission to withhold prize moneys. In a contest or indeed a professional prize fight, a range of moneys would be payable as a result of the competition, whether it be prize moneys, other fees payable and so forth. The minister has set out that the intent is to clarify the powers of the commission in withholding moneys. For instance, in the case of the Green–Briggs fight, would the commission have suspended only Paul Briggs' fees for that fight or would it suspend everyone's payments for that fight until it can determine who is culpable in that activity? Does this clause relate to other payments such as betting wages or other moneys owing to services or other industry participants involved?

Mr T.K. WALDRON: I am trying to clarify exactly what the member is after, but if the fight is found to be a sham, what both contestants have been paid for the fight is the maximum amount that they can be ordered to pay. Just to clarify, when the commission determines a sham contest has taken place, this amendment allows the commission to order a person who is legally required to pay a contestant for participating in a contest, not to pay that contestant without written consent. In the Green case, the contestant could have been paid out and the commission would have no ability —

Mr R.H. Cook: Then everyone would be chasing them.

Mr T.K. WALDRON: That is right. It was only in fairness that the Green camp allowed us to withhold that money. This proposed section ensures that we can withhold that money, but there is a limit on it relating to what

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the contestants are paid. If the contestants are paid \$100 000, the commission can withhold \$100 000. If the contestants are paid \$1 000, the commission can withhold \$1 000.

Amendment put and passed.

Mr T.K. WALDRON: I move —

Page 25, after line 11 — To insert —

- (4) A person given an order made under subsection (2)(a) must obey it.
Penalty: a fine of \$12 000.
- (5) If the Commission makes an order under subsection (2)(b), the Commission may recover the amount ordered to be paid to the Commission in a court of competent jurisdiction as a debt due to the Commission.

This amendment relates to when a person is given an order and must pay it and there is a penalty. This is a new inclusion that compels a person to obey a notice from the commission not to pay the contestant who has participated in a sham contest. That gives the guts to what I was saying.

Mr R.H. Cook: “Give the guts to”—is that a legal term?

Mr T.K. WALDRON: That is very much a jingled up legal term.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 48: Section 48 replaced —

Dr A.D. BUTI: I refer the minister to proposed section 49A on page 26 of the bill. Will the medical practitioner approved by the commission have to be independent of the boxer that they are examining—in other words, the medical practitioner cannot be the personal medical doctor of the boxer—and does the medical practitioner have to be independent of any parties to the contest?

Mr T.K. WALDRON: The way it works is that the doctor is nominated by the fight camp from an approved panel. If the commission has a concern with that doctor and any relationship that he may have, the commission can ask for another medical practitioner. That was a good question.

Clause put and passed.

Clauses 49 and 50 put and passed.

Clause 51: Section 51 amended —

Mr R.H. COOK: The intent of this amendment is to compel the officials or the medical examiners for a contest to provide a report to the commission as a matter of course about whether a contestant should have any suspension conditions and so forth added to their registration. In effect, rather than saying that a medical report needs to be provided to the commission if it is believed that there is a reason for the commission to reconsider a contestant’s registration, this amendment puts in the reverse mechanism, which is that there will be a report, and that report will provide a descriptor, I guess, about whether that should be considered. In the course of this debate I have had an opportunity to consider in some detail the implications of this amendment, which would essentially mean that of the hundreds, and possibly thousands, of bouts that take place across the state, we would have medical staff providing hundreds, and possibly thousands, of medical reports to the commission for it to consider in relation to this. From the debate, and from consultation with the member for Armadale, we are satisfied that there are mechanisms under which the medical condition of the contestants will be advised in the event that the officials believe there is a reason to go to the commission. Therefore, on that basis, I am going to withdraw my amendment.

Clause put and passed.

Clauses 52 to 59 put and passed.

Clause 60: Section 62 amended —

Mr T.K. WALDRON: I move —

Page 37, after line 14 — To insert —

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- (5) Without limiting subsection (1) regulations with a savings or transitional effect may be made to provide for the consequences of the operation of the amendments made to this Act by the *Professional Combat Sports Amendment Act 2009*.

This amendment will allow the government to make transitional regulations, should they be necessary, whilst the legislation is implemented. Although it is not envisaged that transitional provisions will be needed, we thought it was important to include this proposed subsection just in case. For example, it may be desirable to create a transitional regulation giving a state association an exemption from the amended legislation for a set period to allow it to meet the requirements of an ongoing exemption. So it might be desirable to create a regulation granting recognised state sporting associations an exemption for 12 months to allow the commission to initially focus on regulating the amateur contests that are run. It is there in case it is needed.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.