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## STATUTORY INSTRUMENTS

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# 1976 No. 57 (N.I. 1)

## Unsolicited Goods and Services (Northern Ireland) Order 1976

- - - - - [19th January 1976]

### **Title and commencement**

1.—(1) This Order may be cited as the Unsolicited Goods and Services (Northern Ireland) Order 1976.

*Para.(2)(3)—Commencement*

### **Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“acquire” includes hire;

“the Department” means the Department of Commerce;

“send” includes deliver;

“unsolicited” means, in relation to goods sent to any person, that they are sent without any prior request made by him or on his behalf.

(3) For the purposes of this Order any invoice or similar document stating the amount of any payment and not complying with the requirements of regulations made under Article 6 applicable thereto shall be regarded as asserting a right to the payment.

*Art. 3 rep. by SI 2000/2334*

### **Demands and threats regarding payment**

4.—(1) A person who, not having reasonable cause to believe that there is a right to payment, in the course of any trade or business makes a demand for payment, or asserts a present or prospective right to payment, for what he knows are unsolicited goods sent (after the coming into operation of this Article) to another person with a view to his acquiring them<sup>[F1]</sup> for the purposes of his trade or business], shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F2]</sup> level 4 on the standard scale].

(2) A person who, not having reasonable cause to believe that there is a right to payment, in the course of any trade or business and with a view to obtaining any payment for what he knows are unsolicited goods sent as aforesaid—

(a) threatens to bring any legal proceedings; or

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- (b) places or causes to be placed the name of any person on a list of defaulters or debtors or threatens to do so; or
- (c) invokes or causes to be invoked any other collection procedure or threatens to do so,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F2]</sup> level 5 on the standard scale].

<b>F1</b>	SI 2000/2334
<b>F2</b>	1984 NI 3

### Directory entries

5.—<sup>[F3]</sup>(1) A person ( “the purchaser”) shall not be liable to make any payment, and shall be entitled to recover any payment made by him, by way of charge for including or arranging for the inclusion in a directory of an entry relating to that person or his trade or business, unless—

- (a) there has been signed by the purchaser or on his behalf an order complying with this Article,
- (b) there has been signed by the purchaser or on his behalf a note complying with this Article of his agreement to the charge and before the note was signed, a copy of it was supplied, for retention by him, to him or a person acting on his behalf, or
- (c) there has been transmitted by the purchaser or a person acting on his behalf an electronic communication which includes a statement that the purchaser agrees to the charge and the relevant condition is satisfied in relation to that communication.]

(2) Any person who, in a case where a payment in respect of a charge would, in the absence of an order or note of agreement to the charge complying with this Article<sup>[F3]</sup> and in the absence of an electronic communication in relation to which the relevant condition is satisfied], be recoverable from him in accordance with the terms of paragraph (1), demands payment, or asserts a present or prospective right to payment, of the charge or any part of it, without knowing or having reasonable cause to believe that the entry to which the charge relates was ordered in accordance with this Article or that a proper note of agreement has been duly signed<sup>[F3]</sup> or that the requirements set out in paragraph 1(c) have been met] shall be guilty of an offence and shall be liable—

- (a) on summary conviction to a fine not exceeding<sup>[F4]</sup> level 5 on the standard scale];
- (b) on conviction on indictment to a fine.

(3) An order under paragraph (1) for an entry in a directory must be made by means of an order form or other stationery belonging to the<sup>[F3]</sup> purchaser and bearing, in print, his name and address (or one or more of his addresses).]

(4) The note required by paragraph (1) of a person's agreement to a charge shall comply with the requirements of regulations made under Article 6 applicable thereto.

<sup>[F3]</sup>(4A) In relation to an electronic communication which includes a statement that the purchaser agrees to a charge for including or arranging the inclusion in a directory of any entry, the relevant condition is that—

- (a) before the electronic communication was transmitted the information referred to in paragraph (4B) was communicated to the purchaser, and
- (b) the electronic communication can readily be produced and retained in a visible and legible form.

(4B) That information is—

- (a) the following particulars—

- (i) the amount of the charge;
  - (ii) the name of the directory or proposed directory;
  - (iii) the name of the person producing the directory;
  - (iv) the geographic address at which that person is established;
  - (v) if the directory is or is to be available in printed form, the proposed date of publication of the directory or of the issue in which the entry is to be included;
  - (vi) if the directory or the issue in which the entry is to be included is to be put on sale, the price at which it is to be offered for sale and the minimum number of copies which are to be available for sale;
  - (vii) if the directory or the issue in which the entry is to be included is to be distributed free of charge (whether or not it is also to be put on sale), the minimum number of copies which are to be so distributed;
  - (viii) if the directory is or is to be available in a form other than in printed form, adequate details of how it may be accessed; and
- (b) reasonable particulars of the entry in respect of which the charge would be payable.

(4C) In this Article “electronic communication” has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001.]

(5) Nothing in this Article shall apply to a payment due under a contract entered into before the date of the coming into operation of paragraph (1), or entered into by the acceptance of an offer made before that date.

**F3** SR 2004/23

**F4** 1984 NI 3

### **Contents and form of notes of agreement, invoices and similar documents**

6.—(1) For the purposes of this Order, the Department may make regulations as to the contents and form of notes of agreement, invoices and similar documents.

(2) Without prejudice to the generality of paragraph (1), regulations may—

- (a) require specified information to be included;
- (b) prescribe the manner in which specified information is to be included;
- (c) prescribe such other requirements (whether as to presentation, type, size, colour or disposition of lettering, quality or colour of paper or otherwise) as the Department may consider appropriate for securing that specified information is clearly brought to the attention of the recipient of any note of agreement, invoice or similar document.

(3) Any reference in this Article to a note of agreement includes any such copy as is mentioned in Article 5(1).

(4) Regulations made under this Article shall be subject to negative resolution.

### **Unsolicited publications**

7.—(1) A person shall be guilty of an offence if—

- (a) he sends or causes to be sent to another person any book, magazine or leaflet which describes or illustrates human sexual techniques or any advertising material for any such publication; and
- (b) he knows or ought reasonably to know that such publication or material is unsolicited.

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(2) A person found guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding £100 for a first offence and to a fine not exceeding<sup>F5</sup> level 5 on the standard scale] for any subsequent offence.

(3) A prosecution for an offence under this Article shall not be instituted except by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.

<b>F5</b> 1984 NI 3
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