



New South Wales

Sheriff Bill 2005

Explanatory note

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

Overview of Bill

The appointment and functions of the Sheriff are dealt with by the *Sheriff Act 1900* and a number of other Acts, by the *Charter of Justice* and by the common law.

The objects of this Bill are:

- (a) to repeal and re-enact, with modifications, the provisions of the *Sheriff Act 1900*, and
- (b) to abrogate such of the provisions of the *Charter of Justice* as deal with the appointment of the Sheriff and Sheriff's deputies.

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 (other than consequential amendments to be commenced later) on a day to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act. In particular, it defines *Sheriff* and *sheriff's officer* to mean the persons holding office as such under Chapter 2 of the *Public Sector Employment and Management Act 2002*.

Part 2 Sheriff's functions

Clause 4 provides that the Sheriff has, and may exercise, such functions as are conferred on the Sheriff by or under the proposed Act or any other Act or law. Functions are conferred on the Sheriff by various Acts in relation to the enforcement of civil judgments, the maintenance of court security, the preparation of jury rolls and the selection of juries.

Clause 5 provides for the delegation of the Sheriff's functions.

Clause 6 provides for the exercise of the Sheriff's functions by a Sheriff's alternate in relation to proceedings in which the Sheriff is a party or appears to have an interest.

Clause 7 requires the Sheriff and sheriff's officers to take an oath of office, or make an affirmation of office, before exercising the Sheriff's functions.

Part 3 Offences

Clause 8 prohibits a person from hindering or obstructing the Sheriff, or a sheriff's officer or other person, in the exercise of the Sheriff's functions. The maximum penalty for such an offence is to be 100 penalty units or imprisonment for 6 months, or both.

Clause 9 prohibits impersonation of a sheriff's officer. The maximum penalty for such an offence is to be 100 penalty units or imprisonment for 6 months, or both.

Clause 10 prohibits the unauthorised wearing of sheriff's officer uniforms. The clause parallels a similar prohibition under the *Police Act 1990* with respect to police uniforms. The maximum penalty for such an offence is to be 100 penalty units or imprisonment for 6 months, or both.

Clause 11 prohibits the use of the word "sheriff" in a person's or body's operating name except pursuant to a consent referred to in clause 12. The clause parallels a similar prohibition under the *Police Act 1990* with respect to the use of the word "police". The maximum penalty for such an offence is to be 100 penalty units.

Clause 12 establishes the procedure by which consent to the use of the word "sheriff" in an operating name may be granted or revoked by the Sheriff.

Clause 13 requires a person exercising Sheriff's functions to carry, and produce on demand, a certificate of identification. The maximum penalty for such an offence is to be 5 penalty units.

Part 4 Miscellaneous

Clause 14 exempts the Sheriff and sheriff's officers from the requirement for a licence under the *Commercial Agents and Private Inquiry Agents Act 1963* in relation to the service of court process.

Clause 15 excludes the Sheriff, the Sheriff's alternate, sheriff's officers and other persons acting under the direction of the Sheriff, the Sheriff's alternate or a sheriff's officer from personal liability for their acts and omissions while executing the proposed Act.

Clause 16 empowers the Governor to make regulations for the purposes of the proposed Act. A regulation will be able to create offences punishable by fines of up to 50 penalty units (\$5,500).

Clause 17 repeals the *Sheriff Act 1900* and gives effect to Schedule 1 (Amendment of other Acts) and Schedule 2 (Savings, transitional and other provisions).

Clause 18 abrogates the *Charter of Justice*, to the extent to which it makes provision with respect to the appointment of the Sheriff and Sheriff's deputies. Its operation in relation to the functions exercisable by the Sheriff will remain unaltered.

Clause 19 is a standard review clause requiring the Minister administering the proposed Act to cause a report on the operation of the Act to be tabled in Parliament at the end of 5 years after it is assented to.

Schedule 1 Amendment of other Acts

The Schedule contains consequential amendments to the proposed Act (**Schedule 1.4**) and to the *Associations Incorporation Act 1984* (**Schedule 1.1**), the *Jury Act 1977* (**Schedule 1.2**) and the *Ombudsman Act 1974* (**Schedule 1.3**).

Schedule 2 Savings, transitional and other provisions

The Schedule contains a number of provisions of a savings or transitional nature, including a provision that enables the regulations under the proposed Act to make further provisions of that nature.