

FAILURE TO COMPLY WITH RESTRICTIONS

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*

8. - (1) The Department may serve a notice on a herd keeper where –
 (a) it suspects that disease may exist or may within 56 days have existed on the holding on which the herd is normally kept;
 (b) a reactor has been found in the herd as a result of an official test;
 (c) a reactor in another herd had access to the herd;
 (d) a reactor in another herd was moved from the herd;
 (e) an animal in the herd has been exposed to the possibility of infection with disease by contact with a reactor;
 (f) a sample of milk from the herd when tested for the presence of brucella infection by the Department has given such result as to cause the Department to suspect that an animal in the herd is infected with disease;
 (g) an animal in the herd has had an abortion and has not been cleared by an official test;
 (h) an animal in the herd has given an inconclusive result to an official test; or
 (i) animals in the herd have been compulsorily slaughtered under Article 15 as animals which have been exposed to a significant risk of infection with disease.

(2) A notice under paragraph (1) may –
 (a) prohibit the movement to or from the holding on which the herd is kept of any animal except under and in accordance with the conditions of a licence issued by the Department;
 (b) require the herd keeper to isolate any animal from other animals;
 (c) require the herd keeper to isolate in a house or building or otherwise under cover, any in-calf animal in the herd immediately before it calves and to keep such animal and any calf it produces in isolation from other animals until it has given a negative reaction to an official test after calving and he has been informed by the Department in writing that it and the calf can join the herd;
 (d) require the herd keeper to detain any animal in his herd on a specified area of the holding on which the herd is kept;
 ...

(*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 Comply with Restrictions’ 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 herds	£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

