

## CRIMES AMENDMENT BILL (NO. 2)

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### EXPLANATORY NOTE

THIS Bill amends the Crimes Act 1961 relating to the maximum penalty prescribed for theft, obtaining by false pretence, and receiving property dishonestly obtained.

Section 227 of the principal Act prescribes a maximum penalty of imprisonment for a term of 7 years for theft by a person required to account, theft by an attorney, theft by misappropriation, and theft of certain specified types of property. It then prescribes a maximum term of 7 years for any other type of property valued in excess of \$40, 1 year for property valued between \$10 and \$40, and 3 months for property valued at less than \$10.

Section 66 of the Summary Proceedings Act 1957 provides that where a person is charged with an offence punishable by more than 3 months' imprisonment, that person may elect trial by jury. The combined result of these provisions is, therefore, that a person charged with theft may elect trial by jury in all cases except where the value of the property does not exceed \$10.

*Clause 2* restructures these penalties.

*Subclause (1)* removes from the specified list of property (the theft of which is punishable by 7 years' imprisonment) property stolen from a separate locked receptacle, and domestic animals. The maximum punishment for the theft of these will therefore depend in future on their value.

*Subclauses (2) and (3)* provide for a maximum penalty of 7 years' imprisonment where the property exceeds \$300 in value, 1 year's imprisonment where it is between \$100 and \$300, and 3 months' imprisonment where it does not exceed \$100.

The consequent effect is that the person charged will not be entitled to elect jury trial unless the property exceeds \$100 in value.

*Clauses 3 and 4* make similar amendments in respect of the maximum penalty for obtaining by false pretence and receiving property dishonestly obtained.

*Clause 5* is a transitional provision. Where a person has been charged and has elected trial by jury before the date of the commencement of this amendment, that election is preserved. Similarly, where an information has been laid indictably and the preliminary hearing has commenced or has been concluded, those proceedings shall not be affected by this Bill. Subject to that, this amendment applies in respect of charges brought before or after it comes into force.

Provision is also made for amendment of the charge, where necessary, to show the alleged value of the object stolen.

*Hon. Geoffrey Palmer*

## CRIMES AMENDMENT (NO. 2)

### ANALYSIS

Title	3. Obtaining by false pretence
1. Short Title and commencement	4. Receiving property dishonestly obtained
2. Punishment of theft	5. Transitional provisions

### A BILL INTITULED

**An Act to amend the Crimes Act 1961 relating to the penalty for theft, obtaining by false pretence, and receiving property dishonestly obtained.**

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

10 **1. Short Title and commencement**—(1) This Act may be cited as the Crimes Amendment Act (No. 2) 1985, and shall be read together with and deemed part of the Crimes Act 1961\* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

\*R.S. Vol. 1, p. 635

Amendments: 1979, No. 5; 1979, No. 127; 1980, No. 63; 1980, No. 85; 1982, No. 46; 1982, No. 157

15 **2. Punishment of theft**—(1) Section 227 (b) of the principal Act is hereby amended by repealing subparagraphs (vi), (vii), and (viii).

(2) Section 227 of the principal Act is hereby further amended by inserting, after paragraph (b) (as amended by subsection (1) of this section), the following paragraph:

“(ba) To imprisonment for a term not exceeding 7 years if the object stolen exceeds in value the sum of \$300:”. 5

(3) Section 227 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby further amended—

(a) By omitting from paragraph (c) the expression “\$10”, and substituting the expression “\$100”: 10

(b) By omitting from paragraph (d) the expression “\$10”, and substituting the expression “\$100”.

**3. Obtaining by false pretence**—Section 246 (2) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended— 15

(a) By omitting from paragraph (a) the expression “\$40”, and substituting the expression “\$300”:

(b) By omitting from paragraph (b) the expression “\$10”, and substituting the expression “\$100”:

(c) By omitting from paragraph (b) the expression “\$40”, and substituting the expression “\$300”: 20

(d) By omitting from paragraph (c) the expression “\$10”, and substituting the expression “\$100”.

**4. Receiving property dishonestly obtained**—Section 258 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended— 25

(a) By omitting from paragraph (a) the expression “\$40”, and substituting the expression “\$300”:

(b) By omitting from paragraph (b) the expression “\$10”, and substituting the expression “\$100”: 30

(c) By omitting from paragraph (b) the expression “\$40”, and substituting the expression “\$300”:

(d) By omitting from paragraph (c) the expression “\$10”, and substituting the expression “\$100”.

**5. Transitional provisions**—(1) Where, before the date of the commencement of this Act— 35

(a) An information has been laid indictably and the preliminary hearing has commenced or has concluded; or

(b) In respect of any charge the defendant has elected under section 66 of the Summary Proceedings Act 1957 to be tried by a jury,— 40

the proceedings shall continue as if this Act had not been passed.

(2) Subject to **subsection (1)** of this section, this Act shall apply in respect of charges brought before or after the date of the commencement of this Act.

5 (3) Where any charge has been brought before the date of the commencement of this Act alleging the theft of any thing or animal to which subparagraph (vi) or subparagraph (vii) of section 227 (b) of the principal Act applied before that date, and the value of that thing or animal is not stated in the charge, the prosecutor shall, as soon as practicable after that date,  
10 apply to the Court for leave to amend the charge to show the alleged value of the thing or animal.