

(Reprint No. 1)

SOUTH AUSTRALIA

EXPIATION OF OFFENCES ACT, 1987

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Preliminary
4. Expiation notice may be issued
5. Effect of expiation
6. Expiation notice may be withdrawn
7. Expiation fees payable as fines
8. Non-derogation

SCHEDULE

EXPIATION OF OFFENCES ACT, 1987

being

Expiation of Offences Act, 1987, No. 85 of 1987 [Assented to 3 December 1987]¹

as amended by

Pastoral Land Management and Conservation Act, 1989, No. 51 of 1989 [Assented to 7 September 1989]²
South Australian Metropolitan Fire Service (Miscellaneous Powers) Amendment Act 1991 No. 32 of 1991 [Assented to 24 April 1991]³

An Act to provide for the expiation of minor offences.

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Expiation of Offences Act, 1987*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Preliminary

3. In this Act, unless the contrary intention appears—

“child”, in relation to an offence, means a person who was under the age of 16 years at the time the offence is alleged to have been committed:

“expiable offence” means an offence designated by the schedule as an expiable offence for the purposes of this Act:

“expiation fee”, in relation to an expiable offence, means the expiation fee fixed by the schedule for that offence:

“expiation notice” means a notice under this Act for the expiation of an expiable offence:

“responsible statutory authority”, in relation to an Act, means—

(a) the Minister responsible for the administration of that Act;

OR

¹ Came into operation 1 August 1988: *Gaz.* 2 June 1988, p. 1798.

² Came into operation (except s. 12(2)-(8)) 7 March 1990: s. 2(1); s. 12(2)-(8) will come into operation 7 September 1995: s. 2(2).

³ Came into operation 1 June 1991: *Gaz.* 9 May 1991, p. 1484.

- (b) the Chief Executive Officer of an administrative unit under the *Government Management and Employment Act, 1985*, to whom the Minister has delegated his or her power to issue expiation notices in relation to expiable offences against that Act.

Expiation notice may be issued

4. (1) Subject to this Act, if a person is alleged to have committed an expiable offence, or a number of expiable offences arising out of the same incident, then, before a prosecution is commenced, an expiation notice may be given to the alleged offender stating that the offence or offences may be expiated by payment of the expiation fee or fees to a specified officer of the State before the expiration of 60 days from the date of the notice.

(2) For the purposes of subsection (1), two or more offences arise out of the same incident if they are committed contemporaneously, or in succession, one following immediately upon another.

(3) An expiation notice—

- (a) must be in a form approved by the Minister;
- (b) may relate to no more than three offences;
- (c) may not be given to a child;
- (d) where a vehicle is involved in the commission of the offence or offences and is found unattended—may be addressed to the owner or driver of the vehicle without naming or otherwise identifying him or her;

and

(e) may be given—

- (i) personally;
- (ii) by post addressed to the alleged offender's last known place of business or resident;

or

- (iii) where a vehicle is involved in the commission of the offence or offences and is found unattended—by affixing or placing the notice on that vehicle.

(4) An expiation notice may only be issued by—

- (a) a member of the police force;

or

- (b) a responsible statutory authority for the Act against which the offence or offences are alleged to have been committed.

Effect of expiation

5. (1) Subject to this Act, where the offence or offences to which an expiation notice relates are expiated in accordance with the notice, the alleged offender is not liable to prosecution for that offence or those offences.

(2) Where—

- (a) an expiation notice relates to more than one offence;

and

(b) the alleged offender expiates one or more of those offences but not all of them, the alleged offender is liable to prosecution for any offence that is not expiated.

(3) The payment of an expiation fee does not constitute an admission of guilt or of any civil liability and will not be regarded as evidence tending to establish guilt or any civil liability.

Expiation notice may be withdrawn

6. (1) The appropriate authority may withdraw an expiation notice if—

(a) the authority is of the opinion that the notice should not have been given;

or

(b) the authority decides that the alleged offender should be prosecuted for an offence to which the notice relates.

(2) An expiation notice may be withdrawn under subsection (1) notwithstanding payment of an expiation fee but in that event the expiation fee must be refunded.

(3) An expiation notice cannot be withdrawn under subsection (1)(b) after the expiration of 60 days from the date of the notice.

(4) The withdrawal of an expiation notice under subsection (1) is effected by giving written notice of the withdrawal, personally or by post, to the person to whom the expiation notice was given.

(5) Where an expiation notice is withdrawn, a prosecution for an offence to which the notice related may be commenced, but the fact that the defendant paid an expiation fee is not admissible in those proceedings as evidence against the defendant.

(6) In this section—

“appropriate authority”, in relation to the withdrawal of an expiation notice, means—

(a) if the notice was issued by a member of the police force—the Commissioner of Police;

(b) in any other case—the Minister responsible for the administration of the Act against which the offence to which the expiation notice relates is alleged to have been committed.

