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STATUTORY INSTRUMENTS

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1976 No. 57 (N.I. 1)

NORTHERN IRELAND

**The Unsolicited Goods and Services (Northern Ireland)  
Order 1976**

*Laid before Parliament in draft*

*Made*

*19th January 1976*

*Coming into operation in accordance with Article 1 (2)*

ARRANGEMENT OF ORDER

Article

1. Title and commencement.
2. Interpretation.
3. Rights of recipient of unsolicited goods.
4. Demands and threats regarding payment.
5. Directory entries.
6. Contents and form of notes of agreement, invoices and similar documents.
7. Unsolicited publications.

At the Court at Buckingham Palace, the 19th day of January 1976

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Title and commencement*

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

(2) This Order except Articles 2 (3) and 5 (4) shall come into operation one month after the day on which this Order is made and Articles 2 (3) and 5 (4) shall come into operation on such day or days as the Head of the Department of Commerce may by order appoint.

(3) Regulations made under Article 6 shall not come into operation before the day or days appointed under paragraph (2) for the coming into operation of Articles 2 (3) and 5 (4).

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 (a) 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.

*Rights of recipient of unsolicited goods*

3.—(1) In the circumstances specified in paragraph (2), a person who after the coming into operation of this Article receives unsolicited goods, may as between himself and the sender, use, deal with or dispose of them as if they were an unconditional gift to him, and any right of the sender to the goods shall be extinguished.

(2) The circumstances referred to in paragraph (1) are that the goods were sent to the recipient with a view to his acquiring them, that the recipient has no reasonable cause to believe that they were sent with a view to their being acquired for the purposes of a trade or business and has neither agreed to acquire nor agreed to return them, and either—

(a) that during the period of six months beginning with the day on which the recipient received the goods the sender did not take possession of them and the recipient did not unreasonably refuse to permit the sender to do so; or

(b) that not less than thirty days before the expiration of the period specified in sub-paragraph (a) the recipient gave notice to the sender in accordance with paragraph (3), and that during the period of thirty days beginning with the day on which the notice was given the sender did not take possession of the goods and the recipient did not unreasonably refuse to permit the sender to do so.

(3) A notice in pursuance of paragraph (2) (b) shall be in writing and shall—

(a) state the recipient's name and address and, if possession of the goods in question may not be taken by the sender at that address, the address at which it may be so taken;

(b) contain a statement, however expressed, that the goods are unsolicited.

(4) In this Article “sender”, in relation to any goods, includes any person on whose behalf or with whose consent the goods are sent, and any other person claiming through or under the sender or any such person.

*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, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

(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
- (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 £400.

*Directory entries*

5.—(1) A person 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 there has been signed by him or on his behalf an order complying with this Article or a note complying with this Article of his agreement to the charge and, in the case of a note of agreement to the charge, before the note was signed, a copy of it was supplied, for retention by him, to him or to a person acting on his behalf.

(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, 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 shall be guilty of an offence and shall be liable—

- (a) on summary conviction to a fine not exceeding £400;
- (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 person to whom, or to whose trade or business, the entry is to relate and bearing, in print, the name and address (or one or more of the addresses) of that person.

(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.

(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.

*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.

(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 £400 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.

*N. E. Leigh*

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EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order permits unsolicited goods to be treated as unconditional gifts by the recipient in certain circumstances and makes it an offence for the sender to demand or threaten with regard to payment. It removes liability, unless certain requirements are satisfied, to pay for the inclusion of entries in trade directories and makes it an offence for any person, unless those requirements are satisfied, to demand payment for such entries. The Order also makes it an offence for a person to send certain unsolicited publications describing or illustrating human sexual techniques or unsolicited advertising material for such publications.