

South Australia

Expiation of Offences Regulations 2011

under the *Expiation of Offences Act 1996*

Contents

- 1 Short title
- 3 Interpretation
- 5 Reminder notices
- 6 Expiation enforcement warning notices
- 7 Notices relating to more than 1 offence

Schedule 1—Forms

- 1 Expiation notice
- 2 Expiation reminder notice
- 3 Expiation enforcement warning notice
- 4 Election to be prosecuted

Legislative history

1—Short title

These regulations may be cited as the *Expiation of Offences Regulations 2011*.

3—Interpretation

In these regulations—

Act means the *Expiation of Offences Act 1996*;

levy means the levy payable under the *Victims of Crime Act 2001*;

relevant motor vehicle register means—

- (a) in the case of a vehicle registered in this State—the register kept under the *Motor Vehicles Act 1959*; or
- (b) in the case of a vehicle registered in another State or a Territory of the Commonwealth—the corresponding register in that State or Territory.

5—Reminder notices

For the purposes of section 11(3) of the Act, the reminder notice fee is—

- (a) \$54.00; plus
- (b) if a vehicle was involved in the alleged offence to which the expiation notice relates and a fee incurred for searching the relevant motor vehicle register—the fee for 1 such search.

6—Expiation enforcement warning notices

For the purposes of section 11A of the Act, the warning notice fee is—

- (a) \$54.00; plus
- (b) if—
 - (i) a vehicle was involved in the alleged offence to which the expiation notice relates and a fee incurred for searching the relevant motor vehicle register; and
 - (ii) an expiation reminder notice has not been issued to the alleged offender,

the fee for 1 such search.

7—Notices relating to more than 1 offence

- (1) If an expiation reminder notice relates to more than 1 offence, the issuing authority must not accept payment unless it comprises the reminder notice fee (except if it is waived) plus the expiation fees and levies (if any) for all offences except any for which the alleged offender elects to be prosecuted.
- (2) If an expiation enforcement warning notice relates to more than 1 offence, the issuing authority must not accept payment unless it comprises the warning notice fee (except if it is waived) plus, if a reminder notice fee is payable, the reminder notice fee (except if it is waived) plus the expiation fees and levies (if any) for all offences except any for which the alleged offender elects to be prosecuted.
- (3) However, failure to comply with subregulation (1) or (2) does not affect the authority's right under the Act to enforce the notice in relation to any offence remaining unexpiated.

Schedule 1—Forms

1—Expiation notice

- (1) The prescribed form for an expiation notice is a form that complies with the following requirements:
 - (a) the form must include a heading identifying it as an expiation notice under the *Expiation of Offences Act 1996*;
 - (b) the form must specify—
 - (i) the expiation notice number; and
 - (ii) the date of issue of the expiation notice; and
 - (iii) the name of the issuing officer or a code enabling the issuing authority to identify the issuing officer;
 - (c) the form must contain an allegation that a person committed an offence or offences and specify—
 - (i) —

- (A) if the notice is to be addressed to the person as the owner or driver of a vehicle without naming or otherwise identifying the person—the vehicle registration number;
 - (B) in any other case—the name and address of the person; and
- (ii) the general nature of the alleged offence or offences; and
- (iii) the time or times and date or dates of the alleged offence or offences (but if the time or date is the same as that of the notice, the time and date need not be separately identified); and
- (iv) the place or places at which the alleged offence or offences were committed;
- (d) the form must inform the person that the offence or offences may be expiated and specify—
 - (i) the amount of the expiation fee for each offence; and
 - (ii) if a levy is payable, the amount of the levy for each offence; and
 - (iii) the total amount payable; and
 - (iv) to whom the amount must be paid; and
 - (v) the date by which the amount must be paid;
- (e) the form must include a statement of the choices available to the alleged offender, for example—

YOUR CHOICES:

You may on or before the due date for payment—

- Dispute the allegation that you committed the offence(s) (or any of them) and elect to be prosecuted for that offence (or offences).
 If you elect to be prosecuted, you may get a summons. The summons will set out when and where to attend court.
- Pay the total amount due for the offence(s) not disputed (including levies).
- Enter into a payment arrangement with the Chief Recovery Officer which may include payment of the amount of the fee(s) in instalments, an extension of time in which to pay or other options by agreement with the Chief Recovery Officer. A fee will apply to enter into an arrangement.
- If you think the offence(s) (or any of them) was trifling—apply to the *[issuing authority]* for a review of the expiation notice (for special meaning of trifling see section 4(2) *Expiation of Offences Act 1996*).

