

THE SHERIFFS ACT

CHAPTER 342

- Sheet title 1. This Act may be cited as *The Sheriffs Act*.
[R.S.A. 1955, c. 312, s. 1]

Appointments and Duties

Appoint-
ments and
duties

2. (1) The Lieutenant Governor in Council may, from time to time, as occasion requires, appoint a sheriff in each judicial district, who shall hold office during pleasure and who shall discharge all the duties connected with his office and also such other duties as may be assigned to him or appertain to his office by law.

(2) Whenever it appears that the convenience of the public so requires, the Lieutenant Governor in Council may appoint an assistant sheriff in any judicial district who, subject to the directions of the sheriff, may do and perform in the name of the sheriff any duty or act that the sheriff of the district has power to do or perform.

(3) Whenever it appears that the convenience of the public so requires, the Lieutenant Governor in Council may appoint deputy sheriffs, who have jurisdiction either for the judicial district wherein they are appointed, or any such portion thereof as may be designated by the order appointing them or by any subsequent or other order.

(4) The deputy sheriffs shall hold office during pleasure and within their respective districts have and shall exercise all the powers, duties and obligations that may now be exercised or performed by the sheriff of any of the judicial districts in the Province, and in respect of *mesne* and final process intended to affect real or personal property situated within the districts of any of the said deputy sheriffs, any of the deputy sheriffs have and shall perform all the powers, duties and obligations of the sheriff of his judicial district.

(5) Such process shall for the purpose of binding such property be placed in the hands of the deputy sheriff and need not be placed in the hands of the sheriff of his judicial district.

(6) A deputy sheriff shall have and use a duplicate of the seal of the sheriff of his judicial district, and shall keep such books as are kept by sheriffs.

(7) The Attorney General may settle and adjust any questions, disputes or matters arising from or consequent upon the exercise of the powers herein contained.

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(8) The Lieutenant Governor in Council

- (a) may appoint sheriff's bailiffs at such places in the Province as the public convenience requires, and
- (b) may make provision for the remuneration of bailiffs either by salary or by payment to them, in such manner as may be found advisable, of the whole or any proportion of the fees payable upon the service or execution of any legal process that by law bailiffs are authorized to serve or execute.

(9) In the absence or illness of the sheriff, and of the assistant sheriff where there is one, or of a deputy sheriff, the sheriff may in writing appoint some person to act for him, and such person during the absence or illness of the sheriff and assistant sheriff or of the deputy sheriff, as the case may be, has and shall use and exercise all the powers, duties and functions of the sheriff, assistant sheriff or deputy sheriff respectively.

[R.S.A. 1955, c. 312, s. 2; R.S.A. 1955, c. 164, s. 43 (3)]

Oath of allegiance

3. (1) Every sheriff, deputy sheriff and assistant sheriff before he enters upon the duties of his office shall take and subscribe the oath of allegiance and the official oath prescribed by *The Oaths of Office Act*, and is not bound or required to subscribe or take any other oaths, or make any other declaration or subscription except as hereinafter provided.

(2) Every oath taken and subscribed in accordance with subsection (1) shall be filed in the office of the Provincial Treasurer. [R.S.A. 1955, c. 312, s. 3]

Salaries

4. Every sheriff, deputy sheriff and assistant sheriff shall receive as remuneration for his services a salary which shall be fixed by the Lieutenant Governor in Council.

[R.S.A. 1955, c. 312, s. 4]

Security

Security by sheriff

5. Every sheriff, deputy sheriff or assistant sheriff shall, within one month after his appointment and before he is sworn into office, furnish the requisite security for the due and faithful performance of the duties of his office.

[R.S.A. 1955, c. 312, s. 5]

Amount of security

6. The Lieutenant Governor in Council may, from time to time by order in council, fix and determine the amount of security to be given by every sheriff, deputy sheriff and assistant sheriff, as hereinafter mentioned, but the amount shall

- (a) in the case of sheriff be not less than five thousand dollars, and
- (b) in the case of personal sureties
 - (i) be not less than two thousand five hundred dollars for each surety where there are two sureties named in the bond, and

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- (ii) be not less than one thousand two hundred and fifty dollars for each surety where there are four sureties named in the bond.

