

**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<br>(age if known)                            | Offence                      | Amount                               | Plea | Sentence     | Appeal | Priors                 | Facts   |
|----|---|------------------------------|--------------------------------------|------|--------------|--------|------------------------|---|
| 1. | Chandler<br>(33)<br><a href="#">[2010] QCA 21</a> | Import comm qty<br>pseudoeph | 2.799kg<br><br>2.988kg<br><br>(pure) | PG   | 5y<br>NPP 3y | AD     | Minor drug<br>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<br>Difficult childhood |

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| 2. | <b>Woods</b><br>(59)<br><a href="#">[2009] NTCCA 2</a>   | Consp import comm<br>qty pseudoeph  | See facts                                 | PG<br>(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<br>Gullible and taken advantage of – prior good character<br>Offence deserved imprisonment – exercise of mercy<br>Co-offenders:<br>Seriban (VG) – 12y 3m NPP 7y 10m<br>Barry (PG) – 7y NPP 3y 6m<br>Petras (PG) – 12y NPP 7y |
| 3. | <b>Jalalaty</b><br>(48)<br><a href="#">[2010] NSWSC 1561</a><br>James J<br><br>Co-offender:<br>STANDEN<br>KINCH                                  | Consp import comm<br>qty pseudoeph  | 300kg                                     | PG<br>(approx<br>40% plea<br>and<br>assist)) | 10y<br>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. | <b>Standen</b><br><a href="#">[2011] NSWSC 1422</a><br>James J<br><br><a href="#">[2015] NSWCCA 211</a><br><br>Co-offender:<br>JALALATY<br>KINCH | Consp import comm<br>qty pseudoeph<br><br>Knowingly take part<br>in supply lge comm<br>qty pseudoeph<br>(NSW)<br><br>Att pervert course of<br>justice | 300kg                                     | VG   | 18y<br>NPP 12y<br><br>22y<br>NPP 16y<br><br>FT 3y 6m<br>(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<br>Onerous custodial conditions – loss of career – youngest child in foster care  |
| 5. | <b>Phan</b><br><a href="#">[2013] NSWCCA 49</a>  | 2 x Import comm<br>qty pseudoeph  | 9.365kg<br>(pure)<br><br>12.4kg<br>(pure) | PG   | 12y<br>NPP 8y  | AD       | Breached<br>bail for<br>similar<br>offences | Principal of importation of pseudoephedrine – few facts stated in appeal – amounts taken from <i>Nguyen and Phan</i> [2009] NSWDC 181 at [11]<br>Gambling problem   |

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| 6.  | <b>Matthews</b><br><a href="#">[2013] NSWCCA 187</a>   | Import comm qty pseudoeph   | 2.47kg (pure)       | VG                       | 7y 6m<br>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.  | <b>DPP v Suri</b><br>(53)<br><a href="#">[2014] VSCA 260</a>   | Consp import comm qty pseudoeph   | 100kg               | VG                       | 11y<br>NPP 9y                                 | AA<br>11y<br>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<br>Poor health   |
| 8.  | <b>XY</b><br>(25)<br><a href="#">[2014] VSCA 261</a>   | Import comm qty pseudoeph   | 3.1kg (pure)        | PG                       | 8y<br>NPP 6y                                  | AA<br>6y<br>NPP 4y<br><br>(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<br>Married with three children<br>On appeal: fresh evidence of assistance |
| 9.  | <b>Lamella</b><br>(25)<br><a href="#">[2014] NSWCCA 122</a><br><br>Co-offender<br>VALSAMAKIS<br>NAPOLI | Consp import comm qty pseudoeph<br><br>Corruption offence<br><br>Sched:<br>2 x Corrupt public official offences | 4.8 - 7.35kg (pure) | PG (50% plea and assist) | 8y<br>NPP 4y<br><br>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<br>Drug user   |
| 10. | <b>ES</b><br>(32)<br><a href="#">[2014] NSWCCA 268</a>   | Aid and abet import comm qty pseudoeph<br><br>Attempt possess pseudoeph (NSW)                                   | 125kg (pure)        | PG (40% plea and assist) | 9y 11m<br>NPP 6y<br><br>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. | <b>Spadina</b><br>(50)<br><a href="#">[2015] NSWSC 933</a><br>Blackmore AJ                             | Consp import comm qty pseudoeph   | 210kg (20% purity)  | VG                       | 10y 6m<br>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<br>7 year delay – effect on family – strict bail conditions taken into account – mental and physical health issues   |

