



SOUTH AUSTRALIA POLICE
KEEPING SA SAFE

EXPIATION NOTICE REVIEW GUIDELINES



**Government
of South Australia**

Table of contents

<i>Introduction</i>	2
<i>Review of an expiation notice</i>	3
<i>SAPOL review guidelines</i>	4
<i>How reviews are conducted</i>	5
<i>Review outcomes</i>	6
<i>Serious offences</i>	7
<i>How to request a review</i>	7
<i>Review request circumstances and how to proceed.....</i>	8
<i>Public access to information.....</i>	12

This document is accurate at the time of publication. The information and processes described within can change without notice to meet legislative requirements or enhance enforcement strategies. To access the latest version online visit www.police.sa.gov.au.

Introduction

South Australia Police (SAPOL) undertakes in excess of 12,000 expiation notice reviews each year. SAPOL will only review notices issued by police officers or for safety camera matters that are issued by Expiation Notice Branch.

SAPOL will generally not review notices that have moved to the Fines Enforcement and Recovery Office for enforcement.

Every effort is made to ensure reviews are consistent, fair, impartial and objectively administered in the community interest.

SAPOL is committed to transparency in the operation of the expiation notice system.

This document has been developed to provide transparent information to the public about the review policies and practices of SAPOL.

Review of an expiation notice

A REVIEW WILL NOT BE ALLOWED IF A NOTICE HAS BEEN PAID

The purpose of the expiation notice is to allow the payment of a fee to avoid a Court hearing. The purpose of a review is to allow a notice holder to provide additional information so that the Issuing Authority may consider whether that Authority wishes to continue with the matter.

For notices issued by police officers or for safety camera matters the Commissioner of Police is the Issuing Authority.

Each review is dealt with on its own merits. Reviews are point-in-time considerations that consider evidence provided at that point in time. Where reviews result in a dispute of fact, then the rightful place for a matter to be determined is before a Court. Notice holders are advised of any decision about their submission. The review process is not the place to resolve a known dispute of facts.

In accordance with the Expiation of Offences Act, 1996, a notice holder can apply for a review on the grounds that the notice was trifling. To be trifling a circumstances must indicate that:

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

Reviews are also considered for matters that are not trifling. Notice holders can seek a review if they believe that:

- the notice is incorrect or a mistake has been made in issuing the notice
- there has been a mistake of identity
- there is additional information that may suggest a caution or withdrawal of the notice is more appropriate
- there are other exceptional or worthy circumstances.

Notice holders may also ask for a photo review for safety camera matters if they believe the photographic evidence provided is not correct in the following circumstances:

- **red light camera offence**

If one of more of these points apply – the:

- vehicle number plate is obscured or not clear
- number plate is incorrect
- red light is not visible in both photographs
- wrong lane has been captured.

- **speed camera offence**

If one or more of these points apply – the:

- vehicle number plate is obscured or not clear
- number plate is incorrect
- wrong lane has been captured – fixed camera only
- template shows more than one vehicle travelling in the same direction – mobile camera only.

Reviews will be allowed until the due date of a notice or a notice is accepted for enforcement.

A REVIEW WILL NOT BE ALLOWED IF THE NOTICE HAS BEEN PAID

Reviews undertaken by SAPOL are not subject to further review by any other Court or authority. **Not every request for review will be successful.**

SAPOL review guidelines

SAPOL review guidelines assist consistent decision making by the police. Guidelines also assist a notice holder to understand the evidence required to support a claim.

These guidelines are not exclusive and do not cover every possible circumstance. They are designed to provide information about the most common circumstances.

It is advisable that notice holders read these guidelines before submitting a review request and provide as much information as possible.

If the required supporting information is not provided then reviews may be declined.

How reviews are conducted

SAPOL will only conduct reviews of expiation notices issued by police officers or for safety camera offences where the notice has been issued by Expiation Notice Branch.

If you have forwarded a notice to the Manager, Expiation Notice Branch on behalf of another Issuing Authority your review will be passed to the Issuing Authority, who will conduct a review.