If applicable:

- If you were not the person who committed the alleged offence to which the expiation notice relates, the relevant legislation may enable you to provide a statutory declaration to that effect.
- (f) the form must include a statement of the outcome if no choice is made by the alleged offender, for example—

If no choice is made for an offence within the expiation period 1 reminder notice will be sent and a reminder fee will apply. After that, the outstanding amount may be referred to the Chief Recovery Officer who may take enforcement action against you which may involve entering into a payment arrangement or property that you own (including motor vehicles and land) being seized and sold. An additional amount will become payable if enforcement action is taken.

- (2) The notice may include payment details, a payment slip for use if the alleged offender wishes to expiate the offence, instructions for completion, contact details for the obtaining of further information, or other information considered relevant by the issuing authority (and the information may be interspersed with the statements required to be included in the notice).

Note—

Under section 6(1)(k) of the Act, the expiation notice is required to be accompanied by a notice in the prescribed form by which the alleged offender may elect to be prosecuted for the offence or any of the offences to which the notice relates—see clause 4.

Certain Acts require—

- (a) that an expiation notice given to the registered owner of a motor vehicle must be accompanied by a notice relating to the question of whether the owner was the driver at the time of the alleged offence; and
- (b) that an expiation notice given to a person named as the alleged driver in a statutory declaration must be accompanied by a notice setting out particulars of the statutory declaration that named the person as the alleged driver (excluding the address of the person who provided the statutory declaration).

2—Expiation reminder notice

- (1) The prescribed form for an expiation reminder notice is a form that complies with the following requirements:
- (a) the form must include a heading identifying it as an expiation reminder notice under the *Expiation of Offences Act 1996*;
 - (b) the form must specify—
 - (i) the expiation notice number; and
 - (ii) the date of issue of the expiation notice; and
 - (iii) the date of the reminder notice;
 - (c) the form must contain an allegation that a person committed an offence or offences and specify—
 - (i) the name and address of the person; and
 - (ii) if the expiation notice was addressed to the person as the owner or driver of a vehicle without naming or otherwise identifying the person—the vehicle registration number; and
 - (iii) the general nature of the alleged offence or offences; and
 - (iv) the time or times and date or dates of the alleged offence or offences; and
 - (v) the place or places at which the alleged offence or offences were committed;

- (d) the form must inform the person that the offence or offences may be expiated and specify—
- (i) the amount of the expiation fee for each offence; and
 - (ii) if a levy is payable, the amount of the levy for each offence; and
 - (iii) the amount of the reminder notice fee; and
 - (iv) the total amount payable; and
 - (v) to whom the amount must be paid; and
 - (vi) the date by which the amount must be paid;
- (e) the form must include a statement of the choices available to the alleged offender, for example—

YOUR CHOICES:

You may on or before the due date for payment—

- Dispute the allegation that you committed the offence(s) (or any of them) and elect to be prosecuted for that offence (or offences).
If you elect to be prosecuted, you may get a summons. The summons will set out when and where to attend court.
- Pay the total amount due for the offence(s) not disputed (including levies and reminder notice fees).
- Enter into a payment arrangement with the Chief Recovery Officer which may include payment of the amount of the fee(s) in instalments, an extension of time in which to pay or other options by agreement with the Chief Recovery Officer. A fee will apply to enter into an arrangement.
- If you think the offence(s) (or any of them) was trifling—apply to the *[issuing authority]* for a review of the expiation notice (for special meaning of trifling see section 4(2) *Expiation of Offences Act 1996*).

If applicable:

- If you were not the person who committed the alleged offence to which the expiation notice relates, the relevant legislation may enable you to provide a statutory declaration to that effect.

- (f) the form must include a statement of the outcome if no choice is made by the alleged offender, for example—

If no choice is made the outstanding amount may be referred to the Chief Recovery Officer who may take enforcement action against you which may involve entering into a payment arrangement or property that you own (including motor vehicles and land) being seized and sold. An additional amount will become payable if enforcement action is taken.

