

## Break and Enter With Intent to Commit Serious Indictable Offence

### s.113(1) (NSW) Crimes Act

s.113 (1) break and enter dwelling-house or building with intent to commit serious indictable offence

**Maximum Penalty:** 10 years

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	<b>Turner</b> <a href="#">[2004] NSWCCA 260</a>	s.113(1) (steal)	PG (20% on appeal)	3y 4m NPP 2y 6m	AA 3y NPP 2y 3m	Breached parole	After argument with father broke into home through window – fled when occupant returned
2.	<b>Diab</b> (32) <a href="#">[2005] NSWCCA 341</a>	s.114(1)(d) s.113(1) s.113(1) s.117 Sched: Larceny	PG	FT 1y  2y 9m NPP 1y 9m  FT 1y 6m  FT 6m  <u>Total:</u> 3y 7m NPP 2y 7m	AD	Lengthy record	Entered or attempted to enter three commercial premises Gambling problem
3.	<b>Callaghan</b> (2006) 160 A Crim R 145 <a href="#">[2006] NSWCCA 58</a>	2 x s.113(1) (steal)	PG	2y NPP 12m	AD	Breached parole	On two separate occasions broke into video store – no property stolen
4.	<b>Sharpe</b> (26) <a href="#">[2007] NSWCCA 217</a>	s.113(1) (steal)  Sched: 3 offences	PG	3y 6m NPP 2y	AD	Significant record for BES offences – breached parole for agg BES – offence committed 3 days after release	Broke into garages in home unit complex – offence at lower end of scale of seriousness Drug and alcohol addiction – difficult childhood
5.	<b>HA</b> <a href="#">[2009] NSWCCA 31</a>	s.113(1) (steal)	PG (15%)	1y 8m NPP 1y 3m	AD	Number of BE offences. On parole.	Broke into garage of unit with co-offender using crowbar. Parity argument rejected.

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

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
6.	Gray (29) <a href="#">[2018] NSWCCA 39</a>	s.113(1)  s.113(1)  s.112(1)  s.166 offence: Drive recklessly  Sched: 2 offences	PG (25%)	2y 3m  1y 6m  2y 6m  5m  <u>Aggregate:</u> 5y NPP 3y 9m	AA 2y  1y 3m  2y  5m  <u>Aggregate:</u> 4y 4m NPP 3y 3m	lengthy record – breached conditional liberty	Attempted to gain access to residential premises by smashing back window – entered building in city and forced entry to suite owned by mortgage broker, leaving without taking anything – forced entry into second suite and stole property worth \$7,750 – limited planning Drug user

Last updated: Aug 2018