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|-----|--|---|-------------------|-------------------------------------|---|--------|---|---|
| 12. | <b>Kinch</b><br>(57 at sentence)<br><a href="#">[2015] NSWSC 63</a><br>Hidden J<br><br>Co-offender:<br>JALALATY<br>STANDEN | Consp import comm<br>qty pseudoeph  | 300kg             | PG<br>20% - plea<br>and assist      | 14y 6m<br>NPP 10y   |        | Record in<br>England –<br>burglary and<br>robbery – no<br>drugs | 2006-2008 – became involved with senior police officer Standen – together conspired to import pseudoephedrine – principal<br>Old offences – spent 4y 5m in difficult custodial conditions in Thailand – troubled upbringing<br>Sentence imposed concurrently to sentence for earlier conspiracy to import MDMA and money laundering   |
| 13. | <b>Valsamakis</b><br>(39)<br><a href="#">[2016] NSWCCA 156</a><br><br>Co-offender:<br>NAPOLI<br>LAMELLA                    | Consp import com<br>qty pseudoeph<br><br>Bribery<br><br>2 x Official abusing<br>office to gain<br>advantage | 90.1kg            | PG<br>(50% -<br>plea and<br>assist) | <u>Indicative:</u><br>8y<br><br>3y<br><br>18m / 9m<br><br><u>Aggregate:</u><br>9y<br>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<br>Remorse – assistance – surrendered \$110,400 proceeds – harsh conditions in custody – father to two children           |
| 14. | <b>Brar</b><br><a href="#">[2016] VSCA 281</a>   | Att import comm qty<br>ephedrine  | 218.6kg<br>(pure) | VG                                  | 11y<br>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<br>Prior good character – reasonable prospects of rehabilitation |
| 15. | <b>Napoli</b><br>(32)<br><a href="#">[2016] NSWCCA 232</a><br><br>Co-offender<br>VALSAMAKIS<br>LAMELLA                     | Consp import comm<br>qty pseudoeph  | 87kg              | PG<br>(25%)                         | 9y<br>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. | <b>MI</b><br>(29)<br><a href="#">[2017] NSWCCA 225</a><br><br>Co-offender:<br>WRIGHT             | Consp import comm<br>qty pseudoeph<br><br>Sched:<br>Possess weapon /<br>ammunition | 23kg               | PG<br>(50%<br>combined) | 6y 6m<br>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.<br>Remorse – financial debt  |
| 17. | <b>Wright (pseudonym)</b><br>(42)<br><a href="#">[2017] NSWCCA 289</a><br><br>Co-offender:<br>MI | Consp import comm<br>qty pseudoeph   | 6.2kg              | PG<br>(50%<br>combined) | 6y 6m<br>NPP 4y     |                                 | Traffic<br>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<br>Born in Iran – talented sportsman competing at international level – assistance<br>On appeal: sentence imposed on co-offender did not breach parity – although co-offender sentenced for greater amount offender’s involvement more serious  |
| 18. | <b>Madgwick</b><br><a href="#">[2018] NSWCCA 268</a>   | Aid, abet, counsel<br>import comm qty<br>pseudoeph                                 | 13.445kg<br>(pure) | PG                      | 5y 9m<br>NPP 2y 11m | Crown AA<br>6y 10m<br>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<br>Appeal – failure in part to keep undertaking to provide future assistance |

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| 19. | GE<br>(28)<br><a href="#">[2019] NSWCCA 41</a>              | Import comm qty<br>ephedrine  | 8.33kg                  | PG<br>(25%) | 7y<br>NPP 4y 3m   | AA<br>6y 4m<br>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.<br>Hard-working student fell into difficulty with studies due to language difficulties - likelihood of re-offending extremely low to non-existent - remorse                                      |
| 20. | Le<br>(19)<br><a href="#">[2019] VSCA 232</a>               | Import comm qty<br>pseudoeph  | 5.349kg<br>(pure)       | PG          | 6y 6m<br>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<br>Female – delay due to absconding shortly before trial  |
| 21. | Nguyen<br>(51)<br><a href="#">[2020] NSWCCA 45</a>          | Import comm qty<br>pseudoeph  | 3.99kg<br>(pure)        | VG          | 7y<br>NPP 3y 7m   | AA<br>6y<br>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<br>Low intellectual functioning – born in Vietnam – limited English – socially isolated – some remorse<br>On appeal – error made in relation to weight of drug  |
| 22. | Li<br>(57)<br><a href="#">[2021] NSWCCA 100</a>             | Att import comm qty<br>methamphet<br><br>Att import comm qty<br>ephedrine | 118.3kg<br><br>264.37kg | PG<br>(15%) | 16y 2m<br><br>11y 11m<br><br><u>Total:</u><br>18y 2m<br>NPP 12y | AA<br>16y 2m<br><br>11y 11m<br><br><u>Total:</u><br>18y 2m<br>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<br>Genuine remorse – female<br>Appeal: failure to give effect to stated intention to set 62% NPP  |
| 23. | Zhou<br>(20)<br><a href="#">[2021] VSCA 118</a><br>Niall JA | Import comm qty<br>ephedrine  | 3.343kg                 | VG          | 5y<br>NPP 2y 6m   | Application for<br>leave to<br>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<br>Good character – delay – good prospects of rehabilitation – suffering PTSD from two unrelated incidents |

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| 24. | Huynh<br><a href="#">[2022] NSWCCA 45</a>                        | Import comm qty pseudoephedrine  | 32kg<br>34kg<br>18kg<br>28kg   | VG                                   | 12y<br>NPP 8y  | AA<br>To backdate sentence<br>12y<br>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.<br>CCA: Error regarding pre-sentence custody.  |
| 25. | Ribbon<br>(64)<br><a href="#">[2022] SASCA 15</a>                | Aid, abet, counsel, procure import comm qty pseudoephedrine  | 13.4554kg  | PG<br>(almost 10%)                   | 7y 9m<br>NPP 4y 6m<br><br>(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<br>Good employment history  |
| 26. | Smith (a pseudonym)<br>(33)<br><a href="#">[2022] NSWCCA 123</a> | Manufacture lge comm qty methylamph<br><br>Manufacture lge comm qty pseudoephedrine<br><br>Import comm qty precursor<br><br>Supply lge comm qty methylamph<br><br>Sched:<br>Supply methamphet<br>Proceeds of crime offence | 9.6kg<br><br>5.6kg<br><br>1,310kg ephedrine<br><br>734g<br><br>29.4g | PG<br>(25%)<br><br>Combined<br>(45%) | <u>Indicative:</u><br>6y 7m<br>NPP 4y 5m<br><br>4y 4m<br>NPP 2y 10m<br><br>6y 7m<br>NPP 4y 4m<br><br>3y 10m<br>NPP 2y 6m<br><br><u>Aggregate:</u><br>12y 4m<br>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.<br>Drug abuse to cope with mental health issues.<br>CCA: sole ground of appeal was parity on manufacture methylamph offence - no disparity established |

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