



Response Paper:

Consultation on the Draft Trade Marks (Jersey) Law 202-

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A. Background

1. On 9 June 2025, the Government of Jersey (the **Government**) published a public [consultation](#) inviting views on the draft Trade Marks (Jersey) Law 202- (the **draft Law**), which if approved would replace the Trade Marks (Jersey) Law 2000 (the **2000 Law**). In 2023, the Government [consulted](#) on the principles underpinning the legislative proposals set out in the draft Law.
2. The draft Law, if adopted, will overhaul Jersey's trade mark legislation as set out in the 2000 Law and introduce a modern legal framework that is supportive to businesses and rightholders. In particular, it focusses on introducing a system of primary trade mark registration, replacing the current system of secondary registration. In addition, the draft Law supports Jersey's ambition to seek extension of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (the **Madrid Protocol**).
3. As part of the consultation process, Government officials directly engaged with various local stakeholders to obtain input from a wide and varied group of interested parties. This included representatives from the Jersey Financial Services Commission (the **JFSC**), where the new Registry will be held, the legal industry and the local IP industry. In addition, extensive engagement also took place with the UK Intellectual Property Office (**IPO**) and the World Intellectual Property Organization (**WIPO**).
4. The consultation closed on 18 July 2025 and 4 formal responses were received along with several informal comments from key stakeholders engaged throughout consultation process. All responses have now been carefully considered, and the Government would like to thank those who have taken the time to respond to this consultation. This paper summarises the feedback received and sets out Government's response to the consultation.
5. Further questions or comments relating to this consultation response may be directed to:

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B. Feedback received and Government response

6. On balance, the feedback received in response to the consultation was positive and does not require any major changes to the draft Law. Having regard to the input submitted, a small number of adjustments however has been made to improve the provisions in the draft Law. The sections below highlight the main points raised by respondents and set out the Government's response to each.

1) Move to a System of Primary Trade Mark Registration

7. Overall, the draft Law introducing a system of primary trade mark registration in Jersey received widespread support. However, a small number of specific, technical, comments was submitted for Government's consideration. For example, with regard to Article 5(1)(b), it was pointed out that this provision needs to be aligned with the relevant provisions in Schedule 3 (Transitional Provisions).

Government response:

Article 5 will be updated to ensure alignment across the law with regard to the transitional provisions for International Trade Marks (UK). See also Section 3, below, for further detail on the proposed transitional provisions.

8. A query was also submitted in relation to Article 82(3) of the draft Law which deals with registration fees. The respondent advised that trade mark owners and their agents generally prefer to pay a single fee upfront upon filing as opposed to a filing fee initially followed by a separate registration fee later in the process. The respondent referenced the single filing fee approach adopted by both the UK and Guernsey.

Government response:

As a general comment on fees, the draft Law will be updated so that the JFSC, where the IP Registry will be located, will be responsible for the determination of fees, in consultation with the Minister. This is to allow for a more efficient, effective, and agile approach to fee setting.

For further clarification on Article 82(3) of the draft Law, Government's policy intention is to follow a similar approach to that taken in both Guernsey and the UK in charging a single registration fee. Where needed, the draft Law will be updated accordingly.

9. A further comment was submitted in relation to so-called 'series marks' which allow for the registration of a number of trade marks within a single application. One respondent suggested that Jersey should reconsider allowing applications for series marks under the new law, referencing the UK's recent announcement to discontinue the series marks service for new applicants. The UK consultation response explained that "[e]xisting series marks will remain valid and will not be impacted by this change. The series marks service will only be discontinued for new applications when the new digital trade marks service is launched."¹

Government response:

In light of the UK's decision to phase out the option to file trade mark applications as a series, it is considered sensible that Jersey takes a similar approach. This is in line with Government's overarching objective, as set out in the 2023 consultation, to align Jersey's trade mark legislation, as far as appropriate, with the UK Trade Marks Act 1994 (the **1994 Act**). This, however, does not require any changes to the draft Law as the filing of series marks is not explicitly provided for under the draft Law. Rather, under Article 85(1)(d), the Minister can make an Order for the registration of series of trade marks. In order to close the option for trade mark applications to be filed as a series, there is no intention for such an Order to be made. For the avoidance of doubt, as is the case in the UK, any existing series marks will be transferred to the new Register and remain valid.

¹ [Government publishes second transformation consultation response - GOV.UK](#)

10. The interaction of the draft Law with the Security Interests (Jersey) Law 2012 (the **SIL 2012**) was another matter that was raised as part of the consultation. In particular, it was suggested that a number of consequential amendments to the SIL 2012 would be required in order for both pieces of legislation to properly interlock with each other.

Government response:

The Government acknowledges that a number of consequential amendments to the SIL 2012 is likely to be needed if Jersey moves to a system of primary trade mark registration. This is currently being assessed in further detail and any changes needed will be brought to the Assembly for approval.

11. Additionally, whilst not directly covered by the draft Law, comments were also received in relation to trade mark agents, in particular with regard to the possible introduction of requirements to appoint local agents, with views on the best approach varying. Under Article 140 of the draft Law, the Minister may by Order require the Registrar to keep and maintain a register of trade mark agents. If the Minister makes an Order under this provision, this may, among other things, make provision in relation to the requirements that must be met before a person can be named in the register as a registered trade mark agent.

Government response:

Whilst this legislative package does not include any secondary legislation, as outlined in the response paper to the previous consultation,² this is a matter that will be given due consideration going forward as part of the programme of work to draft the required secondary legislation, subject to the draft Law being adopted.

