

Threatening Violence s 75

Section 75(1)(a)

The prosecution must prove that:

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

“Threatened” is an ordinary English word. It must be of such a nature and extent that an ordinary person might be influenced or made apprehensive. It is an objective test.¹

The words “dwelling” and “premises” are defined in s 1.

2. The defendant did so with intent² to intimidate or annoy any person.
3. Circumstance of aggravation.

It is a circumstance of aggravation if the offence is committed in the night³ (s 75(2)).

Section 75(1)(b)

The prosecution must prove 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).

“Likely” in this context conveys a substantial – a real and not remote – chance.⁴

“Bodily harm” means any bodily injury which interferes with health or comfort (s 1).

2. The defendant did so with intent to alarm any person.
3. Circumstance of aggravation.

¹ *R v Zaphir* [1978] Qd R 151 at 163-4.

² See Notes on Intention.

³ See definition in s 1.

⁴ See comments of Pincus JA in *R v T* [1997] 1 Qd R 623.

**It is a circumstance of aggravation if the offence is committed in the night⁵
(s 75(2)).**

⁵ See definition in s 1.