



New South Wales

# Sheriff and Court Security Amendment Bill 2023

## Explanatory note

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

## Overview of Bill

The object of this Bill is to make miscellaneous amendments to—

- (a) the *Sheriff Act 2005*, including—
  - (i) to set out the functions of the Sheriff, and
  - (ii) to authorise Sheriff’s officers to provide security services to judicial officers, and
  - (iii) to enable Sheriff’s officers to provide emergency assistance to other agencies, and
- (b) the *Court Security Act 2005*, including to authorise a security officer to provide reasonable assistance to a police officer or custodial officer in relation to court security.

## 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 to the proposed Act.

## Schedule 1 Amendment of Sheriff Act 2005 No 6

**Schedule 1[1]** inserts definitions of *judicial officer* and *Secretary*. **Schedule 1[2]** makes a consequential amendment.

**Schedule 1[3]** sets out the functions of the Sheriff.

**Schedule 1[4]** updates a reference to the Department of Communities and Justice.

**Schedule 1[5]** authorises a sheriff's officer to, in accordance with an agreement between the Sheriff and the head of the court concerned, provide protective security services to a judicial officer outside court premises. Schedule 1[5] also allows the Sheriff, with the approval of the Secretary, to enter into an agreement with the head of another Public Service agency to enable a sheriff's officer to assist the other agency in connection with an emergency.

**Schedule 1[6]** provides for a sheriff's officer to be appointed to the position of commissioned officer as a symbolic recognition of the seniority of the sheriff's officer.

**Schedule 1[7]** extends the exclusion of personal liability provided to sheriff's officers under the *Sheriff Act 2005* to functions exercised by sheriff's officers under other Acts.

## **Schedule 2      Amendment of Court Security Act 2005 No 1**

**Schedule 2[1]** authorises a security officer to provide reasonable assistance to a police officer or custodial officer, on the request of the police officer or custodial officer, in relation to an incident affecting court security in court premises or in the immediate vicinity of court premises.

**Schedule 2[2]** authorises a security officer to pursue and arrest a person, without a warrant, outside of court premises if the person is attempting to escape from lawful custody. **Schedule 2[3] and [4]** make consequential amendments.



New South Wales

# Sheriff and Court Security Amendment Bill 2023

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New South Wales

# Sheriff and Court Security Amendment Bill 2023

No. \_\_\_\_\_, 2023

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## A Bill for

An Act to make miscellaneous amendments to the *Sheriff Act 2005* and *Court Security Act 2005*, including in relation to the functions of the Sheriff and the powers of sheriff's officers.

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**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Sheriff and Court Security Amendment Act 2023*.

3

**2 Commencement**

4

This Act commences on the date of assent to this Act.

5

<b>Schedule 1</b>	<b>Amendment of Sheriff Act 2005 No 6</b>	1
<b>[1] Section 3 Definitions</b>		2
	Insert in alphabetical order in section 3(1)—	3
	<i>judicial officer</i> has the same meaning as in the <i>Court Security Act 2005</i> .	4
	<i>Secretary</i> means the Secretary of the department in which this Act is administered.	5 6
<b>[2] Section 3(1), definition of “Sheriff’s alternate”</b>		7
	Omit “of the Department of Justice”.	8
<b>[3] Section 4 Sheriff’s functions</b>		9
	Omit section 4(1). Insert instead—	10
	(1) The Sheriff has the following functions—	11
	(a) to provide for the safety and security of courts and tribunals, including by exercising the functions given to the Sheriff by or under the <i>Court Security Act 2005</i> ,	12 13 14
	(b) to provide for the effective management and administration of the jury system in accordance with the <i>Jury Act 1977</i> ,	15 16
	(c) civil law enforcement functions given to the Sheriff by or under this Act and other Acts,	17 18
	(d) to provide protective security services to judicial officers,	19
	(e) any other function given to the Sheriff by or under this Act or another Act or law.	20 21
<b>[4] Section 5 Delegation of Sheriff’s functions</b>		22
	Omit “Department of Justice” from section 5(1)(b).	23
	Insert instead “department in which this Act is administered”.	24
<b>[5] Sections 7C and 7D</b>		25
	Insert after section 7B—	26
<b>7C Security for judicial officers</b>		27
	(1) A sheriff’s officer may provide security services to a judicial officer for the protection of the judicial officer outside court premises.	28 29
	(2) The services must be provided in accordance with an agreement between the Sheriff and the head of the court of which the judicial officer is a member.	30 31
	(3) In this section—	32
	<i>court</i> and <i>court premises</i> have the same meanings as in the <i>Court Security Act 2005</i> .	33 34
<b>7D Emergency assistance</b>		35
	(1) The Sheriff may, with the approval of the Secretary, enter into an agreement with the head of a Public Service agency to enable sheriff’s officers to assist the agency in connection with an emergency.	36 37 38
	(2) In this section—	39
	<i>head</i> of a Public Service agency has the same meaning as in the <i>Government Sector Employment Act 2013</i> .	40 41

	<i>Public Service agency</i> has the same meaning as in the <i>Government Sector Employment Act 2013</i> .	1 2
[6]	<b>Section 14</b>	3
	Insert after section 13A—	4
	<b>14 Rank structure</b>	5
	(1) The Governor may, on the recommendation of the Sheriff, issue a document (a <i>commission</i> ) recognising the appointment of a sheriff's officer to the position of a commissioned officer.	6 7 8
	(2) The purpose of a commission is symbolic recognition of the seniority of the sheriff's officer.	9 10
	(3) The Sheriff may publish the rank structure for sheriff's officers, as in force from time to time, in the Gazette.	11 12
[7]	<b>Section 15 Exclusion of liability</b>	13
	Omit "executing this Act".	14
	Insert instead "exercising a function under this Act or another Act".	15

<b>Schedule 2</b>	<b>Amendment of Court Security Act 2005 No 1</b>	1
<b>[1] Part 3 Court security powers</b>		2
Insert after Part 3, Division 4—		3
<b>Division 5</b>	<b>Assisting police officers and custodial officers</b>	4
<b>15A</b>	<b>Assisting police officers and custodial officers</b>	5
(1)	A security officer may, if asked by a police officer or custodial officer, provide reasonable assistance to the police officer or custodial officer in relation to an incident affecting court security—	6
(a)	in court premises, or	7
(b)	in the immediate vicinity of court premises.	8
(2)	The security officer must, when assisting the police officer or custodial officer, act at all times under the direction of—	9
(a)	the police officer or custodial officer, or	10
(b)	another police officer or custodial officer who is also present.	11
<b>[2] Section 16 Powers of arrest</b>		12
Insert after section 16(2)—		13
(2A)	A security officer may also arrest a person, without a warrant, at a place outside of court premises, if—	14
(a)	the person absconded from the court premises in an attempt to escape from lawful custody, and	15
(b)	the officer pursued the person from the court premises and the pursuit was not stopped or interrupted at any time before the officer arrived at the place for the purpose of arresting the person.	16
<b>[3] Section 16(3)</b>		17
Omit “subsection (2)”. Insert instead “subsections (2) and (2A)”.		18
<b>[4] Section 17 Use of force generally by security officers</b>		19
Insert “or from lawful custody” after “after arrest” in section 17(2).		20