

## Cultivate Cannabis (Not Enhanced Indoor)

### Commercial Quantity

**s.23(2)(a) (NSW) Drug Misuse and Trafficking Act**

**s.23(2)(a) Cultivate or knowingly take part in cultivation of not less than commercial quantity of prohibited plant**

**Commercial Quantity:** 250 plants

**Large Commercial Quantity:** 1000 plants

**Maximum Penalty:** 15 years – s.33(2)(b)

<u>Case</u>	<u>Offence</u>	<u>Amount</u>	<u>Plea</u>	<u>Sentence</u>	<u>Appeal</u>	<u>Priors</u>	<u>Facts</u>
<b>Daoulas</b> NSWCCA 28.10.1993  Co-accused: METALLIDIS	Cultivate	861 plants	PG	MT 3y 6m AT 14m	AA (parity) MT 2y 6m AT 10m	nil	Well established plantation in isolated area - well planned enterprise - purely commercial enterprise. Financial difficulties as result of termination from employment - family with two children - will face deportation - forfeiture of motor vehicle caused further hardship.
<b>Metallidis</b> NSWCCA 23.2.1994  Co-accused: DAOULAS	Cultivate	861 plants	PG	MT 3y 6m AT 14m	AD		Well established plantation in isolated area - well planned enterprise - purely commercial enterprise - more culpable than co-offender.
<b>Blattman</b> NSWCCA 15.4.1994	Knowingly take part in cultivation	1855 plants	PG	Griffiths Remand	Crown AD		Plants grown by indoor hydroponic garden - not prime mover (Mistakenly sentenced for commercial not large commercial quantity) Impressive turnaround in lifestyle - care of young child.
<b>Brittain</b> NSWCCA 15.8.1994	Knowingly take part in cultivation		VG	MT 4y 8m AT 1y 9m	Conviction AD		Three cultivation sites.

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Case	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
<b>MacPhail</b> (27) NSWCCA 18.11.1994	Cultivate  Sched: 5 offences	385 plants	PG	MT 2y AT 2y	AA MT 15m AT 15m	priors - no gaol - on recog at time of offence	Growing seedlings in backyard of city dwelling - to be transferred to country property for further growth - amateur operation Complete cooperation with police - also sentenced for minor supply and possession offences.
<b>Gow</b>  <b>Shine</b>  (1996) 85 A Crim R 76	Cultivate  Cultivate	856 plants	PG  PG	3y PD  3y PD	Crown AD	minor drug offence  nil	Commercial venture motivated by profit - plants grown hydroponically in garage of rented property Good subjective features
<b>Galway</b> NSWCCA 19.8.1998	Knowingly concerned in cultivation	520 plants	VG	400h CSO (PSC 2m 9d)	Crown AA FT 6m (completed CSO)	driving and use drugs	Plantation in bush - no link to organised crime. Good character.
<b>Slattery</b> <a href="#">[2002] NSWCCA 145</a>	Cultivate		VG	MT 1y 10m 5d AT 2y 6m	AD	Drugs – firearms - previous custody.	Circumstantial case against appellant linking him to plantation in bushland and at his residence.
<b>Dopson</b> (2003) 141 A Crim R 302 <a href="#">[2003] NSWCCA 99</a>	Cultivate  Sched: 4 x poss cannabis	501 plants	PG (25%)	2y suspended	Crown AD	cultivation and possession	Growing plants using hydroponics system in parents garage - personal use only - seeking to grow as much cannabis as possible before parents returned Long-term addiction - employed and studying - contact with 3 children - drug rehabilitation program
<b>Godden</b> (43) <a href="#">[2005] NSWCCA 160</a>	Cultivate  Sched: Possess 280g leaf	319 plants	PG (20%)	3y 2m NPP 2y	AA 2y 2m NPP 1y 3m	Minor – breached bond	Hydroponic system in house and shed – growing for profit Long term user - evidence of rehabilitation
<b>Giammaria</b>  <b>Karagiannis</b>  <a href="#">[2006] NSWCCA 63</a>	Knowingly take part in cultivation  Sched: Knowingly take part in supply commercial qty	1,300-1,600 plants  450-550 plants	PG (25%)  PG (25%)	6y NPP 2y 6m  6y NPP 3y 6m	AA 4y 6m NPP 2y  4y 6m NPP 3y		Involved in major commercial plantation of cannabis plants – three plantation linked - G to receive eight share from larger plantation – K minor management role in smaller plantation On appeal - outside range

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Case	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
<b>Quan</b> <a href="#">[2006] NSWCCA 382</a>	Cultivate  Sched: 3 related offences	284 plants	PG	3y 2m NPP 2y	AA 2y 2m NPP 1y 3m 15d	Nil	Hydroponic system in own house – actual role unclear Mature man – Vietnamese – gambling addiction Case very similar to <i>Godden</i>
<b>Nguyen</b> <a href="#">[2007] NSWCCA 94</a>	Cultivate  Sched: Supply leaf	278 plants  5.7kg	PG (25%)	30m NPP 15m	AD	Nil	Grew plants in house for profit.
<b>HVN</b> <a href="#">[2007] NSWCCA 207</a>	Cultivate	348 plants	PG (30% plea and assist)	2y NPP 1y	AD		Plants grown in house – diverted electricity Assistance of high order
<b>Delfino</b> <a href="#">[2008] NSWCCA 18</a>	Knowingly take part in cultivation	250 plants	PG (20%)	4y NPP 2y	AD	Supply drugs	Plants grown on property with co offenders – role of harvester – only on property a short time – value \$700k
<b>Petroski</b> (39) <a href="#">[2017] NSWCCA 309</a>	Knowingly take part in cultivation  s.166 Cert Participate in criminal group to cultivate	Approx. 300 plants	PG	2y 6m NPP 18m  FT 9m (concurrent)	AD	Nil	Became involved in cannabis planation in west of State after commencement – believed only way to recover substantial debt – delivered equipment and provided some guidance to cultivators – a principal or significant person – actively involved – planned and relatively sophisticated although failed planation No prior involvement in drugs

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