



**Northern Ireland
Assembly**

**COMMITTEE FOR
ENTERPRISE, TRADE AND
INVESTMENT**

**OFFICIAL REPORT
(Hansard)**

**Unsolicited Services (Trade and Business
Directories) Bill**

17 June 2010

NORTHERN IRELAND ASSEMBLY

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INVESTMENT**

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Members present for all or part of the proceedings:

Mr Alban Maginness (Chairperson)
Mr Paul Butler (Deputy Chairperson)
Mr Gregory Campbell
Mr Leslie Cree
Dr Alasdair McDonnell
Mr Stephen Moutray
Mr Sean Neeson

Witnesses:

Mr Philip McClenaghan)
Mr Patrick Neill) Department of Enterprise, Trade and Investment

The Chairperson (Mr A Maginness):

We now move to the initial consideration of the Unsolicited Services (Trade and Business Directories) Bill. This is the Committee's opportunity to raise any issues, concerns or matters that have arisen from the consultation process. I advise members that departmental officials are on standby to address any questions or concerns. This agenda item does not constitute the formal clause-by-clause scrutiny of the Bill. However, if there are no unresolved issues or concerns following this agenda item, the Committee will move immediately to formal clause-by-clause

scrutiny.

I advise members that the issues tables in their packs explain each clause of the Bill. No issues were raised during the Department's or the Committee's consultations on the Bill. The three responses to the Department's consultation stated that they welcomed the Bill. The Clerk will take the Committee through the clauses, and, after he has outlined the provisions of each clause, I will ask members whether they have any issues or questions for the departmental officials.

The Committee Clerk:

Clause 1 sets the prohibition on charges unless one of four conditions or requirements is met, as prescribed in clauses 2 to 5. Those conditions are: if an order form is signed; if a note of agreement to charge is signed; in certain cases of electronic communication; or in certain cases of renewed or extended contract.

No issues or concerns were raised in respect of clause 1 during the Department's or the Committee's consultation.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

Clause 2 sets the requirements for a charge when an order form has been signed. Requirements are met when an order form has been signed by, or on behalf of, a person in hard or electronic copy, which must bear the person's name and address.

No issues or concerns were raised during either the Department's or the Committee's consultation.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

Clause 3 sets the requirements when a note of agreement to charge is signed. The requirements are met when the note: specifies the particulars as set in paragraph 1 of the schedule to the Bill; gives reasonable particulars of the entry in respect of which the charge would be payable; and when a copy of the note was given to the person, or a person acting on his or her behalf, before it was signed.

No issues or concerns were raised in respect of clause 3 during the Department's or the Committee's consultation.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

Clause 4 sets the requirement for a charge permitted in certain cases of electronic communication. The requirements are met if: there has been an electronic communication from or on behalf of the person that states that they agree to the charge; and, before the electronic communication was sent, the following information was transmitted to the person:

- “(i) the particulars set out in paragraph 1 of the Schedule; and
- (ii) reasonable particulars of the entry in respect of which the charge would be payable”.

Additionally, the electronic communication has to be readily produced and retained in a visible and legible form.

No issues of concern were raised in respect of clause 4 during either the Department's consultation or the Committee's consultation.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

Clause 5 sets the requirement for charges permitted in certain cases of renewed or extended contract. No issues or concerns were raised relating to clause 5 during either the Department's consultation or the Committee's consultation.

Mr Cree:

Does the clause cover a situation in which an insurance company would notify its customers that renewal of contract will happen automatically and that customers will, therefore, be debited accordingly without any further communication? Does it put the onus back on to the customer?

The Chairperson:

It would perhaps be helpful at this stage if Mr McClenaghan and Mr Neill came forward and joined us at the table.

Mr Philip McClenaghan (Department of Enterprise, Trade and Investment):

The legislation is aimed only at trade directories. Therefore, it would not apply to insurance contracts or their renewals.

Mr Cree:

It may or may not link to those, howsoever they are arrived at. Continuing on, we could have a situation in which there would be automatic renewal.

Mr McClenaghan:

For insurance contracts?

Mr Cree:

That is just one example. It could be any contract.

Mr McClenaghan:

The legislation is aimed at, for example, a tradesperson with an advert in the 'Yellow Pages', or a similar trade directory, who wishes to renew that advert on an annual basis.

Mr Cree:

The same would apply to insurance. A customer may receive a communication to say that their contract will be renewed unless the company hears otherwise.

Mr McClenaghan:

Yes.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

Clause 6 sets the offence to demand payment when clause 1 is contravened. No issues or concerns were raised in respect of clause 6 during either the Department's consultation or the Committee's consultation.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

Clause 7 sets the power to amend the schedule. The Department of Enterprise, Trade and Investment will have the power to amend the schedule to the Bill by Order, subject to negative resolution. An Order made under clause 7 may also make any necessary transitional provisions and amendments to revisions that are referred to in the schedule.

No issues or concerns were raised relating to clause 7 during either the Department's consultation or the Committee's consultation. Furthermore, the Examiner of Statutory Rules gave advice on the powers to make subordinate legislation under the clause — which was considered by members on 10 June — and stated that the powers seemed appropriate.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

Clause 8 repeals articles 5 and 6 of the Unsolicited Goods and Services (Northern Ireland) Order 1976 because they are being replaced by the provisions of the proposed Bill. Article 2(3) of the 1976 Order is being amended because it will need to refer to the conditions set out in paragraph 4 of the schedule to the Bill.

No issues or concerns were raised in respect of clause 8 during either the Department's consultation or the Committee's consultation.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

Clause 9 sets the short title as the Unsolicited Services (Trade and Business Directories) Act (Northern Ireland) 2010. The clause also sets out that the Act will come into operation two months after the day on which it receives Royal Assent.

No issues or concerns were raised in respect of clause 9 during either the Department's consultation or the Committee's consultation.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

The schedule specifies the matters and details referred to in clauses 3, 4 and 5 of the Bill,

including: particulars of the directory or proposed directory, which must be given in a note for charging a person; information required in a written notice; information to be given to a person; and conditions applying to an invoice or similar document that does not assert right to payment.

No issues or concerns relating to the schedule were raised during the Department's consultation or the Committee's consultation.

The Chairperson:

Are members content with their initial consideration of the Bill?

Members indicated assent.

The Chairperson:

No issues having arisen, we will now move directly to the formal clause-by-clause scrutiny of the Unsolicited Services (Trade and Business Directories) Bill. I will go through the nine clauses and the schedule to seek the Committee's position. I remind members that, having given their views on each clause as drafted, no amendments have been made to date by the Department or by the Committee.

Clauses 1 to 9 agreed to.

Schedule agreed to.

Long title agreed to.

The Chairperson:

That concludes the formal clause-by-clause scrutiny of the Unsolicited Services (Trade and Business Directories) Bill. Next week, members will consider the first draft of the Committee's report on the Bill. Thank you.