



ANNO TRICESIMO SEPTIMO

**ELIZABETHAE II REGINAE**

**A.D. 1988**

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**No. 75 of 1988**

**An Act to amend the Summary Offences Act, 1953.**

[Assented to 1 December 1988]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Summary Offences Act Amendment Act, 1988*.
- (2) The *Summary Offences Act, 1953*, is in this Act referred to as "the principal Act".

**Commencement**

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

**Expiation of prescribed traffic offences**

3. Section 64 of the principal Act is amended—

(a) by inserting in subsection (1) the following definitions:

"appropriate authority", in relation to the withdrawal of a traffic infringement notice, means—

- (a) if the notice was issued by a member of the police force—the Commissioner;
- (b) if the notice was issued by an inspector—the Commissioner of Highways:

"inspector" means an inspector appointed under the *Road Traffic Act, 1961*;

(b) by striking out subsection (2) and substituting the following subsection:

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

(c) by inserting after subsection (4) the following subsections:

(4a) A traffic infringement notice may be issued—

(a) by a member of the police force;

or

(b) where the alleged offence is against sections 140, 141, 142, 147 or 162 of the *Road Traffic Act, 1961*—by an inspector.

(4b) The following qualifications apply in relation to the issue of traffic infringement notices for alleged offences against section 147 of the *Road Traffic Act, 1961*, relating to the overloading of vehicles—

(a) an inspector may only issue such a notice if it is alleged that the vehicle was overloaded by no more than 2 tonnes;

and

(b) if the offence has allegedly been committed by an overloading exceeding a mass permitted by the Minister (that permitted mass being in excess of the maximum mass permitted under section 147)—the expiation fee must be fixed by reference to the amount of the excess over the amount permitted by the Minister (and not by reference to the amount of the excess over the amount permitted by section 147).;

(d) by striking out from subsection (6) “subject to subsection (10)” and substituting “subject to this section”;

and

(e) by striking out subsections (8) to (13) (inclusive) and substituting the following subsections:

(8) The appropriate authority may withdraw a traffic infringement 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, or for any other prescribed offence arising out of the same incident.

(9) A traffic infringement notice may be withdrawn under subsection (8) notwithstanding payment of an expiation fee but in that event the expiation fee must be refunded.

(10) A traffic infringement notice cannot be withdrawn under subsection (8) (b) after the expiration of 60 days from the date of the notice.

(11) The withdrawal of a traffic infringement notice under subsection (8) is effected by giving written notice of the withdrawal, personally or by post, to the person to whom the expiation notice was given.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor