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.	**Baker** [2000] NSWCCA 85	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 Breached bail for armed robbery – heroin addiction – ill health
2.	**Priest** [2000] NSWCCA 27	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.	**Pitt** (30) [2001] NSWCCA 156	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.	**Glover** [2002] NSWCCA 376	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.	**Cairns** (19) [2003] NSWCCA 395	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.	**Rahme** [2006] NSWCCA 96	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

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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7.	**St Alder** [2006] NSWCCA 287	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.	**VAA** (47) [2006] NSWCCA 44 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.	**Gunes** (27) [2007] NSWCCA 242	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.	**Dunn** (36) [2007] NSWCCA 312	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.	**Elzakhem** (40) [2008] NSWCCA 31 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 <u>Total</u>: 18y 7m NPP 9y 1m	Crown AA FT 6y FT 3y FT 1y 6m FT 8y FT 3y 9y 7m NPP 4y 7m <u>Total</u>: 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.	**Porter** [2008] NSWCCA 145	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 <u>Total</u>: 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.	**Halls** (45) [2008] NSWCCA 251	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.	**Coleman** (18) [2009] NSWCCA 7	s.195(b) s.195(b) Sched: s.195(b)	PG	3y NPP 12m 4y NPP 18m Total 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.	**Watts** [2010] NSWCCA 315	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.	**Gill** (38) [2010] NSWCCA 236	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 Total: 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.	**Jackson** (52) [2011] NSWCCA 124	s.195(1)(b) s.195(1)(a) *[no fire – max penalty 5y]*	PG	6y NPP 3y 6m FT 12m Total: 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.	**Simms** (26) [2014] NSWCCA 286	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.	**Masters** [2019] NSWCCA 233	s.86(1)(b) Att s.195(1)(b) Sched 3 related offences	PG (25%)	 Aggregate: 5y NPP 2y 6m	AA Indicative: 3y 18m Aggregate: 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.	**Amante** (42) [2020] NSWCCA 34	s.195(1)(b) s.12 *Crimes (Domestic and Personal Viol) Act*	PG (25%)	Total: 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.	**Weiss** (24) [2020] NSWCCA 188	Aid and abet s.195(1)(b) Aid and abet s.195(1)(b)	PG (30% combined)	Indicative: 3y 3y 3m Aggregate: 4y 3m NPP 3y	AA Indicative: 2y 2m 2y 6m Aggregate: 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.	**Newman** (22) [2021] NSWCCA 101	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%)	Indicative: 4y 6m NPP 15m 2y 4m NPP 15m 18m 2y 6m Aggregate: 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.	**Stamp** [2024] NSWSC 718 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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