



ANNO VICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1978

No. 82 of 1978

An Act to provide for the appointment of the sheriff and sheriff's officers and to define their powers and duties; to amend the Supreme Court Act, 1935-1975; and for other purposes.

[Assented to 30th November, 1978]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. This Act may be cited as the "Sheriff's Act, 1978".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Repeal and
transitional
provision.

3. (1) Sections 84 to 105 (inclusive) of the Supreme Court Act, 1935-1975, and the heading immediately preceding those sections, are repealed.

(2) The Supreme Court Act, 1935-1975, as amended by this Act, may be cited as the "Supreme Court Act, 1935-1978".

(3) A person holding office immediately before the commencement of this Act as sheriff or a deputy sheriff under the provisions repealed by subsection (1) of this section shall be deemed to have been appointed, upon the commencement of this Act, as sheriff or a deputy sheriff under this Act.

(4) A person holding office immediately before the commencement of this Act as a sheriff's officer under a provision repealed by subsection (1) of this section shall be deemed to have been appointed upon the commencement of this Act as a sheriff's officer under the corresponding provisions of this Act.

Interpretation.

4. In this Act, unless the contrary intention appears—

"court" means—

(a) the Supreme Court;

(b) any local court;

or

(c) any district criminal court:

"judge", in relation to a local court of limited or special jurisdiction, includes a magistrate or justice.

5. (1) The Governor may, subject to the Public Service Act, 1967-1977, appoint— Appointment of a sheriff and sheriff's officers.

(a) a sheriff;

(b) one or more deputy sheriffs;

and

(c) such sheriff's officers as he thinks necessary to assist the sheriff in the performance of his duties under this Act.

(2) A person appointed under this Act shall hold office subject to the provisions of the Public Service Act, 1967-1977.

6. (1) The sheriff may, by instrument in writing, appoint any person to be a sheriff's officer— Appointment of officers by the sheriff.

(a) for the purpose of a particular proceeding;

or

(b) for any period specified in the instrument of his appointment.

(2) A sheriff's officer appointed under this section shall be entitled to such fees as may be prescribed.

7. (1) Where—

(a) the sheriff is unable, for any reason, to carry out any of his duties;

or

(b) it is for any other reason expedient to exercise the powers conferred by this subsection,

a court or a judge may appoint a fit and proper person to execute any process, or to carry out the duties of the sheriff in relation to any matter.

(2) Where—

(a) any process is directed against the sheriff;

or

(b) it is otherwise improper for the sheriff to execute any process,

the court or a judge may appoint any fit and proper person to execute that process.

(3) A person appointed pursuant to subsection (1) or subsection (2) of this section has, in relation to any matter within the scope of his appointment, the powers, duties and immunities of the sheriff.

8. The sheriff shall—

(a) execute or cause to be executed all process, civil or criminal, directed to him by a court; Duties of the sheriff.

(b) perform all other duties imposed upon him by statute or by rules of the Supreme Court, or rules made under the Local and District Criminal Courts Act, 1926-1976;

and

(c) shall observe and carry out any direction of a court.

Sheriff to attend at criminal sittings.

9. (1) The sheriff shall—

(a) attend personally;

or

(b) cause one of his officers to attend,

any criminal sittings of the Supreme Court or a district criminal court.

(2) The sheriff shall, at the request of a court—

(a) attend personally;

or

(b) cause one of his officers to attend,

any sittings of that court.

How arrested persons to be dealt with.

10. (1) Where the sheriff arrests any person, or causes any person to be arrested, in pursuance of any process, that person shall be brought as soon as reasonably practicable before the court out of which the process was issued.

(2) Where it is not reasonably practicable to bring a person arrested in pursuance of the process of a court before that court immediately, that person shall be kept in the meantime in safe custody.

Offences.

11. (1) Any person who hinders the sheriff, a deputy sheriff, a sheriff's officer, or a person assisting the sheriff, a deputy sheriff or a sheriff's officer, in the execution of his duty shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars or imprisonment for three months.

(2) The sheriff, a deputy sheriff or a sheriff's officer, may arrest any person who commits an offence under subsection (1) of this section.

(3) A person arrested under subsection (2) of this section shall be brought forthwith before a justice to be dealt with according to law.

(4) Any person who, having reasonable notice that he is required to assist the sheriff in arresting any person, or in preserving the peace, fails to do so without reasonable excuse, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Personal immunity of sheriff.

12. (1) Subject to this section, civil liability for any wrongful or negligent act or omission of the sheriff or a sheriff's officer in the course of carrying out duties assigned to him by or under this Act shall be determined in accordance with the law of torts.

(2) The sheriff or a sheriff's officer incurs no personal liability in tort for any act or omission in the course of carrying out those duties.

(3) Any action or claim to which the sheriff or a sheriff's officer would, but for subsection (2) of this section, be liable lies against the Crown.

Summary proceedings.

13. Proceedings for an offence against this Act shall be disposed of summarily.

Sheriff not disqualified from being justice of the peace.

14. The sheriff is not disqualified, by reason of his office, from appointment as a justice of the peace.

15. No licence or other authority is required under any Act by the sheriff, a deputy sheriff or a sheriff's officer for the purpose of selling real or personal property (by auction or otherwise) in pursuance of the process of a court.

No licence
required for
the purpose of
sheriff's sales.

16. The Governor may, by regulation—

Regulations.

- (a) regulate the performance of the duties of the sheriff;
 - (b) prescribe, and provide for the payment of, fees to the sheriff in respect of the execution of any process;
 - (c) provide for the settlement of disputes as to the amount payable in any case;
 - (d) provide for the giving of security for the payment of fees;
- and
- (e) prescribe conditions upon which property seized in execution may be withdrawn from sale.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor