

## Receiving / Disposing Stolen Property

(Motor Vehicle / Vessel)

ss.188(1)(a) / 189A (NSW) Crimes Act

s 188 Receive, or dispose of, or attempt to dispose of, any property the stealing whereof amounts to a serious indictable offence, knowing property to have been stolen

Maximum Penalty: 10 years

Amended 14.12.2001 to separate 'motor vehicle and motor vehicle parts' and increase maximum penalty for that property

Amended 1.9.2006 to add 'vessel and vessel parts' to higher maximum penalty

s 188(1) Receive, or dispose of, or attempt to dispose of, any property the stealing whereof amounts to a serious indictable offence, knowing property to have been stolen

(a) if property is a motor vehicle or a motor vehicle part, or a vessel or a vessel part

Maximum Penalty: 12 years

For general property see separate table

s 189A(1) Receive or dispose of, or attempt to dispose of, or has in his or her possession, any property stolen outside the State of New South Wales, knowing property to have been stolen

Maximum Penalty: 10 years

	NAME (age if known)	OFFENCE	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	SUMMARY OF RECORD	INVOLVEMENT & SUMMARY
1.	Darwiche (30) <a href="#">[1999] NSWCCA 293</a>	3 x s.188 [10y]  Sched: 2 x s.188	PG	MT 9m AT 9m	AA MT 4m AT 4m		Worked in motor vehicle dealership owned by brother (co-offender sentenced for stealing cars) - rebirthing Assistance to authorities - protective custody - father of three children

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

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2.	<b>McDermott</b> <a href="#">[1999] NSWCCA 379</a>	s.188 [10y]  Sched: 2 cannabis offences	PG	MT 12m AT 4m	AD	similar offences	Found in possession of large number of car parts from \$20,000 stolen vehicle Good prospects of rehabilitation Sentence imposed cumulative to sentence served in America for drug offence
3.	<b>Chieu</b> (40)  <b>Trinh</b> (44)  <a href="#">[1999] NSWCCA 295</a>	3 x s.188 [10y]  Sched: 5 x s.188  3 x s.188 [10y]  Sched: 5 x s.188 2 x Obtain benefit by deception	PG  PG	MT 3y AT 2y  MT 3y AT 2y	AD	nil - subsequently sentenced for similar offences  mal wounding, AOABH	Carefully planned and extensive rebirthing operation
4.	<b>Mahoney</b> (2000) 114 A Crim R 130 <a href="#">[2000] NSWCCA 232</a>	s.188 [10y]  s.188 [10y]  Larceny	VG	MT 18m AT 18m  FT 18m  FT 9m (all concurrent)	AD	minor offences	Rebirthing of three vehicles – purchased damaged cars at auction then used engine number on stolen car of identical make – stole car back from purchaser he had sold car to – continuous course of misconduct - sophisticated
5.	<b>Reid</b> (49) <a href="#">[2000] NSWCCA 270</a>	7 x s.188 [10y]	VG	MT 4y 6m AT 18m	AD	not greatly significant	Rebirthing business. Ill health of offender and wife
6.	<b>Achurch</b> (27) <a href="#">[2000] NSWCCA 537</a>	s.188 [10y]  6 x s.188 (dispose) [10y]	PG	<u>Total</u> MT 27m AT 9m	AA 28m NPP 21m	assault and dishonesty offences, including receiving	Rebirthing of stolen vehicles over 7 month period - principal Lengthy delay - married with 3 children - parity

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7.	Hassan (31)	s.188 [10y]  5 x s.188 (dispose) [10y]  Sched: 7 similar offences	PG	<u>Total</u> 5y 6m NPP 3y 3m	AD	minimal	Each offender working separately but in same manner - rebirthing of stolen vehicles - well planned offences committed over several months BH - married with 2 children - suffering depression and anxiety - contrition AD - unmarried but family support – contrition
	Darwich (25)  <a href="#">[2001] NSWCCA 88</a>	2 x s.188 [10y]  3 x s.188 (dispose) [10y]  Sched: 7 similar offences	PG	<u>Total</u> 5y 6m NPP 3y 3m		nil	
8.	Geiger (18-19) <a href="#">[2001] NSWCCA 140</a>	s.189A  Take and drive conveyance  BES  Sched: FTA offences	PG	FT 12m  3y NPP 15m  3y NPP 15m	AD	dishonesty and drug offences	In possession of car stolen in the ACT – travelled in car driven by cousin for short distance aware it was stolen – broke into residential home and stole property worth \$13,486 Drug addiction
9.	El Khouri <a href="#">[2001] NSWCCA 277</a>	BES  s.188 [10y]  2 x s.188 [10y]  Sched: 2 x s.188	PG	2y 6m NPP 1y 11m  4y NPP 2y 6m  Lesser sentences  All concurrent	AD		Owner of panel beating business – found in possession of five stolen vehicles (in parts) – rebirthing business – attempted to steal motor vehicle

