

**POSSESSING A 'DANGEROUS' DOG:**

**Dogs (NI) Order 1983 (as amended)**

25A. - ...

- (3) After 30th November 1991 no person shall have any dog to which this Article applies in his possession or custody except-
- (a) in pursuance of a power of seizure conferred by this Order; or
  - (b) in accordance with an order for its destruction made under this Order;

but the Department shall by order make a scheme for the payment to the keepers of such dogs who arrange for them to be destroyed before that date of sums specified in or determined under the scheme in respect of those dogs and the cost of their destruction.

...

- (7) Any person who contravenes this Article shall be guilty of an offence ...

**Maximum Sentence:**

*Dogs (NI) Order 1983, Art.25A(7)*

*Summarily Only: 6 months imprisonment and/or the Level 5 fine (£5,000)*

**Assessment of Offence**

*(Starting points and ranges based on 1<sup>st</sup> time offender convicted following contest)*

<b><u>Nature of Offence</u></b>	<b><u>Starting Point</u></b>	<b><u>Sentencing Range</u></b>
N/A	Fine + Destruction Order	Fine to 3 months Custody + Destruction Order + Disqualification Order

**Examples of Possible Aggravating Factors of Offence**

1. Offence committed for financial gain
2. Dog trained for fighting
3. Dog used to threaten or intimidate others
4. Dog has attacked or injured a person or other animal

**Examples of Possible Mitigating Factor of Offence**

1. Offender had taken all steps reasonable to ensure the dog was not a 'dangerous' dog.

**Relevant Cases:**

**NI Cases:**

Barnes v Belfast City Council [2011] NICty 3  
Barnes v Belfast City Council [2012] NICA 19

**English Cases**

R. v Holland [2003] 1 Cr.App.R.(S.) 60  
R. v Haynes [2004] 2 Cr.App.R.(S.) 9  
R. v Cox [2004] 2 Cr.App.R.(S.) 54  
R. v Flack [2008] 2 Cr.App.R.(S.) 70  
R. v Richards [2009] 1 Cr.App.R.(S.) 48  
R. v Lee [2010] 1 Cr.App.R.(S.) 94  
R. v Harry [2010] 2 Cr.App.R.(S.) 95  
R. v Baballa [2011] 1 Cr.App.R.(S.) 50  
R. v Shallow [2012] 1 Cr. App. R. (S.) 33

**Notes:**

1. Where a person is convicted of an offence under Article 25A the court may order the dog to be destroyed and shall do so unless the court is satisfied that the dog will not be a danger to the public; but if
  - (a) the dog is one to which Article 25A applies,
  - (b) the court does not order the destruction of the dog under paragraph (1A), and
  - (c) the dog is subject to the prohibition in Article 25A(3),
 the court shall order that, unless the dog is exempted from the prohibition in Article 25A(3) within the period of two months beginning with the date of the order, the dog shall be destroyed. – Article 33(1A)-(1B) of the 1983 Order
2. Where a person is convicted of an offence under Article 25A the court may order that person to be disqualified from keeping a dog for such period as the court thinks fit. – Article 33A(1) of the 1983 Order