

South Australia



ANNO QUINQUAGESIMO  
ELIZABETHAE II REGINAE  
A.D. 2001

**EXPIATION OF OFFENCES (TRIFLING OFFENCES) AMENDMENT  
ACT 2001**

No. 11 of 2001

[Assented to 12 April 2001]

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An Act to amend the Expiation of Offences Act 1996.

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**SUMMARY OF PROVISIONS**

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4. Amendment of s. 4—Interpretation
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7. Insertion of s. 18B
  - 18B. Certain decisions not reviewable by a court

**The Parliament of South Australia enacts as follows:**

**Short title**

1. (1) This Act may be cited as the *Expiation of Offences (Trifling Offences) Amendment Act 2001*.

(2) The *Expiation of Offences Act 1996* is referred to in this Act as "the principal Act".

**Commencement**

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

**Amendment of s. 3—Application of Act**

3. Section 3 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) The provisions of this Act relating to trifling offences do not apply to offences of a class prescribed by regulation.

**Amendment of s. 4—Interpretation**

4. Section 4 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) An alleged offence will, for the purposes of this Act, be regarded as trifling if, and only if, the circumstances surrounding the commission of the offence were such that the alleged offender ought to be excused from being given an expiation notice on the ground that—

- (a) there were compelling humanitarian or safety reasons for the conduct that allegedly constituted the offence; or
- (b) the alleged offender could not, in all the circumstances, reasonably have averted committing the offence; or
- (c) the conduct allegedly constituting the offence was merely a technical, trivial or petty instance of a breach of the relevant enactment.

**Amendment of s. 6—Expiation notices**

5. Section 6 of the principal Act is amended by inserting after subsection (1)(h) the following paragraph:

(ha) should not be issued in respect of a trifling offence; and.

**Insertion of s. 8A**

6. The following section is inserted after section 8 of the principal Act:

**Review of notices on ground that offence is trifling**

8A. (1) A person who has been given an expiation notice issued after the commencement of this section may apply to the issuing authority for a review of the notice on the ground that an offence to which the notice relates is trifling.

(2) The issuing authority is not obliged to conduct an inquiry on the application but may require the applicant to provide further information.

(3) An issuing authority may require information contained in, or supporting, an application for review to be verified by statutory declaration.

(4) An application made under this section must be determined by the issuing authority before it can issue a certificate for an enforcement order in respect of the offence to which the application relates.

(5) If the issuing authority is satisfied that the offence is trifling, the authority must, by notice in writing given personally or by post to the alleged offender, withdraw the notice in respect of that offence.

(6) However, an expiation notice cannot be withdrawn under this section in respect of an offence if—

- (a) any amount due under the notice in respect of that offence has been paid; or
- (b) an application for relief has been made under this Act in respect of the notice; or
- (c) a certificate for an enforcement order has been issued by the authority in respect of the offence.

(7) If an expiation notice is withdrawn under this section in respect of an offence, no further expiation notice may be issued in respect of that offence.

**Insertion of s. 18B**

7. The following section is inserted after section 18A of the principal Act:

**Certain decisions not reviewable by a court**

**18B.** Without derogating from section 14, a decision as to whether an alleged offence is trifling made by—

- (a) a person issuing an expiation notice; or
- (b) an issuing authority on an application for review of an expiation notice,

is final and not subject to any form of review.