Import Precursor

Commercial Quantity

s.307.11 (Cth) *Criminal Code*

Commenced 6.12.2005

s 307.11 Importing and exporting commercial quantities of border controlled precursors:

(a) the person imports or exports a substance; and

(c) the substance is a border controlled precursor; and

(d) the quantity imported or exported is a commercial quantity.

Offences committed prior to 27.11.2015 contained the following additional element:

(b) either or both of the following apply:

(i) the person intends to use any of the substance to manufacture a controlled drug;

(ii) the person believes that another person intends to use any of the substance to manufacture a controlled drug

Maximum penalty: 25 years

Commercial quantity: 1.2kg

	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
1.	**Chandler** (33) [2010] QCA 21	Import comm qty pseudoeph	2.799kg 2.988kg (pure)	PG	5y NPP 3y	AD	Minor drug offences	Pseudoephedrine mailed in two parcels from Thailand to post office box operated by offender – controlled delivery – collected by offender – found to have laboratory set up to manufacture methamphetamine Difficult childhood

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
2.	**Woods** (59) [2009] NTCCA 2	Consp import comm qty pseudoeph	See facts	PG (early)	5y suspended	Crown AD	Nil	Conspiracy to import pseudoephedrine –organised by three co-offenders – significant commercial operation – bulk amount worth $825,000-$1.12m – street level doses worth $3.75-$5.65m – offender initially unaware of arrangements being made – lent money to co-offender on false basis – upon becoming aware of illegal conspiracy sought only to get money back – no profit motive – provided extra money and permitted use of car – minimal involvement Gullible and taken advantage of – prior good character Offence deserved imprisonment – exercise of mercy Co-offenders: Seriban (VG) – 12y 3m NPP 7y 10m Barry (PG) – 7y NPP 3y 6m Petras (PG) – 12y NPP 7y
3.	**Jalalaty** (48) [2010] NSWSC 1561 James J Co-offender: STANDEN KINCH	Consp import comm qty pseudoeph	300kg	PG (approx 40% plea and assist))	10y NPP 6y		nil	Attempt to import at least 300kg pseudoephedrine from Pakistan in containers of rice – rice delivered to offender's food distribution business - no drugs actually imported – a principal but lesser role than co-offender – naïve and inexperienced – to some extent taken advantage of by co-offenders
4.	**Standen** [2011] NSWSC 1422 James J [2015] NSWCCA 211 Co-offender: JALALATY KINCH	Consp import comm qty pseudoeph Knowingly take part in supply lge comm qty pseudoeph (NSW) Att pervert course of justice	300kg	VG	18y NPP 12y 22y NPP 16y FT 3y 6m (concurrent)	AD	Nil	High ranking police officer became involved in attempt to import at least 300kg pseudoephedrine from Pakistan concealed in rice containers – no drugs actually imported - supply offence involved attempt by co-offender to take possession of drugs presumed to have been imported – principal – used knowledge and experience as police officer to provide advice and make inquiries as to investigations Onerous custodial conditions – loss of career – youngest child in foster care
5.	**Phan** [2013] NSWCCA 49	2 x Import comm qty pseudoeph	9.365kg (pure) 12.4kg (pure)	PG	12y NPP 8y	AD	Breached bail for similar offences	Principal of importation of pseudoephedrine – few facts stated in appeal – amounts taken from *Nguyen and Phan* [2009] NSWDC 181 at [11] Gambling problem

