

## Intentionally or Recklessly Destroy or Damage Property by Fire

### s.195(1)(b) (NSW) *Crimes Act*

s 195(1)(b) Intentionally or recklessly destroy or damage property by means of fire or explosives

**Maximum Penalty:** 10 years

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
1.	<b>Baker</b> <a href="#">[2000] NSWCCA 85</a>	s.195(b)	PG	1y NPP 3m	Crown AD		Female – threw firebomb at garage door – minimal damage – in dispute with female occupant of house over card collection Breach bail for armed robbery – heroin addiction – ill health
2.	<b>Priest</b> <a href="#">[2000] NSWCCA 27</a>	s.195(b)	PG	4y NPP 2y 6m	AD		Became emotionally distraught after argument with de facto wife – set fire to house after ensuring house empty of occupant, cats safe and neighbour's truck moved
3.	<b>Pitt</b> (30) <a href="#">[2001] NSWCCA 156</a>	s.195(b)  s.195(a) [no fire – max penalty 5y]	PG	6y NPP 3y 6m  FT 2y (concurrent)	AD	Lengthy record including violence	Intoxicated and angry at de facto – damaged household items then set fire to curtain – spontaneous offence Remorse – Aboriginal male – partial concurrency to existing sentence
4.	<b>Glover</b> <a href="#">[2002] NSWCCA 376</a>	2 x s.195(b)	VG	8y NPP 6y (each – concurrent)	AA 8y NPP 5y (each – concurrent)	Minor	Became frustrated with lack of assistance from DOCS department in dealing with difficult child – caused explosion at government building at night – potential danger to neighbours and persons returning home from nearby club
5.	<b>Cairns</b> (19) <a href="#">[2003] NSWCCA 395</a>	s.195(b)	PG	4y 6m NPP 3y	AA 4y NPP 2y	Nil	Assaulted by complainant at nightclub – several days later accompanied two friends to complainant's home – lit bottle containing petrol thrown through front window destroying house – did not ascertain if anyone home – intoxicated Assistance – prior good character – remorse – good prospects of rehabilitation
6.	<b>Rahme</b> <a href="#">[2006] NSWCCA 96</a>	s.195(b)	PG (25% on appeal)	4y NPP 1y 3m	AA 3y NPP 1y 3m		Set fire to family home – severe mental disorder – irrational conduct – breached apprehended violence order

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7.	<b>St Alder</b> <a href="#">[2006] NSWCCA 287</a>	s.195(b)  Sched: s.195(a)	PG (25%)	4y NPP 2y	AD	Minor	Broke into home belonging to ex-partner's aunt – set fire to top floor bedroom Remorse
8.	<b>VAA</b> (47) <a href="#">[2006] NSWCCA 44</a>  Co-offender: ELZAKHEM	3 x Acc before fact to s.195(b)  Consp s.195(b)  Consp to mal inflict gbh with intent  Sched: 2 x consp s.195(b)	PG (62.5% plea and assist)	3y NPP 2y  3y NPP 2y  3y 9m NPP 2y 3m  (all concurrent)	Crown AA 3y NPP 2y  3y NPP 2y  5y NPP 3y  <u>Total:</u> 6y NPP 4y	Minor	On behalf of principal arranged for premises of business competitors to be damaged and destroyed by fire – millions of dollars damage over extended period of time – arranged for attack on male competitor – schedule offences involved burning premises for insurance purposes Assistance against principal
9.	<b>Gunes</b> (27) <a href="#">[2007] NSWCCA 242</a>	s.195(b)  Sched: Malicious damage	PG (20%)	4y NPP 2y 6m	AA FT 10m 15d (immediate release)	Nil	Found father-in-law setting fire to restaurant for insurance purposes – provided minor assistance – spontaneous offence – acted out of misguided family loyalty – difficult circumstances Fled country then returned voluntarily – shame and remorse – strong subjective case
10.	<b>Dunn</b> (36) <a href="#">[2007] NSWCCA 312</a>	s.195(b)  s.195(b)  Sched: Poss 0.5g cannabis	VG	FT 2y  6y NPP 4y 6m  <u>Total</u> 7y 6m NPP 6y	AA FT 2y  6y NPP 4y 2m  <u>Total</u> 7y 6m NPP 5y 8m	Lengthy record – breached parole for AR	Lit fire on porch of neighbouring unit – next day lit second fire destroying neighbour's unit and damaging remaining units in block – believed neighbour a paedophile – did not intend personal injury – mid to upper range of seriousness Psychological problems with low intelligence

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11.	<b>Elzakhem</b> (40) <a href="#">[2008] NSWCCA 31</a>  Co-offender: VAA	2 x s.195(b)  s.195(b)  s.195(b)  s.195(b)  2 x Consp s.195(b)  Consp to inflict GBH w/i  Sched: 4 x s.195(b)	PG (20%)	6y  6y  6y  6y 6m  6y 6m  13y 7m  Total: 18y 7m NPP 9y 1m	Crown AA FT 6y  FT 3y  FT 1y 6m  FT 8y  FT 3y  9y 7m NPP 4y 7m  Total: 20y NPP 15y	Nil relevant	Owner of hairdressing supply business arranged for several premises of business competitors to be damaged and destroyed by fire – \$25m damage over extended period of time – arranged for attack on ex-business partner – motivated by greed and revenge Depression and physical health problems
12.	<b>Porter</b> <a href="#">[2008] NSWCCA 145</a>	5 x s.195(b)  s.112(1)  s.112(1)	PG (25%)	7y NPP 3y  7y NPP 3y  7y NPP 3y  (concurrent)	AA 4y 9m NPP 2y 3m  FT 12m  FT 18m  Total: 5y 3m NPP 2y 9m	Assault, shoplifting	Broke into shop stealing cash – set fire to curtain – fire spread to four adjoining premises – damage estimated at \$1.2 - \$1.5 million. Error in approach to accumulation / concurrency. Principles re sentencing arson offender.
13.	<b>Halls</b> (45) <a href="#">[2008] NSWCCA 251</a>	s.195(1)(b)	PG (20%)	4y NPP 2y	Crown AD	Previous similar offences	Set fire to house which was completely destroyed – damage \$163,000. Intellectual disability – unusual circumstances of case

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14.	<b>Coleman</b> (18) <a href="#">[2009] NSWCCA 7</a>	s.195(b)  s.195(b)  Sched: s.195(b)	PG	3y NPP 12m  4y NPP 18m  <u>Total</u> 5y NPP 2y 6m	AD	Nil	Drove father to scene of first offence and assisted him onto the roof – father set fire to warehouse causing \$4.35m damage – acted as lookout for second offence where father caused fire damage to second premises of over \$320,000
15.	<b>Watts</b> <a href="#">[2010] NSWCCA 315</a>	s.195(1)(b)	VG	6y 6m NPP 4y 10m	AA 5y 6m NPP 4y 1m	significant	Set fire to house being rented from Housing Commission – motivated by problems with Commission over neglected state of property - \$70,000 damage – planned and premeditated Suffering mental disorders
16.	<b>Gill</b> (38) <a href="#">[2010] NSWCCA 236</a>	s.114(1)(d)  s.112(2) (mal damage with fire)  s.195(1)(b)  s.195(1)(b)  Sched: 4 x property damage by fire	PG (12%)	3y NPP 2y  5y 3m NPP 3y  18m NPP 12m  3y NPP 2y  <u>Total:</u> 8y 3m NPP 6y	AD	Lengthy record	Entered store after hours with co-offender who worked at store – stole \$16,890 from safe and damaged doors to simulate forced entry – later set fire to store causing extensive damage – two months later caused fire damage to council ticket box and shed containing building materials Chaotic childhood – alcohol and drug dependence
17.	<b>Jackson</b> (52) <a href="#">[2011] NSWCCA 124</a>	s.195(1)(b)  s.195(1)(a) [5y]	PG	6y NPP 3y 6m  FT 12m  <u>Total:</u> 6y 6m NPP 4y	AD	Lengthy record – breached conditional liberty	Slashed tyres and damaged car – set fire to house – premeditated offence although checked to ensure victim not at home – irrational hatred towards victim Long history of drug and alcohol abuse – suffering from bipolar affective disorder

