



OFFICIAL: Sensitive

GENERAL ORDER

CIVIL DISPUTES

General Order title	Civil disputes
Date of issue	23 July 2025
Date of operation	9 July 2025
Review date	February 2027
Review responsibility	Office of the General Counsel
Replaces	Previous General Order, Civil disputes
PCO reference	2007/1012
Gazette reference	SAPG 160/25
Enquiries to	Office of the General Counsel Telephone 732 24430
Corporate Policy Sponsor	Assistant Commissioner Governance and Capability Service

General Orders provide an employee with instructions to ensure organisational standards are maintained and are consistent with SAPOL's vision. Compliance with General Orders is mandatory unless exceptional circumstances exist.

General Orders are issued as instructions to assist an employee to perform their duties effectively and efficiently. It is important that an employee bears in mind that the extent of their compliance with General Orders may have legal consequences. An appendix to a General Order will be regarded as part of the General Order to which it relates.

General Orders must always be applied using reason. Not every situation encountered by an employee can be detailed within a General Order. When a General Order lacks specific instructions, employees should rely on reason and sound judgment to decide their conduct.

All SAPOL employees are expected to always act ethically and with integrity and to be able to explain their actions as required. Deviation from these orders without justification may attract disciplinary action.

The contents of General Orders must not be divulged to any person not officially connected with SAPOL. Requests for General Orders will be managed as follows:

- Civil subpoena and disclosure requests—contact the Information Release Unit.
- Criminal subpoena and disclosure requests—refer to General Order, **Disclosure compliance and subpoena management**.
- Freedom of information requests—contact the Freedom of Information Unit.
- Any other requests (including requests by employees)—refer to instructions provided within General Order, **Corporate policy framework, 5. GENERAL ORDER REQUESTS/RELEASE**.

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1. GENERAL ORDER STATEMENT

The main duty of South Australia Police (SAPOL) at a civil dispute is to preserve the peace. Refer also to General Order, **Breach of the peace**.

Members at a dispute must ensure:

- police do not assist either party except to advise them of sources of assistance
- the parties are not hindered in enforcing their lawful rights, provided that there is no conflict with the duty to preserve the peace.

A member should consider powers appropriate to enter or remain on premises when the dispute is on private property. Generally a member may only enter private property:

- to prevent a breach of the peace
- to stop a breach of the peace
- when invited by an occupier.

Scope

This General Order applies to all members of SAPOL.

2. DOMESTIC DISPUTES

Retaking possession of personal property

When a domestic dispute arises police can enter private property:

- with the consent of the occupier of premises
- to prevent a breach of the peace.

When both parties are present and the ownership of the property is in dispute:

- apart from allowing a party to remove personal belongings such as clothing and other items of necessity from the premises, police must not assist or permit the removal of personal property by one party
- the parties should be advised to obtain legal advice in order to resolve the dispute.

When only one party is present and the ownership of the property is in dispute, the party should:

- not be assisted to access or enter the property
- not be assisted to remove property from the premises
- be discouraged from accessing the premises or attempting to remove personal property in the absence of the other party
- be informed that in the event they are unable to establish sole ownership of the property, or they damage property or attempt to damage property not owned by them, regardless of whether or not they have some interest in it, they may be committing a criminal offence and be liable to prosecution
- be advised to seek legal advice in order to resolve the dispute.

Disputes over possession of premises

When a member attends a dispute over the possession of premises, the member will:

- not physically intervene except to:
 - prevent injury
 - effect an arrest
 - comply with a request from an authorised bailiff
 - comply with a sheriff's officer in accordance with the relevant court order in their possession
- inform all parties that police perform a peacekeeping role
- leave the scene when no violence or unlawful conduct is likely and the bailiff or sheriff's officer does not need members to remain.

3. INDUSTRIAL DISPUTES/STRIKES/DEMONSTRATIONS

When a member arrives at an industrial dispute/strike/demonstration, they will advise the Communications Centre (ComCen) of the following:

- parties to the incident
- exact location
- nature of the incident
- number of persons involved
- potential developments
- anticipated need for additional personnel.

A member at the scene must forward a report to the Officer in Charge of their District/Region after the incident, covering the details of the operation and the points immediately above.

Officer of police—responsibility

An officer of police who becomes aware of:

- an impending demonstration or incident of civil disorder must comply with General Order, **Public order management plan** and General Order, **Operational safety**
- a demonstration in progress must:
 - conduct an appreciation and risk assessment
 - respond appropriately.

4. EVICTIONS

A member must request a supervisor to attend when a dispute involves an eviction or attempted eviction.

An owner who intends to evict persons should obtain a court order for possession which the sheriff's office will deal with. A member should not become involved with the eviction, other than to assist the sheriff's officer when requested or take action where any offences (property damage, trespass, theft or similar) are detected or disclosed.

The supervisor must check the authority of the person seeking to evict. They must be either a licensed bailiff acting on behalf of the Residential Tenancies Tribunal or a sheriff's officer acting on behalf of the Magistrates, District or Supreme Court.

Squatters

Squatters are not always unlawfully on premises. When there is a clear trespass a member may use section 17A of the *Summary Offences Act 1953* to arrest.

Members must ensure there has been no implied or tacit consent for squatters to be on the premises and must contact the Office of the General Counsel for advice when there are any concerns or doubts about the operation of section 17A of the *Summary Offences Act 1953*.

Residential Tenancies Act 1995

A member should be aware of and ensure familiarity with the powers and obligations on police contained pursuant to section 99 of the *Residential Tenancies Act 1995*—a police officer must, when requested by a bailiff, assist the bailiff in enforcing an order for possession. It is an offence to hinder or obstruct a bailiff enforcing an order.

