

Receiving Stolen Property

In December 1987, the Commission published its Report on [Receiving Stolen Property \(LRC 23–1987\)](#) following a March 1987 request by the then Attorney General.

A major difficulty in the prosecution and conviction of receiving offences derives both from the nature of receiving itself and from deficiencies in the existing law. Proof of the crime depends to an unusual degree on establishing the state of mind of the alleged receiver. In the absence of admissions, rarely forthcoming, that the accused received the goods knowing them to be stolen or cogent circumstantial evidence to that effect, it may obviously be difficult to convince a jury beyond reasonable doubt that the accused's state of mind was, in general terms, "guilty". The desirability of ensuring the more effective prosecution and conviction of receiving offences must be recognized; but so must the constitutionally guaranteed right of citizens to a trial in accordance with accepted standards of fairness. These are the most difficult problems with which the Report deals.

Among the 16 recommendations made by the Commission are that:

1. The basis of criminal liability should extend beyond that of "receiving" as defined in the law at present by the creation of a new offence of "handling" stolen goods as provided for in the English *Theft Act 1968*, subject to certain modifications.
2. "Handling" should be defined as receiving property or having it in one's possession or under one's control or arranging to have it in one's possession or under one's control or arranging (or assisting in) its retention, removal or disposal by another person.
3. The test of liability in the new offence should depend on whether the defendant knew or was reckless as to whether the goods were stolen.
4. "Recklessness" should be defined so that a person acts recklessly if he consciously disregards a substantial and unjustifiable risk that the goods were unlawfully obtained. The risk must be of such a nature and degree that, considering the nature and purpose of the defendant's conduct and the circumstances to him, its disregard involved culpability of high degree.
5. The offence of handling stolen goods should be committed where the goods are unlawfully obtained either by the accused himself or by another person, so as to ensure that, in cases where the court or jury is uncertain as to whether to convict the accused of larceny or handling, a conviction is nonetheless recorded.

Draft Legislation in Report

A draft *Criminal Justice Bill* is included in the Report.

Information on Implementation

Recommendations of the Commission were implemented by the *Larceny Act 1990*, *Criminal Evidence Act 1992* and *Criminal Justice (Theft and Fraud Offences) Act 2001*.