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10.	<b>Walden</b> (49) <a href="#">[2001] NSWCCA 365</a>	s.188 [10y]  s.189A  2 x Obtain money by deception	PG (20%)	2y 5m NPP 2y  2y 8m NPP 2y  FT 15m  (all concurrent)	AD	breached conditional liberty for receiving offence	Offence committed over nearly two years – made false claims to insurance company in relation to cars – rebirthed two prime movers Business in financial trouble
11.	<b>Zreika</b> (35) <a href="#">[2001] NSWCCA 373</a>	4 x s.188 [10y]	VG	3y 6m NPP 3y	AD	minor offences	Rebirthed several stolen cars using written off vehicles
12.	<b>Strbik</b> (27) <a href="#">[2002] NSWCCA 101</a>	s.188 [10y]  2 x s.188 [10y]  6 x s.188 [10y]  2 x s.188 [10y]  Att steal motor vehicle  Sched: 13 x s.188 5 x GIC	PG (20%)	7y 2m NPP 5y 4m  FT 12m  FT 3y  FT 3y 6m  FT 3y  (all concurrent)	AD	minor offences	One of leading figures in car rebirthing group specialising in high performance cars – mechanic – substituted compliance plates from engines of wrecked cars – offences committed over fifteen months – property valued at \$1.26m
13.	<b>Timmis</b> (41) <a href="#">[2003] NSWCCA 158</a>	s.188 [10y]  Acc after fact to BES  LMV  Sched: 7 offences	PG	18m NPP 12m  2y 6m NPP 1y 3m  12m NPP 6m  <u>Total:</u> 4y 6m NPP 2y 3m	AD	similar offences – breached bail	Broke into removalists yard and stole 4WD from shipping container using bolt cutters (LMV) – loaded up vehicle with additional property – one month later found waiting in stolen motor vehicle (receiving) for associates carrying property from break and enter offence (accessory) – schedule included two subsequent break and enter offences committed on bail Suffering financial difficulties

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14.	Elfar (18) <a href="#">[2003] NSWCCA 358</a>	Consp s.188(a) (dispose) [12y]	PG	3y 6m NPP 18m	Crown AD	nil	Became involved in large scale rebirthing operation at insistence of father – active involvement for eight months – cars sold overseas – activity involved property worth \$1.229m – element of duress Remorse – good prospects of rehabilitation – forced to give up university studies at insistence of father
15.	Palinko (25) <a href="#">[2005] NSWCCA 46</a>	2 x s.188(a) [12y]	PG	3y 9m NPP 2y 6m	AD	minimal	Received and rebirthed 2 stolen cars from estranged partner Full co-operation and early PG - cannabis user – good employment history – remorse
16.	Strbik (20) <a href="#">[2004] NSWCCA 212</a>	4 x s.188 [10y] s.189A SMV 2 x SMV 3 x SMV 3 x SMV Att SMV Sched: 9 offences	PG	FT 2y FT 2y 4y 6m NPP 2y 10m 3y 9m NPP 2y 3m FT 3y FT 2y FT 2y <u>Total</u> 6y 6m 29d NPP 6y	AA Commencement dates adjusted              <u>Total</u> 6y 6m 29d NPP 5y 3m 29d	previous offences but no prison	Involved in car rebirthing operation over ten months Drug user resulting in financial pressure
17.	Mason <a href="#">[2007] NSWCCA 32</a>	3 x s.188(a) [12y] Sched: Receive stolen parts	PG (18%)	2y 6m NPP 16m	AD	Nil dishonesty	Involved in rebirthing of stolen cars – significant involvement Delay – father to young children – prospects of rehabilitation
18.	El Hassan (30) <a href="#">[2007] NSWCCA 148</a>	Consp s.188(a) (dispose) [12y] Sched: s.188	VG	6y NPP 4y	AA 5y NPP 3y 4m	minor	Conspired with brother over 12m to ship three containers of stolen motor vehicles and parts to Lebanon – 29 stolen items – a principal participant – well-organised and sophisticated operation Psychological problems – married with new baby – approach to trial mitigating factor

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19.	Barry (26) <a href="#">[2021] NSWCCA 209</a>	s.51D(2)  Receiving: s.188(1)(a)  Receiving: s.188(1)(b)  Act with intent to pervert course of justice: s.319  Sched: 4 offences	PG (40% comb)	<u>Indicative:</u> 4y 6m NPP 3y  3y 6m  2y  2y  <u>Aggregate:</u> 6y 6m NPP 4y 3m	AD	Breached conditional liberty – mostly insignificant except participate in crim group offence	<b>SNPP 10 years</b> Former member of motorcycle gang stored guns on property – found in possession of shortened 12-gauge single barrel shotgun, 12-gauge repeat action shotgun, 30:30 Winchester calibre rifle,.222 Remington calibre bolt action rifle, .22 Winchester repeating bolt action rifle and ammunition – also found in possession of valuable equipment and three motor cycles – observed driving stolen vehicle – after police pursuit sought to have father report car stolen Traumatic childhood – substance abuse and psychological issues – remorse – reasonable prospects of rehabilitation – unlikely to re-offend – special circumstances

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