

Armed Robbery with a Dangerous Weapon

4+ 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.	Dwight (23) [2000] NSWCCA 164	s.97(2) 3 x s.97(2) Sched: 8 x AR BES 2 x SMV	PG	MT 8y AT 4y FT 8y <u>Total:</u> MT 8y AT 4y	AD		dishonesty and assault	4 x s.97(2) Robbed liquor outlet, newsagencies and RSL Club in company of at least one other person. Suffering paranoid disorder since accident but not linked to offences - funded gambling addiction.

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2.	Bavadra (21) (2000) 115 A Crim R 152 [2000] NSWCCA 292	s.97(2) s.97(2) s.97(2) s.97(1) s.97(1) 2 x Rob in Co Sched: 11 similar offences	PG	MT 6y AT 4y FT 6y FT 5y FT 4y FT 4y FT 3y (all concurrent)	Crown AA 9y NPP 5y FT 6y FT 6y FT 4y FT 6y FT 4y <u>Total:</u> 12y NPP 8y	handguns, loaded shotgun, knives, machete	history of offending	3 x s.97(2) / 4 x s.97(1) Robbed banks and retail premises over 22 months - all offences committed in company - customers and employees threatened and on two occasions people injured. Fijian – youth - some remorse - drug and alcohol abuse.
3.	Itamua (21) [2000] NSWCCA 502	s.97(2) 41 x s.97(2) s.97(2) Assault with intent to AR	PG	MT 12y AT 6y FT 3y FT 3y (all concurrent)	AA 14y NPP 8y FT 3y FT 3y <u>Total:</u> 17y NPP 11y	guns	nil in Australia	42 x s.97(2) Offences committed over 4 months - involved in scheme with several other persons - 13 clubs and hotels robbed including individuals within premises. Excellent prospects of rehabilitation - contrition and remorse

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4.	Smith (26) [2003] NSWCCA 381	s.97(2) Att Rob in Co Rob in Co Rob in Co s.96 Agg Rob with Corp Violence Sched: Drug offences	PG	7y NPP 4y 6m FT 2y 4y NPP 2y FT 2y FT 3y <u>Total:</u> 7y 6m NPP 5y 6m	Crown AA 11y NPP 5y FT 6y 6m FT 8y 8y NPP 6y FT 6y 6m <u>Total:</u> 15y NPP 9y	gun	breached parole for rob in company – lengthy record	s.97(2) – 4 lesser robbery offences Four offenders attempted to rob bank by breaking down door – thwarted by security screens – customers and staff present – four offenders robbed two banks causing injuries to staff members, security guard and 8y customer – two offenders robbed staff at supermarket causing minor injuries – three offenders robbed bank armed with crowbar and gun Early drug addiction
5.	Berrell (32) [2003] NSWCCA 85	5 x s.97(2) s.97(2) Sched: 6 x s.97(2) 5 further offences	PG	5y NPP 3y 6m 10y NPP 6y 8m <u>Total:</u> 10y NPP 6y 8m	AD	Replica pistol	Lengthy record – all local court offences	6 x s.97(2) Robbed Fast Food outlets and pharmacies over two months – premeditated offences Reasonable prospects of rehabilitation – drug addiction and serious depressive illness

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6.	McKeon [2004] NSWCCA 232	s.97(2) s.97(2) s.97(2) 2 x s.97(2) s.97(2) s.97(2) 5 x SMV s.94 Sched: s.97(2) s.94	PG VG VG PG / VG VG PG PG / VG PG	7y NPP 5y 8y NPP 5y 9y NPP 6y 10y NPP 6y 12y NPP 8y 15y NPP 6y FT 2y / 3y FT 5y <u>Total:</u> 24y NPP 15y	AD	Firearms or replica firearms	Breached parole for previous armed robberies	7 x s.97(2) Offences committed over 4 months – robbed credit unions and banks - total amount stolen: \$93,000
7.	Street (20) [2005] NSWCCA 139	3 x s.97(2) s.97(2) s.97(1) Carried in conveyance Schedule: 8 offences	PG (25%)	FT 5y 8y NPP 5y FT 4y FT 2y <u>Total</u> 11y NPP 8y	AA FT 5y 8y NPP 5y FT 4y FT 2y <u>Total</u> 10y NPP 7y	firearms	Significant record	4 x s.97(2) / s.97(1) Robbed bowling club and hotels in company Early drug addiction after father died

