BREEDING / SELLING / GIFTING / ADVERTISING / NOT MUZZLING / ABANDONING A 'DANGEROUS' DOG

The Dogs (NI) Order 1983 (as amended)

25A. - (1) This Article applies to-

(a) any dog of the type known as the pit bull terrier;
(b) any dog of the type known as the Japanese tosa; and
(c) any dog of any type designated for the purposes of this Article by an order of the Department, being a type appearing to the Department to be bred for fighting or to have the characteristics of a type bred for that purpose.

(2) No person shall-

(a) breed, or breed from, a dog to which this Article applies;
(b) sell or exchange such a dog or offer, advertise or expose such a dog for sale or exchange;
(c) make or offer to make a gift of such a dog or advertise or expose such a dog as a gift;
(d) cause or permit such a dog of which he is the keeper or of which he is for the time being in charge to be in a public place unless the dog is muzzled and kept on a lead; or
(e) abandon such a dog of which he is the keeper or, being the keeper or for the time being in charge of such a dog, permit it to stray.

…

(7) Any person who contravenes this Article shall be guilty of an offence …

Maximum Sentence

The Dogs (NI) Order 1983, Art.25A(7)

Summarily Only: 6 months imprisonment and/or a Level 5 fine (£5,000) (except that a person convicted under Art.25A(2)(b) or (c) shall not be liable to imprisonment if he shows that he published the advertisement to the order of someone else and did not himself devise it)

Assessment of Offence

(Starting points and ranges based on 1st time offender convicted following contest)

Nature of Offence	Starting Point	Sentencing Range
Offence under Article 25A(2)(a), (b) or (c)	Fine + Destruction Order	Fine to Community Order + Destruction Order + Disqualification Order
Offence under Article 25A(2)(d) or (e)	Community Order + Destruction Order + Disqualification Order	Community Order to 3 months custody + Destruction Order + Disqualification Order

Examples of Possible Aggravating Factors of Offence	Examples of Possible Mitigating Factor of Offence
1. Offence committed for financial gain. 2. Dog trained for fighting. 3. Dog used to threaten or intimidate others. 4. Presence of children or other vulnerable persons.	1. Unaware that dog was prohibited type despite reasonable efforts to identify type. 2. Evidence of safety or control measures having been taken by the owner.

Relevant Cases

NI Cases

Barnes v Belfast City Council [2011] NICty 3
Barnes v Belfast City Council [2012] NICA 19

English Cases

N/A

Notes

1. Community Orders are Probation Orders, Community Service Orders or a combination of both, Combination Orders. Community Orders are direct alternatives to custody; the appropriateness of Community Orders must be considered before imposing short custodial sentences (i.e. 12 months or less). Community Orders involve significant intervention into offender's lives and impose demanding obligations. The focus is protection of the public by reducing offending whilst also directly punishing the offender for the harm caused. If an offender breaches a Community Order the Order may be revoked and the offender resentenced.

2.Where a person is convicted of an offence under Article 25A the court may order the dog to be destroyed and shall do so unless the court is satisfied that the dog will not be a danger to the public; but if

(a) the dog is one to which Article 25A applies,
(b) the court does not order the destruction of the dog under paragraph (1A), and
(c) the dog is subject to the prohibition in Article 25A(3),

the court shall order that, unless the dog is exempted from the prohibition in Article 25A(3) within the period of two months beginning with the date of

the order, the dog shall be destroyed. – Article 33(1A)-(1B) of the 1983 Order.
3. Where a person is convicted of an offence under Article 25A the court may order that person to be disqualified from keeping a dog for such period as the court thinks fit. – Article 33A(1) of the 1983 Order.