NORTHERN TERRITORY OF AUSTRALIA

SHERIFF ACT

As in force at 5 January 2018

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 5 January 2018

SHERIFF ACT

An Act relating to the offices of sheriff and bailiff and to other matters

1 Short title

This Act may be cited as the *Sheriff Act*.

2 Repeal

(1) The *Sheriff Ordinance 1911* is repealed.

(2) The Acts and Ordinances of the State of South Australia which are specified in the Schedule cease, to the extent specified in that Schedule, to apply to the Territory.

3 References to sheriff, &c., in other Acts

A reference to a sheriff or deputy sheriff in any other Act shall be construed as a reference to a sheriff or deputy sheriff, as the case may be, appointed under this Act.

4 Definitions

In this Act:

Court means the Supreme Court or the Court of Criminal Appeal.

custodial correctional facility, see section 11(1)(a) of the *Correctional Services Act*.

detention centre, see section 5(1) of the *Youth Justice Act*.

Judge means a Supreme Court Judge.

officer of the sheriff means a person appointed under this Act to be a deputy sheriff, bailiff or other officer of the sheriff.

rules of court means Rules of Court made or continued in force under the *Supreme Court Act*.

sheriff, means the sheriff or the acting sheriff and, in relation to a matter in which a deputy sheriff has acted, includes a deputy sheriff. and in relation to a matter in which a person appointed for that matter under section 12 or 18 has acted, includes that person.

Note for section 4

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

5 Appointment of sheriffs and officers

(1) The Attorney-General may appoint:

(a) a person to be the sheriff; and

(b) such persons to be deputy sheriffs, bailiffs and other officers of the sheriff as the Attorney-General thinks necessary to assist the sheriff.

(2) A person appointed under subsection (1) holds office during the pleasure of the Attorney-General.

(2A) The Chief Justice may appoint a person to be the acting sheriff and a person so appointed:

(a) has the same powers and functions as the sheriff; and

(b) holds office during the pleasure of the Chief Justice.

6 Power of sheriff to appoint deputy sheriff, &c.

The sheriff may by writing under his hand appoint a person to be a deputy sheriff, bailiff or other officer of the sheriff for the purpose of a particular proceeding or during a period specified in the instrument of appointment.

7 Duties of sheriff

(1) It is the duty of the sheriff:

(a) to serve or execute all writs, summonses, orders, warrants, precepts, process and commands of the Court that are directed to him, and to make such return of them to the Court, together with the manner of their execution, as he is required by them;

(b) to take, receive and detain all persons who are committed to the custody of the Court, or the sheriff and to discharge all such persons when directed so to do by the Court or by any law in force in the Territory; and

(c) to perform all such other duties as are imposed upon him by this Act or another Act or by rules of court or the direction of the Court or a Judge.

(2) The duties imposed upon the sheriff under subsection (1) shall be in addition to and shall not derogate from the duties imposed upon him by or under any other law in force in the Territory.

(3) The sheriff is an officer of the Court.

9 Powers and duties of deputy sheriff

(2) Subject to this section, to any directions of the sheriff and to the terms of his appointment, a deputy sheriff may exercise the powers and shall perform the duties and functions of the sheriff.

(3) In particular a deputy sheriff must, in accordance with the terms of the deputy's appointment, but subject to any directions of the sheriff:

(a) execute any process of the Court directed to the sheriff; and

(b) make return of such a process, together with the manner of its execution; and

(c) receive any person who is committed to the custody of the sheriff and ensure the person is:

(i) accommodated at a custodial correctional facility or detention centre in accordance with an arrangement under section 12A; or

(ii) detained at some other place; and

(d) do or perform any other thing which the sheriff is bound to do or perform.

10 Status and duties of bailiffs

Every bailiff appointed under this Act is an officer of the sheriff and shall execute all warrants, orders and precepts of the sheriff directed to him and in all respects perform the same duties as were before the commencement of this Act performed by the officers of the sheriff.

11 Security by bailiffs

(1) The Attorney-General may require a bailiff to give security to the Territory, by bond of himself and 2 responsible sureties or in such other manner as the Attorney-General requires, for the due

performance by him of the duties of his office and for the due payment by him to the sheriff, or as the sheriff directs, of all moneys which come into his hands in the execution of the duties of his office.

