

# Police (Special Provisions) Act 1901 No 5

[1901-5]



New South Wales

## Status Information

### Currency of version

Historical version for 24 November 2005 to 6 January 2011 (accessed 18 July 2024 at 4:16)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
Police Offences Act 1901
- **Does not include amendments by**  
[Police Legislation Amendment \(Recognised Law Enforcement Officers\) Act 2010 No 58](#) (not commenced)  
[Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2010 No 119](#) (not commenced — to commence on 7.1.2011)

### Authorisation

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File last modified 29 November 2010

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# Police (Special Provisions) Act 1901 No 5



New South Wales

An Act to consolidate the Statutes relating to Police Offences.

## Part 1 Preliminary and interpretation

### 1 Name of Act

This Act is the *Police (Special Provisions) Act 1901*.

### 2 Repeal

- (1) The Acts mentioned in the First Schedule hereto are, to the extent therein expressed, hereby repealed, except as to offences committed and things done or commenced before the passing of this Act, which shall be dealt with and continued, and in respect of which every right and liability shall remain, as if this Act had not been passed.
- (2) All persons appointed under any Act hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed under this Act.

### 3 Definitions

In this Act, unless the context or subject-matter otherwise indicates or requires:

**Justice** means a Justice of the Peace.

**Constable** means any member of the police force.

**Vehicle** includes every omnibus, coach, gig, and carriage of any kind, and every truck, sledge, or cart.

**Cart** includes every wain, waggon, or dray.

**City Surveyor** means the employee of the Council of the City of Sydney designated by the Council as the City Surveyor.

### 4 (Repealed)

### Parts 2-3

### 5-100 (Repealed)

## Part 4 Special constables

### 101 Magistrates or Justices may appoint special constables

(1) In all cases where it appears to a Magistrate, or any two Justices, that any tumult, riot, or serious indictable offence has taken place, or may be reasonably apprehended in any city, town, or place, and he or they are of opinion that the ordinary constables or officers appointed for preserving the peace are not sufficient for the preservation of the peace, and for the protection of the inhabitants and the security of their property, or for the apprehension of offenders, any Magistrate, or any two Justices, may nominate and appoint by precept in writing under his or their hands, so many as he or they think fit of the householders, or other persons (not legally exempt from serving the office of constable) residing in or near to such city, town, or place, to act as special constables for such time and in such manner as to the said Magistrate or Justices seems fit and necessary for the public peace, and for the protection of the inhabitants and the security of the property in or near such city, town, or place.

(1A) A Magistrate or any two Justices may, at the request of his employer, or of the council of an area within the meaning of the *Local Government Act 1993*, and subject to the approval of the Commissioner of Police, in like manner nominate and appoint any person employed as a caretaker, night watchman, or in any similar capacity, or an officer of the Royal Society for the Prevention of Cruelty to Animals, New South Wales, or of any other association, organisation, society or body which has as one of its objects the promotion of the welfare of or the prevention of cruelty to animals and which is registered as a charity under the *Charitable Collections Act 1934*, as amended by subsequent Acts, as a special constable for such time as such Magistrate or Justices may think fit. A Magistrate or any two Justices may:

- (a) at the request of the Commissioner of Police nominate and appoint any person who is a member of the Australian Federal Police or the police force of the Australian Capital Territory or of any State of the Commonwealth of Australia as a special constable for the State of New South Wales for such time as such Magistrate or Justices may think fit,
- (b) at the request of the Commissioner of Police and subject to the approval of the Minister nominate and appoint any person as a special constable for the State of New South Wales for such time as such Magistrate or Justices may think fit.

The provisions of this Part relating to special constables who have have been called out shall apply to all special constables appointed under this subsection from the time when such constables have taken the oath provided for in subsection (2).

The Commissioner of Police may, whenever he thinks fit, suspend or determine the services of any such special constable. Notice of such suspension or determination of service shall be forthwith sent by the Commissioner of Police to the Minister.

- (2) The Magistrate or Justices who appoint any special constables by virtue of this Act are hereby authorised to administer to every person so appointed the following oath, that is to say:

I, A.B., do swear that I will well and truly serve our Sovereign Lord the King in the office of special constable for the [*city, town, or place, as the case may be*] without favour or affection, malice, or ill-will, and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects, and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law—So help me GOD.

- (3) Whenever it is deemed necessary to nominate and appoint such special constables as aforesaid, notice thereof shall be forthwith transmitted by the said Magistrate or Justices to the Minister.
- (4) Despite subsection (2), a person who is authorised to administer the oath, affirmation or engagement of the office of a member of a police force (including the Australian Federal Police) referred to in subsection (1A) (a) is authorised to administer to a member of that police force who is appointed as a special constable under that provision the oath referred to in subsection (2).

### **102 Magistrates or Justices may make regulations respecting special constables, and may remove them for misconduct**

The Magistrate or Justices who have appointed any special constables under this Act when such special constables have been called out shall have power to make such orders and regulations as may from time to time be necessary and expedient for rendering such special constables more efficient for the preservation of the public peace, and shall also have power to remove any such special constable from his office for any misconduct or neglect of duty therein.

### **103 Power of special constables**

Every special constable appointed under this Act shall have, exercise, and enjoy all such powers, authorities, advantages, and immunities, and be liable to all such duties and responsibilities as any police officer of the rank of constable duly appointed now has or hereafter may have by virtue of the common law or of any Act or Imperial Act for the time being in force.

