

FAILURE TO CLEANSE AND DISINFECT

Diseases of Animals (NI) Order 1981

52. - (1) Any person who without lawful authority or excuse, proof of which shall lie on him,-
 (a) contravenes any provision of this Order, or of an order of the Department; or
 ...
 shall be guilty of an offence against this Order.
 ...

Brucellosis Control Order (Northern Ireland) 2004*

13. - (1) The Department may serve on the owner or occupier of any holding on which there is, or has within 56 days been, an affected or suspected animal or any animal which may have been exposed to the possibility of brucella infection or the carcass of such an animal, a notice requiring him to –
- (a) cleanse and disinfect, at his own expense, and in such manner and within such period as may be specified in the notice –
 - (i) all or any part of his holding, and
 - (ii) any equipment, appliance, utensil or other thing used in connection with any such animal or carcass;
 - (b) soak any litter in an approved disinfectant and destroy such litter in the manner specified in the notice;
 - (c) dispose of washings from cleansing and disinfection carried out under sub-paragraph (a) in the manner specified in the notice;
 - (d) provide footbaths containing an approved disinfectant at all entrances to and exits from the holding.
- (2) In this Article “washings” means any material, disinfectant or water remaining after the cleansing and disinfection has been carried out.
14. - The Department may, by notice served on the owner or person in charge of any vehicle which is used for the movement or removal of –
- (a) any diseased or suspected animal or carcass; or
 - (b) any animal, carcass, litter or dung which is or has been in contact with a diseased or suspected animal or carcass,
- require him, in such manner and within such period as may be specified in the notice, to cleanse and disinfect with an approved disinfectant that vehicle and any equipment, utensil, appliance or other thing used in connection with that carriage.

(*The Brucellosis Control Order (NI) 2004 is merely illustrative of an Order made by the Department under the authority of Article 5 of the 1981 Order. The present guidelines are applicable to the offence of ‘Failure to Cleanse and Disinfect’ contained within any Order made under Article 5 of the 1981 Order.)

Maximum Sentence:

Diseases of Animals (NI) Order 1981, Art. 52(3)(a)

Summary Only: (i) Level 5 fine (£5,000); or

(ii) In the case of an offence committed with respect to more than five animals or birds, Level 3 fine (£1,000) for each animal or bird; or

(iii) In the case of an offence committed in relation to carcasses or other inanimate things, Level 5 fine (£5,000) together with a further fine not exceeding Level 3 (£1,000) in respect of every 508 kilogrammes in weight of the carcasses or other things after the first 508 kilogrammes.

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>
The disease did not spread to other animals	£500 Fine	£100 - £1,000 Fine
The disease spread to other animals within the herd	£1,000 Fine	£500 - £2,500 Fine
The disease spread to other herds	£3,000 Fine	£2,000 - £5,000 Fine

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
1. Offender’s attitude towards the relevant authorities or Department was dismissive or obstructive 2. Human health was adversely affected by the spread of the disease 3. The level of compensation paid out by the Department for destruction of animals as a result of the offence	N/A

Relevant Cases:

NI Cases:

N/A

English Cases

N/A

Notes:

1. Where a person is convicted of an offence under Article 52(1)(a) and is guilty of an offence against that subparagraph within one year after the conviction he shall be guilty of a further offence and shall be liable either to the fine mentioned in Article 52(3)(a) or to imprisonment for a term not exceeding one month – Art. 52(4) of the 1981 Order