- (2) The notice may include payment details, a payment slip for use if the alleged offender wishes to expiate the offence, instructions for completion, contact details for the obtaining of further information, or other information considered relevant by the issuing authority (and the information may be interspersed with the statements required to be included in the notice).

Note—

Under section 11(1a)(b) of the Act, the expiation reminder notice is required to be accompanied by—

- (a) a notice in the prescribed form by which the alleged offender may elect to be prosecuted for the offence or any of the offences to which the notice relates—see clause 4; and
- (b) if the notice is issued to the owner of a motor vehicle involved in the alleged offence and the expiation reminder notice is required to be accompanied by a notice relating to the owner sending the issuing authority a statutory declaration—a form suitable for use as a statutory declaration.

3—Expiation enforcement warning notice

- (1) The prescribed form for an expiation enforcement warning notice is a form that complies with the following requirements:
 - (a) the form must include a heading identifying it as an expiation enforcement warning notice under the *Expiation of Offences Act 1996*;
 - (b) the form must specify—
 - (i) the expiation notice number; and
 - (ii) the date of issue of the expiation notice; and
 - (iii) the date of the expiation enforcement warning notice;
 - (c) the form must contain an allegation that a person committed an offence or offences and specify—
 - (i) the name and address of the person; and
 - (ii) if the expiation notice was addressed to the person as the owner or driver of a vehicle without naming or otherwise identifying the person—the vehicle registration number; and
 - (iii) the general nature of the alleged offence or offences; and
 - (iv) the time or times and date or dates of the alleged offence or offences; and
 - (v) the place or places at which the alleged offence or offences were committed;
 - (d) the form must inform the person that the offence or offences may be expiated and specify—
 - (i) the amount of the expiation fee for each offence; and
 - (ii) if a levy is payable, the amount of the levy for each offence; and
 - (iii) if a reminder notice has been issued, the amount of the reminder notice fee; and
 - (iv) the amount of the warning notice fee; and
 - (v) the total amount payable; and
 - (vi) to whom the amount must be paid; and
 - (vii) the date by which the amount must be paid;

- (e) the form must include a statement that the statutory declaration or other document is not accepted by the authority as a defence to the alleged offence or offences, for example—

A statutory declaration or other document has been received from you in accordance with a notice that accompanied the expiation notice or expiation reminder notice for the specified offence(s).

However, the declaration or other document is not accepted as a defence to the alleged offence(s).

- (f) the form must include a statement of the choices available to the alleged offender, for example—

YOUR CHOICES:

You may on or before the due date for payment—

- Dispute the allegation that you committed the offence(s) (or any of them) and elect to be prosecuted for that offence (or offences).

If you elect to be prosecuted, you may get a summons. The summons will set out when and where to attend court.

- Pay the total amount due for all offence(s) not disputed (including levies, warning notice fees and reminder notice fees).
- Enter into a payment arrangement with the Chief Recovery Officer which may include payment of the amount of the fee(s) in instalments, an extension of time in which to pay or other options by agreement with the Chief Recovery Officer. A fee will apply to enter into an arrangement.
- If you think the offence(s) (or any of them) was trifling—apply to the *[issuing authority]* for a review of the expiation notice (for special meaning of trifling see section 4(2) *Expiation of Offences Act 1996*).

- (g) the form must include a statement of the outcome if no choice is made by the alleged offender, for example—

If no choice is made for an offence within the expiation period the outstanding amount may be referred to the Chief Recovery Officer who may take enforcement action against you which may involve entering into a payment arrangement or property that you own (including motor vehicles and land) being seized and sold. An additional amount will become payable if enforcement action is taken.

- (2) The notice may include payment details, a payment slip for use if the alleged offender wishes to expiate the offence, instructions for completion, a statement of the reasons for non-acceptance of the statutory declaration or other document, contact details for the obtaining of further information, or other information considered relevant by the issuing authority (and the information may be interspersed with the statements required to be included in the notice).

Note—

Under section 11A(2)(c) of the Act, the expiation enforcement warning notice is required to be accompanied by a notice in the prescribed form by which the alleged offender may elect to be prosecuted for the offence or any of the offences to which the notice relates—see clause 4.