2) Madrid Protocol Extension

12. As outlined in last year's consultation, a key objective of the draft Law is to enable Jersey to request extension of the UK's ratification of the Madrid Protocol. This would allow Jersey to be 'designated' in international trade marks through the Madrid system which currently covers 131 countries. The main advantages and benefits expected to result from inclusion in the Madrid 'family' were set out in the previous consultation.
13. Part 7 of the draft Law deals with international trade marks. The consultation did not raise any major or fundamental issues in relation to Jersey's proposed inclusion in the Madrid Protocol which was widely supported during the first round of consultation and is seen as a vital step to modernise the Island's trade mark framework.
14. A specific comment was however raised in relation to the examination of a request for territorial extension of an international trade mark. More specifically, it was considered that the opposition period set out in Article 117(2) was too short and not in line with the opposition periods that apply in other Madrid jurisdictions. It was argued that this could negatively impact (a) trade mark owners who would have only a short window to act, and (b) limit the opportunity to resolve a conflict without the need to commence legal proceedings.

Government response:

The original policy position was based on Guernsey's opposition period set out in the Trade Marks (Madrid) (Bailiwick of Guernsey) Regulations, 2020.

However, given that a number of respondents raised this as a concern, and having reviewed the position in other jurisdictions, it is acknowledged that the initially proposed period of 20 days is likely too short. On reflection, the Government will revise Article 117(2) of the draft Law and extend the time period during which an opposition notice may be filed with the Registrar from 20 days to a period of 60 days.

² [CR Consultation Response \(Proposal for a Primary Trade Mark Registry\).pdf](#)

This provides for further time for those who wish to file an opposition notice to complete the process and is considered appropriate for a small jurisdiction like Jersey.

3) Transitional Provisions

15. The previous consultation covered the proposed transitional provisions in some detail. Firstly, with regard to ensuring continued protection of existing local registrations under the 2000 Law (including applications for registration that are pending), the proposed approach did not raise any concerns.
16. Secondly, under the 2000 Law, any International Trade Mark (UK) is currently automatically protected in Jersey.³ The previous consultation set out Government's view that there should be continued protection for such marks under the new regime. It was suggested that if at the renewal date, the proprietor wants to benefit from continued protection in Jersey, they would need to separately designate Jersey to achieve this. Whilst the rationale for ensuring continued protection was acknowledged, an issue was raised as to how such rights would be maintained after the first renewal date. More specially, it was flagged that the proposed provision may not maintain the "earlier filing date" of the International Trade Mark (UK) at the point of renewal and creation of the International Trade Mark (JE). This could create a series of problems for rightholders and would not meet Government's policy objective to ensure a smooth transition and continuation of existing rights.

Government response:

The previous consultation set out Government's policy position to ensure continued protection in Jersey for those International Trade Marks (UK) that are currently given automatic protection under the 2000 Law. Government's view is that this should include continuation of the "earlier filing date" of the International Trade Mark (UK), if this can be administratively achieved.

In order to resolve this matter, the Government is currently actively engaging with both the IPO and the WIPO to assess options available to ensure the continuation of the "earlier filing date" of International Trade Marks (UK) at their first renewal point when rightholders need to separately designate Jersey in order to extend the geographical scope of the international trade mark. Subject to the outcome of the analysis currently undertaken, the draft Law will then be amended accordingly.

17. One respondent also commented in relation to the proposed transitional provisions in Paragraph 3 of Schedule 3 (Renewal of lapsed registration). Rather than the approach proposed, by way of alternative, it was suggested that Jersey should consider adding all UK trade marks to the Jersey Register with their UK expiry date plus 1 year.

Government response:

In relation to the above suggestion, it is Government's view that the current provisions in Paragraph 3 of Schedule 3 set out an appropriate approach to assist owners of trade marks previously registered in Jersey that are due for renewal shortly before the new system goes live.

More specifically, Paragraph 3 of Schedule 3 is intended as a safety net for those trade mark owners who wish to continue protection in Jersey, but may have erroneously not taken the appropriate action in Jersey ahead of their mark's expiry. It provides a route to have this rectified reflecting similar provision in the 1994 Act.

18. Local trade mark owners may, in any event, wish to review their marks and, where necessary, take action under the 2000 Law to ensure their protection is up to date prior to the draft Law entering into force. This will ensure their trade mark is automatically transferred to the new Register. Comprehensive public communications will also be issued, in collaboration with the JFSC, ahead of the draft Law coming into

³ As a result of Article 13.

force, bringing its core provisions to the attention of industry and rightholders and highlighting the possibility of taking any action under the current legislative framework if they wish to do so.

C. Next steps

19. The Assistant Minister for External Relations has approved and authorised the publication of this paper setting out the Government's response to the Trade Marks Law consultation that was published on 9 June 2025.
20. Once final changes have been made to the draft Law, preparations will be made to lodge the draft Law 'au Greffe' for debate in the States Assembly later this year.
21. As outlined in the consultation paper, a further piece of legislation will be required to deal with (in particular) the position, functions and powers of the Registrar and the establishment, operation and maintenance of the Register. This law is needed to ensure a smooth switch from the secondary trade marks Register, currently held and maintained by the Judicial Greffe, to the proposed new primary Register operated by the JFSC. As the JFSC will also take on responsibility for the operation of the secondary patents and registered designs Registers, the Registrar's powers and functions in those areas will also be incorporated in the new law. Given the interdependencies between the draft Law and the law in relation to the Registrar and Register, both will be lodged for debate at the same States sitting.
22. Furthermore, the draft Law includes various provisions requiring the Minister to make an Order providing further detail on certain aspects of the Law. Therefore, subject to the approval by the States Assembly of the draft Law, the required secondary legislation will also be prepared ahead of the commencement date of the draft Law.