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6.	**Matthews** [2013] NSWCCA 187	Import comm qty pseudoeph	2.47kg (pure)	VG	7y 6m NPP 4y 6m	AD	Breached parole and CSO – child sex offences	Purchased tablets of pseudoephedrine in Thailand and sought to import them secreted in water heater – organiser / principal
7.	**XY** (25) [2013] VSCA 261	Import comm qty pseudoeph	3.1kg (pure)	PG	8y NPP 6y	AA 6y NPP 4y (pre discount for guilty plea: 9y NPP 7y)	nil	Pseudoephedrine in cold and flu tablets concealed in steel bowls and electronic equipment – arrested waiting to take delivery – active role in managing importation – engaged suppliers in China, solicited importation, made payments, arranged collection and arranged to sell and deliver precursor – commercial operation conducted in businesslike manner for financial reward Married with three children On appeal: fresh evidence of assistance
8.	**DPP v Suri** (53) [2014] VSCA 260	Consp import comm qty pseudoeph	100kg	VG	11y NPP 9y	AA 11y NPP 8y		Conspiracy to import drugs from India in furniture – when drugs arrived only 397.1g pseudoephedrine – task was to source and oversee export of drug from India Poor health
9.	**Lamella** (25) [2014] NSWCCA 122 Co-offender VALSAMAKIS NAPOLI	Consp import comm qty pseudoeph Corruption offence Sched: 2 x Corrupt public official offences	4.8 - 7.35kg (pure)	PG (50% plea and assist)	8y NPP 4y FT 3y (concurrent)	Crown AD	Self-administer drug	Customs officer – involved in ensuring couriers carrying pseudoephedrine in luggage passed through customs – paid off customs officers – three separate importations Drug user
10.	**ES** (32) [2014] NSWCCA 268	Aid and abet import comm qty pseudoeph Attempt possess pseudoeph (NSW)	125kg (pure)	PG (40% plea and assist)	9y 11m NPP 6y FT 2y 2m (concurrent)	AD	Nil relevant but admitted involved in drug trafficking	Pseudoephedrine imported from Thailand concealed as juice boxes – controlled delivery – drugs picked up and transported to warehouse owned by Wilson –principal – importation planned and well organised over period of time
11.	**Spadina** (50) [2015] NSWSC 933 Blackmore AJ	Consp import comm qty pseudoeph	210kg (20% purity)	VG	10y 6m NPP 6y 6m		Record includes precursor offence	Involved with Dutch syndicate conspiring to import 210kg – intended to use pseudoephedrine to manufacture prohibited drug – leader of Australian syndicate – drugs did not arrive in Australia – well organised syndicate – sophisticated planning over 21 months – financial gain 7 year delay – effect on family – strict bail conditions taken into account – metal and physical health issues

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12.	**Kinch** (57 at sentence) [2016] NSWSC 63 Hidden J Co-offender: JALALATY STANDEN	Consp import comm qty pseudoeph	300kg	PG 20% - plea and assist	14y 6m NPP 10y		Record in England – burglary and robbery – no drugs	2006-2008 – became involved with senior police officer Standen – together conspired to import pseudoephedrine – principal Old offences – spent 4y 5m in difficult custodial conditions in Thailand – troubled upbringing Sentence imposed concurrently to sentence for earlier conspiracy to import MDMA and money laundering
13.	**Valsamakis** (39) [2016] NSWCCA 156 Co-offender: NAPOLI LAMELLA	Consp import com qty pseudoeph Bribery 2 x Official abusing office to gain advantage	90.1kg	PG (50% - plea and assist)	Indicative: 8y 3y 18m / 9m Aggregate: 9y NPP 6y	AD	Nil	Customs officer involved in sophisticated and well-co-ordinated scheme to import pseudoephedrine – 5 importations and attempted importations over 6 months – drugs concealed in luggage and removed by customs officers involved – bribery offence related to importations – abuse offences unrelated Remorse – assistance – surrendered $110,400 proceeds – harsh conditions in custody – father to two children
14.	**Brar** [2016] VSCA 281	Att import comm qty ephedrine	218.6kg (pure)	VG	11y NPP 8y	AD	nil	Ephedrine arrived on ship concealed in rice in shipping containers – controlled delivery – offender took delivery of pallets of rice to warehouse – unpacked and on sold some packages - intermediary or facilitator between Indian exporter and ultimate recipients – import business provided veneer of legitimacy – evidence of only small financial reward Prior good character – reasonable prospects of rehabilitation
15.	**Napoli** (32) [2016] NSWCCA 232 Co-offender VALSAMAKIS LAMELLA	Consp import comm qty pseudoeph	87kg	PG (25%)	9y NPP 6y	AD	Drug offence	Conspiracy over 6 months to bring drugs through airport using corrupt customs officers and baggage handlers – drugs brought in on four occasions - involved in organisation of highly sophisticated operation – responsible for provision of bags to couriers, movement of drugs once left airport and payment of those involved

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16.	**MI** (29) [2017] NSWCCA 225 Co-offender: WRIGHT	Consp import comm qty pseudoeph Sched: Possess weapon / ammunition	23kg	PG (50% combined)	6y 6m NPP 4y	AD	Nil relevant	Conspiracy to import pseudoephedrine - with co-offender conspired with regard to six consignments - shipments in total contained 13kg gross (6 kg pure) – offender also involved in earlier cargo shipment of 59 kg gross (17 kg pure) - conspiracy extended over a year - planned but not sophisticated - motivation financial gain – offender's role little more than person to whom drugs delivered. Remorse – financial debt
17.	**Wright (pseudonym)** (42) [2017] NSWCCA 289 Co-offender: MI	Consp import comm qty pseudoeph	6.2kg	PG (50% combined)	6y 6m NPP 4y		Traffic offences	Importation of drugs impregnated in tea sent from Iran – 6 consignments sent to home of co-offender – all but one intercepted by police – offender travelled to Iran to source and pay for drug and make arrangements for delivery – course of conduct – mid-range Born in Iran – talented sportsman competing at international level – assistance On appeal: sentence imposed on co-offender did not breach parity – although co-offender sentenced for greater amount offender's involvement more serious
18.	**Madgwick** [2018] NSWCCA 268	Aid, abet, counsel import comm qty pseudoeph	13.445kg (pure)	PG	5y 9m NPP 2y 11m	Crown AA 6y 10m NPP 3y 5m	Not much	Distributor for chemical company – drugs imported in substituted containers - offender had unpacked containers and inspected bottles containing pseudoephedrine - unsuccessfully attempted to convert what he thought was pseudoephedrine from liquid into dried substance – had extensive dealings with organisers - critical role in importation - travelled to Thailand, left one day before shipment of container from Thailand to Australia, met with organisers, used his business, consignee of container and contact person for shipping company, paid customs fees, recipient of container - did not know precise quantity but realised it was substantial Appeal – failure in part to keep undertaking to provide future assistance

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19.	**GE** (28) [2019] NSWCCA 41	Import comm qty ephedrine	8.33kg	PG (25%)	7y NPP 4y 3m	AA 6y 4m NPP 3y 6m		Drugs imported in container from Malaysia – intercepted by Border Force – offender took delivery – organised delivery, tracked consignment, falsely presented himself to delivery driver, signed consignment in a false name and took possession – acted for financial gain – significant role. Hard-working student fell into difficulty with studies due to language difficulties - likelihood of re-offending extremely low to non-existent - remorse
20.	**Le** (19) [2019] VSCA 232	Import comm qty pseudoeph	5.349kg (pure)	PG	6y 6m NPP 4y	AD	nil	Arranged for packages to be delivered to friend's address – controlled delivery – acted under pressure from family in Vietnam and in some degree of fear Female – delay due to absconding shortly before trial
21.	**Nguyen** (51) [2020] NSWCCA 45	Import comm qty pseudoeph	3.99kg (pure)	VG	7y NPP 3y 7m	AA 6y NPP 3y	import heroin	Female flew in from Vietnam carrying drugs concealed in sides of cardboard box containing foodstuffs and in commercially packaged food – modest financial gain – low in hierarchy – not aware of amount of drugs Low intellectual functioning – born in Vietnam – limited English – socially isolated – some remorse On appeal – error made in relation to weight of drug
22.	**Li** (57) [2021] NSWCCA 100	Att import comm qty methamphet Att import comm qty ephedrine	118.3kg 264.37kg	PG (15%)	16y 2m 11y 11m Total: 18y 2m NPP 12y	AA 16y 2m 11y 11m Total: 18y 2m NPP 11y 3m		Drugs imported in bar stools and packets labelled powdered soup – controlled delivery – Australian principal in importation – significant role receiving consignment and making further arrangements – direct contact with overseas principal – importation had some sophistication and organisation Genuine remorse – female Appeal: failure to give effect to stated intention to set 62% NPP
23.	**Zhou** (20) [2021] VSCA 118 Niall JA	Import comm qty ephedrine	3.343kg	VG	5y NPP 2y 6m	Application for leave to appeal refused	Nil	Involved in importation of ephedrine concealed in men's belts – asked friend to take delivery of parcel – when parcel held up in customs told friend to deny knowledge of parcel – believed or was aware parcel contained precursor at time of importation - displayed knowledge of ephedrine several days later – important role – use of innocent intermediary added to seriousness Good character – delay – good prospects of rehabilitation – suffering PTSD from two unrelated incidents