### **104 Penalty for refusing to take the oath of office**

Whosoever, being appointed a special constable as aforesaid, refuses to take the oath of a special constable in accordance with section 101, shall be liable to a penalty not exceeding 0.5 penalty unit.

**105 Penalty for refusing to serve or for disobeying orders**

Whosoever:

being appointed a special constable as aforesaid neglects to appear at the time and place for which he is summoned for the purpose of taking the said oath, or,

having been appointed and sworn as a special constable as aforesaid, and being called upon to serve, neglects or refuses to serve as such special constable or to obey such lawful orders and directions as may be given to him by the Magistrate, or any Justice, or any chief constable, or inspector of police, or other officer under whose orders he may be placed for the performances of the duties of his office,

shall, unless he proves to the satisfaction of the Justice that he was prevented by sickness or some other unavoidable cause such as shall in the judgment of the said Justice be a sufficient excuse, be liable to a penalty not exceeding 0.5 penalty unit.

**106 Magistrates and Justices may discontinue services of special constables called out**

The Magistrate or Justices who have appointed any special constables under this Act for any city, town, or place, may, if such special constables have been called out, suspend or determine the services of all such special constables or of so many as to the said Magistrate or Justices shall seem meet.

Notice of such suspension or determination of the services of all or any of the said special constables shall be transmitted forthwith by the said Magistrate or such Justices to the Minister.

**107 Special constables to deliver arms, staves etc to successors**

Every special constable shall forthwith after the expiration of his office or after he ceases to hold and exercise the same pursuant to this Act, deliver over to his successor, if any such has been appointed, or to such person and at such time and place as may be directed by the Magistrate or such Justices all arms, staves, weapons, and other articles which have been provided for such special constable under this Act.

Any such special constable who omits or refuses so to do shall be liable to a penalty not exceeding 0.5 penalty unit.

**108 Assaulting or resisting special constables**

Whosoever assaults or resists any special constable whilst in the execution of his office, or promotes, incites, or encourages any other person so to do shall be liable to a penalty not exceeding 2 penalty units or to imprisonment for any term not exceeding six months.

## Part 5 Procedure

### 109 Complaints of offences to be dealt with summarily

All complaints of offences against this Act shall be heard and determined in a summary manner before a Justice.

### 110-114 (Repealed)

## First Schedule

(See section 2)

### Repeal of Acts

Reference to Act	Title or short title	Extent of repeal
2 Wm IV No 12	An Act for repealing so much of [the Act 6 Geo IV No 20] as relates to the levying of tolls in New South Wales, and for raising a fund for making, repairing, and upholding public roads, bridges, and ferries, and for regulating the collection of tolls thereon.	Sec 24 from the words "or if any person or persons shall make any fire" down to and including the words "any carriage under his, her, or their care upon any such road". Secs 25, 26, 28, and 29.
4 Wm IV No 7	An Act for regulating the police in the town and port of Sydney, and for removing and preventing nuisances and obstructions therein.	All hitherto unrepealed, except sec 35.
2 Vic No 2	An Act for regulating the police in the towns of Parramatta, Windsor, Maitland, Bathurst, and other towns respectively, and for removing and preventing nuisances and obstructions, and for the better alignment of streets therein.	All hitherto unrepealed.
2 Vic No 3	An Act to alter and amend an Act intituled an Act for regulating the police in the town and port of Sydney, and for removing and preventing nuisances and obstructions therein.	The whole.
5 Vic No 6	An Act to prohibit shooting for sport, pleasure, or profit on Sunday.	The whole.
11 Vic No 44	An Act to amend the Act for regulating the police in the towns of Parramatta, Windsor, Maitland, Bathurst, and other towns respectively, and for removing and preventing nuisances and obstructions, and for the better alignment of streets therein.	The whole.
17 Vic No 25	An Act to extend to the Sydney hamlets certain of the provisions of the Sydney Police Act.	All hitherto unrepealed.



17 Vic No 31	An Act to make further police regulations for the city, port, and hamlets of Sydney.	All hitherto unrepealed.
18 Vic No 27	An Act for protecting enclosed lands from intrusion and trespass.	Sec 5.
19 Vic No 10	An Act to amend the Country Towns Police Act as respects the alignment of streets.	The whole.
19 Vic No 24	An Act to make further police regulations for the city, port, and hamlets of Sydney and other towns and places in the Colony of New South Wales.	All hitherto unrepealed except sec 7.
30 Vic No 5	<i>The Drunkards' Punishment Act of 1866.</i>	The whole.
32 Vic No 7	Police Regulation Extension Act.	The whole.
36 Vic No 18	<i>The Angora Goats Protection Act of 1873.</i>	So much of sec 1 as relates to section 5 of 18 Vic No 27.
41 Vic No 12	<i>Metropolitan Police Act Extension Act of 1878.</i>	The whole.
43 Vic No 3	<i>The Sydney Corporation Act of 1879.</i>	Secs 68, 234.
55 Vic No 5	<i>Criminal Law and Evidence Amendment Act of 1891.</i>	Sec 23.
No 71, 1900	<i>The Justices Acts Amendment Act of 1900.</i>	Sec 8.

## Second-Fourth Schedules (Repealed)