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8.	Yin (25) [2005] NSWCCA 138	s.97(2) s.97(2) s.97(2) s.97(2) s.97(1) 2 x s.97(1) Sched 5 Rob offences	PG (25%)	FT 6y FT 6y 6m FT 7y 7y NPP 4y 6m FT 4y 6m FT 6y <u>Total:</u> 11y NPP 8y 3m	AD	Guns Knife	Numerous including prison terms	4 x s.97(2) / 3 x s.97(1) Entered massage parlours and a bakery and took money and property from staff – some offences committed in company Chinese immigrant – long-time heroin user with periods of detoxification – separated from mother of 7y daughter
9.	Spinks [27] [2005] NSWCCA 459 [2007] NSWCCA 52	s.97(2) s.97(2) s.97(2) s.97(2) Sched: 8 offences	PG (25%)	FT 7y 9m 15y NPP 8y 9m FT 7y FT 6y (all concurrent)	AD Second AD	Shortened rifle	Lengthy – breached conditional liberty	4 x s.97(2) Robbed newsagencies and bottle shops in company

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10.	Huang (21) [2006] NSWCCA 173	s.97(2) s.97(1) 2 x s.97(1) 2 x Carried in conveyance 2 x Assault	PG	7y 6m NPP 5y 5y NPP 3y FT 2y FT 12m FT 12m <u>Total:</u> 7y 6m NPP 5y	Crown AA 7y 6m NPP 5y 5y NPP 2y FT 2y FT 12m FT 12m <u>Total:</u> 9y NPP 6y	pistol and baseball bat	robbery offences – breached condition liberty with first offences – breached bail and PD with second offences	s.97(2) / 3 x s.97(1) Group of offenders approached warehouse in several vehicles including stolen car and truck – threatened gateman and drivers – one driver's arm broken with baseball bat – stole pallet of mobile phones – eleven months later group of offenders entered bank dressed as telephone workers – threatened staff with taser – tied up staff and took money - offences sophisticated and highly planned Evidence of rehabilitation
11.	Hudson (23) [2007] NSWCCA 302	4 x s.97(2)	VG	6y NPP 3y <u>Total</u> 6y 9m NPP 3y 9m	AA 5y NPP 2y 6m <u>Total</u> 5y 9m NPP 3y 3m	Replica pistol	Minor	4 x s.97(2) Threatened four person parked in car with co-offender Reasonable prospects of rehabilitation - parity

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12.	DB (16)	s.97(2)	PG (20%)	6y NPP 4y	AA 6y NPP 3y	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.
		s.97(2)		8y NPP 6y	8y NPP 4y			
		s.97(2)		5y 7m NPP 1y	5y NPP 2y			
		Sched 11 offences		<u>Total:</u> 12y 7m NPP 8y	<u>Total:</u> 10y NPP 6y			
	DNN (27) (2007) 167 A Crim R 393 [2007] NSWCCA 27	s.97(2)	PG (20%)	10y NPP 6y	10y NPP 6y		Receiving, GIC.	
		s.97(2)		6y NPP 2y	6y NPP 3y			
		s.97(2)		5y NPP 1y	5y NPP 3y			
		s.97(2)		7y NPP 1y	7y NPP 3y			
		Sched 19 offences		<u>Total</u> 16y NPP 10y	<u>Total</u> 12y NPP 8y			

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13.	Sua (24) [2007] NSWCCA 271	2 x s.97(2) 3 x s.97(2) s.93G(1)(a)(ii) Possess shortened firearm	PG (15%)	FT 3y 7y NPP 4y FT 12m FT 12m <u>Total:</u> 13y NPP 10y	AD	Sawn-off shotgun	Breached parole for AR	5 x s.97(2) Robbed mixed business, pharmacy and brothel Early drug abuse
14.	Lesi (24) [2010] NSWCCA 240	2 x Att s.97(2) s.97(2) s.97(2) Sched: 9 offences	PG (25%)	7y NPP 4y 7y NPP 4y 8y NPP 4y <u>Total:</u> 11y NPP 7y	Crown AA 7y NPP 4y 10y NPP 6y 9y NPP 5y <u>Total:</u> 14y NPP 10y	Pistols and shotguns	Lengthy record including robbery	4 x s.97(2) Robbed or attempted to rob banks and hotels with co-offenders – robbed employee of cash shop with pistol – large sums of money stolen Heroin addiction from early age – spent 10 of last 14 years in prison

