



New South Wales

Law Enforcement (Powers and Responsibilities) Amendment (Arrest without Warrant) Act 2013 No 98

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Law Enforcement (Powers and Responsibilities) Amendment (Arrest without Warrant) Act 2013 No 98

Act No 98, 2013

An Act to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to extend police powers of arrest without warrant. [Assented to 27 November 2013]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Law Enforcement (Powers and Responsibilities) Amendment (Arrest without Warrant) Act 2013*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

Schedule 1 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

[1] Section 99

Omit the section. Insert instead:

99 Power of police officers to arrest without warrant (cf Crimes Act 1900, s 352, Cth Act, s 3W)

- (1) A police officer may, without a warrant, arrest a person if:
 - (a) the police officer suspects on reasonable grounds that the person is committing or has committed an offence, and
 - (b) the police officer is satisfied that the arrest is reasonably necessary for any one or more of the following reasons:
 - (i) to stop the person committing or repeating the offence or committing another offence,
 - (ii) to stop the person fleeing from a police officer or from the location of the offence,
 - (iii) to enable inquiries to be made to establish the person's identity if it cannot be readily established or if the police officer suspects on reasonable grounds that identity information provided is false,
 - (iv) to ensure that the person appears before a court in relation to the offence,
 - (v) to obtain property in the possession of the person that is connected with the offence,
 - (vi) to preserve evidence of the offence or prevent the fabrication of evidence,
 - (vii) to prevent the harassment of, or interference with, any person who may give evidence in relation to the offence,
 - (viii) to protect the safety or welfare of any person (including the person arrested),
 - (ix) because of the nature and seriousness of the offence.
- (2) A police officer may also arrest a person without a warrant if directed to do so by another police officer. The other police officer is not to give such a direction unless the other officer may lawfully arrest the person without a warrant.
- (3) A police officer who arrests a person under this section must, as soon as is reasonably practicable, take the person before an authorised officer to be dealt with according to law.

Note. The police officer may discontinue the arrest at any time and without taking the arrested person before an authorised officer—see section 105.
- (4) A person who has been lawfully arrested under this section may be detained by any police officer under Part 9 for the purpose of investigating whether the person committed the offence for which the person has been arrested and for any other purpose authorised by that Part.
- (5) This section does not authorise a person to be arrested for an offence for which the person has already been tried.
- (6) For the purposes of this section, property is connected with an offence if it is connected with the offence within the meaning of Part 5.

[2] Section 105 Arrest may be discontinued

Insert after section 105 (2):

- (3) A police officer may discontinue an arrest despite any obligation under this Part to take the arrested person before an authorised officer to be dealt with according to law.

[Second reading speech made in—

Legislative Assembly on 30 October 2013

Legislative Council on 19 November 2013]