Armed Robbery with a Dangerous Weapon

2-3 Armed Robbery Offences

s.97(2) (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,

(2) Commit offence under subsection (1) when armed with a dangerous weapon

Maximum Penalty: 25 years

s 4 (1) Dangerous weapon means:

(a) a firearm, or an imitation firearm, within the meaning of the *Firearms Act* 1996, or

(b) a prohibited weapon within the meaning of the *Weapons Prohibition Act* 1998, or

(c) a spear gun.

Commenced: 23.12.1994

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Other Features
1.	**Pintos** (37) [1999] NSWCCA 209	3 x s.97(2)	PG	MT 4y AT 2y	AD	sawn-off shotgun	Lengthy including firearm offences.	**3 x s.97(2)** Robbed two service stations and liquor store – first time fired shot into shelf after ordering attendant from room. Heroin addict – contrition - two teenage children.
2.	**Tuncbilek** (21) [2000] NSWCCA 465	s.97(2) s.97(2) Sched: 2 x s.97(2) Take conveyance	VG	6y NPP 3y FT 3y (concurrent) Total: 6y NPP 3y	Crown AD	replica pistol and handguns	history of serious offences - offences committed on parole	**2 x s.97(2)** Robbed newsagency and son of attendant with co-offender armed with replica pistol - also robbed bottle shop and female pedestrian. On appeal - sentence inadequate except for intellectual disability and attention deficit disorder.

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

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Other Features
3.	**Bates** [2001] NSWCCA 374	Att s.97(2) s.97(2)	PG	FT 2y 6m 7y 6m NPP 5y Total: 10y NPP 7y 6m	AA FT 2y 6m 6y 6m NPP 4y 6m Total: 8y NPP 6y	shotgun	priors - on recog at time of offences	**2 x s.97(2)** Attempted to rob TAB - co-offender discharged shotgun at lock in attempt to obtain access - robbed bank On appeal - parity
4.	**Cosier** [2001] NSWCCA 513	Consp s.97(2) s.97(2) s.97(2) Harbour escapee Sched: 6 x s.97(2) 2 x SMV	PG (50% for plea and assistance)	FT 6y FT 6y 7y 6m NPP 4y 6m FT 17m Total: 10y 5m NPP 7y 5m	AD	shortened lever action .22 calibre rifle and shotgun		**3 x s.97(2)** Conspiracy to abduct manager of local business and force to access to safe, detaining family until money obtained – thwarted by family dog – robbed conference centre and golf club armed with guns – staff threatened - tied up at first robbery and assaulted at second – harboured relative of wife who had escaped local prison – related offences on schedule Assistance to authorities admitting involvement
5.	**Raad** (18) [2002] NSWCCA 75	s.97(2) 97(2) Assault with intent to AR s.97(1) Sched: s.97(2) 4 other offences	PG (25%)	6y NPP 4y 6y NPP 4y FT 2y (all concurrent)	AA 6y NPP 3y 6y NPP 3y FT 2y (all concurrent)	knife, replica rifle and replica pistol	minor	**2 x s.97(2) / s.97(1)** Robbed driver with knife - robbed person in foyer of hotel using knife and replica rifle - attempted to rob two men in street using replica pistol Prior good character - good prospects of rehabilitation - contrition

