



New South Wales

State Arms, Symbols and Emblems Bill 2003

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to cause the practice of displaying and otherwise using the Royal arms of the United Kingdom in connection with Parliament, the courts, the office of Governor and State instrumentalities to be discontinued, and to require the State arms or State symbols to be used instead, and
- (b) to confirm the form of the current State arms, symbols and emblems and to make provision for them to be changed in the future, and
- (c) to restrict the use of State arms and State symbols.

Outline of provisions

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 the date of assent.

Clause 3 defines certain words and expressions used in the proposed Act, including “State arms”, “State emblem” and “State symbol”.

Clause 4 provides that the State arms or State symbols, rather than the Royal arms of the United Kingdom, are to represent the authority of the State in a Parliament building, a courthouse, an office or official residence of the Governor or a Government office, and in any other place or building, and on any seal or document, used for official purposes.

Clause 5 empowers the Governor-in-Council to assign new State arms, symbols or emblems, to withdraw or alter any State arms or symbols, and to discontinue recognition of anything as a State emblem.

Clause 6 requires that, as soon as practicable (but in any event within 3 years) after the commencement of the proposed Act, the Royal arms of the United Kingdom, where displayed or otherwise used in or on any public building or public place or on any official seal or document intended for future use are to be replaced by the State arms, except in limited circumstances.

Clause 7 establishes the State Heraldry Advisory Committee which will advise the Premier on matters arising for decision under the proposed Act.

Clause 8 creates an offence if a person uses the State arms or a State symbol otherwise than exclusively for loyal and patriotic purposes or in other specified circumstances.

Clause 9 provides for offences against proposed section 8 to be disposed of before a Local Court.

Clause 10 repeals the *Unauthorised Documents Act 1922*.

Schedule 1 specifies the State arms.

Schedule 2 specifies State symbols, namely the State badge and the State flag.

Schedule 3 describes the State emblems, namely the platypus, kookaburra, waratah and blue groper.



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Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 State arms or symbols to be used for all official purposes	3
5 Changes in State arms, symbols or emblems	3
6 Replacement of Royal arms of the United Kingdom	4
7 State Heraldry Advisory Committee	4
8 Restrictions on use of State arms and symbols	5
9 Nature of proceedings for offences	6
10 Repeal of Unauthorised Documents Act 1922 No 6	6

Schedules

1 State arms	7
2 State symbols	8
3 State emblems	10

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Contents

Page

Contents page 2



New South Wales

State Arms, Symbols and Emblems Bill 2003

No. , 2003

A Bill for

An Act with respect to the use of the arms, symbols and emblems of the State.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *State Arms, Symbols and Emblems Act 2003*.

2 Commencement

This Act commences on the date of assent.

3 Definitions

In this Act:

Heritage Council means the Heritage Council of New South Wales established under the *Heritage Act 1977*.

official purpose does not include a merely historical or heritage purpose (such as the purpose of a museum or historical exhibition).

Royal arms of the United Kingdom means the arms of sovereignty and dominion borne by Her Majesty Queen Elizabeth II in her capacity as Queen of the United Kingdom of Great Britain and Northern Ireland (as used in England, Scotland or any other part of that kingdom) or by any of her predecessors in the sovereignty of that kingdom or any part of it, which are also collectively known as the Royal arms, and includes any arms that replace those arms.

State arms means the armorial ensigns and supporters the blazon of which is set out in Part 1 of Schedule 1 and an indicative monochrome depiction of which is set out in Part 2 of Schedule 1. The State arms may be depicted in the colours set out in the blazon or in monochrome.

State emblem means any flower, animal, bird or other animate or inanimate object the description of which is set out in Schedule 3.

State Heraldry Advisory Committee means the committee constituted for the time being under section 7.

