

BURGLARY (Dwelling)

Theft Act (NI) 1969

9. - (1) A person is guilty of burglary if-
- (a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2); or
 - (b) having entered any building or part of a building as a trespasser, he steals or attempts to steal anything in the building or that part of it...
- (2) The offences referred to in subsection (1)(a) are offences of stealing anything in the building or part of a building in question, ... and of doing unlawful damage to the building or anything therein.

Maximum Sentence:

Theft Act (NI) 1969, s.7

Indictment: 14 years imprisonment or an unlimited fine or both

Magistrates' Court (NI) Order 1981, Art.46(4)

Summary: 12 months imprisonment or a fine not exceeding the prescribed sum (£5,000) or both

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>
Unoccupied premises	3 months Custody	Community Order 6 months Custody
Occupied premises	6 months Custody	Community Order 12 months Custody

Examples of Possible Aggravating Factors of Offence

1. Ransacking/ vandalism of the premises
2. Pre-meditation or professional planning
3. Victim deliberately targeted (e.g. out of spite or due to vulnerability)
4. Housebreaking implements carried
5. Occupier at home
6. Goods stolen of sentimental value
7. Trauma to victim beyond that normally associated with type of offence
8. Forced entry
9. Offence motivated by, or demonstrating, hostility to victim on account of his membership of a racial group, religious group, sexual orientation group, disability or presumed disability.*

Examples of Possible Mitigating Factor of Offence

1. Offender played only a minor role in the burglary
2. Offence committed on impulse

Relevant Cases:

NI Cases:

1. R v O'Keefe (6 February 1998)(Unreported)
2. R v Megarry [2002] NICA 29
3. R v Cromie [2008] NICA 47
4. R v Martin [2010] NICA 26

English Cases:

1. R v McNerney [2002] EWCA Crim 3003
2. R v Saw [2009] EWCA Crim 1

Notes:

1. Indictable offence triable summarily with consent of the accused except burglary with intent to commit an indictable offence or if any person in the dwelling was subjected to violence or the threat of violence (Art.45 of, and Sch.2 to, the Magistrate's Court (NI) Order 1981).
2. The court may enquire into the factual circumstances of the offence and the personal circumstances of the accused before accepting jurisdiction.
3. A 'specified offence' for the purposes of a 'Violent Offender Prevention Order' where the offence is committed under Article 9(1)(a) with the intent to commit unlawful damage to the building or anything therein – Section 55 of the Justice Act (NI) 2015
- 4.*Where a court finds the offence was aggravated by 'hostility' it shall state in open court that the offence was so aggravated (Criminal Justice (No.2)(NI) Order 2004, Article 2)