

Act No. 16, 1900.

An Act to consolidate the enactments relating to
the office of Sheriff. [22nd September, 1900.]

SHERIFF.
—

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

1. This Act may be cited as the "Sheriff Act, 1900," and is divided into Parts as follows:—

Short title and
division.

PART I.—*Preliminary.*—ss. 1, 2.

PART II.—*The Sheriff.*—ss. 3-9.

PART III.—*Special bailiffs.*—ss. 10-12.

PART IV.—*District sheriffs.*—ss. 13-17.

2. (1) The Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed.

Repeal and savings.

(2) Every person appointed under any enactment hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

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(3) Every bond and recognisance entered into under any enactment hereby repealed and in force at the time of the passing of this Act shall be deemed to have been entered into hereunder.

(4) Every scale of fees fixed under any enactment hereby repealed and in force at the time of the passing of this Act shall be deemed to have been fixed hereunder.

PART II.

The sheriff.

Tenure of office.
7 Vic. No. 13, s. 1.
Bond by sheriff for
due execution of his
office.
Ibid. s. 5.

3. The office of sheriff shall be holden during pleasure.

4. The sheriff shall from time to time procure and give such security by bond or recognisance to Her Majesty, by himself and such sureties and in such reasonable sum or sums respectively as Her Majesty may require, conditional for the collection and for the payment over by him to the Colonial Treasurer of all moneys which shall come to his hands by virtue of his office of sheriff and which should be paid over to the said Treasurer.

Enforcement of
bond.
Ibid.

5. In case of non-payment, Her Majesty may put the said bond or recognisance in suit and enforce the same by extent as in any ordinary case of debt by recognisance due to the Crown.

Limitation of
liability of surety.
Ibid.

6. (1) No surety for the sheriff shall be liable beyond the separate amount in which he has become bound for himself.

(2) Every such surety may withdraw from any liability for the future under any such bond or recognisance by giving to the Attorney-General three months' notice in writing of his intended withdrawal, without prejudice nevertheless to any previous breach of the condition of such bond or recognisance.

Monthly return of
fines.
Ibid. s. 6.

7. (1) On the first Monday in every month a return shall be made by the sheriff to the Governor of all fines which during the preceding month the sheriff has been ordered by the Judges of the Supreme Court to collect, or which it may otherwise be his duty to collect.

(2) Such return shall show—

- (a) whether such fines have been collected or not, and
- (b) the whole amount which at the time of making the return remains due to the sheriff on account of fines, with the name of the party or parties from whom such amount is owing.

Sheriff or his deputy
to attend Courts.
11 Vic. No. 20, s. 37.

8. The sheriff shall by himself or his deputy be in attendance upon the Supreme Court, Circuit Courts, and Courts of Quarter Sessions during every sitting of the said Courts; and in every case of non-attendance upon any of the said Courts shall be liable to a fine not exceeding fifty pounds to be summarily imposed at the discretion of such Court for such non-attendance.

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9. The Governor may, from time to time, fix the scale of fees ^{Fees.} to be chargeable in the sheriff's office in respect of all matters pending ^{50 Vic. No. 31.} at any time in the Supreme Court.

PART III.

Special bailiffs.

10. (1) In all cases in which according to the terms of the Charter ^{Powers of Court under Charter may be exercised by a Judge.} of Justice the Supreme Court is authorised to name and appoint some person other than the sheriff to whom the process of the said Court shall be directed, such nomination and appointment may be made by any ^{7 Vic. No. 13, s. 2.} Judge of the said Court.

(2) In like manner in cases where, notwithstanding the direction of any such process to the sheriff, the said Court is by the said Charter required to direct by what person and in what manner such process shall be executed, such direction may be given and all orders in respect thereof be made by any Judge of the said Court.

(3) The process may in any such last-mentioned case, if the Judge sees fit, be directed to such person instead of the sheriff.

11. In any such case the fees paid in ordinary cases to the sheriff ^{Fees.} by the person against whom such process is sued out shall be due and ^{Ibid.} payable to the person suing out such process, except the fees for registering the warrant and returning the same.

12. In any such case the sheriff, although the process may be in ^{She.iff relieved from responsibility.} fact directed to him, shall not be responsible for any act done under or in respect of such process or by colour thereof; but the person ^{Ibid.} aggrieved by any such act shall have the same remedy and right of action against—

(a) the person to whom the process was directed, or the person appointed to execute the same, as the case may be, or

(b) the person suing out the process, or

(c) both such persons, separately or jointly,

as the person aggrieved would have had against the sheriff if such process had been directed to that officer and the act complained of had been done by him.

PART IV.

District sheriffs.

13. (1) The Governor may by warrant under his hand and seal ^{Appointment.} nominate and appoint a fit and proper person to act as and be the sheriff ^{ic. No. 4, s. 11.} in and for any circuit district.

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Appointments after first year.
5 Vic. No. 4, s. 11.

(2) The Governor may, on the first Monday in every succeeding year, nominate and appoint in manner aforesaid the same or some other fit and proper person to act as and be the sheriff for such district for the year next following.

Oaths to be taken.
Ibid.

14. Every person so appointed shall as soon as conveniently may be take before a Judge of the Supreme Court the oath of allegiance and an oath faithfully to execute his office.

Tenure of office.
Ibid.

15. (1) The sheriff first so appointed shall continue in office until he is re-appointed or another person is appointed and sworn into office in his stead.

Tenure of office.
Ibid.

(2) Every sheriff afterwards so appointed shall continue in office during the space of one whole year then next following and until he is re-appointed or another person is appointed and sworn into office in his stead.

Death or incapacity of district sheriff.
Ibid.

16. (1) If the sheriff for any circuit district dies or departs from New South Wales or becomes otherwise incapable of executing the duties of his office, another person shall be appointed and sworn in like manner.

(2) Such person shall continue in office for the remainder of the year and until he is re-appointed or another person is appointed and sworn into office in his stead.

Powers, duties, privileges, and liabilities.
Ibid.

17. The sheriff for any circuit district during the time of his continuance in office shall in and for such district have and execute the same powers and duties and enjoy the same privileges and be subject to the same liabilities in all respects as by law belong to the office of a sheriff; and the powers, duties, privileges and liabilities of the Sheriff of New South Wales shall within such district cease and determine.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
5 Vic. No. 4 ...	An Act to make further provision for the trial of cases in the Circuit Court of New South Wales, and to amend in certain respects the Act providing for trial by jury in such courts.	Section II.
7 Vic. No. 13 ...	An Act for regulating the appointment and duties of sheriff in New South Wales.	All the unrepealed part, except sections 3 and 7.
11 Vic. No. 20...	An Act to consolidate and amend the laws relative to jurors and juries in New South Wales.	Part of section 37 down to and including the words "such non-attendance."
50 Vic. No. 31..	Sheriffs' Fees Act, 1887	The whole.

Act