State symbols means:

- (a) the State badge the blazon of which is set out in Part 1 of Schedule 2 and an indicative monochrome depiction of which is set out in Part 2 of Schedule 2 (the State badge may be depicted in the colours set out in the blazon or in monochrome), and

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- (b) the State flag a description of which is set out in Part 1 of Schedule 2 and an indicative monochrome depiction of which is set out in Part 2 of Schedule 2, and
- (c) any other symbol or thing the blazon or a description of which is set out in Part 1 of Schedule 2 and an indicative monochrome depiction of which is set out in Part 2 of Schedule 2.
- to use* the State arms or a State symbol includes to display the State arms or State symbol.

4 State arms or symbols to be used for all official purposes

- (1) Whenever, in a Parliament building, a courthouse, an office or official residence of the Governor or a Government office, in any other building or place, or on any official seal or document, or in any other connection, arms representing the authority of the Crown or the State are used or to be used for any official purpose, the State arms are or a State symbol is to be used, and not the Royal arms of the United Kingdom.
- (2) The State arms and each State symbol may be depicted in any manner that is consistent with the relevant blazon or description in Schedule 1 or 2.
- (3) After considering the advice of the State Heraldry Advisory Committee, the Premier may adopt, and from time to time amend, guidelines to assist government departments and instrumentalities and others in the proper use of State arms and State symbols.
- (4) The State arms may be used with such external ornaments as are consistent with their status as arms and symbols of dominion and sovereignty.

5 Changes in State arms, symbols or emblems

- (1) From time to time the Governor may, by Royal warrant issued on the recommendation of the Premier made after considering the advice of the State Heraldry Advisory Committee, assign new State arms, symbols or emblems, withdraw or alter any State arms or symbols or terminate the recognition of anything as a State emblem.
- (2) A Royal warrant issued under this section takes effect for the purposes of this Act when its terms are published in the Gazette.
- (3) Schedules 1, 2 and 3 may be amended by proclamation to give effect to the terms of any such Royal warrant.

6 Replacement of Royal arms of the United Kingdom

- (1) As soon as practicable (but in any event within 3 years) after the commencement of this Act, any Royal arms of the United Kingdom used to represent the authority of the Crown in right of the State or the State in or on any public building, public place, document, seal or other object that is the property of the Crown in right of the State or of the State and is intended to represent the authority of the Crown in right of the State or of the State, are to be removed and replaced by the State arms.
- (2) Subsection (1) does not apply in relation to a building or place in respect of which the Premier, after consultation with the Heritage Council and the State Heraldry Advisory Committee, determines that the Royal arms of the United Kingdom there displayed form an integral part of an item of the environmental heritage of the State.
- (3) In any building or place to which subsection (1) does not apply because of subsection (2), the State arms must be used and displayed in a prominent position to represent the authority of the Crown in right of the State or the State, as the case may be, in addition to the Royal arms of the United Kingdom while they continue to be displayed there.
- (4) Sculpted arms, or arms in any durable form, that are removed in accordance with this section are to be housed or otherwise dealt with in such manner as the Premier, after consultation with the Heritage Council and the State Heraldry Advisory Committee, may direct. Such a direction is to be aimed at their being housed or otherwise dealt with in a manner that, whether they are to be held in public or private ownership, will ensure their appropriate conservation, interpretation and display as part of the constitutional, legal, cultural and artistic heritage of the State.
- (5) Consultation with the Heritage Council or the State Heraldry Advisory Committee is sufficient for the purposes of this section if the Premier has requested advice from the Council or Committee about the matter concerned and has taken into consideration any response received from the Council or Committee within 60 days of making the request.

7 State Heraldry Advisory Committee

- (1) There is to be a State Heraldry Advisory Committee consisting of not more than 8 persons appointed by the Premier as members of the Committee for the time being.