Expiation fees payable as fines

7. Money received by way of expiation fees will be dealt with in the same way as fines.

Non-derogation

8. This Act does not affect the operation of any other Act that provides for the expiation of offences.

Expiation of Offences Act, 1987

SCHEDULE

Expiable Offence	Expiation Fee
<i>Commercial Motor Vehicles (Hours of Driving) Act, 1973</i>	
Section 4—Exceeding hours of driving, but only in cases where it is alleged that the driver drove for no more than 30 minutes overtime	\$80
Section 5—Failing to keep an authorized log book in accordance with the Act—Any breach of this section	\$50
Section 7(1) and (2)—Failing to observe a duty of an owner	\$50
Section 8(1) and (3)—Failing to produce a log book, or to stop for an inspection	\$50
Section 9—Various offences in relation to the possession of an authorized log book	\$50
<i>Dangerous Substances Act, 1979</i>	
Section 11—Person acting without authority	\$200
Regulations	
Regulation 57—Contravening or failing to comply with regulations	\$100
<i>Education Act, 1972</i>	
Section 103(5)—Failing to complete a return	\$100
Section 104—Insulting a teacher	\$150
Regulations	
Regulation 13(8)—Failing to comply with a regulation relating to vehicles on Departmental property.	\$50
<i>Enfield General Cemetery Act, 1944</i>	
Regulations	
Regulation 36—Any breach of this regulation	\$20
<i>Explosives Act, 1936</i>	
Section 23—Keeping of explosives	\$100
Regulations	
Regulations 6.01-6.12—Packing and labelling—any breach of these regulations	\$100
Regulations 14.01-14.35—Selling explosives—any breach of these regulations	\$100
Regulations 15.01-15.13—Miscellaneous—any breach of these regulations	\$100
<i>Financial Institutions Duty Act, 1983</i>	
Section 46(1)—Failing to give notice	\$100
Section 46(3)—Failing to obtain leave of the Commissioner, or to set aside assets in accordance with this section	\$100
Section 47(1)—Failing to notify the Commissioner	\$100
Section 55(1)(a)—Failing to furnish a return or information, or to comply with a requirement of the Commissioner	\$200
Section 67(1)—Failing to keep, or to retain, books	\$200
Section 68(7)—Failing to comply with a requirement of the Commissioner	\$200
<i>Industrial Conciliation and Arbitration Act, 1972</i>	
Section 159(1)—Failing to keep certain records	\$100
Section 159(3)—Failing to transmit records	\$80
Section 161(1) and (2)—Failing to keep notices, etc.	\$80
<i>Land Tax Act, 1936</i>	
Section 10a(6)—Failing to notify the Commissioner of an inaccuracy in a notice of exemption	\$100
Section 10a(8)—Failing to inform the Commissioner of certain matters	\$100
Section 73(2)—Failing to provide information	\$100
<i>Lifts and Cranes Act, 1985</i>	
Section 10(6)—Failing to notify the Chief Inspector	\$100
Section 11(7)—Failing to comply with a condition of registration	\$200
<i>Pastoral Land Management and Conservation Act, 1989</i>	
Section 57—Misuse of pastoral land	\$200
Section 63(1)—Hindering or obstructing a person exercising powers under Act	\$100
Section 63(2)—Addressing offensive language to person exercising powers under Act	\$100

Expiable Offence	Expiation Fee
<i>Pay-roll Tax Act, 1971</i>	
Section 28(1)—Failing to give notice	\$100
Section 28(3)—Failing to obtain leave of the Commissioner, or to set aside assets in accordance with this section	\$100
Section 29(1)—Failing to notify the Commissioner	\$100
Section 38(1)(a)—Failing to furnish a return or information, or to comply with a requirement of the Commissioner	\$100
Section 38(1)(b)—Failing to answer a question, or to produce a book, record, paper or document	\$100
<i>Public and Environmental Health Act, 1987</i>	
Section 15(5)—Occupying premises in contravention of a direction	\$100
Section 16(1)—Causing or allowing an insanitary condition	\$250
Section 17(2)—Failing to comply with a notice	\$250
Section 18(4)—Failing to comply with a notice	\$250
Section 19(1)—Failing to keep a private thoroughfare clean	\$100
Section 19(3)—Failing to comply with a notice	\$150
Section 20(2)—Failing to comply with a notice	\$150
Section 20(4)—Failing to keep a building clean and properly ventilated	\$150
Section 41(1)—Failing to provide information	\$100
<i>South Australian Metropolitan Fire Service Act 1936</i>	
Section 58—Failing to furnish a return or document	\$500
Section 59—Failing to allow an inspection of books	\$500
Section 60a—Failing to furnish a return	\$500
Section 70—Failing to give information	\$500
<i>Stamp Duties Act, 1923</i>	
Section 31d—Failing to register	\$200
Section 31f(1)(a)—Failing to lodge a statement	\$100
Section 31j—Failing to keep proper books and records in the State	\$100
Section 41—Failing to take out an annual licence	\$200
Section 42aa(1)—Failing to lodge a return	\$100
Section 76a(6)—Failing to lodge a return	\$200
Section 90c(1)—Failing to make a record	\$100
Section 90c(6)—Failing to keep proper records in the State	\$100
Section 90d(1)—Failing to lodge a return	\$100
<i>Tobacco Products Control Act, 1986</i>	
Section 8(1)—Failing to display a notice	\$100
Section 8(2)—Failing to display a notice in the correct form and manner	\$100
Section 12(1)—Smoking on a bus	\$50
Section 13(1)—Smoking in a lift	\$50
Section 13(2)—Failing to display proper notice	\$50
<i>Unclaimed Moneys Act, 1891</i>	
Section 3—Failing to keep a register in accordance with the Act	\$40
Section 4—Failing to publish a register	\$40
<i>Valuation of Land Act, 1971</i>	
Section 22a(6)—Failing to inform a relevant valuing authority of certain matters	\$100
Section 22b(5)—Failing to inform relevant valuing authority of certain matters	\$100
Section 28(4)—Failing to complete and return a form	\$30
<i>West Terrace Cemetery Act, 1976</i>	
Regulations	
Regulations 30—Exceeding speed limits within the cemetery	\$50
Regulation 31(b)—Bring certain animals into cemetery	\$40
Regulation 31(c)—Soliciting business within the cemetery	\$40

APPENDIX

Legislative History

Schedule:

amended by 51, 1989, Sched. (Div. II); 32, 1991, Sched.