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6.	**El-Hage** (18) [2003] NSWCCA 118	s.97(2) s.97(2) s.94 Assault with intent to rob Sched: 2 dishonesty offences	PG	2y NPP 12m 18m NPP 9m 15m NPP 9m Total 3y NPP 2y 6m Periodic Det	AD	Flick knife	nil	**2 x s.97(2)** Robbed 13 year old victim of credit card – withdrew $300 – threatened with flick knife – three weeks later demanded more money from same victim – with co-offender robbed person on train, threatening them with knife. Mentally slow and suggestible Pre-sentence custody – 6m
7.	**Hooper** [2004] NSWCCA 10	2 x s.97(2) s.97(2) Assault with intent to AR Mal discharge weapon to avoid apprehension	PG (15%)	FT 8y 10y NPP 6y FT 5y Total: 16y NPP 12y	AD	sawn-off rifle	long record for less serious offences	**3 x s.97(2)** With co-offender robbed newsagency armed with rifle – co-offender fired shot over shoulder of employee – co-offender shot at pursuing police during police chase – driver for co-offender who robbed second newsagency – female employee shot in chest during struggle – with girlfriend robbed service station – offender fired shot in direction of employee
8.	**Kain** [2004] NSWCCA 143	s.97(2) s.97(2) 2 x SMV Sched: s.97(2)	VG	10y NPP 6y 7y NPP 5y FT 3y Total: 12y NPP 8y	AD	handgun	breached bail	**2 x s.97(2)** Robbed bank with co-offender – co-offender armed with handgun – offender armed with screwdriver – offender jumped counter and removed cash – stood watch while co-offender robbed credit union with handgun – schedule offence also involved robbery of credit union – stolen cars used in robberies

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Other Features
9.	**Gardner** [2003] NSWCCA 199	s.97(2) Assault with intent to AR s.97(2) Sched: 8 offences	PG (1/3rd plea and assist)	6y NPP 3y 9m 8y NPP 5y (concurrent)	AD	.22 calibre rifle		**2 x s.97(2)** With co-offender demanded drugs from male resident – subsequently robbed young employee at McDonalds shortly after 1am Assistance to police
10.	**Dimoski** (26) [2004] NSWCCA 309	3 x s.97(2) Sched: 2 x 97(2)	PG	4y NPP 2y	AA 3y NPP 18m	Imitation wooden knife	Nil	**3 x s.97(2)** Entered residence with co-offender mistakenly believing occupants drug dealers – demanded and took property Evidence of rehabilitation – protective custody - assistance to authorities.
11.	**Pitt** (42) [2005] NSWCCA 304	s.97(2) s.97(2) Mal wound Possess unauth firearm Possess unreg firearm	PG	4y 6m NPP 3y 6y NPP 3y FT 3y FT 2y FT 2y <u>Total</u>: 7y NPP 4y	AA 3y 6m NPP 2y 5y NPP 2y FT 2y FT 1y FT 1y <u>Total</u>: 6y NPP 3y	.357 calibre magnum	less serious – alcohol related driving	**2 x s.97(2)** Female – robbed service station and pizza place with magnum gun – intoxicated – 3m earlier, after drinking binge, cut wrists with knife and cut husband's throat History of debilitating mental health problems and alcohol abuse causing brain damage

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Other Features
	DB (16)	s.97(2) s.97(2) s.97(2) Sched 11 offences	PG (20%)	6y NPP 4y 8y NPP 6y 5y 7m NPP 1y <u>Total</u>: 12y 7m NPP 8y	AA 6y NPP 3y 8y NPP 4y 5y NPP 2y <u>Total</u>: 10y NPP 6y	Pistol / knife	Agg assault w/i/rob	**3 x s.97(2) / 4 x s.97(2)** With co offenders robbed computer stores armed with pistol / knife – owners and / or employees tied up, threatened and struck.
12.	**DNN** (27) (2007) 167 A Crim R 393 [2007] NSWCCA 27	s.97(2) s.97(2) s.97(2) s.97(2) Sched 19 offences	PG (20%)	10y NPP 6y 6y NPP 2y 5y NPP 1y 7y NPP 1y <u>Total</u> 16y NPP 10y	10y NPP 6y 6y NPP 3y 5y NPP 3y 7y NPP 3y <u>Total</u> 12y NPP 8y		Receiving, GIC.	
13.	**Baroudi** (21) [2007] NSWCCA 48	s.97(2) 2 x s.97(1) 3 x s.86(2)(a)	PG (40% assist – discount for plea not quantified)	5y NPP 3y FT 2y 6m FT 12m <u>Total</u>: 6y NPP 4y	AD	nil		**s.97(2) / 2 x s.97(1)** With co-offender robbed chemist of money and drugs using pistol to threaten staff – s.97(1) offences involved robberies of hotel with co-offender using pistol to threaten staff – on one occasion three people tied up and detained in poker room –

