

**BREEDING / SELLING / GIFTING / ADVERTISING / NOT MUZZLING / ABANDONING**

**A 'DANGEROUS' DOG:**

**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:**

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

*Summarily Only: 6 months imprisonment and/or the 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 1<sup>st</sup> time offender convicted following contest)*

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
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**

1. Offence committed for financial gain
2. Dog trained for fighting
3. Dog used to threaten or intimidate others

**Examples of Possible Mitigating Factor of Offence**

1. Offender had taken all steps reasonable to ensure the dog was not a 'dangerous' dog.

**Relevant Cases:**

*NI Cases:*

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

*English Cases*

R. v Holland [2003] 1 Cr.App.R.(S.) 60  
R. v Haynes [2004] 2 Cr.App.R.(S.) 9  
R. v Flack [2008] 2 Cr.App.R.(S.) 70  
R. v Harry [2010] 2 Cr.App.R.(S.) 95  
R. v Baballa [2011] 1 Cr.App.R.(S.) 50

**Notes:**

1. 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