Supply Heroin

Commercial Quantity

s.25(2) (NSW) *Drug Misuse and Trafficking Act*

s.25(2) Supply or knowingly take part in supply of commercial quantity of prohibited drug

Commercial Quantity: **250gm**

Large commercial quantity: **1kg**

Maximum Penalty: **20 years – s.33(2)**

Standard Non-Parole Period **10 years (offence committed on or after 1.2.2003)**

	CASE (AGE)	OFFENCE	AMOUNT	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	**Ghassibe** (34) NSWCCA 9.11.1993	Supply comm qty	1 Pd	VG	Original sentence imposed for 2 counts of supply	Resentenced after successful conviction appeal on first count MT 3y AT 1y	nil	Agreed to supply undercover police with a pound of heroin. Minor player - good subjective features.
2.	**Tran** (56) NSWCCA 25.11.1993	Supply comm qty	338.5g	PG	MT 4y AT 1y 50% discount for assistance	AA MT 3y 9m AT 1y 3m	nil	Taking drugs to Adelaide - to be paid $2,000 as courier.
3.	**Chung** NSWCCA 9.3.1994 **Ma** NSWCCA 31.5.1995	Supply comm qty Supply comm qty	371g 371g	PG PG	MT 6y AT 2y MT 6y AT 2y	AA MT 5y AT 1y 8m AA MT 5y 10d AT 1y 7m 21d	minor	Supply made to undercover police officer for $110,000 - arrangements made with C - supply made by M - 75% pure - supply for profit. Sentenced on incorrect maximum penalty.

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4.	**Wagner** NSWCCA 30.3.1994	Knowingly take part in supply comm qty Sched: Possess leaf	252g	PG	MT 6y AT 3y	AA (parity only) MT 4y AT 2y	on bail for supply at time of offence	Supplied drug to undercover police officer - middleman of operation - not as heavily involved as co-offender - offender believed amount of drug was less than 250, but agreed to plead to commercial amount.
5.	**Niga** NSWCCA 13.4.1994	Supply comm qty	315.4g pure	PG on SI	3y PD	Crown AD sentence inadequate but Court declined to intervene		Assisted co-offender by retrieving drugs from hiding place for dealer and minding money - minor, isolated and temporary involvement. Young, single mother with children
6.	**P Challita** (26) **M Challita** (27) NSWCCA 14.4.1994	Knowingly concerned in supply comm qty Supply comm qty Sched: 3 offences	340g	PG	MT 3y 9m AT 1y 3m MT 6y AT 2y	AD	nil nil	Caught red-handed after police surveillance and undercover operation - M conducted actual supply - P involved in preparation.
7.	**Asaad** NSWCCA 5.10.1994	Supply comm qty 2 x Supply less comm qty	1 pd 34.9g 27.7g	VG	MT 4y 6m AT 18m	AD		Actual supply - offer to supply - apprehended before transaction took place.
8.	**Chu** NSWCCA 22.2.1995	Supply comm qty	350.64g	VG	MT 7y 6m AT 2y 6m	AD		79% purity - observed by police supplying heroin - later attended meeting set up by police.
9.	**Simionescu** (43) NSWCCA 23.4.1996	Supply comm qty Supply less comm qty	287g 6.3g	PG	MT 4y 6m AT 18m	AD	no drugs	Supplied to undercover police officer.

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10.	**Xerri** (49) NSWCCA 18.7.1996	Supply comm qty Knowingly concerned in supply comm qty	4oz 12oz	PG	MT 4y AT 16m	AA MT 3y 3m AT 1y 1m	no gaol or drugs	Actual supply of 4oz – had 12oz in car to complete supply – financial gain Parity
11.	**To** NSWCCA 20.11.1996	Supply comm qty Supply less comm qty	900g 225g	PG	MT 5y 6m AT 3y	AD	nil relevant	Actual supply less comm qty – offer to supply comm qty - serious case of drug dealing for profit - included other supplies of samples, although not subject of any charge.
12.	**Brehoi** (38) NSWCCA 16.12.1996	Supply comm qty 4 x supply less comm qty	1 pd 112.4g 248g 9.5g	PG	MT 4y AT 2y 6m	AD	On bail for drug charges when committed 3 offences - lengthy record including supply heroin	August 1991 - December 1993 - agreed to supply 1 pd - actual supply - admission to selling - 2 x deemed supply
13.	**Jin** NSWCCA 9.7.1997	Knowingly take part in supply comm qty Supply less comm qty Sched GIC	12 oz 96.27g	PG	MT 5y AT 2y	AD	nil	Caught as a result of extensive surveillance - second count related to heroin found in car - offence committed out of need not greed.
14.	**Pauna** NSWCCA 2.12.1997	2 x Supply comm qty 4 x Supply less comm qty	See facts	VG VG / PG	MT 10y AT 3y 4m	AD		Supplier of heroin on large scale over 5y – sold in small amounts
15.	**Lin** (35) [1999] NSWCCA 178	Knowingly take part in supply comm qty Supply comm qty	474g 365.1g	PG	MT 6y AT 2y MT 6y AT 2y (concurrent)	AD	nil	Conveyed 474g heroin to location where it was handed to undercover police - 365.1g heroin found in flat - courier and warehouse - seen in company of significant players