[R.S.A. 1955, c. 312, s. 6]

Type of security

7. (1) The security to be furnished by sheriffs, deputy sheriffs and assistant sheriffs

(a) may be the bond of any guarantee or insurance company approved by the Lieutenant Governor in Council, or

(b) may be a joint and several bond, in duplicate, with two or four sureties, for such amounts respectively as may be fixed and determined by order in council in that behalf, and made under section 6, and to each of the duplicate bonds of private or personal suretyship shall be attached an affidavit of justification by each of the sureties therein named, and a similar affidavit shall be made by the principal to every bond and attached thereto.

(2) Where a sheriff, deputy sheriff or assistant sheriff is unable to justify in the amount required to be named in the bond, the Attorney General may accept such additional security as he considers requisite, and in that case the affidavit required by this section shall be varied as to such sheriff in accordance with the facts.

[R.S.A. 1955, c. 312, s. 7]

Security by bailiff

8. A sheriff's bailiff shall furnish security in the like form and manner as is provided with respect to sheriffs, and in such amount as the Lieutenant Governor in Council may from time to time determine. [R.S.A. 1955, c. 312, s. 8]

Filing duplicate bond

9. One of the duplicate bonds with affidavit thereto attached shall, within the period hereinbefore limited for furnishing security, be filed in the office of the Clerk of the Supreme Court for the judicial district to which it relates, and the other duplicate bond, with the affidavits attached to the same, and an affidavit of the filing of the first mentioned duplicate and affidavits in the office of the Clerk shall, within the same period, be transmitted to the office of the Attorney General for approval.

[R.S.A. 1955, c. 312, s. 9]

Approval or disapproval of bond

10. (1) If the bond is approved it shall, together with all affidavits, be forthwith deposited in the office of the Provincial Secretary and notice of the approval shall be given to the sheriff, deputy sheriff, assistant sheriff or bailiff, but if the bond is disapproved the sheriff, deputy sheriff, assistant sheriff or bailiff shall, within one month thereafter, furnish and transmit another bond, in duplicate, and in lieu of the bond so disapproved, to the satisfaction of the Attorney General.

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(2) The sureties named in a disapproved bond are not discharged from liability by the disapproval, but are and continue liable for any default or misfeasance made, done or committed previous to the approval by the Attorney General of any bond that may be furnished in lieu of it.

[R.S.A. 1955, c. 312, s. 10]

Renewal of security

11. (1) The Attorney General may at any time require a sheriff, deputy sheriff, assistant sheriff or bailiff to renew his bond or securities, or to furnish others in their place, as to the Attorney General appears expedient for the protection of the Crown or of the parties to legal proceedings, and the sheriff, deputy sheriff, assistant sheriff or bailiff shall be bound to transmit the new or substituted bonds or securities to the Attorney General within three months after being given notice to that effect.

(2) A renewal or substituted bond or security shall be in the same form and executed and accompanied by the same formalities and affidavits and are subject to the same approval as the original bonds or security.

[R.S.A. 1955, c. 312, s. 11]

Liability of former sureties in case of renewal

12. Where a new security is given or substituted pursuant to section 11, the former sureties are liable only for, or on account of, defaults and misfeasances suffered or committed by the sheriff, deputy sheriff, assistant sheriff or bailiff previous to the perfecting of the new security and the approval thereof by the Attorney General, and not as to any subsequent default or misfeasance.

[R.S.A. 1955, c. 312, s. 12]

Inability of sheriff to make further affidavit of justification

13. Where a sheriff, deputy sheriff, assistant sheriff or bailiff has given the security and made the affidavit of justification required to be made under section 7, but has subsequently to his appointment, on account of additional security being required, become unable to make a further affidavit of justification in accordance with the provisions of section 11, this Act shall not be construed as rendering necessary his dismissal from office, but he is, under pain of forfeiture of his office, required to furnish such additional security as the Attorney General considers requisite.

