

EXPLANATORY NOTE

The Financial Services (Amendment No. 5) (Jersey) Law 202- amends the Financial Services (Jersey) Law 1998 in relation to the regulation of credit business.

Part 1 (Articles 1 to 7) amends the 1998 Law as follows:

Article 2 inserts a definition of “credit business” referencing new Article 2(12) inserted by *Article 3*, which provides that a person carries on credit business so far as the person carries on an activity described in Schedule 1A (inserted by *Article 5*).

Article 4 inserts new Article 31A which provides that the States may make Regulations relating to consumer protection in connection with credit business. The Regulations may make provision in respect of matters including: legal capacity; interest; consequences of agreements entered into in contravention of the Law; cooling-off periods and rights to cancel, rescind or withdraw from agreements; unfair terms and practices; the form and manner of communication with consumers; regulation of the restriction of rights of consumers; secondary and linked agreements; and the powers and functions of the Commission.

Article 5 inserts new Schedule 1A which describes the activities comprising credit business. Paragraph 1 contains definitions including “borrower”, “consumer” and “lender”. Paragraphs 2 to 11 set out various forms of carrying on a credit business in certain circumstances including: entering into regulated consumer credit, secured lending or consumer hire agreements or exercising rights under such agreements; advising on regulated agreements and arrangements; administering or arranging regulated agreements and arrangements; credit broking; and activities relating to debt such as debt adjusting, debt-counselling; debt-collecting and debt administration.

Article 6 inserts new Part 6 into Schedule 2 to specify certain exemptions from credit business. These include: certain business loans; certain trade agreements; advice given in newspapers etc, activities carried on by trustees; advice given in the course of carrying on any profession or business which does not otherwise consist of financial service business; agreements for the supply of essential services; certain advice given by lawyers; activities carried on by liquidators; and buy to let secured lending arrangements.

Article 7 inserts new paragraph 4 into Schedule 5 to make transitional provision in relation to credit business.

Part 2 (Articles 8 to 10) includes a related amendment and final provisions.

Article 8 amends the Loi (1880) sur la propriété foncière by inserting new Article 96A which empowers the Royal Court, if satisfied that a surplus (as defined) would exist if property *en dégrèvement* were sold, to make such orders as it thinks fit to secure sale of the property at a fair market value and to deal with the surplus.

Article 9 provides that the States may by regulation make consequential amendments, and such transitional and supplementary provision, as appear to the States to be necessary or expedient in consequence of any amendment made by this Law.

Article 10 gives the citation and provides that this Law comes into force [7 days after it is registered].

