

FAILURE TO PRE-MOVEMENT TEST

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*

5. - (2) Subject to paragraphs (3) and (4), an animal shall not make any controlled movement unless –

- (a) it has reacted negatively to a pre-movement test on a sample taken from it during the 30 days prior to the date of the movement; or
(b) it is moved under and in accordance with the conditions of a licence issued by the Department.

(3) If, during the period of 30 days following the taking of a sample for a pre-movement test, an animal makes a controlled movement, that animal shall not make a second or further such movement during the remainder of the 30 day period unless, before the second or further movement, it has reacted negatively to a second or further pre-movement test, as the case may be.

(4) The requirements of paragraph (3) for a second or further pre-movement test shall not apply in any case where an animal is moved to a market, show or exhibition from a herd where the animal has reacted negatively to a pre-movement test carried out in that herd on a sample taken at any time during the 30 days prior to the date of the movement and during that period the animal has not formed part of any other herd.

(*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 Pre-movement Test’ 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>
Tests indicate the animal was not infected with a disease		£250 Fine	£100 - £500 Fine
Tests indicate the animal was infected with a disease	The disease did not spread to other animals	£1,000 Fine	£500 - £2,500 Fine
	The disease spread to other animals	£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