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18.	<b>Simms</b> (26) <a href="#">[2014] NSWCCA 286</a>	s.195(1)(b)	PG (25%)	6y NPP 3y 7m	AA 5y NPP 3y 3m	Lengthy. On parole.	Set fire to unit which offender shared with de facto partner – upset over break-up – some element of planning – significant damage to unit – some damage to adjoining unit – potential risk to lives of others – above mid-range Aboriginal offender - strong subjective features – dysfunctional upbringing - institutionalised. On appeal: sentence erroneously reflected worst or close to worst category of offence
19.	<b>Masters</b> <a href="#">[2019] NSWCCA 233</a>	s.86(1)(b)  Att s.195(1)(b)  Sched 3 related offences	PG (25%)	          <u>Aggregate:</u> 5y NPP 2y 6m	AA <u>Indicative:</u> 3y  18m  <u>Aggregate:</u> 4y NPP 2y	minor	Insisted taxi driver continue driving long distance from Taree to Bulahdelah – made threats – insisted driver increase speed until travelling up to 200 kph – victim pulled into service station and escaped from vehicle after struggle – after causing considerable damage to taxi offender walked across to second, closed service station and attempted to set fire to fuel in pumps – sustained effort using all seventeen pumps and branches from nearby park – no motive Suffering mental condition and recent change to medication impacted behaviour – true remorse – good character reports On appeal – failure to properly take into account mental illness and prospects of rehabilitation
20.	<b>Amante</b> (42) <a href="#">[2020] NSWCCA 34</a>	s.195(1)(b)  s.12 Crimes (Dom and Pers Viol) Act	PG (25%)	<u>Total:</u> 3y 9m NPP 2y	AD	lengthy	Visited estranged partner at her unit with permission in breach of AVO – argument resulted in making threats – following day set fire to unit in absence of victim – forced evacuation of units – under influence of ice – no information on how fire started – units rendered temporarily uninhabitable – fire posed threat to structural integrity of building Drug user with mental health issues – reasonable prospects of rehabilitation On appeal: no error in fact finding as to threat posed by fire – no error in finding unresolved mental health issues meant full weight given to specific deterrence

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21.	<b>Weiss</b> (24) <a href="#">[2020] NSWCCA 188</a>	Aid and abet s.195(1)(b)  Aid and abet s.195(1)(b)	PG (30% combined)	<u>Indicative:</u> 3y  3y 3m  <u>Aggregate:</u> 4y 3m NPP 3y	AA <u>Indicative:</u> 2y 2m  2y 6m  <u>Aggregate:</u> 3y NPP 2y 1m	Arson and larceny – breached bond for larceny	Arranged to have two fires lit on behalf of co-offenders who were targeting property of ex-partners – truck with stock parked outside home of parents of one ex-partner damaged by fire - five days later two cars parked in driveway of house destroyed – risk and danger of fire in residential area – offences intentional and planned – motive unclear although one co-offender was offender's partner – gravity on appeal just above mid-range Limited insight – difficult childhood – good prospects of rehabilitation – difficulties in custody On appeal: error in applying discount for guilty plea to aggregate not indicative sentences - disparity
22.	<b>Newman</b> (22) <a href="#">[2021] NSWCCA 101</a>	s.195(1)(b)  s.112(2)  s.319 Pervert course of justice  s.319 Pervert course of justice  Sched: 2 x s.319	PG (25%)	<u>Indicative:</u> 4y 6m NPP 15m  2y 4m NPP 15m  18m  2y 6m  <u>Aggregate:</u> 6y 9m NPP 3y 9m	AD		Broke into shed at local school, in company, stole items - after apprehended and released by police, set fire to shed causing damage to neighbouring buildings – called "Crime Stoppers" with false information - told person involved in break and enter offence not to tell police of his involvement - exchanged messages with another person to arrange false alibi Took drugs on day of offences - ADHD - abuse of alcohol and drugs in order to cope with stresses – difficult background.
23.	<b>Stamp</b> <a href="#">[2024] NSWSC 718</a> Yehia J	s.195(1)(b)	PG (25%)	s.10A  (PSC: 2y 4m 22d)		Nil relevant	Reluctantly agreed to burn hire car used to transport co-offenders to and from meeting with drug dealer - dealer fatally shot – unsophisticated offence recorded on CCTV – motivated by misguided loyalty to co-offender – not being sentenced as accessory after fact to murder Good family support – serious physical health issues – very good prospects of rehabilitation and unlikely to re-offend s.10A appropriate in unusual circumstances – originally charged with murder – served 2y 4m 22d pre-sentence custody before released to bail after directed acquittal

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