

Armed Robbery
4-9 Offences
s.97(1) (NSW) Crimes Act

s 97(1) Being armed with an offensive weapon, or instrument, or being in company with another person,
 robs, or assaults with intent to rob, any person, or
 stops any mail, or vehicle, railway train, or person conveying a mail, with intent to rob, or search the same,
Maximum Penalty: 20 years

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Facts
1.	Fleming (21) [1999] NSWCCA 142	5 x s.97(1) AR Sched: 13 offences	PG	MT 4y AT 4y	AD	Knife	nil	5 x s.97(1) Armed Rob Small businesses.
2.	Hamilton [2000] NSWCCA 31	4 x s.97(1) AR	PG	MT 1y AT 3y	Crown AA MT 2y AT 3y	Knife		4 x s.97(1) Armed Rob Service stations - significant threat of violence - 12y boy in one robbery. Genuine remorse and good prospects of rehabilitation - drug addiction.
3.	S.D. (31) [2000] NSWCCA 43	6 x s.97(1) AR Sched: 20 x AR 5 x Ass w/l Rob 7 x LMV	PG	MT 7y AT 3y	AD	Knife, blood filled syringe	similar offences; on parole for AR	6 x s.97(1) Armed Rob Offences committed in 23 days on young females aged 15-20y at service stations and shopping centres. Drug addiction - some assistance to authorities.

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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4.	RLS (16) [2000] NSWCCA 175	s.97(1) AR 3 x s.97(1) AR s.97(1) Assault with intent to AR Sched: 11 offences	PG	9y NPP 4y 6m FT 4y FT 4y <u>Total:</u> 9y NPP 4y 6m	AD	.22 shortened rifle, knife and blood filled syringe.	later offences committed on bail - appalling record	5 x s.97(1) Armed Rob One AR involved holding blood filled syringe to arm of 8y girl - facts of other offences not provided. Impressive rehabilitation while on remand - aboriginal.
5.	Metcalf (20) [2000] NSWCCA 277	2 x s.97(1) AR 3 x Rob in Co	PG	3y Periodic Det 3y Periodic Det (concurrent)	Crown AD	baseball bat and knife		5 x s.97(1) Armed Rob Service stations. Schizophrenic - assistance to authorities - excellent rehabilitation;
6.	Gee (38) [2000] NSWCCA 457	4 x s.97(1) AR	VG	MT 5y AT 1y 8m	AD	handle of firearm	prior convictions including violence	4 x s.97(1) Armed Rob Robbed four banks after showing female tellers wooden handle of firearm - offences committed over two month period. No contrition or remorse - physical impairment resulting from motor accident - close family support.
7.	Lemene (30) (2001) 118 A Crim R 131 [2001] NSWCCA 5	s.97(1) AR 6 x s.97(1) AR 2 x s.95 BES Sched: 29 x s.97(1) 3 offences	PG	MT 12y AT 4y MT 12y AT 4y MT 12y AT 4y	AA 12y NPP 8y FT 5y FT 5y FT 5y <u>Total:</u> 15y NPP 11y	blood filled syringe – replica pistol	Extensive	7 x s.97(1) Armed Rob Entered shops and pretended to pay for small item – when till open threatened attendant with syringe and took money – sometimes used replica pistol Extremely disadvantaged background

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8.	Speeding (19) (2001) 121 A Crim R 426 [2001] NSWCCA 105	2 x s.97(1) AR 3 x s.97(1) AR s.94	PG	5y 3m NPP 2y 9m 3y 6m NPP 12m 4y NPP 18m <u>Total:</u> 5y 3m NPP 2y 9m	Crown AA 5y 3m NPP 2y 9m 4y 6m NPP 2y 4y NPP 2y <u>Total:</u> 7y 3m NPP 4y 9m	large knife	later offences committed on bail for earlier offences	5 x s.97(1) Armed Rob Robbed fast food restaurants with large knife over six months – jumped counter and threatened staff – one outlet robbed twice Drug and alcohol addiction after death of sister in car accident – gambling addiction
9.	PG (31) (2001) 122 A Crim R 529 [2001] NSWCCA 231	s.97(1) Armed Rob 5 x s.97(1) AR Sched: 10 x AR Unlic driver	PG (50% plea and assist)	7y 6m NPP 5y 7y 6m NPP 5y	AA 7y 6m NPP 4y FT 3y 6m <u>Total:</u> 7y 6m NPP 4y	replica pistol	little criminal record	6 x s.97(1) Armed Rob In company with co-offender robbed clubs and retail premises of over \$80,000 - well organised operation - committed over 2 month period. <u>Ellis</u> discount - assistance - threat to family - failure to comply with <u>Pearce</u>
10.	Johnson (28) [2001] NSWCCA 517	s.97(1) AR 4 x s.97(1) AR 3 x s.94	PG (20%)	11y NPP 7y 6m 11y NPP 7y 6m FT 5y (concurrent)	AA 8y NPP 4y 6m 6y NPP 4y 6m FT 4y <u>Total:</u> 11y NPP 7y 6m	knife	breached parole for multiple armed robbery offences	5 x s.97(1) Armed Rob Used knife to rob convenience stores – robbery offences involved same premises - offences committed over five month period – on last occasion employee kicked on when sought to pursue offender

