

DANGEROUS DRIVING

Road Traffic (NI) Order 1995:

- 10.- A person who drives a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.
- 11.- (1) For the purposes of Articles 9 and 10 a person is to be regarded as driving dangerously if (and, subject to paragraph (2), only if)-
 (a) the way he drives falls far below what would be expected of a competent and careful driver; and
 (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.
- (2) A person is also to be regarded as driving dangerously for the purposes of Articles 9 and 10 if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.
- (3) In paragraphs (1) and (2) "dangerous" refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of those paragraphs what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.
- (4) In determining for the purposes of paragraph (2) the state of a vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.

Maximum Sentence:

Road Traffic Offenders (NI) Order 1996, Sch.1

On indictment: 5 years imprisonment or an unlimited fine or both
Summarily: 6 months imprisonment or the statutory maximum fine (£5,000) or both
Disqualification: Obligatory (Must be 'until tested' – Art.41)
Endorsement: Obligatory
Penalty points: 3-11

Assessment of Offence

(Starting points and ranges for a 1st time offender convicted following contest)

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Single incident where little or no damage or risk of personal injury.	Fine + 18 months Disqualification	Fine to Community Order + 12-24 months Disqualification
Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up areas; OR Single incident where little or no damage or risk of personal injury but offender was disqualified driver. OR Prolonged bad driving involving deliberate disregard for safety of others; OR Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area, by disqualified driver; OR Offence committed while be pursued by police.	Community Order + 24 months Disqualification	Community Order to 6 months Custody + 15-36 months disqualification

Examples of Possible Aggravating Factors of Offence

1. Injury to others
2. Damage to other vehicles or property
3. Offence committed in stolen vehicle
4. Disregarding warnings of others
5. Evidence of alcohol or drugs
6. Carrying out others tasks while driving
7. Carrying passengers or heavy load
8. Aggressive driving, such as driving much too close to vehicle in front, racing, inappropriate attempts to overtake or cutting in after overtaking
9. Driving when knowingly suffering from a medical condition which significantly impairs the his/her driving skills
10. Driving a poorly maintained or dangerously loaded vehicle, especially where motivated by commercial concerns

Examples of Possible Mitigating Factor of Offence

1. Genuine emergency
2. Speed not excessive
3. Offence due to inexperience rather than irresponsibility of driver

Relevant Cases:

Dangerous Driving (simpliciter)

R v Boyd [1996] NIJB 130
 R v McCullagh (11 July 1997)(Unreported)
 R v McShane (16 March 1998)(Unreported)
 R v Gaynor [2001] NICA 40
 R v McQuillan [2005] NICA 5
 R v Cromie [2008] NICA 47
 R v McKeown [2016] NICA 24

Dangerous Driving causing death:

AG's Reference (Nos. 2, 6, 7 and 8 of 2003) [2003] NICA 28
 R v McCartney [2007] NICA 41
 AG's Reference (No.2 of 2008)(McGinn) [2008] NICA 40
 R v Conrad Doole [2010] NICA 11
English Cases (Dangerous Driving):
 R v Stevens [2003] EWCA Crim 2823
 R v Watson [2007] EWCA Crim 1595
 R v Gray [2008] EWCA Crim 336

Notes:

Road Traffic (NI) Order 1981, Art.19A(4) – In determining the expiration of the period of restriction ('R' Plates), any time during which a person is disqualified for holding or obtaining a licence, or holds a provisional licence only, shall be disregarded.