[R.S.A. 1955, c. 312, s. 13]

Death, etc. of surety

14. Every sheriff, deputy sheriff, assistant sheriff and bailiff shall, within one month after the facts come to his knowledge, give notice in writing to the inspector of legal offices of the death, discharge, bankruptcy, insolvency, or residence out of the Province of any surety or person bound with him in such security, and in every such case the sheriff, deputy sheriff, assistant sheriff or bailiff

(a) shall furnish the security of a new surety to be approved of as aforesaid in lieu of the surety so dying, being discharged, becoming bankrupt or insolvent, or residing without this Province, and

(b) shall within one month after such notice complete

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and transmit to the Attorney General the necessary bonds or security and affidavits in that behalf.

[R.S.A. 1955, c. 312, s. 14]

Withdrawal
of surety

15. A person who has become surety for a sheriff, deputy sheriff, assistant sheriff or bailiff and is no longer disposed to continue the responsibility, may give notice thereof to the sheriff, deputy sheriff, assistant sheriff or bailiff and to the Attorney General, and in such case the sheriff, deputy sheriff, assistant sheriff or bailiff

(a) shall furnish the security of a new surety in lieu of the surety giving notice, and

(b) shall within one month after the notice complete and transmit to the Attorney General the necessary bonds and affidavits in that behalf,

and all accruing responsibility on the part of the person giving notice ceases upon and after the perfecting and approval of the new security. [R.S.A. 1955, c. 312, s. 15]

Forfeiture
for neglect
to furnish
security

16. Every sheriff, deputy sheriff, assistant sheriff or bailiff who neglects to give and furnish any of the securities or give any notice required by this Act within the periods hereinbefore respectively limited is liable to forfeit his office, and his appointment and commission is void from and after the time when the Lieutenant Governor in Council declares it to be voided under this Act, but the voidance does not annul or make void any act or order or other matter or thing done by him during the time he actually holds office.

[R.S.A. 1955, c. 312, s. 16]

Remission of
forfeiture

17. (1) The Lieutenant Governor in Council may remit the forfeiture in any case in which the failure to give the security, or to perfect or transmit the instruments required by this Act, within the periods hereinbefore limited respectively in that behalf has not arisen from the wilful neglect of the sheriff, deputy sheriff, assistant sheriff or bailiff.

(2) If it appears to the Lieutenant Governor in Council that the respective periods are in any case insufficient in consequence of accident, casualty, loss of papers in the transmission thereof, illness or other particular circumstance, the Lieutenant Governor in Council may allow such further period, not in any case exceeding two months, for perfecting and transmitting such securities, as to him appears reasonable and proper. [R.S.A. 1955, c. 312, s. 17]

Approval of
imperfect
securities

18. (1) The Attorney General may approve of any security or securities, although they may not have been perfected and transmitted within the time limited by this Act, and in such case the office or commission of the sheriff, deputy sheriff, assistant sheriff or bailiff shall not be deemed to have been voided by the default, but to have remained in full force and effect.

(2) The securities, when approved as aforesaid, shall be held and construed to be valid and effectual in the same

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manner and to the same extent as if they had been perfected and approved respectively within the time limited by this Act.

[R.S.A. 1955, c. 312, s. 18]

Neglect, etc.,
in giving
bond

19. No neglect, omission or irregularity

(a) in giving or renewing any bond or security required by this Act, or

(b) in observing the formalities hereinbefore prescribed, or any of them,

vacates or makes void any bond or security or discharges any party or surety from the obligations thereof.

[R.S.A. 1955, c. 312, s. 19]

Effect of
change of
area of
judicial
district

20. No bond or security is in anywise impaired, discharged or voided, nor shall any sheriff, deputy sheriff, assistant sheriff, bailiff or any surety named therein be released, exonerated or acquitted from the obligation assumed thereby, by reason of the addition to the original area of the judicial district to which it relates of any other territory, or by the separation therefrom of any portion of the original area, by legislative authority or otherwise.

