

Import Pseudoephedrine / Ephedrine

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
Chandler (33) [2010] QCA 21	Import pseudoephedrine	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

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Woods (59) [2009] NTCCA 2	Consp import pseudoephedrine	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
Jalalaty (48) [2010] NSWSC 1561 James J Co-offender: STANDEN KINCH	Consp import pseudoephedrine	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
Standen [2011] NSWSC 1422 James J [2015] NSWCCA 211 Co-offender: JALALATY KINCH	Consp import pseudoephedrine Knowingly take part in supply lge comm qty pseudoephedrine 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

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Phan [2013] NSWCCA 49	2 x Import pseudoephedrine	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 <i>Nguyen and Phan</i> [2009] NSWDC 181 at [11] Gambling problem
Matthews [2013] NSWCCA 187	Import pseudoephedrine	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
DPP v Suri (53) [2014] VSCA 260	Consp import pseudoephedrine	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
XY (25) [2014] VSCA 261	Import pseudoephedrine	3.1kg (pure)	PG	8y NPP 6y	AA 6y NPP 4y	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
Lamella (25) [2014] NSWCCA 122 Co-offender VALSAMAKIS NAPOLI	Consp import pseudoephedrine Corruption offence Sched: 2 x Corrupt public official offences	4.8 - 7.35kg (pure)	PG (50% plea and assist)	8y NPP 4y (concurrent sentence)	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
ES (32) [2014] NSWCCA 268	Aiding and abetting import pseudoephedrine Attempt possess pseudoephedrine s.24A(1)(a)	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

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Spadina (50) [2015] NSWSC 933 Blackmore AJ	Consp import pseudoephedrine	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
Kinch (57 at sentence) [2015] NSWSC 63 Hidden J Co-offender: JALALATY STANDEN	Consp import MDMA Consp import MDMA Money Laundering Consp import pseudoephedrine	At least 200kg 300kg	PG 30%- plea and assist PG 20% - plea and assist	22y 6m 22y 6m 7y 14y 6m NPP 10y <u>Total:</u> 24y 6m NPP 16y		Record in England – burglary and robbery – no drugs	2001-2003 – two charges part of one conspiracy reflecting change in legislation – involved with Dutch syndicate to import MDMA – drugs imported on several occasions in PVC piping – senior and trusted member – supervisor of others – collected large amounts of money and sent it overseas 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
Valsamakis (39) [2016] NSWCCA 156 Co-offender: NAPOLI LAMELLA	Consp import pseudoephedrine Bribery 2 x Official abusing office to gain advantage	90.1kg	PG (50% - plea and assist)	8y <u>Total:</u> 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
Brar [2016] VSCA 281	Att import 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

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Napoli (32) [2016] NSWCCA 232 Co-offender VALSAMAKIS LAMELLA	Consp import pseudoephedrine	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
MI (29) [2017] NSWCCA 225	Consp import pseudoephedrine Sched: Possess proh weapon Possess ammunition	13kg	PG (50% plea and assist)	10y 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
Madgwick [2018] NSWCCA 268	Aid, abet, counsel import pseudoephedrine	13.445kg (pure) (48.365 kg - 27.8% purity)	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
GE (28) [2019] NSWCCA 41	Import 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

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Le (19) [2019] VSCA 232	Import pseudoephedrine	5.349 kg (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
Nguyen (51) [2020] NSWCCA 45	Import pseudoephedrine	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

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