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14.	**Baleiovalau** (27) [2009] NSWCCA 153	s.97(2) s.97(2) s.97(2)	PG (20%)	6y 6m NPP 4y 6m 6y 6m NPP 3y 6m 5y 6m NPP 3y 6m Total: 10y 6m NPP 7y 6m	AD	Firearm	Serious - similar offences - aggravated robberies, goods in custody.	**3 x s.97(2)** With three co-offenders robbed credit union, business and hotel. Drug addiction.
15.	**TA** (25) [2009] NSWCCA 196	2 x s 97(2) Attempt s.97(2)	VG	6y NPP 4y 5y NPP 3y Total: 8y NPP 6y	AD	Pistol	Agg B&E - driving whilst disq – breached parole	**3 x s.97(2)** With two co-offenders, using stolen vehicle, robbed two licensed premises and attempted to rob a third in one night – brandished pistol and co-offender had samurai sword - treats made to three separate groups of persons - more than $91k obtained from two premises – disguised, wore gloves and used two-way radios to communicate - significant degree of criminal professionalism - executed with degree of military precision.
16.	**Kidd** (53) [2009] NSWCCA 229	s.97(2) s.97(2) Attempt s.97(1) SMV	VG	8y NPP 6y 10y NPP 6y 6y NPP 4y FT 12m Total: 16y NPP 12y	AD	firearms	Lengthy record although not as serious – breached bond	**2 x s.97(2) / s.97(1)** Sophisticated level of planning – first home invasion involved robbery of female alone with children – attempted to rob bank but failed to gain entry – second home invasion involved considerable violence inflicted on male occupant and significant damage – old offences

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17.	**Penfold** **Ward** [2010] NSWCCA 61	s.97(2) s.97(2) Receiving s.97(2) s.97(2)	PG (25%) PG (25%)	6y 9m NPP 5y 18y NPP 11y 6m FT 2y <u>Total</u>: 19y NPP 12y 6m 6y 9m NPP 5y 18y NPP 13y 6m <u>Total</u>: 19y NPP 14y 6m	AD AD	Shotgun; machete handle	"serious", on GBB No prior offences of this type.	**2 x s.97(2)** Robbed two victims of large amount of cash – shot male victim through window at close range – victim suffered horrendous and permanent injuries – struck female victim on head with machete handle – significant planning
18.	**Aguirre** (19) [2010] NSWCCA 115	s.97(2) s.97(2) Agg SMV	PG (25%)	6y NPP 4y FT 6y FT 4y <u>Total</u>: 12y NPP 8y	AA 6y NPP 4y FT 6y 6y NPP 4y <u>Total</u>: 12y NPP 8y	firearms	Breached bail	**2 x s.97(2)** Robbed male victim of car threatening him with knives – robbed security truck with three co-offenders armed with firearms – 3 months later robbed armoured guards using semi-automatic weapons

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19.	**Johnson** **Moody** [2010] NSWCCA 124	s.97(2) 2 x s.97(2) Sched: 3 Rob offences s.97(2) 2 x s.97(2) Poss prohibited firearm Sched: 3 Rob offences Possess firearm	PG	7y 10m NPP 4y 10m FT 4y <u>Total</u>: 9y 10m NPP 6y 10m 9y NPP 6y FT 5y 3y NPP 2y <u>Total</u>: 11y 6m NPP 8y	AD AD	Shortened .22 rifle	Driving and dishonesty offences Serious record	**3 x s.97(2)** Robbed fast food outlets armed with shortened .22 rifle – J drove car and M conducted robbery – offences committed over 5 weeks – some planning and preparation involved
20.	**Moore** (55) [2010] NSWCCA 188	2 x s.97(2) Sched: 2 offences	PG (25%)	10y NPP 8y <u>Total</u>: 15y NPP 10y	AA 10y NPP 6y <u>Total</u> 12y NPP 8y	Replica toy pistol	Similar offences - breached parole	**2 x s.97(2)** Robbed credit union using toy plastic gun – no actual violence – low level seriousness Gambling problem
21.	**Bell** (21) [2011] NSWCCA 14	3 x s.97(2)	PG	5y NPP 2y <u>Total</u> 5y 3m NPP 2y 3m	Crown AD	Firearm	Affray, common assault	**3 x s.97(2)** First two offences occurred on same day at same bottle shop – third offence occurred on same day at different bottle shop – stole $1200 and two bottles of alcohol Good prospects of rehabilitation – committed offences to pay off drug debts

