

POSSESSION OF 'CLASS B' DRUGS

Misuse of Drugs Act 1971

5.- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to have a controlled drug in his possession.
 (2) Subject to section 28 of this Act and to subsection (4) below, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1).

Maximum Sentence

Misuse of Drugs Act 1971

Summarily: 3 months imprisonment and/or a fine up to £2,500

Indictment: 5 years imprisonment

Assessment of Offence

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

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Possession of a small quantity of the drug for personal use	Fine	Fine to Community Order
Possession of larger amount of the drug for personal use	Community order	Community Order to 2 months Custody

Examples of Possible Aggravating Factors of Offence

1. Offender exercising or acting in position of special responsibility.
2. Possession of drugs in a public place or school.

Examples of Possible Mitigating Factor of Offence

1. Evidence that use was to help cope with a medical condition.

Relevant Cases:

NI Cases

R v Hogg [1994] NI 258

R v Haverton and Others (7 July 1995)(Unreported)

R. v. McIlwaine [1998] NI 136

R. v. Murdock [2003] NICA 21

R v Ming Chen [2012] NICA 17

DPP's Ref (No.2 of 2013)(McKeown); R v Han Lin [2013] NICA 28

DPP's Ref (Nos.1, 2, 3 & 4 of 2015)(Hughes and others) [2015] NICA 53

English Cases

R v Aramah (1982) 4 Cr App R (S) 407.

R v Auton [2011] EWCA Crim 76

Notes:

1. For exemptions and exceptions to Section 5, see Misuse of Drugs Regulations 2001 (SI 2001 No. 3998) regulation 10.
2. For defences see Misuse of Drugs Act 1971, section 5(4)