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16.	**Ambatsidis** (30) [2000] NSWCCA 125	Supply comm qty Supply comm qty	1 kg .22g	PG	MT 3y 9m AT 2y 3m FT 2y (concurrent)	AD	record in Qld and Vic	Agreed to supply undercover police officer 1kg heroin - actual supply of .22g as sample. Addicted to heroin as result of pethidine treatment when badly burned.
17.	**Luong** [2000] NSWCCA 139 Co-Offender: NGUYEN	Supply comm qty	716.5g	VG	MT 8m AT 2y 10m	Crown AD	nil	Joint possession of heroin found in car with husband - scales and money also found Gambling addiction - mother of three children - gave birth to baby shortly after arrest and no facilities to stay with baby until after appeal - husband gaoled - lack of English - suffering depression MT expired 6mths before appeal
18.	**D'Amico** [2000] NSWCCA 290	Knowingly take part in supply comm qty	See facts	PG	MT 4y AT 2y	AD		Female - employed two runners to deliver drugs to customers - over 60 day period bought 350g, used 60-90g herself, paid runners 60g and sold balance Supported own habit - 4y old daughter.
19.	**Nguyen** [2000] NSWCCA 547 Co-Offender: LUONG	Supply comm qty	727g	PG	MT 4y 6m AT 18m	AD	nil prior	Appellant and wife driving from Melbourne to Sydney with drugs in car - played primary role in offence. Addicted to gambling
20.	**Pham** [2001] NSWCCA 101	Supply comm qty Supply less comm qty	10 ounces 7g	PG	MT 4y AT 2y FT 2y (concurrent)	AD	drug offences	Supplied 7g heroin to undercover police officer - later supplied 10 ounces. Addict
21.	**Long** (20) [2001] NSWCCA 159	Supply comm qty Sched: 2 offences	352.6g 358.8g	PG (25%)	6y NPP 4y 6m	AD	on recog for same offence	Arrested at airport intending to take two blocks of heroin to Adelaide. Sad personal history - threatened with violence - drug addiction - suffering major depressive disorder

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22.	**Nguyen** (25) [2002] NSWCCA 183 Co-Accused: KIRIKIAN TUTOVEANU	Supply comm qty Sched: Knowingly take part in supply comm qty	700g 700g	PG (25%)	5y 6m NPP 2y 6m	Crown AA 8y NPP 5y	Assault police offences – treated as not significant	Took part in major scheme importing heroin between Gold Coast and Sydney - Sydney supplier - supplied 2 x 350g blocks taken to Gold Coast - further supply of 700g to take place when police intervened Drug user - good background
23.	**Nguyen** (35) [2002] NSWCCA 333	Supply comm qty	423g	PG	4y NPP 3y	AA 4y NPP 2y	nil	Found in possession of heroin at home - was to deliver heroin for $2,000 - lower end of scale of involvement Remorse - wife with three children - at time of offence suffering financial and family difficulties
24.	**Malek** (60) (2002) 134 A Crim R 423 [2002] NSWCCA 424	Knowingly concerned in supply comm qty heroin Knowingly concerned in supply comm qty cocaine	See facts	PG (25%)	8y NPP 4y 7y 6m NPP 4y	AA 6y NPP 2y 9m 5y NPP 2y 6m (concurrent)	nil relevant	Worked at brothel as manager / bookkeeper - aware girls being supplied with heroin and cocaine over 17 months - involved in some bookkeeping - no evidence received proceeds from supply Remorse - health
25.	**Kirikian** (44) [2002] NSWCCA 422 Co-offender: NGUYEN TUTOVEANU	Knowingly concerned in supply comm qty Knowingly concerned in supply comm qty	1.4kg (total)	PG	6y NPP 3y 6y NPP 3y (concurrent)	AD	supply cannabis leaf	Broker in drug transactions - negotiated price and arranged payment and delivery Assistance - remorse
26.	**Wong** (2002) 137 A Crim R 120 [2002] NSWCCA 527	Knowingly take part in supply comm qty Knowingly take part in supply less comm qty	1 pound 1 oz	VG	4y NPP 3y FT 2y Total: 6y NPP 5y	AA 4y NPP 2y FT 2y Total: 6y NPP 4y	nil relevant	Supplied 1 oz heroin to co-offender who supplied to undercover police officer - agreed to supply 1 pd – active and major principal