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22.	**Wilcox** (29-31) [2011] NSWCCA 42	s.97(2) s.97(2) s.97(1) - Assault with intent AR Sched: s.97(2) Pervert course of justice	VG PG	13y NPP 8y FT 6y FT 6y <u>Total</u>: 19y NPP 14y	AA 12y NPP 8y FT 6y FT 6y <u>Total</u> 16y NPP 12y	Sawn-off rifle and pistol	Record including one AR	**2 x s.97(2) / s.97(1)** Robbed hotel with co-offender armed with sawn-off rifle and pistol –manager struck across nose by co-offender - $27,982.50 stolen – 21 days later robbed RSL in similar circumstances – stole $33,332.93
23.	**Jodeh** (18-19) [2011] NSWCCA 194	s.97(2) s.97(2) s.97(2) s.35(1)(b) Sched: 2 offences	PG (15%)	FT 4y FT 4y 6m 10y NPP 5y FT 2y <u>Total</u> 16y NPP 11y	AA FT 4y FT 4y 6m 10 NPP 5y FT 2y <u>Total</u> 14y NPP 9y	Firearms	Nil – later offences breached bail for earlier offences	**3 x s.97(2)** With co-offender held up security guard with revolver and stole $29,000 – 2 days later robbed taxi service with co-offender and took $17,000 – co-offender discharged 4-5 rounds from revolver – robbed security guard with two co-offenders and stole $72,241 – gun held to face of victim and another gun discharged – involved in group assault on doorman Suffered serious injuries in motor bike accident prior to offences
24.	**Gebara** (23) [2012] NSWCCA 107	2 x s.97(2)	PG (20%)	5y NPP 3y <u>Total</u> 6y NPP 4y	AD	Firearms		**2 x s.97(2)** With co-offender robbed brothel – co-offender armed with 9mm handgun – no evidence handgun loaded – offender pushed doorman towards till – obtained $1400 - two days later offender waited in car while 2 armed co-offenders robbed supermarket – obtained $800 and cigarettes – offender drove car away – aware one co-offender armed Long-term psychological issues – employed – supportive of his siblings and family.

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Other Features
25.	**Somba** (32) [2012] NSWCCA 214	s.97(2) s.97(2) – Assault with intent to AR s.97(2) – Assault with intent to AR Sched: 2 offences	PG (15%)	FT 5y 6m FT 5y 8y NPP 5y <u>Total</u> 11y NPP 8y	AD	Firearms	Robbery offences – released to parole 4 months prior to current offences	**3 x s.97(2)** Armed robbery of bank with shotgun in company – stole $21,870 - two attempted armed robberies of banks in company – co-offender armed with pistol
26.	**RD** (17) [2013] NSWCCA 306	2 x s.97(2) s.97(2) Sched: 2 x s 97(2)	PG (10%)	7y 3m NPP 4y 8y 6m NPP 4y 3m <u>Total</u> 11y 3m NPP 7y	AD	knife, replica firearms, baseball bat, sword	stealing, rob in co, BES	**3 x s.97(2)** Robbed three hotels with co-offenders – various weapons – disguised in balaclavas – on first offence assaulted hotel patron. Very difficult upbringing – drug and alcohol abuse from young age – Aboriginal male
27.	**Gaggioli** [2014] NSWCCA 246	3 x s.97(2)	PG (25%)	5y 6m NPP 3y <u>Total</u>: 6y NPP 3y 6m	AD	Black handgun	Limited – breached bond	**3 x s.97(2)** With co-offender followed three male victims who withdrew money – entered car where victims sitting and demanded they drive to new location – took money and possessions and left Evidence of rehabilitation from drug addiction – genuine remorse – excellent prospects rehabilitation.
28.	**Rangihuna** (27) [2015] NSWCCA 48	s.97(2) – Assault with intent to AR s.97(2) s.97(2) Sched: Larceny Agg B&E	PG (12.5%)	7y NPP 5y 3m 5y 8m NPP 4y 3m 5y 3m NPP 2y 3m <u>Total</u>: 11y 3m NPP 8y 3m	AD	Replica pistol	Armed rob, AOABH	**3 x s.97(2)** Entered hotel and robbed patron of $100 – offender armed with replica pistol and co-offenders armed with axe – robbed service station operator of $1500 armed with replica pistol and co-offender armed with knife– robbed hotel of $19k armed with pistol and co-offenders armed with pipe or bar – offences involved violence and threats to patrons and staff – concealed faces - offences very serious with great deal of violence – actual violence not just threats – level of planning Few subjective factors - alcohol and illicit drug abuse from age of 16

