

Aggravated Unauthorised Possession of More Than Three Unregistered Firearms

s.51D(2) (NSW) Firearms Act

s 51D(2) possession of more than 3 firearms, any one of which is a pistol or a prohibited firearm where:

- (a) the firearms are not registered, and
- (b) the person is not authorised by a licence or permit to possess the firearms.

Maximum penalty: 20 years

Standard non-parole period: 10 years (conviction entered or guilty plea taken on or after 1.1.2008)

	NAME (age if known)	OFFENCE	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	SUMMARY OF RECORD	FACTS
1.	Middlebrook (45) [2004] NSWCCA 49	s.51D(2) Sched: 7 offences	PG	4y NPP 3y	AA 2y NPP 12m	Nil relevant	Search of rural property found cannabis plants and firearms: 2 shotguns 2 rifles telescopic scope magazine PVC canon 2 ammunition belts with ammunition loaded SKK assault rifle magazine All firearms unregistered – weapons kept for wild animals and kept in open shed

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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2.	Cromarty (61) (2004) 144 A Crim R 515 [2004] NSWCCA 54	s.51D(2) Possess unreg firearm Possess defaced firearm Possess proh weapon Possess shortened firearm Sched: 2 offences	PG (25%)	3y NPP 2y FT 12m PD FT 8m PD FT 16m PD FT 16m PD (all concurrent)	Crown AA 4y NPP 2y FT 2y FT 18m FT 16m FT 16m (all concurrent)		Weapons scattered throughout property – limited security – largest cache of weapons ever taken from individual: 35 prohibited weapons under Firearms Act 63 weapons prohibited under Weapons Act 103 unregistered firearms. 10 pistols with defaced serial number / id mark 2 shortened self-loading rifles. 2,850 cartridges of ammunition. 147 firearm parts. 7 silencers suitable for rifles and pistols. s.51D offences involved possession: 4 machine guns 4 submachine guns 24 self-loading rifles 3 self-loading shotguns Dealer and gunsmith with passion for weapons
3.	Brown [2006] NSWCCA 249	s.51D(2) Sched: 6 offences	PG (15%)	8y NPP 5y	AA (to restate sentence in correct form only)	Lengthy - dishonesty, property, drugs.	Warehouse of large number of prohibited weapons – buying and selling to criminals – weapons included: 16 pistols Rifle Revolver calibre pistol 17 prohibited weapons 2 unregistered firearms

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4.	W. Mack (42)	s.51D(2) Supply cannabis oil Cultivate by enhanced indoor means Sched: Similar offences	PG (25%)	6y NPP 3y 4y NPP 2y 3y NPP 18m <u>Total:</u> 8y 6m NPP 5y 6m	AA 6y NPP 3y 4y NPP 2y 3y NPP 18m <u>Total:</u> 7y 6m NPP 4y 6m	Nil	SNPP 10 years 68 cannabis plants found growing in home of offenders – 183.6g cannabis oil - large number of firearms found on property – both offenders held current shooter's licences W Mack (male) - dealt with for 5 firearms – revolvers and shortened rifles – long interest in guns – member of pistol club – some weapons used for controlling feral animals – no evidence of criminal misuse – firearms not stored properly – lower midrange A Mack (female) – lesser offender
	A. Mack (45) [2009] NSWCCA 216	s.51D(2) Cultivate by enhanced indoor means Sched: Supply cannabis leaf		3y 3m NPP 2y 3y NPP 18m <u>Total:</u> 4y 3m NPP 3y	12m NPP 9m 3y NPP 18m <u>Total:</u> 3y 6m NPP 2y	nil	
5.	Herod [2010] NSWCCA 17	s.51D(2) Supply prohibited drug Proceeds of crime Sched: Two offences	PG (25%)	FT 6m 4y NPP 2y FT 18m <u>Total:</u> 4y 3m NPP 2y 3m	AD	Drug offence	SNPP 10 years Found in possession of over 50g methamphetamine in house – also found in possession of \$24,000 and firearms found in shed Sterling .22 calibre rifle open packet of .22 bullets or cartridges Lithgow .22 rifle with scope dismantled .22 stock and barrel Gecado brand air rifle, loaded and cocked other point 22 calibre ammunition air rifle pellets Previously held firearms licence