[R.S.A. 1955, c. 312, s. 20]

Examination,
etc., of bond

21. Any person may examine the bond or security of any sheriff, deputy sheriff, assistant sheriff or bailiff on file in the office of the clerk of the court, and the clerk in possession thereof shall, on demand, deliver to any person who desires the same a copy thereof on payment of the following fees:

(a) for search and examination of bond\$.25

(b) for copy of bond 1.00

[R.S.A. 1955, c. 312, s. 21]

Realization on Bond or Security

Liability
of sureties

22. (1) The sureties of any sheriff, deputy sheriff, assistant sheriff or bailiff are liable to indemnify the party or parties to any legal proceedings

(a) against any omission or default of the sheriff, deputy sheriff, assistant sheriff or bailiff in not paying over moneys received by him, and

(b) against any damage sustained by any party or parties in consequence of the sheriff's, deputy sheriff's, assistant sheriff's or bailiff's wilful or neglectful misconduct in his office.

(2) The sheriff, deputy sheriff, assistant sheriff or bailiff shall be a joint defendant in any action to be brought upon the bond or security given by him.

[R.S.A. 1955, c. 312, s. 22]

Default of
sheriff

23. A person sustaining any damage by reason of any default or misconduct of any sheriff, deputy sheriff, assistant sheriff or bailiff may bring and maintain an action upon the bond or security for the default or misconduct, and the action is not barred by reason of

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- (a) any prior recovery by the same party upon the bond or security, or
- (b) any judgment rendered for the defendant in any prior action upon the same bond or security, or
- (c) any other action then depending upon the same either at the suit of the same plaintiff or of any other party for any other distinct cause of action.

[R.S.A. 1955, c. 312, s. 23]

Limitation
of surety

24. If, upon the trial of any action upon any such bond or security, it is made to appear that the plaintiff is entitled to recover and that the amount that the surety has paid or become liable to pay as hereinafter mentioned is not equal to the full amount for which he became surety, the court after deducting from the full amount the sums that the surety has paid or become liable to pay as aforesaid shall render judgment against him for any sum not exceeding the balance of the sum for which he became surety.

[R.S.A. 1955, c. 312, s. 24]

Discharge
of surety
from
liability

25. Where any surety actually and *bona fide* and of his own proper moneys and effects has paid or become liable by virtue of a judgment or judgments recovered against him upon his bond or security to pay an amount equal to the amount specified in the bond or security for which he became surety, the bond or security shall as to him be deemed to be discharged and satisfied and no other or further sum shall be recovered against him.

[R.S.A. 1955, c. 312, s. 25]

Stay of
proceedings

26. The Supreme Court of Alberta, or a judge thereof, upon proof to the satisfaction of the Court or judge of the payment or liability in a summary manner and at any stage of the cause may by stay of proceedings or otherwise prevent the recovery against any surety of any further sum than the amount specified in his bond or security and for which he may have become surety.

[R.S.A. 1955, c. 312, s. 26]

Levy on
goods and
lands of
sheriff

27. Upon every writ of execution under a judgment recovered on such bond or security, the plaintiff or his solicitor shall by an endorsement on the writ direct the coroner or other officer charged with the execution of the writ

- (a) to levy the amount of the writ upon the goods and chattels of the sheriff, deputy sheriff, assistant sheriff or bailiff, as the case may be, in the first place, and
- (b) in default of goods and chattels of the sheriff, deputy sheriff, assistant sheriff or bailiff satisfying the amount, then to levy the amount of the writ or the residue thereof on the goods and chattels of the other defendant or defendants in the writ,

and so in like manner with respect to lands and tenements.