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11.	Fernando (26) [2002] NSWCCA 28	4 x s.97(1) AR s.97(1) Assault with intent to AR s.33B Sched: 2 offences	PG	6y NPP 3y 6y NPP 3y 5y NPP 3y <u>Total:</u> 6y NPP 3y	Crown AA 6y NPP 3y 6y NPP 3y 5y NPP 3y <u>Total:</u> 7y NPP 4y	syringe filled with red liquid	property, driving and violence – armed robbery as a juvenile – breached parole	5 x s.97(1) Armed Rob Committed armed robberies of business premises over two months – attempt to robbery hotel unsuccessful – upon arrest grabbed police officer's revolver and put hands around throat Aboriginal – drug addiction
12.	Renton (29) [2002] NSWCCA 74	4 x s.97(1) AR 3 x s.97(1) AR	PG (25%)	4y NPP 2y 4y NPP 12m <u>Total:</u> 6y NPP 3y	AD	blood filled syringe	mostly dishonesty	7 x s.97(1) Armed Rob Female - robbed females in small businesses. Drug addiction - element of coercion by abusive partner - remorse - evidence of rehabilitation
13.	Akari [2002] NSWCCA 253	s.97(1) Aid and abet AR s.97(1) Assault with intent to AR s.97(1) Assault with intent to AR s.97(1) AR	VG	MT 3y AT 2y MT 3y AT 2y FT 18m FT 2y <u>Total:</u> MT 5y AT 2y	AD	firearm	lesser offences – no imprisonment – breached conditional liberty	4 x s.97(1) Armed Rob Offences committed on one day – pulled up in car alongside pedestrians to request directions – used gun to demand money – one victim refused to hand over property – co-offender robbed one victim – offender discharged gun in presence of one victim Good prospects of rehabilitation - youth

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	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Facts
14.	Dorsett (34) [2002] NSWCCA 326	s.97(1) AR 5 x s.97(1) AR Sched: 4 x AR Demand money	PG (20%)	12y NPP 8y 12y NPP 8y (concurrent)	AA 7y NPP 3y FT 4y <u>Total:</u> 12y NPP 8y	Knife	on parole for similar offences	6 x s.97(1) Armed Rob Robbed businesses with knife - feeding drug addiction
15.	Zahab (31) [2002] NSWCCA 430	s.97(1) AR 4 x s.97(1) AR Sched: 12 x s.97(1)	PG (25%)	4y NPP 2y FT 12m <u>Total:</u> 6y NPP 4y	Crown AA 5y 6m NPP 3y 2y NPP 18m <u>Total:</u> 7y 6m NPP 5y	Syringe	priors for robbery and assault - breached bail	5 x s.97(1) Armed Rob Robbed service stations mostly at night - some victims robbed more than once Suffering drug induced psychosis and schizophrenia
16.	McCann (21) [2003] NSWCCA 21	s.97(1) AR 3 x s.97(1) AR s.114(1)(c)	PG	6y NPP 3y FT 3y FT 12m <u>Total:</u> 7y NPP 4y	AD	knife	driving, property and resist arrest offences	4 x s.97(1) Armed Rob Committed robberies over 9 days – robbed cellars, supermarket, pizza place and general store – four offences committed in company Drug user – good prospects of rehabilitation

