

Crimes Amendment (Organised Car and Boat Theft) Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900* as follows:

- (a) to create several new offences relating to theft of motor vehicles and vessels, including an offence of facilitating an organised car or boat rebirthing activity,
- (b) to repeal and re-enact the offence of car stealing, so that it extends to vessels,
- (c) to extend other existing offences relating to stolen motor vehicles or vehicle parts to stolen vessels or vessel parts,
- (d) to make other consequential and ancillary amendments.

This Bill also amends other Acts consequentially.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts specified in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Crimes Act 1900

New offences relating to car and boat rebirthing activities

Schedule 1 [4] repeals the offence of car stealing under section 154AA of the *Crimes Act 1900*. The offence is re-enacted in a new Subdivision that contains a series of new offences relating to the theft of cars, and extends to vessels. **Schedule 1 [9] and [12]** are consequential amendments.

Schedule 1 [7] provides for the new Subdivision (proposed sections 154E–154J). Proposed section 154E sets out the definitions that apply to the new offences, including definitions of **motor vehicle**, **vessel** and **unique identifier**.

Motor vehicle is defined in a manner that is consistent with the current definition under section 154AA of the Act (the provisions of which have been transferred to the new Subdivision). **Vessel** has the same meaning as it has in the *Marine Safety Act 1998*.

A **unique identifier** means any numbers, letters, symbols or other identification information:

- (a) marked on or attached to a motor vehicle or vessel, or a part of a motor vehicle or vessel, or
- (b) marked on a thing that is designed to be attached to a motor vehicle or vessel, or a part of the motor vehicle or vessel, or
- (c) stored in electronic form in a part of a motor vehicle or vessel, for the primary purpose of:
 - (d) enabling a particular motor vehicle, vessel or part to be distinguished from all other motor vehicles, vessels or parts (including by enabling a part to be identified as a part of a particular motor vehicle or vessel), or
 - (e) identifying different motor vehicle or vessel production batches (including by enabling a part to be identified as a part of a motor vehicle or vessel of a particular production batch).

Proposed section 154F replaces the existing offence for stealing a motor vehicle under section 154AA of the *Crimes Act 1900* with a comprehensive offence that applies to both motor vehicles and vessels.

Proposed section 154G provides for the new offence of knowingly facilitating a car or boat rebirthing activity that is carried out on an organised basis. The offence carries a maximum penalty of imprisonment for 14 years. A **car or boat rebirthing activity** is an activity that involves one or more of the following:

- (a) the stealing of a motor vehicle or vessel or the receiving of a stolen motor vehicle or stolen vessel,
- (b) the interference with a motor vehicle or vessel, or a part of a motor vehicle or vessel, or a unique identifier, for the purpose of disguising or concealing the fact that a motor vehicle or vessel, or any part of a motor vehicle or vessel, is stolen,
- (c) the affixing of stolen parts to a motor vehicle or vessel,
- (d) the interference with a unique identifier, being a unique identifier that wholly or partly identifies a motor vehicle or vessel for registration under a law of any jurisdiction, for the purpose of disguising or misrepresenting the identity of a motor vehicle or vessel,
- (e) the registration of a stolen motor vehicle or stolen vessel, or of a motor vehicle or vessel that has had stolen parts affixed to it,
- (f) the supply of, or offering to supply, a stolen motor vehicle or stolen vessel.

What it means to **facilitate** a car or boat rebirthing activity is defined broadly. It includes taking any step that is a part of the activity, providing finance or providing premises used in connection with the activity.

For the purposes of the new offence, a car or boat rebirthing activity is considered to be carried out on an **organised basis** if:

- (a) it is planned, organised, structured or otherwise carried out in such a manner as to indicate that the activity is carried out on more than one occasion and involves more than one participant, and
- (b) it is carried out for profit or gain.

