

Stealing as a servant or public servant

ss 378(7) and 378(6) *Criminal Code* or analogous instances of stealing

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
CBO	community based order

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
2.	<i>Allie v The State of Western Australia</i> [2016] WASCA 6 Delivered 13/01/16	43 yrs at time sentencing. Convicted after PG. Prior relevant convictions. Married with two children. Works full time. Happy upbringing. Supportive parents. Sexually abused at school in early teens and left home. Abnormal behaviour patterns.	1 x stealing as a servant. The appellant was employed as a store manager for Supa IGA. The appellant used the store's computer ordering system to place an order for cigarettes to the value of \$17,175.00. The appellant stole the cigarettes from the store and loaded them into the boot of his car and left the store. The appellant was pulled over by police and the cigarettes were recovered in full.	20 mth imp. The sentencing judge described the offending as serious as the appellant had breached the trust placed on him as store manager. Need for specific deterrence.	Dismissed. At [11] – [13] Discussion of comparable cases. At [15]... his criminal record demonstrates that this offence was not an uncharacterised aberration... personal deterrence is a factor of particular importance in this case. At [16]... offending involved a serious breach... of trust... It did not occur as the results of a spur of the moment decision, but was a calculated act of dishonesty... The amount involved was... significant for a small business.
1.	<i>Carter v The State of Western Australia [No 2]</i> [2015] WASCA 59 Delivered 20/03/15	22 yrs at time offending and sentencing. Convicted after fast-track PG. No prior criminal history. Raised in a fragmented	Stealing as a servant x 1. The appellant was employed by the victim. For three mths, the appellant took possession of scratchcards, the property of the victim, to the value of \$17,647. The appellant scratched the scratchcards and took money from the victim's cash register for the prize money on the 'winning' scratchcards. She discarded the 'losing'	12 mths imp. Sentencing judge found the appellant had not shown significant remorse due to her attitude and demeanour in interview with police.	Allowed. Original sentence set aside. Re-sentenced to 9 mths imp susp 9 mths. At [60] I am satisfied that

		<p>family; physically abused as a child.</p> <p>Single; 2-3 yr old son.</p> <p>High stress and anxiety caused by poor coping methods; poor self-esteem; engages in self-harm behaviours.</p> <p>Gambling addiction; taken steps to rehabilitate.</p> <p>Prior to sentencing: participated in victim-offender mediation; wrote an apology letter and repaid some money to victim.</p>	<p>scratchcards.</p> <p>Offending discovered after the victim identified discrepancies following an audit.</p>	<p>Offending caused terrible harm to victim; fellow employee lost employment.</p> <p>Erroneously stated offences committed over 15 mths when in fact the offending was over three mths.</p>	<p>the error in question was material in that an offence of stealing as a servant which involves repeated theft over a period of about 15 mths will ordinarily be more serious than an otherwise comparable offence over a period of about three mths.</p>
<i>Transitional provisions repealed (14/01/2009)</i>					
<i>Transitional Provisions enacted (31/08/2003)</i>					