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17.	Trad (19) [2003] NSWCCA 213	s.97(1) AR s.97(1) Att AR s.97(1) AR s.97(1) AR 4 x s.97(1) AR s.97(2) Sched: 9 offences	PG	6y NPP 2y FT 12m FT 18m FT 2y FT 3y FT 3y <u>Total:</u> 12y NPP 8y	AD	knife / metal bar	lesser offences – later offences committed on bail for earlier offences	8 x s.97(1) Armed Rob / s.97(2) Committed armed robberies over 2 year period – robbed convenience stores, service stations – employees threatened with knives – some offences committed in company – on one occasion held knife to throat of victim Funding drug addiction
18.	Phillipe (17) [2004] NSWCCA 2	4 x s.97(1) AR 3 x s.97(1) AR Receiving	PG (20%)	2y NPP 12m 3y NPP 12m FT 12m <u>Total:</u> 4y NPP 2y 9m (juvenile det)	AD	replica handgun, knife and wooden stick	second group of offence committed on bail – otherwise no prior convictions	7 x s.97(1) Armed Rob In space of one hour committed four armed robberies in company of others – personal property taken – 4 months later robbed taxi driver with co-offender armed with knife – forced another victim at knifepoint to withdraw money from ATM - robbed two pharmacy employees carrying substantial amount of cash to bank Remorse – good character – excellent prospects of rehabilitation

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	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Facts
19.	Arriaza (36) [2004] NSWCCA 4	s.97(1) AR s.97(1) AR s.97(1) AR s.97(1) Assault with intent to AR Sched: 3 offences	PG	6y NPP 2y 6m 3y NPP 18m 4y NPP 2y 4y NPP 2y <u>Total:</u> 7y NPP 3y 6m	AA 5y NPP 3y 3y NPP 18m 4y NPP 2y 4y NPP 2y <u>Total:</u> 6y NPP 3y	Knife	Minor irrelevant record – breached bail and bond	4 x s.97(1) Armed Rob Robbed hotel, newsagency and pharmacy Long term depressive illness and drug addiction – genuine remorse – excellent prospects of rehabilitation
20.	Hernando (20) [2005] NSWCCA 59	s.97(1) AR 2 x s.97(1) AR 2 x s.97(1) Ass with intent to AR Sched: s.97(1)	PG	4y 7m NPP 2y 7m 5y 6m NPP 3y 6m 5y 6m NPP 3y 6m <u>Total:</u> 5y 6m NPP 3y 6m	AD	knife	breached parole – record includes robbery offences	5 x s.97(1) Armed Rob Robbed two train passengers of mobile phones holding knife against side – approached three persons in car park, pointed knife at one victim's stomach, threatened to kill and demanded phones, watched and money – on same day approached two more persons in car park with co-offender – held knife against ribs and demanded phone
21.	Maxfield (28) [2005] NSWCCA 136	s.97(1) AR 97(1) AR 5 x s 97(1) AR Sched: 5 AR offences	PG	7y 6m NPP 5y 6m FT 5y FT 4y <u>Total:</u> 8y 9m NPP 6y 9m	AD	Knife / Replica pistol	Criminal record – no leniency – breached parole	7 x s.97(1) Armed Rob Robbed supermarket, chemist and shop assistant using knife or replica pistol over 2 months

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22.	Heikkinen (45) [2006] NSWCCA 50	3 x s.97(1) AR s.97(1) Att AR s.94 Assault with intent to rob Larceny	PG (20%)	3y NPP 18m 3y NPP 18m 2y NPP 12m 18m NPP 9m <u>Total:</u> 3y NPP 18m	Crown AA 3y NPP 18m 3y NPP 18m 3y NPP 18m 18m NPP 9m <u>Total:</u> 4y NPP 2y 6m	kitchen knife	nil	4 x s.97(1) Armed Rob Robbed tavern and service stations over several weeks – threatened to kill employees – on two occasions no money taken Remorse – good work record – gambling, depression and alcohol abuse
23.	Miski (24) [2006] NSWCCA 178	s.97(1) AR s.97(1) AR s.97(1) AR Rob in Co Sched: s154A	PG (25% on appeal)	3y 9m NPP 2y 4m 3y 9m NPP 2y 4m FT 3y FT 3y <u>Total:</u> 4y 5m NPP 3y	Crown AA 5y 6m NPP 4y 5y 4m NPP 4y 5y 6m NPP 3y 9m 5y 4m NPP 4y <u>Total:</u> 7y NPP 5y 3m	Knife, Pistol	Lengthy. On parole.	4 x s.97(1) Armed Rob Over two week period robbed service stations armed with pistol and motel threatening staff with knife. Heroin addiction.