Receipt of the review

When the request for review is received, the:

- review will be recorded and electronically scanned for recording
- expiation notice will be suspended until the review is finalised
- expiation notice holder will receive a letter indicating that the review is being considered where a delay in completing the review is expected.

Conduct of the review

The review will be conducted by a review officer. In every circumstance the review will consider whether the notice is:

- **Lawful**
Issued for an expiatable offence in accordance with the Expiation of Offences Act, 1996.
- **Valid**
Relates an appropriate exercise of police discretion and application of the SAPOL Caution Policy. The notice has been issued correctly.
- **Trifling**
Assessment of the trifling provisions of the Expiation of Offences Act, 1996.

The review officer also may consider:

- the offence and severity of same
- the circumstances outlined by the notice holder
- any supporting evidence
- the notes and views of the issuing officer
- any available photographic evidence
- validation of registration or licence information
- past offence history
- the personal circumstances of the notice holder (age/mental state etc.).

Review outcomes

There are a range of outcomes. The review may result in the notice:

- **To stand**

The review finds that the notice is not trifling and there is no evidence which would disturb the notice or warrant an alternative course of action.

The notice holder should decide whether to pay the notice, enter a payment arrangement or elect to contest the matter in Court.

- **To stand and waive fees**

The review finds that the notice is not trifling and there is no evidence which would disturb the notice or warrant an alternative course of action. However, the application of a reminder or other fee is not appropriate so that fee will be waived. Demerit points will apply should the notice be paid.

The notice holder should decide whether to pay the notice or elect to contest the matter in Court.

- **Caution**

The review finds the notice is lawful and valid, however, given the evidence provided in the submission the notice has been withdrawn and a caution has been entered. Demerit points do not apply and payment is not required.

- **Withdrawal**

The review finds that there is circumstance or evidence that discloses the notice should not stand. The notice is withdrawn and discontinued. Demerit points are not deducted and no payment is required.

A notice may be withdrawn or cautioned in favour of an alternative road safety strategy such as referral for assessment of suitability to hold a drivers licence.

Review notification

The notice holder will be advised in writing of the outcome of a review. Where a notice is to stand extra time will be allowed to pay the notice.

Serious offences

SAPOL will generally not consider reviews where road safety is jeopardised. Serious offences include:

- Offences involving high speeds
- Mobile phone offences
- Seat belt offences where no medical dispensation exists
- Multiple offences from fixed safety camera sites
- Rail safety camera offences
- Submission of false or incorrect statutory declarations that have resulted in an enforcement warning notice.

How to request a review

Generally, reviews are only accepted from notice holders or their legal representatives. If a notice holder authorises someone to make the application on their behalf, other than a legal representative, the outcome of the review will be sent to the notice holder, not the person authorised to make the application.

Reviews must generally be in writing. An application for review must:

- explain the grounds for the review
- provide your current address
- give details of the notice
- be sent so it is received by the due date on the expiation notice or reminder notice.

A review request form can be downloaded at www.police.sa.gov.au/sapol/services/expiation_notices/request_a_review.jsp.

A review request form for photographic reviews can be downloaded at www.police.sa.gov.au/sapol/services/expiation_notices/request_a_review.jsp#How to request a photo review.

Review applications and any relevant supporting documentation are submitted by mail to:

Manager, Expiation Notice Branch
GPO Box 2029
ADELAIDE SA 5001

Large volumes of inquiries are received and notice holders who request a review should receive an initial response with five days.

