

FOOD STANDARDS AND SAFETY

General Food Regulations (NI) 2004

4.- Any person who contravenes any of the following provisions of Regulation (EC) No.178/2002 shall be guilty of an offence—

- [(a) ...]
 (b) Article 14(1) (food safety requirements);
 (c) Article 16 (presentation) in so far as it relates to food;
 (d) Article 18(2) or (3) (traceability) in so far as it relates to food business operators;
 (e) Article 19 (responsibilities for food : food business operators)

Maximum Sentence

General Food Regulations (NI) 2004, Reg.6

Indictment: 2 years imprisonment

Summarily: 6 months imprisonment and/or £5,000 fine (for offences NOT under Regulation 4(a))

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> |
|--|---|-----------------------|-------------------------------------|
| <p style="text-align: center;"><u>High Culpability</u></p> <p>(e.g. Deliberate breach or flagrant disregard for the law; failing to put in place measures that are recognised standards in the industry; ignoring concerns by regulators, employees or others; allowing breaches to subsist over a long period of time; serious and/or systemic failure within the organisation to address risks to health and safety)</p> | Adverse effect or risk of adverse effect on individuals; OR Relevant authorities unable to trace products; OR Consumer misled regarding food's compliance with religious or personal beliefs. | 3 months Custody | 1-6 months Custody |
| | Little or no risk of actual adverse effect on individuals | 1 month Custody | Community Order to 3 months Custody |
| <p style="text-align: center;"><u>Medium Culpability</u></p> <p>(e.g. Systems were in place but were not sufficiently adhered to or implemented)</p> | Adverse effect or risk of adverse effect on individuals; OR Relevant authorities unable to trace products; OR Consumer misled regarding food's compliance with religious or personal beliefs. | 1 month Custody | Community Order to 3 months Custody |
| | Little or no risk of actual adverse effect on individuals | Community Order | Fine to Community Order |
| <p style="text-align: center;"><u>Low Culpability</u></p> <p>(e.g. Significant efforts had been made to secure food safety but had been inadequate in the circumstances; there was no warning or indication that food safety was at risk)</p> | Adverse effect or risk of adverse effect on individuals; OR Relevant authorities unable to trace products; OR Consumer misled regarding food's compliance with religious or personal beliefs. | Community Order | Fine to Community Order |
| | Little or no risk of actual adverse effect on individuals | Fine | Fine to Community Order |

Examples of Possible Aggravating Factors of Offence

1. Offence motivated by financial gain
2. Deliberate concealment of illegal nature of activity
3. Established evidence of wider/community impact
4. Breach of any court order
5. Obstruction of justice

Examples of Possible Mitigating Factor of Offence

1. Steps taken voluntarily to remedy problem
2. Self-reporting and/or high level of co-operation during the investigation beyond what was necessary in the circumstances
3. Good food safety/hygiene record

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| 6. Poor food safety or hygiene record (not amounting to an offence) 7. Refusal of free advice or training | |
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Relevant Cases:

NI Cases

N/A

English Cases

R v Bramall and Bramall (1991) 12 Cr App R(S) 711
R v F and M Dobson Ltd (1995) 16 Cr App R(S) 957
R v Altaf [1999] 1 Cr App R(S) 429
R v Yusuf [2011] 1 Cr App R(S) 47
R v Crestdane [2013] 1 Cr App R(S) 19

Notes:

1. These sentencing guidelines do not apply to offences under Regulation 4(a) of the 2004 Regulations (food and feed exported from the Community).