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27.	**Markarian** (36) (2003) 137 A Crim R 497 [2003] NSWCCA 8 (2005) 228 CLR 357 [2005] HCA 25 [2005] NSWCCA 264	Knowingly take part in supply comm qty Sched: 4 offences	415g	PG (25%)	2y 6m NPP 15m	Crown AA 8y NPP 4y 6m High Court AA Crown AD	on parole for drug offence	Chauffeur for primary offender - involved in other tasks Some prospects of rehabilitation – addiction Second appeal to CCA – considered sufficient punishment inflicted – evidence of rehabilitation
28.	**Shalala** [2003] NSWCCA 330	Supply comm qty	260.4g	VG	7y NPP 5y	AD	Not stated	Deemed supply – little facts given
29.	**X** [2004] NSWCCA 93	Conspiracy supply comm qty	618g	PG (25%)	2y suspended sentence	Crown AA 2y 6m NPP 1y 6m		Head of drug syndicate in Newcastle – responsible for purchase and distribution – paid couriers and employed a manager – drugs with value of $150-176k – return of $309k throughout conspiracy. Background of dysfunction and violence - mother of five children SJ erred in treating family circumstances as exceptional circumstances.
30.	**Fakhreddine** (2004) 147 A Crim R 422 [2004] NSWCCA 354	Supply comm qty	421.3g	PG (25%)	12y NPP 8y	AD	AR – breached parole	Involved in purchasing drugs and packaging and supplying drugs through runners – with co-offender manager and controller of extensive drug syndicate
31.	**So** [2004] NSWCCA 362	Supply comm qty Supply comm qty cocaine	Not less than commercial	PG (13.3%)	13y NPP 10y 6m 13y NPP 10y 6m (concurrent)	AD	Nil	Principal in a sophisticated enterprise distributing small amounts of cocaine and heroin out of Kings Cross, with 7 'runners' Prior good character – relative youth – excellent prospects of rehabilitation – unlikely to re-offend

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32.	**Tutoveanu** [2005] NSWCCA 149 Co-offenders: KIRIKIAN NGUYEN	Knowingly take part in supply comm qty Supply comm qty	12.5oz	VG PG	12y NPP 6y 9y NPP 4y Total: 13y NPP 8y	AD		Involved in attempted supply of 12.5oz – heroin seized by police – second order arranged to pay for loss of first heroin – significant involvement
33.	**Ancuta** [2005] NSWCCA 275	Supply comm qty	701.6g	PG (20%)	9y NPP 6y 6m	AA 8y NPP 5y	Minor	**SNPP 10 years** Deemed supply - found in possession of heroin – paid $250,000 for drugs – travelled from Brisbane to Sydney Health problems
34.	**Martin** (50) [2005] NSWCCA 381	Supply comm qty	Approx 1kg	PG (20%)	8y NPP 6y	AD	Appalling record with serious offences	Female – joint enterprise with sister in business of supplying heroin through network of lower level suppliers – principal Recently diagnosed with ADHD
35.	**Tran** (44) [2006] NSWCCA 266	Supply comm qty Sched: 24 related offences	834.9g	PG (40% plea and assist)	8y NPP 5y	AA 7y NPP 4y 3m	Minor record	**SNPP 10 years** Middleman / broker – permitted premises to be used for exchange of drugs – introduced buyer to supplier – to receive $4,000 Significant addiction – good prospects of rehabilitation – assistance Parity to *Lam* [2006] NSWCCA 11 / *Lo* (2005) 159 A Crim R 71 (supply large comm. qty)
36.	**Vu** (36) [2007] NSWCCA 2	Supply comm qty	792.1g	VG	10y 8m NPP 8y	AA 8y NPP 6y	Nil	**SNPP 10 years** Flew to Brisbane with co-offender to arrange supply – subsequently found in possession of drugs ready for supply – less significant role Vietnamese Parity to co-offender *Vu* [2006] NSW CCA 188 – (lge commercial qty heroin)
37.	**Nguyen** (38) [2007] NSWCCA 15	Supply comm qty Sched: 2 offences	Approx 1kg	PG	10y NPP 6y	AD	Nil	**SNPP 10 years** Supplied family of drug dealers over 4 months – wholesaler at top of hierarchy Deprived childhood in Vietnam – drug and gambling addiction

