

BREACH OF EU FOOD HYGIENE PROVISIONS

Food Hygiene Regulations (NI) 2006

17.- (1) Subject to paragraph (4), any person who contravenes any of the specified Community provisions shall be guilty of an offence.

Maximum Sentence

Food Hygiene Regulations (NI) 2006, Reg.17(2)

Indictment: 2 years imprisonment

Summarily: £5,000 fine

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>	<p>Adverse effect or risk of adverse effect on individuals; OR Relevant authorities unable to trace products;</p>	£2,500	£1,000 - £5,000 Fine
	<p>Little or no risk of actual adverse effect on individuals</p>	£1,000 Fine	£500 - £2,500 Fine
<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>	<p>Adverse effect or risk of adverse effect on individuals; OR Relevant authorities unable to trace products;</p>	£1,000 Fine	£250 - £2,500 Fine
	<p>Little or no risk of actual adverse effect on individuals</p>	£500 Fine	Conditional Discharge to £1,000 Fine
<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>	<p>Adverse effect or risk of adverse effect on individuals; OR Relevant authorities unable to trace products;</p>	£500 Fine	Conditional Discharge to £1,000 Fine
	<p>Little or no risk of actual adverse effect on individuals</p>	£250 Fine	Conditional Discharge to £500 Fine

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
<ol style="list-style-type: none"> 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 6. Poor food safety or hygiene record (not amounting to an offence) 7. Refusal of free advice or training 	<ol style="list-style-type: none"> 1. Steps taken voluntarily to remedy problem 2. Self-reporting, high level of co-operation with investigation and acceptance of responsibility. 3. Good food safety/hygiene record

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. The 'specified Community provisions' are those listed in Schedule 2 to the 2006 Regulations – Reg. 2(1) of the 2006 Regulations.
2. Court may impose a Hygiene Prohibition Order upon conviction – Reg. 7 of the 2006 Regulations.