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6.	Basedow (46) [2010] NSWCCA 76	s.51D(2)	PG (25%)	3y NPP 2y	AD	Unauthorised possession of firearms in 1999	SNPP 10 years Firearms not secured – collector – no ammunition for most of the firearms – no interest in using the firearms – low range of objective gravity Winchester 1892 repeating rifle Winchester model 70 repeating rifle Homemade pistol Bulldog .450 calibre revolver Browning .22 calibre self-loading rifle Marlin .22 calibre self-loading rifle with a silencer
7.	Yamine (25) [2010] NSWCCA 123	s.51D(2) Mal wound Sched: 23 offences including weapons offences	PG	6y 9m NPP 3y 6m 3y 4m NPP 2y 3m <u>Total:</u> 9y NPP 5y 9m	AD	Insignificant	Police located 7 firearms during search – was member of bikie group – police surveillance revealed firearms to be used in possible altercation with another bike group. Firearms included: loaded prohibited pistol with magazine attached loaded revolver loaded handgun with magazine spare magazine containing seven rounds handgun with empty magazine non-working assault rifle Beretta handgun containing magazine with eight rounds Chinese assault rifle. Serious offence – above middle-range - malicious wounding unrelated matter.
8.	Mahmud (26) [2010] NSWCCA 219	s.51D(2) Supply lge comm qty prohibited drug Sched: Firearms offences	PG (17.5% on appeal)	3y 6m NPP 2y 6m 6y 6m NPP 3y 6m <u>Total:</u> 7y 6m NPP 4y 6m	Crown AA 5y NPP 3y 9m 9y NPP 6y 6m	record	SNPP 10 years Two single shot bolt firearms and a 25 mm self-loading pistol loaded with five rounds found at house – also found in possession of knives, taser gun and ammunition – 1.78kg methylamphetamines found in freezer – firearm fetish – firearms offences below mid-range

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9.	Mezzadri (54) [2011] NSWCCA 125	s.51D(2) Sched: Firearm and ammunition offence	PG (25%)	1y 10m suspended	Crown AD	Nil	SNPP 10 years Possessed eight firearms - four prohibited - none registered – appellant unlicensed – shotgun, rifles and imitation self-loading pistol – not in working order – ammunition did not relate to firearms – old weapons Good character
10.	Dionys (58) [2011] NSWCCA 272	s.51D(2) s.51B(1) – selling firearms on ongoing basis Sched: 179 offences including poss 89 firearms	PG (25%)	12y NPP 7y 6m 9y NPP 5y 6m <u>Total:</u> 15y NPP 10y 6m	AA 12y NPP 7y 6m 9y NPP 5y 6m <u>Total:</u> 13y NPP 8y 6m	limited	SNPP 10 years Sold four mauser pistols and Bren machine gun to undercover police operative – large arsenal of firearms found in storage unit – large scale operation dealing with illegal weapons – slightly above mid-range Poor health
11.	Taylor (40) [2013] NSWCCA 157	s.51D(2) Possess prohibited weapons Proceeds of crime	PG (10%)	7y 6m NPP 4y 5y NPP 3y 5y NPP 3y <u>Total:</u> 7y 6m NPP 4y	AA only to adjust commencement dates	Record – breached good behaviour bond	SNPP 10 years Possessed 30 firearms - 13 prohibited – included 3 pistols, 2 crossbows and a Taser-like device - not stored safely - two of the firearms were stolen Also dealt with for offences of dishonesty, domestic violence and possessing endangered animals - total sentence 12y NPP 8y 6m.

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12.	Lachlan (19) [2015] NSWCCA 178	s.51D(2) Possess prohibited weapons Sched: 8 offences	PG (25%)	3y NPP 2y FT 1y (concurrent)	Crown AA 5y 3m NPP 3y FT 1y (concurrent)	Firearms offences. On bond.	SNPP 10 years Weapons kept for the purpose of financial gain - engaged in dealing in weapons - weapons also for recreational use - police located 4 firearms at offender's premises: shortened .22 rifle (magazine contained 15 rounds) shortened single barrel shotgun shortened double barrel shotgun loaded and shortened single barrel 410 shotgun stun gun (prohibited weapon) Schedule offences included stun gun; baton; tasers; knuckledusters, ammunition, firearms magazines, firearm bolt, knife and two balaclavas, two paintball guns
13.	Cornish (38) [2015] NSWCCA 256	s.51D(2) Supply cannabis leaf Cultivate cannabis 2 x possess proh drug Possess ammo Possess crossbow Proceeds of crime offence	PG (25%)	<u>Indicative</u> 5y 3y 9m FT 1m s.10A FT 6m FT 9m <u>Aggregate</u> 6y NPP 3y 6m	AD	Record includes drugs offences	SNPP 10 years Stopped by police while driving to airport – found in possession of small amounts of drugs and money – subsequent search of house located 7.58kg cannabis – some for personal use – involved in business of supply – 23 cannabis plants – firearms for recreational use also found: .22 calibre self-loading rim fire rifle .22 calibre bolt action rifle with silencer .308 calibre bolt action rifle with no stock .410 calibre double barrel shotgun 4 x 12 gauge single barrel shotgun Suffering chronic and severe schizophrenia – self treats with cannabis

