

## APPENDIX 6

### **INSTRUMENT OF DELEGATION UNDER THE EXPIATION OF OFFENCES ACT 1996**

#### **NOTES**

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

#### **Sub-delegation**

In exercise of the power provided to me by the Council on the 21 February 2017 as above, I, Colin John Davies, Chief Executive Officer on this Twenty-First day of February 2017 hereby sub-delegate the following powers to the officer or officers of the Council as indicated in the column marked "Subdelegate" (including any person appointed to act in any such position).

#### **POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

	<b>SUB-DELEGATE</b>
<b>1. Certain Offences may be Expiated</b>	
1.1 The power pursuant to Section 5(1) of the Expiation of Offences Act 1996 ("the Act") to issue an expiation notice under the Act to a person alleged to have committed an offence under an Act, regulation or by-law, and the alleged offence may accordingly be expiated in accordance with the Act.	
<b>2. Expiation Notices</b>	
2.1 The power pursuant to Section 6(3)(b)(ii) of the Act to authorise a person in writing to give an expiation notice for an alleged offence.	
<b>3. Review of Notices on Ground that Offence is Trifling</b>	
3.1 The power pursuant to Section 8A(2) and (3) of the Act to require an alleged offender who is	

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seeking a review of the notice on the ground that the offence is trifling:	
3.1.1 to provide further information; and	
3.1.2 to provide a statutory declaration verifying the information contained in, or supporting, an application for review.	
3.2 The duty pursuant to Section 8A(4) of the Act to determine an application for review before issuing a certificate for an enforcement determination in respect of the offence to which the application relates.	
3.3 The duty pursuant and subject to Section 8A(5) and (6) of the Act upon being satisfied the offence is trifling to withdraw the expiation notice in respect of the offence by giving written notice to the alleged offender.	
<b>3A. Arrangements as to Manner and Time of Payment</b>	
3A.1 The power pursuant to Section 9(2) of the Act to agree with the Fines Enforcement and Recovery Officer the manner in which the Fines Enforcement Recovery Officer must give the Council notice of any arrangement entered into under Section 9 of the Act.	
3A.2 The power pursuant to Section 9(12) of the Act, if an arrangement terminates under Section (9), (10) or (11) of the Act, to agree with the Fines Enforcement and Recovery Officer the manner in which the Fines Enforcement and Recovery Officer must give the Council notice of the termination and the amount then outstanding (taking into account, where the arrangement required the performance of community service, the number of hours of community service so performed).	
<b>4. Expiation Reminder Notices</b>	

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<p>4.1 The duty pursuant to Section 11 of the Act where an alleged offender has neither paid the expiation fee nor entered into an arrangement under Section 9 of the Act and the Council has not received a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice, by the end of the expiation period, and before the Delegate takes any action under this Act to enforce the expiation notice, to send an expiation reminder notice in the prescribed form to the alleged offender before any action is taken under the Act to enforce the expiation notice.</p>	
<p><b>5. Expiation Enforcement Warning Notices</b></p>	
<p>5.1 The duty pursuant to Section 11A of the Act where the Council has received a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice or expiation reminder notice, and before the Delegate takes action under this Act to enforce the expiation notice, to send an expiation enforcement warning notice, in the prescribed form, to the alleged offender by post.</p>	
<p><b>6. Late Payment</b></p>	
<p>6.1 The power pursuant to Section 12 of the Act to accept late payment of the amount due under an expiation notice at any time before an enforcement determination is made under Section 13 of the Act.</p>	
<p><b>7. Enforcement Determinations</b></p>	
<p>7.1 The power pursuant to Section 13(1) of the Act to enforce an expiation notice against an alleged offender by sending to the Fines Enforcement and Recovery Officer:</p>	
<p>7.1.1 a certificate that contains the particulars determined by the Fines Enforcement and Recovery Officer relating to:</p>	
<p>7.1.1.1 the alleged offender; and</p>	

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<p>7.1.1.2 the offence or offences that remain unexpiated; and</p>	
<p>7.1.1.3 the amount due under the notice; and</p>	
<p>7.1.1.4 compliance by the Council as the authority with the requirements of the Act and any other Act;</p>	
<p>7.1.2 the prescribed fee.</p>	
<p>7.2 The power pursuant to Section 13(4) of the Act to apply to the Fines Enforcement and Recovery Officer under and in accordance with Section 13 of the Act within 30 days of notice of an enforcement determination being given, sent or published in accordance with Section 13 of the Act for the enforcement determination to be revoked.</p>	
<p><b>8. Withdrawal of Expiation Notices</b></p>	
<p>8.1 The power pursuant to Section 16(1) of the Act, to withdraw an expiation notice with respect to all or any of the alleged offences to which an expiation notice relates where:</p>	
<p>8.1.1 in the opinion of the Delegate the alleged offender did not commit the offence or offences, or that the notice should not have been given with respect to the offence or offences;</p>	
<p>8.1.2 the Council as issuing authority receives a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice or expiation reminder notice; or</p>	
<p>8.1.3 the notice is defective; or</p>	
<p>8.1.4 the Delegate decides that the alleged offender should be prosecuted for the offence or offences.</p>	

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<p>8.2 The power pursuant to Section 16(5) of the Act, where an expiation notice is withdrawn under subsection (1), to commence prosecution for an offence to which the notice related.</p>	
<p>8.3 The duty pursuant to Section 16(6) of the Act, subject to Section 16(7) of the Act, to withdraw an expiation notice if it becomes apparent that the alleged offender did not receive the notice until after the expiation period, or has never received it, as a result of error on the part of the Council as issuing authority or failure of the postal system.</p>	
<p>8.4 The duty pursuant to Section 16(11) of the Act, where an expiation notice is withdrawn under Section 16 of the Act and the notice of withdrawal does not specify that the notice is withdrawn for the purposes of prosecuting the alleged offender, and if an enforcement determination has been made under Section 13 of the Act, to inform the Fines and Enforcement Recovery Officer of the withdrawal of the notice.</p>	
<p><b>9. Provision of Information</b></p>	
<p>9.1 The <del>power</del><u>duty</u> pursuant to Section 18 of the Act to enter into an agreement with the Fines Enforcement and Recovery Officer in relation to:</p>	
<p>9.1.1 the manner in which the Fines Enforcement and Recovery Officer is to provide information to the Council in relation to action taken by the Fines Enforcement and Recovery Officer under the Act in respect of an expiation notice issued by the Council; and</p>	
<p>9.1.2 the manner in which the Council is to provide information to the Fines Enforcement and Recovery Officer in relation to the issuing of an expiation notice by the Council or any other action taken by the Council in respect of an expiation notice so issued.</p>	

