



ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1983

No. 24 of 1983

An Act to amend the Law Courts (Maintenance of Order) Act, 1928.

[Assented to 26 May 1983]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

- Short title.** 1. (1) This Act may be cited as the "Law Courts (Maintenance of Order) Act Amendment Act, 1983".
- (2) The Law Courts (Maintenance of Order) Act, 1928, is in this Act referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Law Courts (Maintenance of Order) Act, 1928-1983".
- Commencement.** 2. (1) This Act shall come into operation on a day to be fixed by proclamation.
- (2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.
- Amendment of long title.** 3. The long title of the principal Act is amended by inserting after the word "therein" the passage "; to provide for the appointment of court orderlies and to define their powers and duties; and for other purposes".
- Insertion of new heading.** 4. The following heading is inserted immediately before section 1 of the principal Act:
- PART I**
PRELIMINARY
- Insertion of new s. 1a.** 5. The following section is inserted after section 1 of the principal Act:
- Arrangement.** 1a. This Act is arranged as follows:
- PART I—PRELIMINARY**

PART II—POWER OF COURT TO REFUSE TO HEAR
PERSONS IN CERTAIN CASES

PART III—COURT ORDERLIES.

6. The following heading is inserted immediately before section 2 of the principal Act:

Insertion of new heading.

PART II

POWER OF COURT TO REFUSE TO HEAR PERSONS IN
CERTAIN CASES.

7. Section 2 of the principal Act is amended by striking out the word "Act" and substituting the word "Part".

Amendment of s. 2—
Interpretation.

8. Section 4 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

Amendment of s. 4—
Mode of enforcing orders under this Part.

(1) Where a court orders the payment of a fine or costs under this Part and there is no provision apart from this section for enforcement of the order, the fine or costs may be recovered as a debt.

9. Section 5 of the principal Act is amended by striking out the word "Act" where it first occurs and substituting the word "Part".

Amendment of s. 5—
Saving of other powers of court.

10. The following Part is inserted after section 5 of the principal Act:

Insertion of new Part III.

PART III

COURT ORDERLIES

6. In this Part, unless the contrary intention appears—

Interpretation.

"court" means the Supreme Court of South Australia, a District Court, a local court, the Children's Court of South Australia, a court of summary jurisdiction, or a justice conducting a preliminary examination:

"court orderly" means a court orderly appointed under this Part:

"the sheriff" means the person for the time being holding or acting in the office of sheriff under the Supreme Court Act, 1935-1982, and includes a deputy sheriff appointed under that Act.

7. The sheriff is responsible to the Attorney-General—

Sheriff to be responsible for court orderlies.

(a) to assign court orderlies to the various courts as occasion requires;

and

(b) to supervise the work of court orderlies.

8. (1) Subject to this section, a court orderly may be appointed—

Appointment of court orderlies.

(a) subject to and in accordance with the Public Service Act, 1967-1981;

or

(b) by the sheriff by writing under his hand.

(2) A court orderly appointed under subsection (1) (b) shall hold office upon terms and conditions approved by the Attorney-General, and the Public Service Act, 1967-1981, shall not apply to or in relation to a person so appointed.

Duties and
powers of court
orderlies.

9. (1) The duties of a court orderly are as follows:

- (a) to assist a court in the maintenance of order in, and about the precincts of, the court;
 - (b) to assist in the production of any prisoner who is to appear before a court;
 - (c) to execute or cause to be executed any process directed to him by a court;
 - (d) to observe and carry out any direction of the sheriff, or of a court;
- and
- (e) to perform any other duty that may be prescribed.

(2) For the purpose, or in the course, of performing his duties, a court orderly may—

- (a) remove, or cause to be removed, from a court, or the precincts of a court, any person behaving in an unlawful or disorderly manner;
 - (b) keep in his custody any prisoner delivered to him for the purpose of appearing before a court;
 - (c) exercise a power of arrest either upon the warrant of a court, or without such a warrant if the person to be arrested appears to have escaped from lawful custody;
 - (d) upon the warrant, or at the direction, of a court, keep a person who is to appear before the court in safe custody;
 - (e) give reasonable directions to persons in and about the precincts of a court;
 - (f) exercise any power that a special constable appointed under the Police Regulation Act, 1952-1981, may exercise;
- and
- (g) do anything else that is necessary for, or incidental to, the performance of his duties.

Offences.

10. (1) A person who hinders or resists a court orderly, or a person assisting a court orderly, in the performance of his duties shall be guilty of a summary offence and liable to a penalty not exceeding one thousand dollars or imprisonment for three months.

(2) A court orderly may arrest any person whom he reasonably suspects of having committed an offence under subsection (1).

(3) A person who is arrested under subsection (2) shall be brought as soon as reasonably practicable before a justice to be dealt with according to law.

Personal
immunity.

11. (1) Subject to this section, civil liability for any wrongful or negligent act or omission of a court orderly in the course of the

performance or purported performance of duties assigned to him by or under this Part shall be determined according to the law of torts.

(2) A court orderly incurs no personal liability in tort for any act or omission by him in good faith and in the course of the performance or purported performance of duties assigned to him by or under this Part.

(3) Any action or claim to which a court orderly would, but for subsection (2), be liable lies against the Crown.

12. A person may hold office as a court orderly under this Part notwithstanding that he holds any other office under any other Act.

Court orderlies
may hold other
offices.

13. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

Regulations.

(2) Without limiting the generality of subsection (1), regulations may be made—

(a) providing for the supervision, control and discipline of court orderlies;

(b) providing for the training of court orderlies;

and

(c) making any provision that may be necessary or expedient to ensure that court orderlies discharge their duties in a proper and efficient manner.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor