

FAILURE TO MAINTAIN FENCES

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*

10. - (1) The keeper of a herd shall maintain the fences dividing his holding from adjoining land in such condition as to prevent –
 (a) contact of his herd with animals on adjoining land; and
 (b) his herd from straying from the holding.
 (2) Where a reactor is found in any herd, the keeper of the herd shall take all practical precautions to prevent the infection of any animals kept on the adjoining land by contact with animals on his holding.

(*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 Maintain Fences’ 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 animals were not infected with a disease		£250 Fine	£100 - £500 Fine
The animals were infected with a disease	The disease did not spread to other herds	£1,000 Fine	£500 - £2,500 Fine
	The disease spread to other herds	£3,000 Fine	£2,000 - £5,000 Fine

Examples of Possible Aggravating Factors of Offence

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

Examples of Possible Mitigating Factor of 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