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29.	**Shahzad** (21-22) [2016] NSWCCA 94	s.97(2) s.97(2) Consp s.97(2) Sched: Carried in stolen vehicle	VG	7y 4m 7y 3m 5y 3m <u>Aggregate</u> 9y 6m NPP 6y	AA 6y 9m 6y 8m 4y 10m <u>Aggregate</u> 8y 9m NPP 5y 6m	Pistol with silencer – knife	Common assault	**3 x s.97(2)** Robbed bottle shop and hotel with two co-offenders – staff and customers threatened with pistol and knife – observed carrying out surveillance for robbery of second hotel – no differences in culpability Born in Pakistan – suffering PTSD and alcohol / drug abuse as result of traumatic experiences as young man after return for arranged marriage On appeal issue of parity only
30.	**Humphries** (34) **Ponfield** (24) [2016] NSWCCA 86 [2016] NSWCCA 91	2 x s. 97(2) 2 x s.97(2)	VG VG	7y 6m NPP 5y 6y NPP 2y 3m (each – concurrent)	AA 6y NPP 3y 9m AD	Pistol, Knife	Agg BES – breached bail Assault, AOABH, firearms, Agg BES – breached paroled	**2 x s.97(2)** Robbed hotel with third co-offender – H armed with pistol – P armed with knife – stole two amounts of cash totalling $37k On appeal - parity
31.	**Afu** [2017] NSWCCA 246	Att s.97(2) s.97(2) Accessory after s.97(2) Possess proh weapon Sched: 2 offences	PG (10%)	4y 5y 10m 1y 9m 3y 6m NPP 2y <u>Aggregate</u>: 7y 6m NPP 4y 6m	AD	rifle, pistol and axe		**3 x s.97(2)** With co-offenders entered hotel, armed with rifle, pistol and axe - staff able to avoid confrontation – same evening offenders entered another hotel, threatened staff, armed with same weapons as earlier - took over $20,000 – vehicle used in robbery of third hotel tracked to offender's home where police found proceeds of robbery including rifle used in robbery