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15.	McCarthy (40) (2010) 206 A Crim R 131 [2011] NSWCCA 64	s.97(2) s.97(2) s.97(2) s.97(2) s.97(2) Att s.97(2) s.97(2) Assault with intent to AR 3 x BES Sched: 6 offences including 2 x s.97(2)	PG (50% - plea and assist)	5y NPP 3y 3y NPP 2y 13y NPP 5y 5y NPP 3y 5y NPP 3y 5y NPP 3y 5y NPP 3y 4y NPP 2y Total: 18y NPP 10y 6m	AA 5y NPP 3y 6m 3y NPP 2y 5y NPP 3y 6m 5y NPP 3y 4y NPP 2y 6m 5y NPP 2y 6m 4y NPP 2y 6m 1y 3m - 2y NPP 9m - 1y 6m Total: 7y 6m NPP 5y 6m	Sawn off shotgun	Lengthy record – breached bail	7 x s.97(2) Robbed victim on way to bank of \$20,000 cash and \$31,000 cheques – with co-offender robbed security guard of \$50,000 – robbed several bowling clubs with co-offender threatening staff and patrons – broke into business premises and boarding house and stole property Drug addiction – convictions for 6 offences based on confession alone – rehabilitation – remorse
16.	Houri (19) [2013] NSWCCA 279	3 x s.97(2) s.97(2)	PG	5y NPP 3y 3m 5y 3m NPP 3y 6m Total: 7y 3m NPP 5y 6m	AD	Firearms	Nil relevant	4 x s.97(2) Robbed three hotels around closing time armed with firearms and in company – inside information used Difficult childhood – chronic back injury - depression

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17.	Alvi (25) [2014] NSWCCA 191	4 x s.97(2) 2 x s.97(2) 2 x Firearms offences	PG (25%)	FT 3y 4y 6m NPP 6m FT 3y <u>Total</u> 9y NPP 5y	AA (minor change to firearms sentence)	Revolver – not in working order	Nil	6 x s.97(2) Robbed service stations and convenience stores over several weeks Good prospects of rehabilitation
18.	Vai 19 [2015] NSWCCA 303	Att s.97(2) 4 x s.97(2) Assault	VG	5y 6m NPP 3y 7y NPP 3y 6m FT 6m <u>Total</u> 10y NPP 6y	AD	Rifle – Axe	Lengthy – violence and robbery – breached parole	6 x s.97(2) Entered club with co-offender – offender armed with rifle – robbed four patrons of bags and wallets - threatened patrons – planned and violent invasion

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19.	Johan (17-18) [2015] NSWCCA 58	s.97(2) s.97(2) s.97(2) s.97(2) s.7(1) <u>Firearms Act</u> s.113(3)	PG (25%) (25%) (15%) (15%) (25%) (15%)	4y 6m NPP 2y 6m 6y NPP 3y 6y 9m NPP 3y 6m 6y 9m NPP 2y 9m 3y 9m NPP 2y 5y NPP 2y 6m <u>Total:</u> 10y 6m NPP 6y 6m	AD	sawn-off shotgun / pistol / knife	record – breached parole	4 x s.97(2) Robbed newsagency alone armed with sawn-off shotgun – two offenders robbed fats food shop armed with shotgun and pistol – jumped counter and threatened staff – two offenders robbed bakery in early hours of morning armed with shortened firearm – two offenders robbed second fast food shop armed with knife – threatened staff Found in possession of shortened rifle – in company with three co-offenders attempted to break into taxi base Aboriginal male - difficult and dysfunctional childhood – early drug abuse
20.	OK (17) [2016] NSWCCA 318 Co-offenders: ELSAJ ZREIKA	s.97(2) s.97(2) 2 x s.97(2) s.97(1) Sched: 2 x s.97(2) Receive property	PG (25%)	4y 3y 6m 4y 6m 3y 6m <u>Aggregate:</u> 11y NPP 7y	AD	Baseball bat (co-offender – rifle)	Nil	4 x s.97(2) / s.97(1) With co-offenders robbed service stations over 11month period – lesser offender Mild intellectual disability – some evidence of rehabilitation