[R.S.A. 1955, c. 312, s. 27]

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Liabilities in Office

- Liability continues until successor appointed** **28.** Notwithstanding that a sheriff, deputy sheriff or assistant sheriff has forfeited his office and become liable to be removed therefrom, the liability of himself and his sureties remains until a new sheriff, deputy sheriff or assistant sheriff has been appointed and sworn into office.
[R.S.A. 1955, c. 312, s. 28]
- Purchase by sheriff, etc.** **29.** No sheriff, deputy sheriff, assistant sheriff, bailiff or constable shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed for sale under execution.
[R.S.A. 1955, c. 312, s. 29]
- Forfeiture for false returns** **30.** Every sheriff, deputy sheriff or assistant sheriff who wilfully makes any false returns to any writ directed to him and placed in his hands for execution is liable to forfeit his office.
[R.S.A. 1955, c. 312, s. 30]
- Liability for misconduct in execution of writ** **31.** If the bailiff, constable or sheriff's officer entrusted with the execution of any writ, warrant or process, *mesne* or final,
(a) wilfully misconducts himself in the execution of the same, or
(b) wilfully makes any false return to the writ, warrant or process,
he shall answer in damages to any party aggrieved by the misconduct or false return. [R.S.A. 1955, c. 312, s. 31]

Attendance

- Office hours** **32.** (1) Every sheriff or deputy sheriff shall keep his office open on the days and during the hours that the office of the Clerk of the Supreme Court is required to be kept open, and during that time he or his assistant or some clerk competent to do the business for him shall be present to transact the business of the office.
(2) Notwithstanding that his office may be closed on Saturdays, the sheriff or deputy sheriff shall, upon application made to him, transact on a Saturday all necessary and urgent business of his office in the same manner and to the same extent as on the days upon which his office must be kept open.
[R.S.A. 1955, c. 312, s. 32; 1960, c. 95, s. 2; 1963, c. 62, s. 2]

Fees, Allowances and Books

- Fees and allowances** **33.** (1) Every sheriff and deputy sheriff is entitled to collect fees and allowances specified in that behalf in the tariff of fees in force from time to time, and such other fees as may be allowed the sheriff and deputy sheriff by any regulation or Act or by any judge's order.
(2) The plaintiff or other party at whose suit or instance
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any process is issued, and the solicitors who issue the same, are severally liable to pay to the sheriff or deputy sheriff his taxable costs for executing such process.

(3) Where process is placed in the hands of a sheriff or deputy sheriff with instructions to seize, and

- (a) no property is found that is liable to seizure, or
- (b) the seizure has been abandoned on the instructions of the person or his solicitor placing the process in the hands of a sheriff or deputy sheriff,

the mileage properly payable to the sheriff or deputy sheriff had a seizure been made shall be paid by the person placing the process in the hands of the sheriff or deputy sheriff. [R.S.A. 1955, c. 312, s. 33]

Penalty for
receiving
reward

34. (1) No sheriff, deputy sheriff, assistant sheriff or sheriff's officer shall demand or take any reward directly or indirectly

- (a) for doing his office or duty, or
- (b) for abstaining from doing his office or duty, or
- (c) in respect of the mode in which he does his office or duty,

except such remuneration as is given by the Lieutenant Governor in Council to the sheriff, deputy sheriff or assistant sheriff, or as is allowed to an officer of the sheriff and such fees and poundage as are allowed by this Act.

(2) A person offending against this section is liable to instant dismissal and on summary conviction to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding two years.

[R.S.A. 1955, c. 312, s. 34]

Record of
fees

35. Every sheriff and deputy sheriff shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him in virtue of his office, showing separately the fees received for each service performed, and such further facts and information as the Attorney General may from time to time require.