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32.	**Mousavi** (19) [2019] NSWCCA 121	Att s.97(2) Att s.97(2) Prohibited possession of firearm	PG (25%)	3y 5y 2y 6m Aggregate: 6y NPP 3y 6m	AD	replica firearm	driving – AR	**2 x s.97(2)** Threated 17y male on street with weapon in waistband – left when victim had no money – same day threatened male victim in car – during struggle victim struck to head and neck – firearm offence related to weapon used in robberies Born in Iraq – difficult childhood – introduced to drugs by father – mental health
33.	**Karacic** (45) [2019] NSWCCA 195	2 x s.97(2)	VG	Aggregate: 6y 3m NPP 4y 2m	AD	Firearm	Lengthy including AR	**2 x s.97(2)** Robbed pharmacy - asked shopkeeper and pharmacist for access to store safe - took money from register and took drugs from store safe, shopkeeper and pharmacist Offences committed to obtain drugs - drug use history.
34.	**Nabalarua** (26) [2020] NSWCCA 68 Co-offender: QUINLAN	3 x s.97(2) Sched: s.97(2) s.154A(1)(b)	PG (10%)	Aggregate: 13y NPP 8y	AA Aggregate: 11y 6m NPP 6y 9m	Shortened firearm	Armed robbery	**3 x s.97(2)** With 2 co-offenders robbed hotels, wearing balaclavas, carrying two sawn off shotguns – took $29k, $24k, $40k Social deprivation – *Bugmy* considerations – drug use On appeal: error as to fact-finding and procedural unfairness
35.	**Quinlan** (30) [2021] NSWCCA 21 Co-offender: NABALARUA	3 x s.97(2) Sched: 2 x s.154A(1)(b)	PG (10%)	Aggregate: 12y NPP 8y 3m	AA Aggregate: 11y 6m NPP 6y 9m	Shortened firearm	Earlier offences of different types	**3 x s.97(2)** With 2 co-offenders robbed hotels, wearing balaclavas, carrying two sawn off shotguns – took $29k, $24k, $40k Difficult background childhood – Fijian / Aboriginal male - drug use – good rehabilitation prospects On appeal: error as to fact-finding and procedural unfairness.

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Other Features
36.	**JC1** (17y 4m) **GN** (16y 4m) [2021] NSWCCA 183	s.97(2) s.97(2) – Assault with intent to AR Larceny s.97(2) s.97(2) – Assault with intent to AR Larceny	PG PG	Indicative: 3y 2y 6m 2y Aggregate: 4y 3m NPP 2y 6m Indicative: 3y 3m 3y 2y Aggregate: 4y 6m NPP 2y 9m	AA To backdate sentence AD	Self-loading paintball gun	Similar offences – dishonesty offences – breached conditional liberty Nil prior	**2 x s.97(2)** Three offenders involved in robbery of two brothels – GN armed with gun – forced entry into brothels and assaulted occupants – demanded money and stole some cash and property – JC1 less culpable JC1 – oldest offender – seeking fast money – major depressive disorder – medium to low-risk of re-offending – remorse – some steps to rehabilitation GN – deprived childhood including violence – immaturity On appeal: SJ failed to properly apply totality principles for JC1 in relation to existing sentence
37.	**Makouk** (19) [2023] NSWCCA 142	s.97(2) s.97(2) s.97(1) s.166 Certificate: Possess unauth pistol Possess unreg firearm Sched: 5 offences	PG (25%)	Indicative: 5y 4y 6m 3y 9m 9m NPP 6m 6m Aggregate 6y NPP 3y 6m	AD	Handgun (air pistols) Knife	Nil	**2 x s.97(2) / s.97(1)** Three street robberies committed over three days - wearing “hoodie” and black surgical mask, pointed gun at two victims walking down street - obtained watches and valuable items - with co-offender ran up and pointed guns at victims demanding they hand over wallets, phones and other property - obtained electronic equipment Very deprived upbringing - good prospects of rehabilitation – special circumstances.

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Other Features
38.	**Miller** [2023] NSWCCA 267	s.97(2) Assault with intent to rob in company armed with dangerous weapon s.97(2) Rob in company armed with dangerous weapon s.97(2) Rob in company armed with dangerous weapon Sched: 3 x s.97(2)	PG (25%)	Indicative: 6y 5y 4y 9m Aggregate: 7y NPP 4y	AD	Loaded firearm		**3 x s.97(2)** With three co-offenders robbed men playing poker in private residential unit – co-offender held loaded firearm and shot male victim in mouth – victims threatened - $12,000-13,700 stolen – some planning and use of inside man Insight into offending – good prospects of rehabilitation – contrition – moral culpability reduced by traumatic upbringing – drug addiction and mental illness On appeal: no error in assessment of seriousness of offences

Last updated: Oct 2023