

## Causing Death by Careless/Inconsiderate Driving

### Road Traffic (NI) Order 1995

11A.-A person who causes the death of, or grievous bodily injury to, another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.

### Maximum Sentence:

*Road Traffic Offenders (NI) Order 1996*

*Summarily: 6 months imprisonment or the statutory maximum fine (£5,000) or both*

*On Indictment: 5 years imprisonment or an unlimited fine or both*

*Disqualification: Obligatory ('until tested' discretionary – Art.41(4))*

*Endorsement: Obligatory*

*Penalty points: 3-11*

### 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>
Careless or inconsiderate driving arising from momentary inattention with no aggravating factors.	Community Order + Disqualification	Fine to Community Order + Disqualification
Other cases of careless or inconsiderate driving	Community Order + Disqualification	Community Order to 3 months Custody + Disqualification
Careless or inconsiderate driving falling not far short of dangerous driving	2½ months Custody + Disqualification	3-6 months Custody + Disqualification

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
<ol style="list-style-type: none"> <li>1. More than one person was killed as a result of the offence</li> <li>2. Where death has occurred, serious injury to one or more persons was caused in addition to the death(s)</li> <li>3. Where death has not occurred, more than one person was seriously injured as a result of the offence</li> <li>4. Other offences committed at the same time, such as driving other than in accordance with the terms of a valid licence; driving whilst disqualified; driving without insurance; taking a vehicle without consent; driving a stolen vehicle</li> <li>5. Irresponsible behaviour, such as failing to stop or falsely claiming that one of the victims was responsible for the collision</li> </ol>	<ol style="list-style-type: none"> <li>1. Offender seriously injured in the collision</li> <li>2. The victim was a close friend or relative</li> <li>3. The actions of the victim or a 3<sup>rd</sup> party contributed to the commission of the offence</li> <li>4. The offender's lack of driving experience contributed significantly to the likelihood of a collision occurring and/or death resulting</li> <li>5. The driving was in response to a proven and genuine emergency falling short of a defence</li> </ol>

### Relevant Cases:

*NI Cases:*

R v Doole [2010] NICA 11

PPS v McWhinney (11 August 2010)(Unreported)

PPS v McDonagh (Unreported)

DPP's Reference (No.7 of 2013)(Brannigan) [2013] NICA 39

R v McGrade [2014] NICA 8

R v McKeown [2016] NICA 24

### Notes:

1. Offences falling within Categories 2 and 3 above may also be dealt with in the Crown Court. The above starting points and ranges apply ONLY to the magistrates' court.

7. A 'specified offence' for the purposes of a 'Violent Offender Prevention Order' – Section 55 of the Justice Act (NI) 2015