(2) On a bond so given, the Attorney-General may sue in the name of the Territory in any court having jurisdiction up to the amount claimed.

12 Provision for cases where sheriff ought not to execute process

Where any process is awarded or issued against the sheriff or where, in the opinion of the Court or a Judge, circumstances render it improper for the sheriff to execute any process, the Court or the Judge may direct the process to any fit person appointed by the Court or the Judge.

12A Use of custodial correctional facility or detention centre to accommodate sheriff's detainees

(1) The sheriff may make such arrangements with the Commissioner of Correctional Services, or Chief Executive Officer (as defined in section 19 of the *Public Sector Employment and Management Act*) of the Agency responsible for youth justice, as are necessary and appropriate for accommodating persons who are in the custody of the sheriff at custodial correctional facilities or detention centres.

(2) A person who is accommodated at a custodial correctional facility or detention centre under such an arrangement is taken to remain in the custody of the sheriff.

13 Power to convey arrested person to custodial correctional facility or detention centre

Where the sheriff or an officer of the sheriff has arrested a person under or by virtue of any process, the sheriff or officer may immediately convey the person, or cause the person to be conveyed, to the custodial correctional facility or detention centre to which the person is to be sent by virtue of the process issued against the person..

14 Resistance to process

(1) If the sheriff finds any resistance in the execution of any process, he shall take with him such assistants as he thinks desirable and go in person to the execution and, using such assistants as he thinks necessary, may arrest the resisters and bring them before a justice of the peace to be dealt with according to law.

(2) A person who resists:

(a) the sheriff;

(b) an officer of the sheriff; or

(c) a person acting under subsection (1) as an assistant of the sheriff,

in the execution of any process is guilty of an offence punishable on a finding of guilt by imprisonment for a term not exceeding one year.

16 Receipt for process

The sheriff shall, at the request of a person delivering a process to him for execution, give a receipt for the process, stating the day and time of its delivery.

17 Duties of sheriff on receipt of debt due to Territory

(1) Where the sheriff or any other person employed in collecting by process from any court a debt due to the Territory receives from a person a sum as being due to the Territory, the sheriff or the first mentioned person shall give the last mentioned person a receipt for that sum and the sheriff shall, on becoming aware of the receipt, without delay take all necessary steps to procure in respect of that sum the effective discharge of the person paying it.

(2) A person receiving a sum to which subsection (1) applies shall account first to the sheriff and the sheriff shall give a receipt for the sum.

18 Duty of sheriff to attend Court

(1) The sheriff shall attend upon all criminal sittings of the Court and upon other sittings when required to do so by the Court or a Judge.

(2) If at any time the sheriff is not in attendance upon the Court, the Court or a Judge may appoint a person to exercise and perform, during any period or in any matter ordered by the Court or the Judge, such powers and duties of the sheriff as the Court or the Judge specifies.

(3) The Court or a Judge may issue to the person so appointed instead of to the sheriff any process or direction authorized to be issued to the sheriff.

19 Duty of outgoing sheriff to turn over process and detainees to incoming sheriff

(1) An outgoing sheriff:

(a) shall, on ceasing to be sheriff, make out and deliver to the incoming sheriff a correct list and account of:

(i) all persons who are then in the sheriff's custody;

(ii) all processes directed to him by the Court but not wholly executed by him; and

(iii) all other matters in which duties imposed upon him by rules of court, the direction of the Court or a Judge or this Act are not wholly performed by him,

with such particulars as are necessary to explain to the incoming sheriff the several matters intended by the outgoing sheriff to be transferred to the incoming sheriff; and

(b) shall thereupon transfer to the custody of the incoming sheriff the persons, processes and matters specified in paragraph (a) and all records, books and matters relating to the office of sheriff.

(2) The incoming sheriff:

(a) shall thereupon sign and give to the outgoing sheriff a duplicate of the list and account; and

(b) shall thereupon stand charged with:

(i) the custody of the persons so transferred to his custody; and

(ii) the execution of the processes and the performance of the duties relating to the matters contained in the list and account.

(3) A duplicate of the list and account, signed and given in accordance with subsection (2) shall be a good and sufficient discharge to the outgoing sheriff of and from:

(a) the custody of the persons; and

(b) the execution of the processes and the performance of the duties relating to the matters contained in the list and account.

20 Sale by sheriff

The sheriff may sell by public auction property of any kind taken in execution.

