

## POSSESSION OF 'CLASS C' 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 £1,000 fine*

*Indictment: 2 years imprisonment*

### 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>
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	Fine	Fine 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 Chakwana [2010] NICA 19

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

*English Cases*

N/A

### 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)