

Causing Death by Careless/Inconsiderate Driving

Road Traffic (NI) Order 1995

11A.-A person who causes the death of, or grievous bodily injury to, another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.

Maximum Sentence:

Road Traffic Offenders (NI) Order 1996

Summarily: 6 months imprisonment or the statutory maximum fine (£5,000) or both

On Indictment: 5 years imprisonment or an unlimited fine or both

Disqualification: Obligatory ('until tested' discretionary – Art.41(4))

Endorsement: Obligatory

Penalty points: 3-11

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>
Careless or inconsiderate driving arising from momentary inattention with no aggravating factors.	Community Order + Disqualification	Fine to Community Order + Disqualification
Other cases of careless or inconsiderate driving	Community Order + Disqualification	Community Order to 3 months Custody + Disqualification
Careless or inconsiderate driving falling not far short of dangerous driving	2½ months Custody + Disqualification	3-6 months Custody + Disqualification

Examples of Possible Aggravating Factors of Offence

1. More than one person was killed as a result of the offence
2. Where death has occurred, serious injury to one or more persons was caused in addition to the death(s)
3. Where death has not occurred, more than one person was seriously injured as a result of the offence
4. Other offences committed at the same time, such as driving other than in accordance with the terms of a valid licence; driving whilst disqualified; driving without insurance; taking a vehicle without consent; driving a stolen vehicle
5. Irresponsible behaviour, such as failing to stop or falsely claiming that one of the victims was responsible for the collision

Examples of Possible Mitigating Factor of Offence

1. Offender seriously injured in the collision
2. The victim was a close friend or relative
3. The actions of the victim or a 3rd party contributed to the commission of the offence
4. The offender's lack of driving experience contributed significantly to the likelihood of a collision occurring and/or death resulting
5. The driving was in response to a proven and genuine emergency falling short of a defence

Relevant Cases:

NI Cases:

[R v Doole \[2010\] NICA 11](#)

PPS v McWhinney (11 August 2010)(Unreported)

PPS v McDonagh (Unreported)

Notes:

Offences falling within Categories 2 and 3 above may also be dealt with in the Crown Court. The above starting points and ranges apply ONLY to the magistrates' court.