[R.S.A. 1955, c. 312, s. 35]

Inspection
of books

36. (1) Every sheriff, deputy sheriff and assistant sheriff shall keep in his office and open to the inspection of any person the following:

- (a) process books in which shall be entered a memorandum of every process other than writs of execution, or writs in the nature of writs of execution, received by the sheriff or deputy sheriff, showing
 - (i) the court out of which the process issued,
 - (ii) the date of the receipt,
 - (iii) the nature of the process,
 - (iv) the names of the parties to the process,
 - (v) the barrister and solicitor by whom the process was issued,

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- (vi) the date of the return, and
- (vii) the nature of the return made to the process or what was done under or with the process;
- (b) an execution book in which shall be entered a memorandum of every writ of execution or writ in the nature of a writ of execution, showing
 - (i) the court out of which it issued,
 - (ii) the names of the parties thereto,
 - (iii) the barrister and solicitor by whom it was issued,
 - (iv) the date of return, and
 - (v) the nature of the return made to the writ or what was done under or with the writ;
- (c) a cash book, in which shall be entered
 - (i) the amounts of all cash received or paid away by the sheriff or deputy sheriff in his official capacity, or in connection with his office for any service whatever—for fees, poundage, service of process and papers, attendance at court, and moneys levied under execution or under writs in the nature of writs of execution or otherwise,
 - (ii) the date of the receipt or payment, and
 - (iii) the cause, matter or service in which or on account of which the cash was received or paid away;
- (d) a seal of office.

(2) The books and seal shall be supplied out of the General Revenue Fund of the Province.

[R.S.A. 1955, c. 312, s. 36]

Remittance
of fees

37. (1) All fees received by any sheriff, deputy sheriff, or assistant sheriff shall be paid to the Provincial Treasurer by the sheriff or deputy sheriff or assistant sheriff within the first ten days of the month following the month in which the fees are received.

(2) The cheque or remittance of fees to the Provincial Treasurer shall be accompanied by a statement in duplicate in such forms as the Attorney General may prescribe, verified under oath and showing the amount of the fees received, and the amount of fees paid by him to bailiffs during the month, and the statement shall be sent to the inspector of legal offices.

(3) A sheriff, deputy sheriff or assistant sheriff who fails to keep the books required to be kept under this Act, or who fails to enter therein any fees received by him and required by this Act to be entered therein, is guilty of an offence and liable on summary conviction to a fine not exceeding twenty dollars.

(4) A sheriff, deputy sheriff or assistant sheriff who fails to transmit to the Provincial Treasurer the fees re-

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quired to be transmitted by him under the provisions of this section is guilty of an offence and liable on summary conviction to a fine of twenty dollars for each day after he fails to transmit the same.

(5) The fees and moneys received by the Provincial Treasurer under the provisions hereof shall form part of the General Revenue Fund of the Province.

[R.S.A. 1955, c. 312, s. 37]

Transfer of
balances to
suspense
account

38. (1) Whenever the balance as shown by the books of the sheriff's office remaining to the credit of any action or matter to which an adult party is entitled does not exceed twenty-five dollars, and two years have elapsed without the balance being claimed or paid out, the account in such action or matter shall be closed by the transfer of the balance to the suspense account, but the transfer does not prejudice the claim of any suitor entitled to the balance.

(2) All balances that are standing to the credit of any action or matter and that have not been claimed or paid out before the lapse of ten years from the time when application might have been made for the payment out thereof to the person entitled thereto shall be transferred to the suspense account, but such transfer does not prejudice the claim of any person to the payment of any moneys so transferred.

(3) Moneys standing to the credit of the suspense account are subject to the control and direction of the Lieutenant Governor in Council. [R.S.A. 1955, c. 312, s. 38]

Death, Resignation or Removal

Death, etc.,
of sheriff

39. (1) If a sheriff or deputy sheriff dies, or resigns his office and his resignation is accepted, or he is removed therefrom, the assistant sheriff, if one has been appointed, shall nevertheless continue the office of sheriff or deputy sheriff and execute the same and all things belonging thereto in the name of the sheriff or deputy sheriff so dying, resigning or being removed until another sheriff or deputy sheriff has been appointed and sworn into office.

(2) The assistant sheriff is answerable for the execution of the office in all respects and to all intents and purposes whatsoever during the interval as the sheriff or deputy sheriff so dying, resigning or having been removed would by law have been if he had been living or had continued in office.