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24.	AN [2007] NSWCCA 53	s.97(1) AR 2 x s.97(1) AR 3 x s.97(1) AR s.97(1) AR s.97(1) AR	VG	6y NPP 4y 6m 7y NPP 5y 3m 8y NPP 6y 9y NPP 6y 9m 9y NPP 6y 9m <u>Total:</u> 12y 3m NPP 10y	AA 6y NPP 4y 6m 6y NPP 4y 6m 6y NPP 4y 6m 6y NPP 4y 6m 7y NPP 4y <u>Total:</u> 10y 6m NPP 7y 6m	Imitation pistol and knife		8 x s.97(1) Armed Rob Robbed massage parlours
25.	TS (15-16) [2007] NSWCCA 194	3 x s.97(1) AR s.97(1) AR s.97(1) AR Sched: 9 offences	PG	7y NPP 3y 6m 7y NPP 3y 6m 7y NPP 3y 6m <u>Total:</u> 7y 6m NPP 4y	AA 2y 9m NPP 1y 9m 3y 3m NPP 2y 4y NPP 2y 6m <u>Total:</u> 5y NPP 3y 6m	Knife	Priors – breached bail	5 x s.97(1) Armed Rob Robbed retail stores using knife – accompanied by co-offender on several occasions – one attendant punched in stomach

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26.	Natoli (22) [2009] NSWCCA 36	4 x s.97(1) AR s.97(1) Assault with intent to AR Rob in Co Sched: 4 x s.97(1)	PG	FT 4y 6m 6y NPP 2y FT 3y 9m <u>Total:</u> 12y NPP 8y 9m	AA FT 4y 6m 6y NPP 2y 8m FT 3y 9m <u>Total:</u> 10y NPP 6y 8m	Replica pistol		6 x s.97(1) Armed Rob Robbed train passengers using replica pistol – some verbal threats to kill – two victims teenage boys – some physical assaults – elements of planning – all offences committed within a few days Low level of intelligence – remorse – good prospects of rehabilitation
27.	Cavanagh (25) [2009] NSWCCA 174	4 x s.97(1) AR s.95 Assault with intent to AR Sched: 5 x s.97(1) 7 other offences	PG (10%)	<u>Total:</u> 14y NPP 10y	AD	Knife and screwdriver	On parole for robbery offences	4 x s.97(1) Armed Rob Robbery of retail stores armed with knife in all but one offence Living on streets by 12y – earlier drug addiction – offences financed drug habit
28.	Kelly [2010] NSWCCA 259	s.97(1) AR s.97(1) AR s.97(1) AR s.97(1) AR s.97(1) AR Sched: Arson SMV	PG (25%)	FT 2y FT 2y FT 2y FT 2y 3m 4y 6m NPP 2y 6m <u>Total:</u> 5y 6m NPP 3y 6m	Crown AA 6y NPP 3y 6m 4y NPP 3y 3y 9m NPP 2y 9m 4y NPP 3y 5y 6m NPP 3y 6m <u>Total:</u> 7y 6m NPP 5y	Knife		5 x s.97(1) Armed Rob Robberies took place within one week with two co-offenders - home invasion – held knife to throat of female victim – tied up female and male victim – took personal items - two robberies of service stations – threatened victims with knives – took \$1100 and \$2000 - fourth robbery of male victim standing beside car – took \$1000 – fifth robbery of club – held knife to victim's throat – took \$13,000. Mental illness - schizophrenia – youth

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29.	Hampton (22) [2010] NSWCCA 278	s.97(1) AR 2 x s.97(1) AR s.97(1) AR s.97(1) AR s.112(2) Sched: 10 offences	VG PG PG PG PG	<u>Indicative</u> FT 4y FT 4y FT 6y 7y NPP 3y 3m FT 2y <u>Aggregate</u> 15y NPP 11y 3m	AD	knife / taser / baseball bat	breached conditional liberty – att stealing, dishonesty	5 x s.97(1) Armed Rob Over six months robbed service stations, fast food place, TAB and hotel with co-offenders Dysfunctional childhood – early drug user
30.	Chandler (36) [2012] NSWCCA 135	s.97(1) AR s.97(1) Assault with intent to AR s.97(1) Assault with intent to AR s.97(1) AR Take and drive conveyance	VG VG VG PG VG	4y NPP 2y FT 3y FT 3y 6m 5y NPP 2y 6m FT 12m <u>Total:</u> 7y 6m NPP 5y	Crown AD Applicant's AD	knife	AOABH, resist police, mal wound, shoplifting, breach AVO	4 x s.97(1) Armed Rob With girlfriend robbed elderly man holding knife to throat taking \$300 – on same day with girlfriend robbed two people outside their home demanding car keys - caused laceration to one victim with knife and struck female victim causing nose fracture – with unknown male robbed delivery driver - threatened with knife, took car keys, cash, mobile phone and punched him in the nose. Heroin addiction – lifelong mental illness.
31.	BT (16-17) [2012] NSWCCA 276	4 x s 97(1) AR	PG (40% plea and assist)	<u>Total:</u> 3y 8m NPP 2y 6m	AD	replica pistol	AR, firearms. On parole.	4 x s.97(1) Armed Rob With co-offenders committed robberies on service stations and fast-food restaurants – took money and cigarettes. Drug addiction – remorse.

