Import Child Abuse Material

s.233BAB (Cth) *Customs Act*

s 233BAB (5)

(a) person intentionally imports goods and

(b) the goods were tier 2 goods and the person was reckless as to that fact; and

(c) their importation was prohibited

Regulations provide items of child abuse material constitute tier 2 goods.

Maximum Penalty: **10 years**

Amended: **21.9.2019 (reference to child pornography removed and content included under definition of 'child abuse material')**

COPINE scale (Combating Paedophile Information Networks in Europe) / Australian National Victim Image Library (ANVIL) / Child Exploitation Tracking System (CETS).

Category 1	images depicting erotic posing of children with no sexual activity
Category 2	images depicting sexual activity between children, or solo masturbation by a child
Category 3	images depicting non-penetrative sexual activity between adults and children
Category 4	images depicting penetrative sexual activity between children and adults.
Category 5	images depicting sadism or bestiality
Category 6	animated or virtual depictions of children engaged in sexual poses or activity

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	**Gent** (39) (2005) 162 A Crim R 29 [2005] NSWCCA 370	Import - s.233BAB	PG	18m NPP 12m	AD	Nil – previous departmental disciplinary proceedings in Aust and overseas for accessing child porn sites	Arrested at airport carrying CDs with child porn images and movie footage – explicit photos including situation of sadism Single teacher

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2.	**Cook** (61) [2004] QCA 469	Attempt Import - s.233BAB(5) Import - s.233BAB(5) Possess child abuse computer games – s.26(3) *Classification of Computer Games and Images Act* 1995 (Qld) Knowingly possess child abuse photos - s 14 *Classification of Publications Act* 1991 (Qld)	PG	$1,000 fine on all counts	AA 12m suspended for 3y 12m suspended for 3y $2,500 fine	Nil	Purchased material from US via 'sting operation' – child porn found on computer – e-mail revealed previous attempt to obtain child porn – hard copies of child porn photos downloaded from internet No evidence of dealing or dissemination – remorse – hardship of imprisonment on elderly father - delay
3.	**Furber** (38) [2008] WASCA 233	Import - s.233BAB(5) Attempt export - s.233BAB(6)	PG	Total: 15m released after 7m	AD	nil	6 videos found in personal belongings shipped from Malaysia– on same day found attempting to take 9 movies and 27 images out of Australia - dealt with in Magistrates Court for additional import and export offences involving offensive images – no intention to distribute material Engineer – de facto relationship
4.	**Cruz** (54) [2010] QCA 90	Import - s.233BAB(5)	PG	3y released to recog after 12m	Crown AD	Nil	Filipino engineer on commercial shipping found in possession of pornography on electronic storage devices - 6,321 images / 580 videos Cat 4 - 111 images / 116 videos Cat 5 - 94 images / 15 videos Many images taken by offender's camera and offender in many photos.
5.	**Ponniah** (23) [2011] WASCA 105	Import - s.233BAB(5)	PG	12m released after 6m	AA 6m released to 6m recog	nil	Indian national studying in Australia - material found on lap top computer and external hard drive carried from overseas by offender - 38 computer-generated images, 106 cartoon images and six movies – only 4 movies depicted real children - incest-related themes – images downloaded by friend – pleaded guilty on basis aware of substantial risk – many images deleted

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6.	**Phinthong** [2011] WASCA 192	Import - s.233BAB(5) Possess child porn - s60(4) (WA) *Classification (Publications, Films and Computer Games) Enforcement Act*	PG Fast track	18m released to recog after 7m 14m Total: 25m NPP 14m	AA 18m released to recog after 7m 14m Total: 18m NPP 9m		While overseas 36 video files found on computer in home – upon return further video files found on laptop – material on laptop was duplicate of material from home computer
7.	**Salman v DPP** (65) [2011] NSWCCA 192	Import – s.233BAB(5) Act of indecency in child under 16y outside Australia – s.50BC(1)(a) (Cth) *Crimes Act* Possess passport not issued to offender Sched: 2 offences	PG	4y 4y Total: 5y NPP 3y 4m	AA 2y 3y 3m 3m Total: 3y 9m NPP 2y 6m		Imported 6 DVD showing offender sucking breasts of 14-16y Asian in Thailand – audio commentary also qualified as pornographic – also in possession of passport not issued to offender and 7 flick knives
8.	**Lee** (53) [2013] WASCA 216	Import - s.233BAB(5) Sched: Import abhorrent material – s.233(1)(b) *Customs Act*	VG	15m immediate release for 15m	Crown AA 15m released after 10m	nil	One DVD containing several child pornography movies – also DVD depicting simulated sexual assaults – cover suggested movies in Cat 1-2 – movies actually Cat 2-5 Health problems
9.	**Tran** (32) [2019] SASCFC 5	Import – s.233BAB(5) Make false statement on passenger card	PG (just under 35%)	1y 8m (home detention) – released after 10m to 3y recog No penalty	Crown AA 11m immediate release to 3y recog No penalty	nil	Teacher returned from Japan carrying child pornography on two external hard drives – 2,2120 images from all categories – children aged 12m-mid-teens – personal use only – falsely stated on passenger card was not carrying pornography Took immediate steps to arrange counselling On appeal – sentencing court had no power to impose home detention

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10.	**Lane** (52) [2025] NSWCCA 113	Import child abuse material: s.233BAB(5) *Customs Act* Procure child to engage in sexual activity outside Australia: 272.14(1) *Criminal Code* Procure child to engage in sexual activity outside Australia: 272.14(1) *Criminal Code* Use carriage service to transmit child abuse material to self: s.474.22(1)(a)(ii) *Criminal Code* Use carriage service to solicit child abuse material: s.474.22(1)(a)(iv) *Criminal Code* Use carriage service to access child abuse material: s.474.22(1)(a)(i) *Criminal Code* Possess child abuse material obtained by carriage service: s.474.22A(1) *Criminal Code* Sched: Transmit: s.474.22(1)(iii)	PG (25%)	Indicative: 2y 7m 3y 10m 3y 9m 3y 2y 2y 10m 1y 10m Aggregate: 7y NPP 4y 3m	AA Indicative: 2y 3m 3y 3m 3y 3m 2y 6m 1y 10m 2y 6m 1y 6m Aggregate: 6y NPP 3y 6m	Modest – no sexual offences	On return from Thailand 10 images and 22 videos of children aged 3-9y found on phone – images and online conversations seeking videos and sexual activity with young girls found on two other phones – further offences committed on bail - sexualised conversation with female person purported to be 12-14y – sent 4 images to self and stored 10 images Single male – dysfunctional childhood – history of mental health and substance abuse – schizophrenia impaired judgment - use of stimulants – prospect of rehabilitation guarded – special circumstances On appeal: erred in application of mental health principles

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