



New South Wales

# Sporting Venues (Offenders Banning Orders) Bill 2005

## Explanatory note

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

## Overview of Bill

The object of this Bill is to prevent violence and disorder at sporting events by enabling courts to ban persons from attending at or near specified sporting venues where they have been found guilty of certain offences involving violence or disorder at or in connection with certain sporting events.

## Outline of provisions

### Part 1 Preliminary

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

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

**Clause 3** defines certain words and expressions used in the proposed Act, in particular:

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- (a) **sporting event** is defined to mean a sporting event at a sporting venue at which a fee is charged, or for which membership of a club or association is required, for admission to the venue (or both), and
- (b) **sporting event offence** is defined to mean any of the following offences if the offence occurred at or in connection with a sporting event:
  - (i) an offence involving an act of actual or threatened violence,
  - (ii) the offences of riot and affray under the *Crimes Act 1900*,
  - (iii) the offence under section 20D of the *Anti-Discrimination Act 1977* of serious racial vilification,
  - (iv) the offence under section 11B of the *Summary Offences Act 1988* of having custody of an offensive implement in a public place or a school,
  - (v) any offence under the *Crimes Act 1900* relating to the malicious destruction or damage of property,
  - (vi) any offence of attempting, conspiring or inciting to commit, or aiding, abetting, counselling or procuring the commission of, an offence referred to in subparagraphs (i) to (v) above.

## Part 2 Banning orders

**Clause 4** provides that a court that finds a person guilty of a sporting event offence may, in addition to any other penalty that may be imposed for the offence, make a banning order in relation to the person. A court may make such a banning order only if it is satisfied that there are reasonable grounds to believe that making the order would help to prevent violence or disorder at or in connection with any sporting event.

**Clause 5** provides that a banning order may, according to its terms, prohibit the person who is the subject of the order from one or both of the following:

- (a) entering certain specified sporting venues for the purpose of attending a sporting event,
- (b) coming within the immediate vicinity of certain specified sporting venues.

**Clause 6** provides that a banning order has effect for the period specified in the order. However, the first banning order made in relation to a person must not be made to have effect for a period that exceeds 5 years and the second or any subsequent order made in relation to a person must not be made to have effect for a period that exceeds 10 years. If a banning order is made in addition to a sentence of imprisonment by way of full-time detention, the court may order that the banning order is to commence on the person's release from full-time detention.

**Clause 7** is a special provision that deals with appeals against banning orders imposed by the District Court. The proposed section provides that, despite section 3 of the *Criminal Appeal Act 1912* (which states that the Court of Criminal Appeal is generally to be constituted by three or more Supreme Court judges), where a person appeals to the Court of Criminal Appeal under that Act and the appeal relates solely

to the making or terms of a banning order (or both) made by the District Court, the Court of Criminal Appeal is to be constituted by a single judge of the Supreme Court for the purposes of hearing that appeal.

**Clause 8** provides for the revocation of banning orders. The proposed section provides that if a banning order has had effect for at least two-thirds of its specified duration, the person subject to the order may apply to the court by which it was made to revoke the banning order. Before revoking an order the court must have regard to the following:

- (a) the person's character,
- (b) the person's conduct since the banning order was made,
- (c) the nature of the offence or conduct which led to the making of the banning order,
- (d) any other circumstances which appear to the court to be relevant.

If an application to revoke a banning order is refused, no further application in respect of the order may be made within the period of 6 months beginning on the day of the refusal.

**Clause 9** provides that it is an offence for a person to contravene a banning order. The proposed offence carries a maximum penalty of 50 penalty units (currently \$5,500) or imprisonment for 6 months, or both.

### **Part 3 Miscellaneous**

**Clause 10** is a formal provision that gives effect to the savings, transitional and other provisions set out in Schedule 1.

**Clause 11** is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

**Clause 12** provides for the review of the proposed Act in 5 years.

### **Schedule 1 Savings, transitional and other provisions**

**Schedule 1** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

### **Schedule 2 Amendment of Acts**

**Schedule 2** makes consequential amendments to the *Crimes (Local Courts Appeal and Review) Act 2001* and the *Criminal Appeal Act 1912* to provide that a person who is made the subject of a banning order may:

- (a) in relation to an order made by a Local Court—appeal to the District Court, or
- (b) in relation to a banning order made by the Supreme Court—appeal to the Court of Criminal Appeal.