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32.	Gibbons (30) [2013] NSW CCA 166	5 x 97(1) AR	PG (25%)	<u>Indicative:</u> 3y 9m <u>Aggregate:</u> 5y 6m NPP 3y	Crown AA <u>Indicative:</u> 4y 6m <u>Aggregate:</u> 7y NPP 4y	knife	AR, violence, possess drugs, driving, assault police – breached suspended sentences for assault and damage property.	5 x s.97(1) Armed Rob Offences committed over 3 week period – robbed service stations and corner supermarkets of cash (around \$4000). Drug addiction - difficult upbringing – mother died when offender 10y – some employment stability
33.	Gray (32) [2013] NSWCCA 169	6 x s.97(1) AR 2 x s.154A(1) Sched: s.97(1) s.154A(1)	PG (25%)	5y NPP 3y FT 12m <u>Total:</u> 8y NPP 6y	AD	Knife	Lengthy – breached parole for AR	6 x s.97(1) Armed Rob Took cars from car dealership and car repairs workshop – robbed fast food outlets, post offices and newsagent Very low intelligence and difficult childhood led to drug addiction and depression

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34.	Faaoloi (18)	3 x s.97(1) AR	PG (25%)	<u>Indicative</u> 3y 6m	Crown AA <u>Indicative</u> 3y 6m	Crowbar / capgun	Nil	6 x s.97(1) Armed Rob 8 x s.97(1) Armed Rob 6 x s.97(1) Armed Rob Armed robbery of various retail premises late at night – multiple service stations – entered shops with faces covered – entry sometimes gained through smashed glass – threats – assault Each had prior good character, difficult personal background and drug addiction
		3 x s.97(1) AR		3y 6m	3y 9m			
		Sched: 3 x Att s.97(1) s.97(1)		<u>Aggregate</u> 4y 6m NPP 2y 3m	<u>Aggregate</u> 6y NPP 2y 3m			
	Schaafhausen (18)	4 x s.97(1) AR	PG (25%)	<u>Indicative</u> 3y 6m	<u>Indicative</u> 3y 6m		Nil	
		4 x s.97(1) AR		3y 6m	3y 9m			
		Sched: 4 x Att s.97(1) s.97(1)		<u>Aggregate</u> 5y NPP 2y 6m	<u>Aggregate</u> 7y NPP 2y 6m			
Tuala (18)	2 x s.97(1) AR	PG (25%)	<u>Indicative</u> 3y 6m	<u>Indicative</u> 3y 6m	nil			
	[2016] NSWCCA 263		4 x s.97(1) AR	3y 6m		3y 9m		
		Sched: 4 x Att s.97(1) s.97(1)	<u>Aggregate</u> 4y 6m NPP 2y 3m	<u>Aggregate</u> 6y NPP 2y 3m				

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35.	Buckley (20-24) [2021] NSWCCA 6	2 x s.97(1) AR s.97(1) AR s.97(1) AR s.97(1) AR s.97(1) AR Poss unauth pistol Use weapon to prevent arrest 2 offences	PG (combined 50% on appeal) PG (25%)	<u>Indicative:</u> 1y 8m 2y 2y 6m 3y 3y 4y 6m NPP 3y 4y <u>Aggregate:</u> 9y NPP 5y	AA <u>Indicative:</u> 1y 4m 1y 8m 2y 1m 2y 6m 3y 6m 4y NPP 2y 9m 3y 6m <u>Aggregate:</u> 7y 6m NPP 4y	Knife – different sizes	Lesser offences	6 x s.97(1) Armed Rob (2014-2018) – robbed service stations, bottle shops and newsagencies over four-year period – earlier offences low end of range – later offences more serious involving threat to stab and jumping counter of shop – at time of arrest used imitation pistol to threaten police – mid range offences Ellis discount applied to first five offences – became a drug user after leaving school resulting in drug psychosis and multiple hospital admissions – diagnosed with schizophrenia – mental health unrelated to offences On appeal: failed to take into account mental health in relation to deterrence – error to constrain combined discount to 40% Re-sentence – discount increased to 50% - improved rehabilitation – genuine remorse – harsh custodial conditions

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