

## 180. Threatening Violence: s 75

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### 180.1 Legislation

[Last reviewed: January 2025]

*Criminal Code*

[Section 75](#) – Threatening violence

### 180.2 Commentary

[Last reviewed: January 2025]

For s 75(1)(a), the Defendant must have:

- (1) Threatened by words or conduct to enter or damage a dwelling or other premises;
- (2) With intent to intimidate or annoy any person.

For s 75(1)(b), the Defendant must have:

- (1) With intent to alarm any person;
- (2) Discharged a loaded firearm; or
- (3) Done any other act likely to cause any person in the vicinity to fear bodily harm to any person or damage to property.

This offence requires an intent to intimidate or annoy a person or alarm any person. See the direction on intention at **Chapter 59 – Intention**.

'Threatened' is an ordinary English word and has its ordinary meaning. It may properly be said to involve 'some sort of indication of intention to cause harm or damage or to punish'. A threat must be of such a nature and extent that an ordinary person might be influenced or made apprehensive. This is an objective test (*R v Zaphir* [\[1978\] Qd R 151](#), [163]-[164]).

'Likely' in this context conveys a substantial – a real and not remote – chance (see, e.g, the comments of Pincus JA in *R v T* [\[1997\] 1 Qd R 623](#)).

Section 1 of the *Criminal Code* contains definitions of 'dwelling', 'premises', and 'bodily harm'. 'Bodily harm' means any bodily injury which interferes with health or comfort.

It is a circumstance of aggravation if this offence is committed in the 'night', which s 1 of the *Criminal Code* defines as between the hours of 9pm and 6am. A further circumstance of aggravation in s 52B of the *Code* also applies to this offence.

### 180.3 Suggested Directions

[Last reviewed: January 2025]

#### *Section 75(1)(a)*

**The prosecution must prove beyond reasonable doubt that:**

1. **The Defendant by words or conduct threatened to enter or damage a dwelling or other premises.**

**‘Threatened’ is an ordinary English word. The threatening words and/or conduct must be of such a nature and extent that an ordinary person might be influenced or made apprehensive. It is an objective test.**

[Refer to the definitions of ‘dwelling’ and ‘premises’ in s 1 as necessary].

2. **The Defendant did so with intent to intimidate or annoy any person.**

(Where relevant, address circumstances of aggravation).

3. **(If applicable): the offence was committed in the night, that is, between the hours of 9pm and 6am.**

#### *Section 75(1)(b)*

**The prosecution must prove beyond reasonable doubt that:**

1. **The Defendant discharged a loaded firearm [or did any other act likely to cause any person in the vicinity to fear bodily harm to any person or damage to property].**

(As relevant, refer to the definitions below):

**‘Likely’ in this context conveys a substantial – a real and not remote – chance.**

**‘Bodily harm’ means any bodily injury which interferes with health or comfort.**

2. **The Defendant did so with intent to alarm any person.**

(Where relevant, address circumstances of aggravation).

3. **(If applicable): the offence was committed in the night, that is, between the hours of 9pm and 6am.**