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38.	**Ma** (20) **Pham** (22) [2007] NSWCCA 240	Knowingly take part supply comm qty Sched: 3 x Drug premises off Knowingly take part supply comm qty Sched: 3 x drug premises off		PG PG	10y 6m NPP 7y 9y NPP 5y 6m	AD AD	Minor drug offences Minor drug offences – breached bond	**SNPP 10 years** Involved in well planned organisation distributing heroin in Liverpool area over 2 months – number of premises used M – manager – purchased large amounts of heroin for on-supply – user – prospects of rehabilitation – protective custody P – street dealer – user – genuine remorse – good prospects of rehabilitation
39.	**Huynh** [2009] NSWCCA 65 [2014] NSWCCA 147	Supply comm qty	350g	VG	13y NPP 10y	AD AA 12y NPP 8y (Muldrock error)		**SNPP 10 years** Female – 350g found in possession of co-offender in Sydney – supply took place in Melbourne – mid-range – not isolated offence Vietnamese
40.	**Ho** (45) [2013] NSWCCA 174	Supply comm qty Knowingly allow premises to be used as drug premises, exposing child to prohibited drugs Sched: 3 x Proceeds crime Knowingly allow premises to be used	352.2g	PG (25%)	9y NPP 6y FT 1m Total: 9y 1m NPP 6y 1m	AD	Supply drugs.	**SNPP 10 years** Female – facts not stated – role of broker. Difficult background – poor education – drug addiction. Special circumstances - lack of any pro-social support network - depression, stress and anxiety - treatment for substance dependence, gambling and mental health difficulties - obtaining suitable community-based support post-release, employment and accommodation required.

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41.	**Horne** (30) [2014] NSWCCA 133	Supply comm qty	250g minimum	PG (25%)	8y NPP 5y	AA 6y 8m NPP 4y 2m	nil	**SNPP 10 years** Involved in heroin distribution network – local manager – delivered drugs to co-offender who sold them through street dealers – supplied over one month – eighty regular customers Good prospects of rehabilitation – assistance to authorities in unrelated matter (17%) Error made in calculation of guilty plea discount and parity
42.	**Eldridge** (33) **McKay** (54) [2015] NSWCCA 127	Knowingly take part in supply comm qty Sched: Supply drug Knowingly take part in supply comm qty Knowingly take part in supply less comm qty	770g 742g 27.6g	PG (25%) PG (25%)	8y NPP 5y 8y NPP 5y FT 2y (concurrent)	AA 6y 9m NPP 4y 7y 1m NPP 4y 6m FT 2y (concurrent)	Limited Limited	**SNPP 10 years** Female offenders – M mother of E - members of family involved in supplying heroin - ordered heroin and methylamphetamine from two upper-level suppliers based in Sydney – offences committed to feed their own drug addiction and intended distribution of drugs to others in their region. E - 18 supplies constituting 770g heroin over July – Nov 2011 – remorse – rehabilitation prospects M - 18 supplies constituting 742g heroin over July – Nov 2011 Appeal allowed on parity with co-offender

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43.	**Baias** (58) [2016] NSWCCA 269	Supply lge comm qty methylamphet Knowingly take part in manuf comm qty methylamphet Supply lge comm heroin **Supply comm qty heroin** Sched: Supply drugs	1,094.5g 1,049.98g 613g	VG (20% for trial) VG (25% for offer) PG (25%) PG (25%) (10% for assist)	Indicative 5y 11m NPP 4y FT 1y 7m 5y 6m NPP 3y 9m **5y 10m NPP 4y** Aggregate: 11y NPP 7y 6m	AD	Number of supply drugs offences, some relating to heroin.	**SNPP 15 years** Not at apex of criminal hierarchy but far beyond street dealer, factotum, or other pawn - made arrangements for drug equipment - collected cook from airport - organised premises and lab for drug preparation - assisted in shopping for items and present during preparation – role in sourcing drug albeit believing it to be precursor. Heroin offences - supplied to police undercover for hundreds of thousands of dollars. Committed offences to repay loan.

Last updated – Sept 2017