

Threatening Violence: s 75

Legislation

S 75 [Criminal Code](#)

Commentary

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

‘Threatened’ has its ordinary meaning. 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 at 163-4.

‘Likely’ in this context conveys a substantial – a real and not remote – chance: See comments of Pincus JA in *R v T* [1997] 1 Qd R 623.

‘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 means between the hours of 9pm and 6am: s 1.

Suggested Direction – 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.

The words ‘dwelling’ and ‘premises’ are defined in s 1.

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

It is a circumstance of aggravation if the offence is committed in the night.

Suggested Direction – 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.

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

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

It is a circumstance of aggravation if the offence is committed in the night.