Review request circumstances and how to proceed

Circumstances	Procedure / Required information
The expiation notice has the wrong name, address or fee on it	Detail your claim.
An expiation notice and a Council parking ticket received for the same offence	Evidence of the payment of a Council parking ticket for the same time and place as the expiation notice.
Vehicle broken down	<p>Documented evidence of the break down (mechanical repair or towing).</p> <p>Evidence must show Time, date and place of the breakdown.</p>
Vehicle was parked due to a medical emergency	<p>Proof of the medical emergency on a letterhead supporting the claim is required.</p> <p>This does not extend to programmed appointments.</p>
Clearway / Parking lane	<p>Detail your claim.</p> <p>Note: Will only be considered within 10 minutes of the commencement of parking zone.</p>
The vehicle was sold or ownership transferred prior to the offence	<p>A notice of disposal is required to be received by the Registrar of Motor Vehicles.</p> <p>Submission of a statutory declaration is required, identifying the new owner.</p> <p>Registration records will be used to confirm the disposal of the vehicle.</p>

Circumstances	Procedure / Required information
<p>Vehicle plates or vehicle were stolen at the time of the offence</p>	<p>Submit a Police Incident Report number from SAPOL or proof that the theft of the number plates has been reported (interstate police reference number).</p> <p>Evidence of replacement plates being ordered.</p> <p>The time and date of the offence will be compared to the reported time and date the vehicle was missing or stolen.</p>
<p>The registered owner/person who committed the offence is deceased</p>	<p>Documentary evidence of death of the owner is required, such as a copy of a death certificate.</p>
<p>The notice holder is suffering a mental illness or had diminished capacity at the time of the offence</p>	<p>A detailed supporting document from a recognised medical practitioner, support agency or Government department is required.</p>
<p>The offence occurred because there was a medical emergency</p>	<p>Proof of medical emergency on letterhead from a medical practitioner or health professional supporting the circumstances.</p> <p>Note: The manner of driving including time, date and place will be considered, and a claim of medical emergency may not always be accepted.</p>

Circumstances	Procedure / Required information
I have received an expiation notice for driving unlicensed but my licence is current	A letter from the Registrar of Motor Vehicles indicating the record is in error is required.
I have received an expiation notice for driving unlicensed but I hold a current interstate/overseas licence	<p>A copy of your current licence is required to be submitted.</p> <p>You must confirm your current place of residence with documentary evidence.</p> <p>Interstate licence authorities may be contacted to confirm the currency of your licence.</p>
I have received an expiation notice for driving unregistered and/or uninsured but my registration is current	A letter from the Registrar of Motor Vehicles indicating the record is in error is required.
I have received an expiation notice for driving unregistered and/or uninsured but DPTI or Service SA have not processed my registration	<p>Detail you claim.</p> <p>Note: A letter from the Registrar of Motor Vehicles supporting your claim is advisable as police cannot always verify claims.</p>
I have received an expiation notice for driving unregistered and/or uninsured but I have a permit	A copy of the permit is required to be submitted.
I was driving an unregistered vehicle and I was not the owner	Detail your claim.
There are extenuating medical circumstances	<p>A detailed claim including documentary evidence of the medical circumstances is required.</p> <p>Note: Information may be referred to consider your fitness to hold a drivers licence.</p>

Circumstances	Procedure / Required information
The owner/driver was unaware the vehicle was unregistered	Detail your claim. Note: The absence of a registration label is not in itself sufficient reason to excuse this offence.
Multiple unregistered offences	Detail your claim.
Speedometer error	Documentary evidence the speedometer was tested and found inaccurate. Note: Speedometer variance will be considered for low range speeding offences only.
Compassionate grounds	Detail your claim.

Public access to information

Access to information

More information is available on the SAPOL website: www.police.sa.gov.au. Follow the links to expiations.

Information can also be sought from the Expiation Notice Branch Call Centre, telephone

8463 4388

Access to safety camera images

Images can be accessed by:

- visiting the SAPOL website and viewing the image online at www.police.sa.gov.au
- requesting a hard copy photograph by following the instructions on the expiation notice
- viewing of the photograph with a police officer at Police Headquarters. To request a viewing follow the instructions on the photograph.

Access to safety camera operating procedures

SAPOL is committed to transparency of process. Operating procedures can be downloaded at the SAPOL website: www.police.sa.gov.au. Follow the links to safety cameras.

**YOU CANNOT IGNORE AN EXPIATION
NOTICE**

IT WILL NOT JUST GO AWAY