4—Election to be prosecuted

- (1) The prescribed form for a notice by which an alleged offender may elect to be prosecuted for the offence or any of the offences to which an expiation notice relates is a form that provides for:
 - (a) the inclusion of—
 - (i) the name and address of the alleged offender; and
 - (ii) the number of the expiation notice; and
 - (b) a means of identifying the offence or offences for which the alleged offender elects to be prosecuted; and
 - (c) the signing and dating of the notice by the alleged offender.
- (2) The notice—
 - (a) may be combined with a payment slip for use if the person wishes to expiate the offence; and
 - (b) may include an invitation to provide reasons for disputing the offence, instructions for completion, or other information considered relevant by the issuing authority.
- (3) For the purposes of section 8 of the Act, the prescribed form is a completed form of the kind referred to in subclause (1).

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Expiation of Offences Regulations 2011* revoked the following:

Expiation of Offences Regulations 1996

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|-------------|-----------|-------------------------------------|-----------------------|
| 2011 | 209 | <i>Gazette 25.8.2011 p3818</i> | 1.9.2011: r 2 |
| 2012 | 90 | <i>Gazette 31.5.2012 p2378</i> | 1.7.2012: r 2 |
| 2013 | 143 | <i>Gazette 6.6.2013 p2365</i> | 1.7.2013: r 2 |
| 2014 | 29 | <i>Gazette 30.1.2014 p454</i> | 3.2.2014: r 2 |
| 2014 | 57 | <i>Gazette 13.2.2014 p952</i> | 13.2.2014: r 2 |
| 2014 | 120 | <i>Gazette 19.6.2014 p2615</i> | 1.7.2014: r 2 |
| 2014 | 156 | <i>Gazette 19.6.2014 p2704</i> | 1.7.2014: r 2 |
| 2015 | 2 | <i>Gazette 15.1.2015 p314</i> | 15.1.2015: r 2 |
| 2015 | 99 | <i>Gazette 18.6.2015 p2660</i> | 1.7.2015: r 2 |
| 2015 | 149 | <i>Gazette 18.6.2015 p2781</i> | 1.7.2015: r 2 |
| 2016 | 73 | <i>Gazette 23.6.2016 p2187</i> | 1.7.2016: r 2 |
| 2016 | 122 | <i>Gazette 23.6.2016 p2326</i> | 1.7.2016: r 2 |
| 2017 | 137 | <i>Gazette 22.6.2017 p2368</i> | 1.7.2017: r 2 |
| 2018 | 24 | <i>Gazette 6.2.2018 p642</i> | 30.4.2018: r 2 |

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

| Provision | How varied | Commencement |
|-------------------|--|------------------|
| <i>r 2</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>1.7.2012</i> |
| <i>r 4</i> | <i>deleted by 24/2018 r 4</i> | 30.4.2018 |

