

POSSESSION OF A FIREARM
(other than handgun or sawn-off shotgun)

Firearms (NI) Order 2004

Art.4.- (1) A person who-

...

(b) has in his possession, or purchases or acquires, a firearm other than a handgun without holding a firearm certificate or otherwise than as authorised by a firearm certificate, shall be guilty of an offence.

Maximum Sentence:

Firearms (NI) Order 2004, Sch. 5

Indictment: 5 years imprisonment or an unlimited fine or both

7 years imprisonment or an unlimited fine or both (if aggravated offence within Article 67)

Summary: 12 months imprisonment or a fine not exceeding statutory maximum (£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>
Carrying an unloaded air gun or air rifle	Fine	Fine to 3 months Custody
Carrying loaded air gun or air rifle	Community Order	Community Order to 6 months Custody
Carrying imitation firearm OR Carrying unloaded shotgun without ammunition	3 months Custody	Community Order to 12 months Custody

Examples of Possible Aggravating Factors of Offence

1. Brandishing the firearm
2. Carrying firearm in a busy place
3. Planned illegal use
4. Firearm used to put a person or group of people in fear
5. Where offender is participating in a violent incident

Examples of Possible Mitigating Factor of Offence

1. Firearm to be used for lawful purpose (not amounting to a defence)

Relevant Cases:

NI Cases:

1. R v Caughey [1974] NIJB
2. R v Clinton [2001] NI 207
3. R v Shoukri [2004] NI 181
4. R v McKenzie [2005] NICA 7

English Cases:

1. R v Avis (1998) 2 Cr App R (S) 178
2. R v Sheen and Sheen [2011] EWCA Crim 2461

Notes:

1. "handgun" means any firearm which either has a barrel less than 30 centimetres in length or is less than 60 centimetres in length overall, other than an air gun, a muzzle-loading firearm or a firearm designed as a signalling apparatus.

2. Where a person (a) is convicted of an offence under the 2004 Order or is convicted of any crime for which he is sentenced to imprisonment/YOC/JJC; or (b) has been ordered to enter into a recognizance to keep the peace or to be of good behaviour a condition of which is that he shall not possess, use or carry a firearm; or (c) is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm; then the court before which he is convicted or by which the order is made may make such order as to the forfeiture or disposal of any firearm or ammunition found in his possession as the court thinks fit and may cancel any firearm certificate held by the person convicted. – Article 72(1)