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14.	El Jamal (29) [2017] NSWCCA 243	s.51D(2) Sched: 5 x possess ammo and weapons offences	PG (15%)	6y 9m NPP 4y 5m	AD	Record includes assault police and intimidation – breached bail	SNPP 10 years Storeman of weapons found in possession: Shortened .22 calibre Winchester Model 69 bolt action repeating rifle Homemade .22 calibre single shot pen gun 6mm airsoft calibre Galaxy model G6 repeating pistol Small silver 6.35mm calibre Webley and Scott model hammerless self-loading pocket pistol Possession for short time – offence fractionally below mid- range Genuine remorse – addiction to drugs at time of offending – family support
15.	Taylor (58) [2018] NSWCCA 50	s.51D(2)	PG	4y 6m NPP 2y 6m	AD	Firearms offences - use offensive weapon with intent, AOABH, enter building with firearm, high- range PCA, drive whilst disqualified	SNPP 10 years Located at offender's residence: Self-loading shotgun loaded with round in chamber; Loaded double barrel shotgun; Unloaded repeating bolt-action rifle; Loaded Remington calibre; Large amount of ammunition with gun belts containing ammunition; more than 500 rounds of ammunition of varying calibres. Towards lower end of range objective seriousness - not in possession for personal profit / dealing – lived in semi- remote rural area – weapons needed to deal with feral animals - firearms had belonged to late father - knew firearms should have been registered .

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16.	Goldberg [2018] NSWCCA 99 [2018] NSWCCA 119	s.51D(2) Discharge firearm in public place – s.93GA(1)(b) Possess proh weapon Possess unauthor firearm s.166 Certificate: Poss ammunition Sched: 4 offences	PG (40% combined on appeal)	<u>Indicative</u> 10y NPP 7y 6m 3y 3y NPP 2y 3m 1y 3m <u>Aggregate</u> 12y NPP 9y	AA <u>Indicative</u> 6y 7m NPP 5y 1y 9m 1y 10m NPP 1y 5m 1y 6m <u>Aggregate</u> 8y 6m NPP 6y 4m	nil relevant	SNPP 10 years Discharged pistol into own hand at home – no reason given – search of car located knuckledusters – three pistol found in vacant house next door – also located revolver missing parts and stolen rifle – admitted possession not ownership – warehousing - mid-range Genuine contrition Adjusted under slip rule to correct minor error

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17.	Thach (29) [2018] NSWCCA 252	s.51D(2) Supply lge comm qty meth Supply comm qty heroin Supply lge comm qty meth Supply lge comm qty heroin 2 x Possess precursor Possess drug manufacture apparatus Sched: 6 offences	PG (25%)	<u>Indicative:</u> 10y NPP 7y 6m 10y NPP 7y 6m 7y 6m NPP 5y 7m 15d 12y NPP 9y 17y NPP 12y 9m 3y / 4y 2y <u>Aggregate:</u> 18y NPP 13y 6m	AD		SNPP 10 years Significant role in drugs offences - warehousing of very significant quantities of illicit substances and firearms for syndicate - ready, willing and able to fetch and carry – not a principal but more than a mere courier Found in trailer attached to car used by offender: <ul style="list-style-type: none"> shortened 5.56 x 45mm calibre Australian Arms self-loading rifle; Colt detachable box magazine capable of holding 30 rounds; silencer; 9mm Parabellum calibre Uzi pistol; Two Uzi detachable box magazines for the Uzi capable of holding 26 rounds; Uzi silencer; shortened 12-gauge shotgun; shortened 12-gauge self-loading firearm; 0.22 calibre self-loading pistol; 0.44 Magnum pistol; 0.32 Smith and Wesson pistol; 9mm Glock pistol