Proposed section 154H contains a number of other new offences relating to improperly interfering with, copying, making or using identification information marked on, attached to, or stored in a motor vehicle or vessel for the purpose of distinguishing it from other motor vehicles or vessels. The offence carries a maximum penalty of imprisonment for 7 years. This offence extends to such conduct as dishonestly making a unique identifier, or knowingly inducing another person to accept information attached to a motor vehicle or vessel as a genuine unique identifier for the motor vehicle or vessel when it is not.

Proposed section 154I contains a new offence of dishonestly having possession of a motor vehicle or vessel, or a part of a motor vehicle or vessel, that has a unique identifier that has been interfered with. It carries a maximum penalty of imprisonment for 5 years.

Proposed section 154J contains a new offence of being in possession of a vehicle identification plate that is not attached to the vehicle to which it relates. It carries a maximum penalty of imprisonment for 5 years.

Extension of offences relating to taking of vehicles to vessels

Section 154C of the *Crimes Act 1900* provides for the offence known as “car-jacking”. The offence involves taking a motor vehicle with assault, or taking a motor vehicle when a person is in it or on it, and carries a maximum penalty of imprisonment for 10 years (or 14 years in circumstances of aggravation). **Schedule 1 [5]** extends this offence to similar conduct involving the taking of a vessel (within the meaning of the *Marine Safety Act 1998*). **Schedule 1 [6]** is a consequential amendment.

Sections 188 and 527C of the *Crimes Act 1900* provide for the offences of receiving

or disposing of stolen property, or being in possession of property that may be reasonably suspected to have been stolen. These offences apply to receiving, disposing of or being in possession of a stolen part of a motor vehicle (as well as to receiving, disposing of or being in possession of a stolen motor vehicle). At common law, property in a stolen part of a motor vehicle does not pass to the owner of another vehicle by reason of it being affixed to the vehicle. Accordingly, these offences extend to a situation in which a person receives, disposes of or is in possession of a motor vehicle that has stolen parts attached to it.

If the stolen property is a motor vehicle or motor vehicle part, the maximum penalty for the offence of receiving or disposing of stolen property (under section 188) increases from 10 years imprisonment to 12 years imprisonment. **Schedule 1 [8]** extends this higher penalty to cases where the stolen property is a vessel or part of a vessel (within the meaning of the *Marine Safety Act 1998*). **Schedule 1 [10]** is a consequential amendment.

Under section 527C of the *Crimes Act 1900* (the summary offence of being unlawfully in possession of property that may be reasonably suspected to have been stolen), the maximum penalty for the offence is 6 months imprisonment, or fine of up to \$550, or both. However, a higher maximum penalty of imprisonment for 1 year, or fine of \$1,100, or both, applies if the property concerned is a motor vehicle or motor vehicle part. **Schedule 1 [11]** extends this higher penalty to cases where the property involved is a vessel (within the meaning of the *Marine Safety Act 1998*) or part of a vessel. **Schedule 1 [14]** is a consequential amendment.

Schedule 1 [1] removes a definition of *vessel* from the *Crimes Act 1900* that is inconsistent with how vessel is defined in the new provisions. **Schedule 1 [2], [3], [13] and [15]** are consequential amendments.

Schedule 2 Consequential amendments

The amendments to the *Bail Act 1978*, the *Motor Dealers Act 1974* and the *Motor Vehicle Repairs Act 1980* set out in **Schedule 2.1, 2.3 and 2.4** are consequential on the repeal and re-enactment of section 154AA of the *Crimes Act 1900* by **Schedule 1 [4] and [7]**.

The amendment to the *Criminal Procedure Act 1986* set out in **Schedule 2.2 [1]** ensures that the offence of car stealing which is repealed and re-enacted by the Bill (and extended to vessels) continues to be triable summarily unless the prosecutor or the person charged elects otherwise.

The amendment to the *Criminal Procedure Act 1986* set out in **Schedule 2.2 [2]** ensures that the new offences relating to car and vessel rebirthing in **Schedule 1 [7]** (except the offence of facilitating organised car or boat rebirthing activities) are triable summarily unless the prosecutor elects otherwise.