STATUTORY RULES OF NORTHERN IRELAND

2004 No. 23

UNSOLICITED GOODS AND SERVICES

Unsolicited Goods and Services (Electronic Communications) Order (Northern Ireland) 2004

Made - - - -	*26th January 2004*
Coming into operation	*1st March 2004*

Whereas the Department of Enterprise, Trade and Investment(**1**) ("the Department") considers that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases;

Now, therefore, the Department, in exercise of the powers conferred on it by section 1 and 2 of the Electronic Communications Act (Northern Ireland) 2001(**2**) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Unsolicited Goods and Services (Electronic Communications) Order (Northern Ireland) 2004 and shall come into operation on 1st March 2004.

Amendment of the Unsolicited Goods and Services (Northern Ireland) Order 1976

2. Article 5 of the Unsolicited Goods and Services (Northern Ireland) Order 1976(**3**) is amended as provided in Articles 3 to 6.

Charges for inclusion of trade or business entries in directories

3. For paragraph (1) there shall be substituted –

> "(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 –

(**1**) Formerly the Department of Economic Development; *see*S.I.1999/283 (N.I. 1), Article 3(5) and S.I. 1982/846 (N.I. 11), Article 4
(**2**) 2001 c. 9 (N.I.)
(**3**) S.I. 1976/57 (N.I. 1)

(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.".

4. In paragraph (2) –

(a) after "complying with this Article" there shall be inserted "and in the absence of an electronic communication in relation to which the relevant condition is satisfied"; and

(b) after "has been duly signed" there shall be inserted "or that the requirements set out in paragraph 1(c) have been met".

5. In paragraph (3), for the words from "person to whom" to "that person.", there shall be substituted "purchaser and bearing, in print, his name and address (or one or more of his addresses).".

Conditions for imposition of charges

6. After paragraph (4), there shall be inserted –

"(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.