

South Australia

**Expiation of Offences (Independent Review)
Amendment Bill 2009**

A BILL FOR

An Act to amend the *Expiation of Offences Act 1996*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Amendment provisions

Part 2—Amendment of *Expiation of Offences Act 1996*

- 3 Amendment of section 6—Expiation notices
 - 4 Insertion of section 8B
 - 8B Independent review of issue of expiation notice
 - 5 Amendment of section 11—Expiation reminder notices
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Expiation of Offences (Independent Review) Amendment Act 2009*.

5 2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Expiation of Offences Act 1996*

3—Amendment of section 6—Expiation notices

10 After section 6(1)(k) insert:

and

- (1) must be accompanied by a notice in the prescribed form by which the alleged offender may apply under section 8B for an independent review of the decision to issue the notice.

15 4—Insertion of section 8B

After section 8A insert:

8B—Independent review of issue of expiation notice

- (1) Subject to this section, a person who has been given an expiation notice may, by notice in the prescribed form given personally or by post to the Minister, apply for an independent review under this section of the decision to issue the expiation notice.
 - (2) A decision to issue an expiation notice cannot be reviewed under this section if—
 - (a) any amount due under the notice has been paid; or
- 20

- (b) an application for relief has been made under this Act in respect of the notice.
- (3) An application under this section—
- 5 (a) must be made within 7 days of the date on which the notice was issued; and
- (b) must be made in writing; and
- (c) must be accompanied by a statement setting out—
- 10 (i) the circumstances in which the notice was issued; and
- (ii) the grounds upon which the applicant makes the application for review; and
- (iii) the applicant's desired outcome of the review; and
- (iv) any further information as reasonably required by the Minister.
- 15 (4) The Minister must, as soon as practicable (but in any case within 7 days of receiving an application under this section)—
- (a) refer the application to an independent reviewer; and
- (b) notify the issuing authority of the application.
- 20 (5) On receiving an application, an independent reviewer must, within 14 days, review the decision to issue the relevant expiation notice and, for that purpose, may require the applicant or the issuing authority to provide such further information as the independent reviewer thinks fit.
- 25 (6) For the purposes of conducting a review under this section the independent reviewer may inform himself or herself in any way that he or she thinks fit.
- (7) The independent reviewer may require information contained in, or supporting, an application for review to be verified by statutory declaration.
- 30 (8) After conducting a review under this section, the independent reviewer may—
- (a) confirm the issue of the notice; or
- (b) if the independent reviewer is of the opinion that it is appropriate to do so—direct the issuing authority, by notice
- 35 in writing, to withdraw the expiation notice.
- (9) An issuing authority must comply with a direction of an independent reviewer under this section.

(10) If the independent reviewer fails to conclude an inquiry under this section within 14 days of receiving the application then the independent reviewer will be taken to have—

(a) determined that the decision to issue the expiation notice was inappropriate; and

(b) directed the issuing authority to withdraw the notice in accordance with this Act.

(11) The independent reviewer must, by notice in writing, notify the applicant and the issuing authority of the outcome of a review under this section.

(12) Despite any other provision of this or any other Act, if an expiation notice in respect of a particular offence is withdrawn in accordance with a direction under this section—

(a) no further expiation notice may be issued in respect of that offence; and

(b) a prosecution may not be commenced in respect of that offence.

(13) A decision of an independent reviewer under this section is final and not subject to any form of review.

(14) In this section—

independent reviewer means a legal practitioner of at least 7 years' standing chosen at random from a panel of 3 such legal practitioners nominated by the Law Society of South Australia.

5—Amendment of section 11—Expiation reminder notices

After section 11(1a)(b) insert:

(ia) a notice in the prescribed form by which the alleged offender may apply under section 8B for an independent review of the decision to issue the notice; and