

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
Baker [2000] NSWCCA 85	s.195(b)	PG	1y NPP 3m	Crown AD		Female – threw fire bomb at garage door – minimal damage – in dispute with female occupant of house over card collection Breached bail for armed robbery – heroin addiction – ill health
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
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 – partial concurrency to existing sentence
Glover [2002] NSWCCA 376	s.195(b) s.195(b)	VG	8y NPP 6y 8y NPP 6y (concurrent)	AA 8y NPP 5y 8y NPP 5y	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
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
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

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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
VAA (47) [2006] NSWCCA 44 Co-offender: ELZAKHEM	Acc before fact to s.195(b) Acc before fact to s.195(b) 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 NPP 2y 3y NPP 2y 3y 9m NPP 2y 3m (all concurrent)	Crown AA 3y NPP 2y 3y NPP 2y 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
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
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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Elzakhem (40) [2008] NSWCCA 31	s.195(b)	PG (20%)	6y	Crown AA FT 6y	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
	s.195(b)		6y	FT 6y		
	s.195(b)		6y	FT 3y		
	s.195(b)		6y	FT 1y 6m		
	s.195(b)		6y 6m	FT 8y		
	Consp s.195(b)		6y 6m	FT 3y		
	Consp s.195(b)		6y 6m	FT 3y		
	Consp to inflict GBH w/i		13y 7m	9y 7m NPP 4y 7m		
Co-offender: VAA	Sched: 4 x s.195(b)		<u>Total:</u> 18y 7m NPP 9y 1m	<u>Total:</u> 20y NPP 15y		

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Porter [2008] NSWCCA 145	s.195(b)	PG (25%)	7y NPP 3y	AA 4y 9m NPP 2y 3m	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.
	s.195(b)		7y NPP 3y	4y 9m NPP 2y 3m		
	s.195(b)		7y NPP 3y	4y 9m NPP 2y 3m		
	s.195(b)		7y NPP 3y	4y 9m NPP 2y 3m		
	s.195(b)		7y NPP 3y	4y 9m NPP 2y 3m		
	s.112(1)		7y NPP 3y	FT 12m		
	s.112(1)		7y NPP 3y (concurrent)	FT 18m <u>Total:</u> 5y 3m NPP 2y 9m		
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
Coleman (18) [2009] NSWCCA 7	s.195(b)	PG	3y NPP 12m	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
	s.195(b)		4y NPP 18m			
	Sched: s.195(b)		<u>Total</u> 5y NPP 2y 6m			

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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
Jackson (52) [2011] NSWCCA 124	s.195(1)(b) s.195(1)(a) <i>[no fire – max penalty 5y]</i>	PG	6y NPP 3y 6m FT 12m <u>Total:</u> 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
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 background - strong subjective features – dysfunctional upbringing - institutionalised. Sentence erroneously reflected worst or close to worst category of offence
Masters [2019] NSWCCA 233	s.86(1)(b) Att s.195(1)(b) Sched 3 related offences	PG (25%)	 <u>Aggregate:</u> 5y NPP 2y 6m	AA <u>Indicative:</u> 3y 18m <u>Aggregate:</u> 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

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Amante (42) [2020] NSWCCA 34	s.195(1)(b) s.12 Crimes (Dom and Pers Viol) Act	PG (25%)	<u>Total:</u> 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
Weiss (24) [2020] NSWCCA 188	Aid and abet s.195(1)(b) Aid and abet s.195(1)(b)	PG (30% combined)	<u>Indicative:</u> 3y 3y 3m <u>Aggregate:</u> 4y 3m NPP 3y	AA <u>Indicative:</u> 2y 2m 2y 6m <u>Aggregate:</u> 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

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