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24.	**Huynh** [2022] NSWCCA 45	Import comm qty pseudoephedrine	32kg 34kg 18kg 28kg	VG	12y NPP 8y	AA To backdate sentence 12y NPP 8y	Not stated	Conspiracy encompassed four separate importations involving conduct by corrupt Customs officers and baggage handler at Sydney International Airport – applicant identified source of precursor in Vietnam, engaged in communications, organised couriers, travelled for purpose of importations, operated bank accounts into which significant cash deposits made. CCA: Error regarding pre-sentence custody.
25.	**Ribbon** (64) [2022] SASCA 15	Aid, abet, counsel, procure import comm qty pseudoephedrine	13.4554kg	PG (almost 10%)	7y 9m NPP 4y 6m (reduced 2y 2m for PSC)	AD	Nil	Involved in importation of precursor from Thailand dissolved in liquid and labelled cleaning product – assisted other to prepare and load consignment in Thailand Good employment history
26.	**Smith (a pseudonym)** (33) [2022] NSWCCA 123	Import comm qty precursor Manufacture lge comm qty methylamph Manufacture lge comm qty pseudoephedrine Supply lge comm qty methylamph Sched: Supply methamphet Proceeds of crime offence	1,310kg ephedrine 9.6kg 5.6kg 734g 29.4g	PG (45% - combined)	6y 7m NPP 4y 4m <u>Indicative</u>: 6y 7m NPP 4y 5m 4y 4m NPP 2y 10m 3y 10m NPP 2y 6m <u>Aggregate</u>: 9y NPP 4y 10m <u>Total</u>: 12y 4m NPP 8y 2m	AD	Nil	Involvement in criminal group which imported prohibited precursors and manufactured methylamphetamine – drugs and equipment located in applicant's bedroom at family home - applicant recruited and paid co-offender to assist in manufacture - responsible for "crystallising" and "packaging" - significant role involving use of premises in manufacturing process, obtaining ingredients, recruitment of co-offender and engaging directly in manufacturing process - significant level of planning. Drug abuse to cope with mental health issues. CCA: sole ground of appeal was parity on manufacture methylamph offence - no disparity established

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27.	**Antony** (39) [2025] NSWCCA 82	Aid and abet import comm qty pseudoephedrine	33.78kg	PG (10%)	3y 7m NPP 2y	AD	Nil	With co-offender involved in attempted importation by criminal syndicate – importation intercepted by police - assisted co-offender in obtaining money for payment of pseudoephedrine and in attempting to access substituted pseudoephedrine - trusted but not indispensable role in syndicate - below co-offender in hierarchy - motivated in part by financial reward. Remorse – unlikely reoffend – good character and employment record – family support – psychological issues in part causative of offending. CCA: No disparity – sentence not manifestly excessive.

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