

# **Criminal Code Amendment (Unlawful Possession) Bill 2013**

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Western Australia

LEGISLATIVE COUNCIL

**Criminal Code Amendment (Unlawful  
Possession) Bill 2013**

**A Bill for**

**An Act to amend *The Criminal Code* and to amend various other  
Acts as a consequence.**

The Parliament of Western Australia enacts as follows:

1 **Part 1 — Preliminary**

2 **1. Short title**

3 This is the *Criminal Code Amendment (Unlawful Possession)*  
4 *Act 2013*.

5 **2. Commencement**

6 This Act comes into operation as follows —

- 7 (a) Part 1 — on the day on which this Act receives the  
8 Royal Assent;
- 9 (b) the rest of the Act — on a day fixed by proclamation,  
10 and different days may be fixed for different provisions.

**Part 2 — *The Criminal Code* amended**

**3. Act amended**

This Part amends *The Criminal Code*.

**4. Sections 417 and 417A inserted**

At the end of Part VI Division 1 Chapter XLI insert:

**417. Possessing stolen or unlawfully obtained property**

- (1) A person who is in possession of any thing capable of being stolen that is reasonably suspected to be stolen or otherwise unlawfully obtained is guilty of a crime and is liable, if no other punishment is provided under section 417A, to imprisonment for 7 years.

Summary conviction penalty: imprisonment for 2 years and a fine of \$24 000.

- (2) It is a defence to a charge under subsection (1) to prove that at the time the accused was allegedly in possession of the thing, the accused had no reasonable grounds for suspecting that the thing was stolen or unlawfully obtained.

**417A. Punishment for possession in special cases**

- (1) The penalty for a crime committed under section 417(1) in a case specified in this section is the penalty specified for that case.
- (2) If the thing is a testamentary instrument, whether the testator is living or dead, the offender is liable to imprisonment for 10 years.

**s. 5**

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- 1           (3) If the thing is a motor vehicle, the offender is liable to  
2           imprisonment for 8 years if the offender —
- 3               (a) wilfully drives the motor vehicle in a manner  
4               that constitutes an offence under the *Road*  
5               *Traffic Act 1974* section 60 (i.e. the offence  
6               known as reckless driving); or
- 7               (b) drives the motor vehicle in a manner that  
8               constitutes an offence under the *Road Traffic*  
9               *Act 1974* section 61 (i.e. the offence known as  
10              dangerous driving).
- 11          (4) If the thing is an aircraft, the offender is liable to  
12          imprisonment for 10 years.
- 13          (5) If the offender is employed in the Public Service and  
14          the thing came into the possession of the offender by  
15          virtue of his or her employment, the offender is liable  
16          to imprisonment for 10 years.
- 17          (6) If the offender is an employee and the thing came into  
18          the possession of the offender on account of his or her  
19          employer, the offender is liable to imprisonment for  
20          10 years.
- 21          (7) If the offender is a director or officer of a corporation  
22          or company, and the thing is the property of the  
23          corporation or company, the offender is liable to  
24          imprisonment for 10 years.
- 25

26      **5.       Section 428 deleted**

27       Delete section 428.

**6. References to “section 428” amended**

Amend the provisions listed in the Table as set out in the Table.

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 378	428	417
s. 409(1)	428	417
s. 414	428	417

**Part 3 — Consequential amendments**

**Division 1 — *Sentencing Act 1995* amended**

**7. Act amended**

This Division amends the *Sentencing Act 1995*.

**8. Schedule 1A amended**

(1) In Schedule 1A Part 1 item 1 insert in numerical order:

s. 417/417A(3) Possessing stolen or unlawfully obtained  
property where the property is a motor vehicle  
and driven recklessly or dangerously

s. 417/417A(4) Possessing stolen or unlawfully obtained  
property where the property is an aircraft

(2) In Schedule 1A Part 2 item 1 delete “s. 428” and insert:

s. 417

**Division 2 — *Wildlife Conservation Act 1950* amended**

**9. Act amended**

This Division amends the *Wildlife Conservation Act 1950*.

**10. Section 20 amended**

In section 20(4) delete “section 428 of *The Criminal Code*” and  
insert:

*The Criminal Code* section 417