(3) The security given by the assistant sheriff, as well as the security given by the sheriff or deputy sheriff under this Act, remain and are a security to Her Majesty the Queen, her heirs and successors and to all persons whatsoever for the due and faithful performance by the assistant sheriff of the duties of his office during this interval.

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(4) In case of the death, resignation or removal of a sheriff or deputy sheriff, if there is at the time no assistant sheriff, the Clerk or Deputy Clerk of the Supreme Court for the judicial district or portion thereof, as the case may be, is *ex officio* the sheriff or deputy sheriff *pro tempore* until another person is appointed sheriff or deputy sheriff.

(5) The Clerk or Deputy Clerk on becoming sheriff or deputy sheriff *pro tempore* shall do and perform every act, matter or thing necessary for the execution of the office.

(6) The sheriff or deputy sheriff *pro tempore* is answerable for the execution of the office in all respects and to all intents and purposes whatsoever during the interval as the sheriff or deputy sheriff so dying, resigning or having been removed would by law have been if he had been living, or had continued in office.

(7) The security given by a sheriff or deputy sheriff so dying, resigning or being removed as aforesaid remains and is security to Her Majesty the Queen, her heirs and successors and to all persons whatsoever for the due and faithful performance of the duties of his office by the sheriff or deputy sheriff *pro tempore*. [R.S.A. 1955, c. 312, s. 39]

Books, etc.
property of
Government

40. All books, accounts, records, papers, writs, warrants, processes, moneys and other matters and things in the possession or under the control of a sheriff or deputy sheriff by virtue of or appertaining to his office as sheriff or deputy sheriff

(a) are the property of the Government of the Province, and

(b) shall immediately upon the resignation, removal from office or death of a sheriff or deputy sheriff be handed over by the party in whose possession or control they might have come or happen to be, and taken possession of by the successor in office of the sheriff or deputy sheriff if appointed, or by the person named in section 39, if no successor has been appointed. [R.S.A. 1955, c. 312, s. 40]

Possession
of books,
etc., after
vacancy

41. (1) No person except the successor in office of the sheriff or deputy sheriff so resigning, being removed or dying, or the person named in section 39 shall take, have or hold any such books, accounts, records, papers, writs, warrants, processes, moneys, or other matters or things.

(2) Any other person having or holding any of the matters or things referred to in subsection (1) shall forthwith on demand deliver them and every one of them over to the succeeding sheriff or deputy sheriff, or to the person named in section 39, and upon any such person neglecting or refusing to do so he is liable on conviction thereof before a judge of the Supreme Court to pay a fine not exceeding two hundred dollars. [R.S.A. 1955, c. 312, s. 41]

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Ex-sheriff's
right of
access to
books, etc.

42. A sheriff or deputy sheriff after resigning office or being removed therefrom, or in case of the death of a sheriff or deputy sheriff, his heirs, executors or administrators, at any and all times thereafter has the right and is at liberty, free of all costs, charges and expenses, to have access to, search and examine into

(a) any or all accounts, books, papers, warrants and process of whatever kind, and

(b) all other matters or things,

that were formerly in the possession of the sheriff or deputy sheriff before his resignation or removal or death and that at the time of such search or examination are in the possession or control of the succeeding sheriff or deputy sheriff.

[R.S.A. 1955, c. 312, s. 42]

When
vacancy
occurs be-
tween sales
and transfer
of lands

43. In case of the death, resignation or removal

(a) of a sheriff or deputy sheriff, or

(b) of an assistant sheriff while there is no sheriff,

after he has made a sale of lands but before he has made a transfer of the same to the purchaser, the transfer shall be made to the purchaser by the sheriff, the deputy sheriff or assistant sheriff who is in office acting as sheriff or deputy sheriff at the time when the transfer is made.

