

# Receiving stolen or fraudulently obtained property

s 414 *Criminal Code*

**From 1 January 2014**

**Transitional Sentencing Provisions:** This table is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period
- Transitional provisions period
- Pre-transitional provisions period

These periods are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

imp	imprisonment
susp	suspended
PG	plead guilty
att	attempted
ct	count
TES	total effective sentence
EFP	eligible for parole
PSR	pre-sentence report
SIO	suspended imprisonment order
poss	possess
wiss	with intent to sell or supply
ISO	intensive supervision order
agg burg	aggravated burglary
CRO	conditional release order

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
2	<p><i>Newport v The State of Western Australia</i></p> <p>[2015] WASCA 224</p> <p>Delivered 12/11/2015</p>	<p>32 yrs at time offending.</p> <p>Convicted after PG to ct 1 and 2; convicted after trial for cts 3-5 and 7-11.</p> <p>Offending breached SIO and bail.</p> <p>Prior criminal history of summary offences.</p> <p>Unemployed at time offending.</p> <p>Two children from prior relationship; mother cares for children.</p> <p>Entrenched and significant substance abuse problem.</p> <p>History of poor problem solving, antisocial decision-making and low self-confidence.</p> <p>Failed to comply with prior requirements to undertake counselling and CBO.</p>	<p><u>Indictment</u></p> <p>Ct 1: Burg (residential). Ct 2: Steal motor vehicle. Cts 3-5 and 7-11: Receiving.</p> <p><u>Section 32 Notice</u></p> <p>Ch 1: Reckless driving. Ch 2: Failure to stop. Ch 3: No authority to drive. Ch 4: Steal motor vehicle.</p> <p><u>Cts 1-2</u></p> <p>Newport smashed a rear bedroom window and entered the house. The victim was not home. He stole various items to the value of \$5,000.</p> <p>Newport found car keys in the house and used them to steal a car parked at the house. The car was recovered from Newport's house.</p> <p><u>Cts 3-11</u></p> <p>The receiving offences committed over a period of approx. one mth.</p> <p>Newport received a 'Stinger' electrical circuit tester, a motorcycle and a 'Toyota Hi-Ace' van (cts 3-5). Newport knew the property had been obtained by a burg.</p> <p>Newport received from burgs various electrical and personal items (cts 7-11).</p> <p><u>Section 32 Notice</u></p> <p>Newport drove a stolen motorcycle, without a</p>	<p><u>Indictment</u></p> <p>Ct 1: 25 mths imp (cum). Ct 2: 8 mths imp (conc). Ct 3: 18 mths imp (conc). Ct 4: 9 mths imp (conc). Ct 5: 10 mths imp (conc). Ct 7: 18 mths imp (conc). Ct 8: 20 mths imp (cum). Ct 9: 17 mths imp (conc). Ct 10: 15 mths imp (conc). Ct 11: 18 mths imp (conc).</p> <p><u>Section 32 Notice</u></p> <p>Ch 1: 3 mths imp (conc) and 24 mths driver's licence disqualification (cum). Ch 2: \$150 fine. Ch 3: 7 mths imp (conc) and 16 mths driver's licence disqualification (cum). Ch 4: 10 mths imp (cum).</p> <p><u>Breach of SIO</u></p>	<p>Dismissed.</p> <p>At [42] The burg represented a significant escalation in the seriousness of the appellant's offending; the appellant had a history of persistent offending.</p> <p>At [50] ... the value of the property taken was 'not insignificant' and...some of the stolen items were of 'significant personal value' to the victim...</p> <p>At [58] The appellant's offending occurred over a relatively short period of time. However, the offences did not form a single criminal enterprise, apart from the offences alleged in cts 1 and 2 of the indictment. Rather, the offences constituted a course of persistent offending.</p>

			<p>licence. In order to evade police, Newport reached speeds in excess of 80km per hour in a 50km per hour speed limit zone and drove on the wrong side of the road.</p>	<p>3 mths imp (cum). TES 4 yrs 10 mths imp. EFP. Remorseful and empathetic for his victims; some prospects of rehabilitation.  Sentencing judge was not satisfied that Newport was shown to have been in the business of a fence (a distributor for reward of unlawfully obtained property).</p>	
<p>1.</p>	<p><b><i>Burrows v The State of Western Australia</i></b>  [2014] WASCA 147  Delivered 12/08/2014</p>	<p>28 yrs at time sentencing.  Convicted after late PG.  Significant prior criminal history including stealing, receiving and steal MV.  Poor compliance with court orders.  Stable and supportive family.  Entrenched history of methyl use.</p>	<p>s 401(2) <i>Criminal Code</i> burglary x 5. s 371A <i>Criminal Code</i> steal MV x 5. s 414 <i>Criminal Code</i> receiving.  The appellant committed a series of offences in a period of just over three weeks.  The appellant used a stolen motor vehicle to commit a series of burglaries on four chemists and a computer store. Property stolen included cold and flu medication, sunglasses cash and laptop computers. In two of the burglaries the appellant used a stolen vehicle to rip off the front of the shops.  In that time the appellant also stole or used five</p>	<p>TES 6 yrs 6 mths imp.  EFP.  In ROI declined to answer many questions but did answer some; denied all offences except the stealing of one vehicle.  Appellant accepted his offending was directly related to his drug use.  The appellant was</p>	<p>Dismissed – on papers.  At [32] Court found that the sentencing judge’s failure to quantify the s9AA discount was not a material error and did not invalidate the sentence imposed.  At [39] Each of the individual sentences was separate and discrete and in those circumstances some accumulation was appropriate.</p>

		Made efforts towards rehabilitation whilst in custody.	<p>stolen motor vehicles knowing they were stolen. Whilst in his possession, he had caused or permitted significant damage to them.</p> <p>Furthermore the appellant came into possession of some property from a burglary knowing that the items were stolen.</p>	stealing medications with ephedrine or pseudoephedrine with a view to exchanging them for methyl.	At [43] Offending conduct of this type is deserving of an appropriately lengthy sentence of imprisonment
<i>Transitional provisions repealed (14/01/2009)</i>					
<i>Transitional provisions enacted (31/08/2003)</i>					

Office of the Director of Public Prosecutions