
STATUTORY INSTRUMENTS

2005 No. 55

The Regulatory Reform (Unsolicited Goods and Services Act 1971) (Directory Entries and Demands for Payment) Order 2005

Citation, Commencement, extent and interpretation

1.—(1) This Order may be cited as the Regulatory Reform (Unsolicited Goods and Services Act 1971) (Directory Entries and Demands for Payment) Order 2005 and shall come into force at the end of the period of 12 weeks beginning with the day on which it is made.

(2) This Order does not extend to Northern Ireland.

(3) Expressions used in this Order which are also used in the Unsolicited Goods and Services Act 1971(1) have the same meaning as in that Act.

Amendments to the Unsolicited Goods and Services Act 1971

2.—(1) The Unsolicited Goods and Services Act 1971 is amended as follows.

(2) In section 3 (directory entries), at the end of subsection (1)(b)(2), omit the word “or”.

(3) In section 3(1), after the words “in relation to that communication” in paragraph (c), insert—
“, or

(d) the charge arises under a contract in relation to which the conditions in section 3B(1) (renewed and extended contracts) are met”.

(4) In section 3(2)—

(a) omit the words from “, in the absence of an order” to “satisfied.”;

(b) in paragraph (c) after the words “subsection (1)(c)” insert the words “or (d)”.

(5) In section 3(3)—

(a) for the words “subsection (1) above,” substitute “this section – (a)”;

(b) before “the note” insert “(b)”;

(c) for the words from “required by this section” to the end of the subsection, substitute—

“of a person’s agreement to a charge must—

(i) specify the particulars set out in Part 1 of the Schedule to the Regulatory Reform (Unsolicited Goods and Services Act 1971) (Directory Entries and Demands for Payment) Order 2005, and

(ii) give reasonable particulars of the entry in respect of which the charge would be payable.”

(6) Omit section 3A(3) (contents and form of notes of agreement, invoices and similar documents).

(1) 1971 c. 30, amended by the Unsolicited Goods and Services (Amendment) Act 1975 (1975 c. 13), the Magistrates Courts Act 1980 (1980 c. 43), the Criminal Justice Act 1982 (1982 c. 48), S.I.2000/2334 and S.I. 2001/2778.

(2) Section 3 amended by s2(1) of the Unsolicited Goods and Services (Amendment) Act 1975, s32(2) of the Magistrates Courts Act 1980 and S.I. 2001/2778.

(3) Section 3A inserted by section 1 of the Unsolicited Goods and Services (Amendment) Act 1975.

(7) Before section 4 insert—

“Renewed and extended contracts

3B.—(1) The conditions referred to in section 3(1)(d) above are met in relation to a contract (“the new contract”) if —

- (a) a person (“the purchaser”) has entered into an earlier contract (“the earlier contract”) for including or arranging for the inclusion in a particular issue or version of a directory (“the earlier directory”) of an entry (“the earlier entry”) relating to him or his trade or business;
- (b) the purchaser was liable to make a payment by way of a charge arising under the earlier contract for including or arranging for the inclusion of the earlier entry in the earlier directory;
- (c) the new contract is a contract for including or arranging for the inclusion in a later issue or version of a directory (“the later directory”) of an entry (“the later entry”) relating to the purchaser or his trade or business;
- (d) the form, content and distribution of the later directory is materially the same as the form, content and distribution of the earlier directory;
- (e) the form and content of the later entry is materially the same as the form and content of the earlier entry;
- (f) if the later directory is published other than in electronic form—
 - (i) the earlier directory was the last, or the last but one, issue or version of the directory to be published before the later directory, and
 - (ii) the date of publication of the later directory is not more than 13 months after the date of publication of the earlier directory;
- (g) if the later directory is published in electronic form, the first date on which the new contract requires the later entry to be published is not more than the relevant period after the last date on which the earlier contract required the earlier entry to be published;
- (h) if it was a term of the earlier contract that the purchaser renew or extend the contract—
 - (i) before the start of the new contract the relevant publisher has given notice in writing to the purchaser containing the information set out in Part 3 of the Schedule to the Regulatory Reform (Unsolicited Goods and Services Act 1971) (Directory Entries and Demands for Payment) Order 2005; and
 - (ii) the purchaser has not written to the relevant publisher withdrawing his agreement to the renewal or extension of the earlier contract within the period of 21 days starting when he receives the notice referred to in sub-paragraph (i); and
- (i) if the parties to the earlier contract and the new contract are different—
 - (i) the parties to both contracts have entered into a novation agreement in respect of the earlier contract; or
 - (ii) the relevant publisher has given the purchaser the information set out in Part 4 of the Schedule to the Regulatory Reform (Unsolicited Goods and Services Act 1971) (Directory Entries and Demands for Payment) Order 2005.

(2) For the purposes of subsection (1)(d) and (e), the form, content or distribution of the later directory, or the form or content of the later entry, shall be taken to be materially the same

as that of the earlier directory or the earlier entry (as the case may be), if a reasonable person in the position of the purchaser would—

- (a) view the two as being materially the same; or
- (b) view that of the later directory or the later entry as being an improvement on that of the earlier directory or the earlier entry.

(3) For the purposes of subsection (1)(g) “the relevant period” means the period of 13 months or (if shorter) the period of time between the first and last dates on which the earlier contract required the earlier entry to be published.

(4) For the purposes of subsection (1)(h) and (i) “the relevant publisher” is the person with whom the purchaser has entered into the new contract.

(5) The information referred to in subsection (1)(i)(ii) must be given to the purchaser prior to the conclusion of the new contract.”

(8) In section 6 (interpretation)—

- (a) for subsection (2)(4) substitute—

“(2) For the purposes of this Act, any invoice or similar document stating the amount of any payment shall be regarded as asserting a right to the payment unless it complies with the conditions set out in Part 2 of the Schedule to the Regulatory Reform (Unsolicited Goods and Services Act 1971) (Directory Entries and Demands for Payment) Order 2005.”

- (b) after subsection (2) insert—

“(3) Nothing in sections 3 or 3B shall affect the rights of any consumer under the Consumer Protection (Distance Selling) Regulations 2000.”

Subordinate Provisions

3.—(1) The provisions of the Schedule are subordinate provisions for the purposes of section 4 of the Regulatory Reform Act 2001.

(2) A subordinate provisions order (within the meaning of section 4(4) of that Act) made in respect of the Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Consequential Provisions

4. In regulation 24(7)(b) of the Consumer Protection (Distance Selling) Regulations 2000(5)—

- (a) for the words from “requirements of regulations” to “1971” substitute “the conditions set out in Part 2 of the Schedule to the Regulatory Reform (Unsolicited Goods and Services Act 1971) (Directory Entries and Demands for Payment) Order 2005”; and
- (b) after the words “as the case may be,” insert the words “the requirements of regulations made under”.

The Electronic Commerce (EC Directive) Regulations 2002(6)

5. The Electronic Commerce (EC Directive) Regulations 2002 apply to—

- (a) this Order; and
- (b) any subordinate provisions order (within the meaning of section 4(4) of the Regulatory Reform Act 2001) made in respect of the Schedule to this Order.

(4) Section 6(2) amended by section 2(2) of the Unsolicited Goods and Services (Amendment) Act 1975.

(5) S.I. 2000/2334.

(6) S.I. 2002/2013.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

12th January 2005

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