POSSESSING A 'DANGEROUS' DOG

The Dogs (NI) Order 1983 (as amended)

25A. - …

(3) After 30th November 1991 no person shall have any dog to which this Article applies in his possession or custody except-

(a) in pursuance of a power of seizure conferred by this Order; or

(b) in accordance with an order for its destruction made under this Order;

but the Department shall by order make a scheme for the payment to the keepers of such dogs who arrange for them to be destroyed before that date of sums specified in or determined under the scheme in respect of those dogs and the cost of their destruction.

…

(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)

Assessment of Offence

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

Nature of Offence	Starting Point	Sentencing Range
N/A	Fine + Destruction Order	Fine to 6 months custody + Destruction Order + Disqualification Order

Examples of Possible Aggravating Factors of Offence	Examples of Possible Mitigating Factors of Offence
1. Offence committed for financial gain. 2. Dog trained for fighting. 3. Dog used to threaten or intimidate others. 4. Dog has attacked or injured a person or other animal. 5. 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.

2. 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.