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- (2) The function of the Committee is to advise the Premier on matters arising for decision under this Act, the administration of this Act and on any matter referred to the Committee by the Premier. 1
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- (3) Members are to be appointed so that at any time the majority of the members are persons the Premier is satisfied are expert in heraldic theory, law and usage. 4
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- (4) Unless sooner removed from office by the Premier for any reason the Premier considers sufficient and notifies to the member concerned, each member has a term of office of 3 years commencing with the date of the member's appointment, but is eligible for re-appointment. 7
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- (5) The Premier may call a meeting of the Committee at any time and a decision supported by a majority of the votes of the members of the Committee present and voting on a matter at a meeting of the Committee is the decision of the Committee on the matter. Except as provided by this subsection, the Committee may determine when and how its meetings are to be convened and its proceedings are to be conducted. 12
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- (6) The Committee is not a statutory body representing the Crown. 19

8 Restrictions on use of State arms and symbols 20

- (1) A person, other than the Crown or a statutory body representing the Crown, who uses State arms or a State symbol for any purpose other than an exclusively loyal or patriotic purpose, or exclusively loyal and patriotic purposes, is guilty of an offence unless: 21
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- (a) the person is acting in the course of the person's employment by the Crown or a statutory body representing the Crown, or 25
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- (b) the person is authorised by Royal warrant issued by the Governor or authorised by a proclamation to use the State arms or State symbol in the circumstances concerned. 27
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- Maximum penalty: 100 penalty units. 30
- (2) If the State arms or State symbols are displayed, they are taken to be displayed exclusively for loyal and patriotic purposes unless the display is described by a proclamation as a proscribed display for the purposes of this section. 31
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- (3) This Act does not prohibit or restrict the following: 1
- (a) the use of State arms or a State symbol for exclusively 2
heritage purposes, such as in a museum or a historical 3
exhibition, or 4
 - (b) the use of a State emblem for any purpose. 5

9 Nature of proceedings for offences 6

Proceedings for an offence under this Act may be dealt with 7
summarily before a Local Court. 8

10 Repeal of Unauthorised Documents Act 1922 No 6 9

The *Unauthorised Documents Act 1922* is repealed. 10

Schedule 1 State arms

(Sections 3 and 5)

Part 1 Blazon

Azure a cross argent voided gules charged in the centre chief point with a lion passant guardant, and on each member with a mullet of eight points or between in the first and fourth quarters a fleece or banded argent and in the second and third quarters a garb also or: And for a crest, on a wreath of the colours a rising sun each ray tagged with a flame of fire proper: And for the supporters, on the dexter side a lion rampant guardant: And on the sinister side a kangaroo both or, together with this motto, "Orta Recens Quam Pura Nites," (Recently arisen, how brightly you shine)

Note. At the commencement of this Act, the State arms were the armorial ensigns and supporters assigned for New South Wales by Royal warrant of His Majesty King Edward VII on 11 October 1906.

Part 2 Indicative monochrome depiction

State arms



Schedule 2 State symbols

(Sections 3 and 5)

Part 1 Blazon or description of symbol

State badge—Argent, on a cross gules a lion passant guardant or, between four stars of eight points also or.

Note. At the commencement of this Act, the State badge was the former colonial badge adopted by the then Governor by notification in the Gazette of 15 February 1876.

State flag—The British Blue Ensign, being a dark blue flag with the Union Flag (also known as the Union Jack) in canton, bearing in the fly the State badge.

Note. At the commencement of this Act, the State flag was the former colonial flag adopted following the gazettal of the State badge on 15 February 1876.

Part 2 Indicative monochrome depiction of symbol

State badge



State flag

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Schedule 3 State emblems

(Sections 3 and 5)

The animal emblem of New South Wales is the platypus (*Ornithorhynchus anatinus*), an egg-laying mammal (“monotreme”) with fur, webbed feet and a duck-like bill, up to 60cm in length. They live in burrows on the banks of streams hunting crayfish and insects underwater.

The bird emblem of New South Wales is the kookaburra (*Dacelo novaeguineae*), a large kingfisher, mostly white and brown, with a distinctive laughing call. Meat eaters, they hunt snakes, lizards, insects.

The floral emblem of New South Wales is the waratah (*Telopea speciosissima*), a large (10–12cm across) and spectacular scarlet flower growing in the bush in clumps of tall stems.

The state fish of New South Wales is the blue groper (*Achoerodus viridis*). A friendly but powerful coastal fish that often follows divers. It can be up to a metre long and weigh between 2 and 15kg, though some specimens may reach 40kg or more.

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