21 Liability of sheriff and officers

(1) The sheriff shall not be personally liable for any wrongful act or default of an officer of the sheriff.

(2) The sheriff and every officer of the sheriff shall be liable each for his own wrongful acts and defaults in the same manner and to the same extent as before the commencement of this Act.

22 Liability for escape

(1) Subject to subsection (2), if a person is in the custody of the sheriff, an officer of the sheriff or any other person:

(a) in execution or for non-performance of a judgment or order of the Court;

(b) for contempt of court; or

(c) otherwise in the course of a civil proceeding,

and the first mentioned person escapes out of legal custody, the sheriff, the officer of the sheriff or the other person shall be liable to pay the damages sustained by the person at whose suit the first mentioned person was taken into custody and all costs of any proceedings to recover those damages but no further sum.

(2) A person is not liable under section 21 for the escape of a person from a custodial correctional facility or detention centre.

23 Liability of administrator to satisfy judgments against the sheriff

(1) The Administrator shall satisfy any judgment obtained against the sheriff, any officer of the sheriff or any other person for a wrongful act done or default committed by the sheriff or that officer of the sheriff or other person in the execution or intended execution of his duties under this Act.

(2) The sheriff or officer of the sheriff in respect of whose wrongful act or default the Administrator has paid any money under subsection (1) shall be liable to indemnify the Administrator for any money so paid; but the Attorney-General may, if in his opinion it is just to do so, exempt the sheriff or any officer of the sheriff from his liability under this subsection in any particular case.

25 Fees and poundage

(1) The sheriff or an officer of the sheriff concerned in the execution of any process directed to the sheriff may demand, take and receive such fees relating to the execution of the process as are fixed by the regulations.

(2) No poundage shall be payable to the sheriff or any officer of the sheriff for taking the body of any person in execution.

26 Sheriff may be justice of the peace

The sheriff shall not, by reason of holding office as sheriff, be disqualified for appointment as a justice of the peace.

27 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular, prescribing matters for or in relation to:

(a) the amount and time of payment of fees payable to the sheriff or an officer of the sheriff;

(b) the settlement of disputes as to the amount of fees payable in any case;

(c) requiring execution creditors either generally or in prescribed cases to give security for payment of fees payable to the sheriff or an officer of the sheriff or to lodge a deposit on account of such fees;

(d) empowering the sheriff or an officer of the sheriff in cases where he is requested by the execution creditor to withdraw before sale, to require the execution creditor, the execution debtor and any legal practitioner concerned to furnish him with particulars of the arrangement between the execution creditor and the execution debtor; and

(e) regulating generally the performance of the duties of the sheriff and officers of the sheriff.

Schedule Acts and Ordinances of the State of South Australia which cease to apply to the Northern Territory

section 2

Number and Year of Act or Ordinance	Title or Short Title of Act or Ordinance	Extent of Repeal
15 of 1842	An Act to regulate the Appointment and the Duties of the Sheriff of the Province of South Australia	The whole
3 of 1843	An Ordinance to amend an Ordinance intituled "An Act to Regulate the Appointment and the Duties of the Sheriff of the Province of South Australia"	The whole
20 of 1852	An Act to enable the Sheriff to appoint a Deputy to perform the Duties of his Office, and to abolish the Poundage now payable on taking the body in execution	The whole
20 of 1866-7	The Equity Act, 1866	Sections 17 to 21 inclusive
24 of 1874	The Northern Territory Deputy Sheriff's Act, 1874	The whole

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Sheriff Ordinance 1962* (Act No. 35, 1963)**
Assent date 22 May 1963
Commenced 22 May 1963

***Sheriff Ordinance 1966* (Act No. 37, 1966)**
Assent date 7 September 1966
Commenced 7 September 1966

***Ordinances Revision Ordinance 1973* (Act No. 87, 1973)**
Assent date 11 December 1973
Commenced 11 December 1973 (s 12(2))

Amending Legislation

***Ordinances Revision Ordinance 1974* (Act No. 34, 1974)**
Assent date 26 August 1974
Commenced 11 December 1973 (s 3(2))

***Ordinances Revision Ordinance (No. 2) 1974* (Act No. 69, 1974)**
Assent date 24 October 1974
Commenced 11 December 1973 (s 3)