	Case (age if known)	Offences	Plea	Sentence	Appeal	Weapon	Record	Other Features
21.	Zreika (18)	2 x s.97(2)	PG (25%)	6y 6m	AD	Firearm; baseball bat	Serious. On bond.	4 x s.97(2) / 2 x s.97(1) 2 x s.97(2) / 2 x s.97(1) / s.98 Robberies of convenience stores and service stations – included other co-offenders - three or more offenders on all but one occasion - one offender always armed – firearms or baseball bat used - money stolen - victims directly threatened with firearm pointed at them - verbal threats – offenders sometimes had faces covered - Zreika more senior role. s.98 offence (Elsaj) - victim struck to head by baseball bat - E armed with baseball bat and in company – machete also present - threats made to kill victim if money not produced Each - youth – drug abuse – remorse – rehabilitation – special circumstances
		s.97(2) Assault with intent to AR		6y 9m				
		s.97(2)		5y 6m				
		s 97(1)		4y 3m				
		s.97(1)		4y				
		Sched: 3 x 97(2)		<u>Aggregate</u> 16y 6m NPP 11y 6m				
	Elsaj (18)	s 98	PG (25%)	7y 6m NPP 5y	AD		Serious	
		s.97(2)		5y 9m				
		s.97(2)		5y 6m				
		s.97(1)		4y 3m				
		s.97(1)		4y				
		Sched: 3 x s 97(2)		<u>Aggregate</u> 15y 6m NPP 10y 6m				
	Co-offender: OK							
		[2016] NSWCCA 177						

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22.	Weismantel (23) [2016] NSWCCA 204	s 97(2) 2 x s.97(2) s.154C(2) Agg carjacking s 98 Assault with intent to rob inflicting GBH	PG (10%) VG (15% for conduct of trial)	5y 4m 5y 4m 2y 8m NPP 18m 5y NPP 3y <u>Aggregate:</u> 8y 6m NPP 4y 6m	Crown AA 7y 2m 6y 9m 3y 7m NPP 2y 4m 6y 9m NPP 4y 4m <u>Aggregate:</u> 9y 6m NPP 6y	Sawn off shotgun	Assault, possess drugs, damage property, assault, affray, armed with intent commit indictable offence. On parole.	3 x s.97(2) / s.98 With co-offenders robbed cinema – offender armed with sawn-off shotgun, co-offender with axe - wearing head covering - took \$500 from till and wallet containing \$90 from patron - threatened staff and patrons – with co-offenders who were armed and wearing head coverings robbed hotel taking \$3873 – s.98 offence - robbed restaurant, threatening staff member with knife. Aboriginal male - dysfunctional upbringing – alcohol and drug abuse from young age – serious mental health issues
23.	TF (17) [2020] NSWCCA 248	s.98 2 x s.97(2) s.97(2) s.97(1) s. 154C(2) Agg carjacking Sched: s.112(1)	PG (25%)	6y 5y 3m 5y 7m 4y 6m 3y 9m <u>Aggregate:</u> 10y NPP 5y	AA 4y 6m NPP 2y 3m 3y 6m 3y 9m 3y 3m 2y 6m <u>Aggregate:</u> 7y 6m NPP 5y	Shortened firearm; large sword; machete; knife	Juvenile record – steal from person, resist police, assault with intent to rob. Control orders for robberies armed and in company. On conditional liberty.	3 x s.97(2) / s.98 / s.97(1) With co-offenders committed armed robberies of petrol stations – motivated to finance drug habits – applicant also for “thrill-seeking” – wore face coverings; offenders armed with weapons - victims threatened, took cash and items – s.97(1) applicant armed with knife, placed knife against Uber driver’s neck, threatened to stab, made stabbing motion, demanded wallet. Youth - disadvantaged childhood - low-cognitive functioning – special circumstances. CCA: sentence manifestly excessive

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24.	Burke (23 / 25) [2022] NSWCCA 6	2 x s.97(2) s.97(2) 2 x s.97(2) Att s.97(2) s.97(2) s.97(2) s.97(1) s.97(1) s.113(3) s.113(2) Larceny Carried in conveyance	VG VG VG VG PG (10%) PG (25%) VG VG VG VG PG (25%) PG (25%)	<u>Indicative:</u> 9y 6m 9y 3m 9y 9y 3y 11m 3y 8m 9y 6m 6y 8y 6y 18m 18m <u>Aggregate:</u> 13y 6m NPP 8y 1m	AD	Handgun / knife / rock splitter / baseball bat / machete	Breached parole and bail	8 x s.97(2) / 2 x s.97(1) Over two months committed multiple armed robberies on licenced premises with co-offenders – on two occasions no one present – no one physically hurt or assaulted – all offence mid-range Mental health issues – prospects of rehabilitation guarded On appeal: aggregate sentence not manifestly excessive

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