| | | |
|--------------------------------|-----------------------------------|------------------|
| <i>r 4A before deletion by</i> | <i>inserted by 29/2014 r 4</i> | 3.2.2014 |
| 24/2018 | | |
| <i>r 4A(1)</i> | <i>varied by 99/2015 r 4</i> | 1.7.2015 |
| | <i>varied by 122/2016 r 4</i> | 1.7.2016 |
| | <i>varied by 137/2017 r 4</i> | 1.7.2017 |
| r 4A | deleted by 24/2018 r 4 | 30.4.2018 |
| <i>rr 4B—4E</i> | <i>inserted by 29/2014 r 4</i> | 3.2.2014 |
| | deleted by 24/2018 r 4 | 30.4.2018 |
| <i>r 5</i> | <i>varied by 90/2012 r 4</i> | 1.7.2012 |
| | <i>varied by 143/2013 r 4</i> | 1.7.2013 |
| | <i>varied by 120/2014 r 4</i> | 1.7.2014 |
| | <i>varied by 2/2015 r 4</i> | 15.1.2015 |
| | <i>varied by 149/2015 r 4</i> | 1.7.2015 |
| | <i>varied by 73/2016 r 4</i> | 1.7.2016 |
| | <i>varied by 137/2017 r 5</i> | 1.7.2017 |
| <i>r 6</i> | <i>varied by 90/2012 r 5</i> | 1.7.2012 |
| | <i>varied by 143/2013 r 5</i> | 1.7.2013 |
| | <i>varied by 120/2014 r 5</i> | 1.7.2014 |
| | <i>varied by 2/2015 r 5</i> | 15.1.2015 |
| | <i>varied by 149/2015 r 5</i> | 1.7.2015 |
| | <i>varied by 73/2016 r 5</i> | 1.7.2016 |
| | <i>varied by 137/2017 r 6</i> | 1.7.2017 |
| <i>r 7</i> | | |
| <i>r 7(4)—(6)</i> | <i>deleted by 29/2014 r 5</i> | 3.2.2014 |
| <i>r 8 before deletion by</i> | <i>substituted by 29/2014 r 6</i> | 3.2.2014 |
| 24/2018 | | |
| <i>r 8(1)</i> | <i>varied by 99/2015 r 5</i> | 1.7.2015 |
| | <i>varied by 122/2016 r 5</i> | 1.7.2016 |
| | <i>varied by 137/2017 r 7</i> | 1.7.2017 |
| r 8 | deleted by 24/2018 r 5 | 30.4.2018 |
| <i>r 9 before deletion by</i> | | |
| 24/2018 | | |
| <i>r 9(1)</i> | <i>varied by 156/2014 r 4</i> | 1.7.2014 |
| | <i>varied by 99/2015 r 6</i> | 1.7.2015 |
| | <i>varied by 122/2016 r 6</i> | 1.7.2016 |
| | <i>varied by 137/2017 r 8</i> | 1.7.2017 |
| r 9 | deleted by 24/2018 r 5 | 30.4.2018 |
| <i>r 10</i> | <i>inserted by 29/2014 r 6</i> | 3.2.2014 |
| | deleted by 24/2018 r 5 | 30.4.2018 |
| <i>r 11 before deletion by</i> | <i>inserted by 29/2014 r 6</i> | 3.2.2014 |
| 24/2018 | | |
| <i>r 11(1)</i> | <i>varied by 156/2014 r 5</i> | 1.7.2014 |
| | <i>varied by 99/2015 r 7</i> | 1.7.2015 |
| | <i>varied by 122/2016 r 7</i> | 1.7.2016 |

| | | |
|--|---|-------------------------|
| | <i>varied by 137/2017 r 9</i> | <i>1.7.2017</i> |
| r 11 | <i>deleted by 24/2018 r 5</i> | <i>30.4.2018</i> |
| r 12 | <i>inserted by 29/2014 r 6</i> | <i>3.2.2014</i> |
| | <i>deleted by 24/2018 r 5</i> | <i>30.4.2018</i> |
| <i>r 13 before deletion by 24/2018</i> | | |
| r 13(1) | <i>r 13 inserted by 29/2014 r 6</i> | <i>3.2.2014</i> |
| | <i>r 13 varied and redesignated as r 13(1) by 57/2014 r 4(1), (2)</i> | <i>13.2.2014</i> |
| r 13(2) and (3) | <i>inserted by 57/2014 r 4(2)</i> | <i>13.2.2014</i> |
| r 13 | <i>deleted by 24/2018 r 5</i> | <i>30.4.2018</i> |
| Sch 1 | | |
| cl 1 | | |
| cl 1(1) | <i>varied by 29/2014 r 7(1)</i> | <i>3.2.2014</i> |
| | <i>varied by 24/2018 r 6(1)—(3)</i> | <i>30.4.2018</i> |
| cl 2 | | |
| cl 2(1) | <i>varied by 29/2014 r 7(2)</i> | <i>3.2.2014</i> |
| | <i>varied by 24/2018 r 6(4)—(6)</i> | <i>30.4.2018</i> |
| cl 3 | | |
| cl 3(1) | <i>varied by 29/2014 r 7(3)</i> | <i>3.2.2014</i> |
| | <i>varied by 24/2018 r 6(7), (8)</i> | <i>30.4.2018</i> |
| Sch 2 | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>1.7.2012</i> |

Historical versions

1.7.2012
1.7.2013
3.2.2014
13.2.2014
1.7.2014
15.1.2015
1.7.2015
1.7.2016
1.7.2017