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18.	Smith (46) [2019] NSWCCA 1	s.51D(2) Manufacture comm qty meth Possess precursor Supply comm qty meth Possess precursor Possess firearm in contravention of order Sched: 34 offences	PG (25%)	<u>Indicative:</u> 6y NPP 4y 6y NPP 4y 2y 3m 4y 6m NPP 3y 18m 3y <u>Aggregate:</u> 11y NPP 7y 4m	Crown AA <u>Indicative:</u> 7y 6m NPP 4y 10m 7y NPP 4y 6m 4y 6y NPP 3y 10m 3y 4m 6y <u>Aggregate:</u> 16y NPP 10y 6m	previous convictions for firearms offences	SNPP 10 years With co-offender involved in manufacture of prohibited drugs in remote property owned by offender – related materials found in other locations – had possession of firearms in storage unit as member of bikie gang: <ul style="list-style-type: none"> • Colt AR15 .223 calibre semi-automatic rifle together with attachable scope and bipod stand • .38 calibre "pen gun" firearm. • Ruger Mini 14 .223 calibre semi-automatic rifle and five empty magazines (three of which could hold 10 rounds). • 12 gauge pump action shotgun. • Remington Savage brand .223 calibre rifle with scope. (This is not a "prohibited" firearm. [15]) • 12 gauge shortened single barrel shot gun. • homemade .22 calibre "pen gun" firearm. • number of magazines for ammunition, some filled with ammunition and some not. • large quantity of ammunition suitable for multiple calibres of firearms Also in possession of stolen but licenced firearm s.51D(2) offence well above mid-range
19.	Weaver [2021] NSWCCA 215	s.51D(2) Possess shortened firearm Sched: 3 offences	PG (25%)	<u>Indicative</u> 4y NPP 2y 6m 2y <u>Aggregate:</u> 4y 4m NPP 2y 7m	AD	Nil	SNPP 10 years Found in possession of 31 unregistered firearms in locked shed on rural property – four guns loaded – one pistol and shortened firearm – admitted to shortening firearm himself – firearms kept since before amnesty – admitted to stockpiling for extremist threats – mid-range Prior good character – unlikely to re-offend – remorse – good prospects of rehabilitation

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20.	Aird [2021] NSWCCA 35	s.51D(2) s.7(1) Sched: 6 offences	PG (25%)	<u>Indicative</u> 5y 9m NPP 3y 6m 16m NPP 11m <u>Aggregate</u> 6y 5m NPP 4y	AA <u>Indicative</u> 4y 4m 12m <u>Aggregate</u> 4y 10m NPP 3y	Yes, not indicated. On bail.	SNPP 10 years Articles found on applicant's property in garage - inherited majority of firearms in 2006 from deceased brother and father and that they were "too sentimental to dispose of" – not intended for sale. CCA: manifestly excessive – strong subjective case – good rehabilitation prospects – not risk to community. Discussion of comparative cases and relevance of the purpose of firearms in possession.
21.	Shannon [2022] NSWCCA 41	s.51D(2) 2 x supply drugs Sched: 7 offences	Not indicated.	<u>Indicative</u> 4y 6m NPP 2y 8m 4y / 3y 1m <u>Aggregate</u> 7y 6m NPP 4y 6m	AD	Not indicated.	SNPP 10 years Articles found on applicant's property.
22.	Mack [2022] NSWCCA 114	s.51D(2) 2 x s.7(1) possess unauth prohibited firearm Supply cannabis Sched: 8 x not keeping firearms safely	PG (25%)	<u>Indicative:</u> 7y 2m Not stated 1y 10m <u>Aggregate:</u> 8y NPP 4y 9m	AD	Record for similar offences: see <u>Mack</u> [2009] NSWCCA 216 above	SNPP 10 years Search of property found 8 working firearms, 2 replica firearms and ammunition – also found 7.654kg cannabis leaf, 38 plants and 171g seeds – 6 of 8 firearms making up s.51D(2) offences prohibited but no evidence linked to criminal activity or drug business – rural property – failure to declare these weapons at earlier arrest – mid range offence – s.7(1) offences lower end of scale – used cannabis for anxiety disorder and no evidence of supply – lower end of scale Prospects of rehabilitation guarded – anxiety disorder On appeal: despite error in taking into account an offence twice no lesser sentence warranted.

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23.	Fraser (63) [2022] NSWCCA 253	s.51D(2) s.166 Certificate: Cultivate cannabis plants Sched: 4 offences	PG (25%)	7y NPP 4y s.10A CSPAs	AA 4y 3m NPP 2y 6m	Very limited.	SNPP 10 years Search of property located 19 firearms, ammunition and cannabis plants – 16 firearms found in water tank had been stolen by offender’s son - firearms dropped off / left at offender’s property by others – offender’s intention to give firearms to police - wrapped firearms in plastic and duct tape and placed in water tank to keep in good condition but got “cold feet” and did not proceed with intention - significantly mitigates objective seriousness - did not possess firearms for profit – only had firearms for three weeks. Highly regarded for involvement in community - hard work and commitment to partner and children - significant medical disabilities. CCA: sentence manifestly excessive – favourable subjective case.

Last updated: December 2022