[R.S.A. 1955, c. 312, s. 43]

Continuation
of actions
after
vacancy
occurs

44. In case of the death, resignation or removal from office of a sheriff or deputy sheriff after action brought or proceedings commenced by him as sheriff or deputy sheriff, the action or proceedings do not abate, but may be continued in the name of his successor, to whom the benefit of all securities given to the sheriff or deputy sheriff in his official capacity enures.

[R.S.A. 1955, c. 312, s. 44]

Return of Documents by Officers

Return of
Documents
to sheriff

45. (1) Every assistant sheriff, bailiff or other sheriff's officer or clerk entrusted with the custody of any writ or process, or of any book, paper or document belonging to a sheriff or deputy sheriff or his office, shall, upon demand upon him by the sheriff or deputy sheriff, restore and return the writ, process, book, paper or document to the custody of the sheriff or deputy sheriff.

(2) Where such person neglects or refuses to return and restore such writ, process, book, paper or document he may be required by an order of the Supreme Court or of any judge of such Court to return and restore the writ, process, book, paper or document to the sheriff or deputy sheriff, and if he disobeys the order may be further proceeded against by attachment as in other cases of contumacy to orders or rules of court.

[R.S.A. 1955, c. 312, s. 45]

Order
requiring
delivery up
of process

46. (1) If any assistant sheriff, bailiff or sheriff's officer or clerk who has in his possession, custody or control any statement of claim, *fieri facias* or other writ or

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any bench warrant or process whatsoever, and who upon demand made by the sheriff or deputy sheriff from whom the same has been received or his successor in office or by any other party entitled to the possession of the same, neglects or refuses to deliver up such process, the sheriff or deputy sheriff or his successor in office or the party entitled to possession may make application by motion, before any judge having jurisdiction in the court out of which the process issued, for an order to compel the production thereof.

(2) The order to compel production may be enforced in the same manner as like orders for the return of writs against sheriffs and with or without costs, or the motion may be discharged with costs against the party applying, in the discretion of the judge aforesaid.

[R.S.A. 1955, c. 312, s. 46]

Miscellaneous

Notice of
application
for payment

47. (1) Before an action is commenced by a sheriff or deputy sheriff for the recovery of a bill of costs, fees and expenses, chargeable against a solicitor, and after the expiration of one month from the service of the bill, the sheriff or deputy sheriff may serve the solicitor with a notice of an application to a judge of the Supreme Court, or to a judge of the district court of the district for which the sheriff or deputy sheriff has been appointed, returnable not earlier than eight days from the day of service, for payment of the amount of the bill, and the amount claimed shall be stated in the notice.

(2) On the return of the notice the judge

(a) may without a reference direct the payment to the sheriff or deputy sheriff of the amount of his demand, or of any less amount, either without costs or with costs to be fixed by an order or to be taxed, or

(b) may order the bill and the demand thereon to be taxed by the proper officer of the Supreme Court or the district court, and may direct that the officer tax to the party entitled thereto his costs of the reference, and may also direct that the sheriff or deputy sheriff and the solicitor each pay what is found due to the other upon the conclusion of the reference and taxation.

(3) The judge making the reference shall restrain the bringing of any action pending the reference and in case the order of reference does not make provision in this behalf the officer named in the order of reference may, in his discretion and having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference or any portion thereof in favour of either party or may disallow any part thereof.

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(4) The party entitled to payment may, at the expiration of eight days from the date of the order, or of the certificate of the taxing officer, as the case may be, sue out a writ or writs of execution for the amount ordered or certified to be payable to him. [R.S.A. 1955, c. 312, s. 47]

Practising
law
prohibited

48. No sheriff, deputy sheriff or assistant sheriff shall, while holding office, practise as barrister or solicitor of the Province, or be a member of any firm of barristers and solicitors practising in the Province.

[R.S.A. 1955, c. 312, s. 48]

Regulations

49. The Attorney General may make such regulations and from time to time give such directions as he deems necessary or advisable for the carrying out of the provisions of this Act.

[R.S.A. 1955, c. 312, s. 49]