



Consultation: Consumer Credit Regime: Summary of Proposed Regulation for Consumers

JULY 2023

Consumer Credit Regime: Consultation for Consumers

About this consultation

We want to hear the views of small businesses and individuals on proposed new laws about loans and lending-related activity.

Small businesses mean sole traders, businesses which employ fewer than 10 full time employees and have a balance sheet or annual turnover of less than £2 million.

The intention is for the new law to protect people who borrow money by establishing regulatory standards which people who lend money, or carry out activity related to lending money, will be required to follow.

The draft law can be seen on gov.je/consultations.

If you lend money, then you will be affected by the new law. You can give your response in a separate, parallel consultation which can be accessed via the same page on gov.je/consultations.

The consultation will run from July to September and will help shape legislation which will be presented to the States Assembly before the end of 2023.

Do you know the current protections for lending in Jersey?

Although there are some protections in place, lending money to people is not currently regulated in Jersey, except

- against money laundering and the financing and carrying-out of terrorism, and
- against unfair commercial practices towards consumers and aggressive selling techniques and misinforming or misleading people about products or services, and
- for banks whose deposit-taking is already supervised by the JFSC.

There is a voluntary [Consumer Lending Code of Practice \(gov.je\)](https://gov.je) and a voluntary [Debt collectors' code of conduct \(gov.je\)](https://gov.je), but neither are compulsory, and compliance is not currently overseen by a regulator.

Complaints regarding consumer lending are eligible for referral to the Channel Islands Financial Ombudsman.

Proposed legislation will cover the following loans

The proposed regime is wide ranging and includes even more than the below:

- Personal loans
- Hire purchase
- Mortgages
- Pay day loans
- Business loans
- Buy now pay later loans.
- Car finance

What credit cards are included?

Credit cards supplied directly from Jersey lenders will be covered by the proposed legislation. UK credit card companies, will not.

Does my club membership count as a credit card?

Club memberships, insurance payments, and other agreements with deferred payment mechanisms will not be classified as consumer credit business.

What activities will be covered by the proposed legislation

In addition to lending, the following types of activity will be regulated as forms of consumer credit business.

- Advising on, administering of, and arranging consumer credit and hire agreements or mortgages
- Credit broking of these agreements and mortgages
- Adjusting, counselling, administration and collection of debt relating to these agreements and mortgages.

If a business or an individual carries out any of these activities, they must obtain a license to do so from the Jersey Financial Services Commission (JFSC).

Further detail can be found in the longer consultation, available on gov.je/consultations.

Activity exempted from the proposed legislation

Some business will be exempted from the definition of consumer credit business and will not require a licence from the JFSC. These include:

- Small business loans over £30,000. This is because a loan or hire agreement over £30,000 for business purposes is thought to be outside of “consumer” credit
- Advice given in the media, provided that no direct benefit from any business is derived from such advice
- Activities carried on by trustees who, in their capacity as a trustee, advises a co-trustee or beneficiary on consumer credit business
- Advice given in the course of a profession or non-investment business
- Agreements for supply of essential services such as gas, electricity or water and the agreement relates to a meter or metering equipment used to supply the relevant essential service
- Activities carried on by members of the legal profession, provided that the person is acting in their capacity as a professional and the activity being carried out is regulated by the Law Society of Jersey
- Activities carried on by liquidators if they carry out activities that would otherwise be deemed consumer credit business
- Buy-to-let mortgages

What the proposed legislation will do

The new requirements will only apply to credit business that is conducted after the legislation comes into force.

It will require those carrying out any of the regulated activities to be licenced by the JFSC. To obtain a license, consumer credit providers must comply with the following principles:

- Integrity
- Due skill, care and diligence
- Good governance
- Treat customers fairly
- Be clear, fair and not misleading
- Suitability
- Manage conflicts fairly
- Adequate protection
- Open and co-operative

Some specific requirements for those carrying out consumer credit business to obtain a license will be:

- Disclosing information, before a contract is signed, to enable the consumer to make a clear and informed choice about the suitability of the product, and is aware of all the repayment details
- To conduct vulnerability checks to ensure that the consumer has the legal capacity to enter into the agreement and understands the terms and conditions by which they will be bound
- To obtain and hold on file reliable evidence of the consumer's ability to repay any sums due under the loan.
- Providing cooling-off periods to consumers

The draft law should be put before the States Assembly for debate by the end of 2023. The law should come into force towards the end of 2024.

Full details are available in the longer consultation, on gov.je/consultations.

Default or non-compliance

The intention is to protect consumers from unfair practices, not to prevent lenders from enforcing contracts. Lenders and consumers both need certainty as to how breach or defaults of arrangements or agreements will be dealt with.

Consumers will have remedies in the event of unfair terms and practices by those who lend.

There will also be remedies for lenders for default or non-compliance by consumers.

Further detail is available in the longer consultation, on gov.je/consultations.

Tell us what you think

You can give your response by answering any / all the following questions. If you complete this shorter survey, you can still respond to the longer consultation, on gov.je/consultations.

1. Do you agree with the scope of activities proposed to be regulated? Are there others which could / should be included?
2. Do you agree with the proposed exemptions to the legislation? Please explain your answer.
3. Do you agree that consumer credit protections should apply to loans to micro-enterprises up to £30,000, and that loans to micro-enterprises above that figure should be regarded as business loans? Please explain your answer.

You can respond online by going to gov.je/consultations

Alternatively:

- email your responses to economy@gov.je
- or post to: Julie Keir, Associate Director of Financial Services
Department for Economy,
19-21 Broad Street,
St Helier,
Jersey JE2 3RR

This timeline indicates the stages which will lead to the introduction of the Proposed Regime in a timely fashion whilst providing sufficient time for the JFSC and Consumer Credit Firms to make any necessary operational changes to enable compliance.