***Ordinances Revision Ordinance 1976* (Act No. 27, 1976)**
Assent date 28 June 1976
Commenced ss 1, 2 and 6: 28 June 1976 (s 6(2));
ss 3 and 4: 11 December 1973; s 5: 24 October 1974

***Sheriff Ordinance 1974* (Act No. 12, 1974)**
Assent date 26 June 1974
Commenced 26 June 1974

Statute Law Revision Act 1978 **(Act No. 95, 1978)**

Assent date	5 September 1978
Commenced	5 September 1978

Sheriff Act 1979 **(Act No. 111, 1979)**

Assent date	24 September 1979
Commenced	1 October 1979 (s 3, s 2 *Supreme Court Act 1979* (Act No. 109, 1979) and *Gaz* S18, 28 September 1979, p 1)

Limitation Act 1981 **(Act No. 87, 1981)**

Assent date	21 September 1981
Commenced	26 February 1982 (*Gaz* G8, 26 February 1982, p 2)

Statute Law Revision Act 1982 **(Act No. 21, 1982)**

Assent date	27 April 1982
Commenced	27 April 1982

Sheriff Amendment Act 1984 **(Act No. 19, 1984)**

Assent date	12 July 1984
Commenced	1 August 1984 (*Gaz* S40, 1 August 1984)

Statute Law Revision Act 1992 **(Act No. 46, 1992)**

Assent date	7 September 1992
Commenced	7 September 1992

Statute Law Revision Act 1995 **(Act No. 14, 1995)**

Assent date	23 June 1995
Commenced	23 June 1995

Sentencing (Consequential Amendments) Act 1996 **(Act No. 17, 1996)**

Assent date	19 April 1996
Commenced	s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

Correctional Services (Related and Consequential Amendments) Act 2014 **(Act No. 27, 2014)**

Assent date	4 September 2014
Commenced	9 September 2014 (*Gaz* S80, 9 September 2014, p 2)

Local Court (Related Amendments) Act 2016 **(Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

Youth Justice Legislation Amendment Act 2017 **(Act No. 19, 2017)**

Assent date	30 October 2017
Commenced	5 January 2018 (*Gaz* G51, 20 December 2017, p 4)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 4 *Sheriff Amendment Act 1984* (Act No. 19, 1984)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (as amended) to the following provisions: ss 2, 4, 11, 19, 22, 23 and 24.

5 LIST OF AMENDMENTS

lt	amd No. 21, 1982, s 2
ss 1– 2	amd No. 21, 1982, s 2
s 3	sub No. 21, 1982, s 2
s 4	amd No. 37, 1966, s 2; No. 12, 1974, s 3; No. 21, 1982, s 2; No. 46, 1992, s 7; No. 14, 1995, s 8; No. 27, 2014, s 41; No. 8, 2016, s 45; No. 19, 2017, s 39
s 5	amd No. 14, 1995, s 8
s 7	amd No. 37, 1966, s 2 sub No. 111, 1979, s 4 amd No. 19, 1984, s 3; No. 46, 1992, s 7
s 8	rep No. 12, 1974, s 4
s 9	amd No. 37, 1966, s 2; No. 12, 1974, s 5; No. 27, 2014, s 42; No. 19, 2017, s 39
s 10	amd No. 21, 1982, s 2
s 11	amd No. 111, 1979, s 5
s 12	amd No. 37, 1966, s 2
s 12A	ins No. 27, 2014, s 43 amd No. 19, 2017, s 39
s 13	amd No. 27, 2014, s 44; No. 19, 2017, s 39
s 14	amd No. 17, 1996, s 6; No. 8, 2016, s 45
s 15	amd No. 37, 1966, s 2 rep No. 12, 1974, s 6
s 17	amd No. 111, 1979, s 5
s 18	amd No. 37, 1966, s 2
s 19	amd No. 37, 1966, s 2; No. 21, 1982, s 2; No. 27, 2014, s 45
s 21	amd No. 21, 1982, s 2
s 22	amd No. 37, 1966, s 2; No. 27, 2014, s 46; No. 19, 2017, s 39
s 23	amd No. 21, 1982, s 2
s 24	rep No. 87, 1981, s 3
s 26	amd No. 8, 2016, s 45
s 27	amd No. 95, 1978, s 14; No. 21, 1982, s 2
sch	amd No. 21, 1982, s 2