The landlord cannot seize furniture or other goods as compensation for rent.

Retail and Commercial Leases Act 1995

There is nothing in the *Retail and Commercial Leases Act 1995* preventing a landlord from utilising self-help to regain possession of business premises (generally shops/offices where the rental is equal to or less than \$400 000 per annum). However, pursuant to section 68 of the *Retail and Commercial Leases Act 1995*, a landlord may regain possession of business premises with an order of the Magistrates Court.

The *Retail and Commercial Leases Act 1995* does not require police attendance or assistance for the order, notice or warrant to be enforced.

Landlord and Tenant Act 1936

Pursuant to the *Landlord and Tenant Act 1936*, for premises other than business premises, a landlord may, pursuant to a court order or a notice demanding entry or a warrant to distrain from the landlord, seek to seize goods of the tenant, either personally or by authorising an agent to do so on their behalf. Goods can only be seized between 6.00 am and 6.00 pm and the tenant must be given an inventory of those goods.

The *Landlord and Tenant Act 1936* does not require police attendance or assistance for the order, notice or warrant to be enforced.

Quasi-criminal matters

A member should avoid becoming involved in a matter when there is a more appropriate authority to deal with it, such as Consumer and Business Services.

When attending this type of dispute a member should not give a statement but advise the authority that any request for a statement should be directed to the Commissioner of Police. When a member is not certain a supervisor should be consulted.

5. PROPERTY OWNERSHIP DISPUTES

When a member becomes aware that an allegation of theft or illegal use of property (including motor vehicles) is linked to a dispute over the ownership of that property, serious consideration must be given as to whether or not it is appropriate to seize that property. Seizing property activates a statutory responsibility for the Commissioner of Police to determine the owner prior to releasing the property. However, where the Commissioner of Police is not satisfied as to the true owner of the vehicle, it may be necessary to instigate costly legal proceedings to determine ownership.

Where the member believes on reasonable grounds that property is either stolen property or provides evidence of an offence, it may be seized regardless of value. Alternatively, where the member considers there is a genuine dispute regarding ownership of the property consideration must be given as to the judgment in *Ghani v Jones* [1970] 1 QB 693 to enable the seizure of that property (that is, a belief on reasonable grounds that a serious offence has occurred).

No authority exists for a member to seize property from a person's possession simply for safe-keeping or to determine the owner.

In any circumstances where a member is considering seizing property they must consider the nature and complexity of the allegations and disputes and whether:

- authority exists to seize the property—a member cannot seize prior to identifying the lawful authority to seize the property
- they believe on reasonable grounds that the property is stolen property (for example whether there is evidence of tampering to the ignition system or of forced entry to a motor vehicle)
- it is necessary to seize the property for a genuine investigatory or evidentiary purpose, and whether or not those purposes can be achieved without seizure
- the property is likely to be readily located again should it later become necessary to seize it for a genuine investigative or evidentiary purpose
- a person has been arrested or charges have been laid or are likely to be laid against a person suspected of theft of the property—seizure of the property is appropriate where the member has reasonable grounds to believe that the property is in possession of a person who committed the theft, or is implicated in it, or is an accessory to it or, alternatively, where that person refuses without proper reason to cooperate with police in the investigation of the theft.

When the member estimates the value of the property to be less than \$3000 and ownership is unclear or disputed, the property should not be seized except for crime scene examination or another genuine investigative purpose where the person in possession of the property unreasonably refuses to cooperate with that examination or purpose.

During office hours, prior to seizing a motor vehicle or any property where there is an ownership dispute, a member should consider seeking the advice of the Office of the General Counsel duty solicitor by telephone.

Where a motor vehicle of any value or any other property with a total value of \$3000 or more is seized the senior member at the scene must forward a report to the Officer in Charge of their District/Region/branch as soon as practical after the incident. That report should set out the details of the allegations, the ownership dispute, and the reasons for seizure.

The Officer in Charge of the District/Region/branch will decide how the property should be dealt with, and should consider seeking the advice of the Office of the General Counsel at an early stage.

6. REFERENCES

Breach of the peace online training (TA135) available through the intranet at <police connect home page/training gateway/online learning>

General Order, **Breach of the peace**

General Order, **Operational safety**

General Order, **Public order management plan**

Ghani v Jones [1970] 1 QB 693

Landlord and Tenant Act 1936

Residential Tenancies Act 1995

Retail and Commercial Leases Act 1995

Summary Offences Act 1953

7. FURTHER ENQUIRIES

Office of the General Counsel

8. DOCUMENT HISTORY SINCE 13/01/2010

Gazette reference (SAPG)	Date	Action (amendment/deletion/new/review/temporary variation)
10/10	13/01/10	Review 2009.
214/12	22/08/12	Review 2012.
94/15	13/05/15	Review 2015.
150/18	04/07/18	Amendment—district policing model implementation.
67/20	08/04/20	Review 2020.
40/24	21/02/2024	Review 2024—changes involving landlord court order application to regain possession of business premises and clarification around seizure of property.
7/25	08/01/25	Amendment—General Order caveat updated.
160/25	23/07/25	Amendment—reference(s) to LSA changed to Region as a result of the Regional Policing Review.

General Order, Civil disputes

APPROVED BY COMMISSIONER/DEPUTY

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Print Full Name

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ID Number

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Signature

...../...../.....
Date

Documentation certification and verification

General Order draft—prepared by: [redacted] Solicitor, Office of the General Counsel

General Order—verified by [redacted], General Counsel, Office of the General Counsel