

Tackling loan sharks – and more!

**A consultation document on
the financial limit and exempt
agreements of the Consumer
Credit Act 1974**

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A Consultation Document on the Financial Limit and Exempt Agreements of the Consumer Credit Act 1974

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1. INTRODUCTION AND SUMMARY

1.1 PURPOSE OF CONSULTATION

Last July we published a consultation document *Tackling loan sharks – and more!* on proposals to review the Consumer Credit Act. That document identified five main drivers that led us to conclude it was right to undertake a review now:

- ❖ to implement the Government's manifesto commitment to tackle loan sharks
- ❖ the need for improvements in the current consumer credit licensing regime
- ❖ the Financial Services Authority (FSA) taking on the regulation of mortgages
- ❖ the European Commission consulting on a revised Consumer Credit Directive, and
- ❖ the possible need for changes to implement the outcomes from the Task Force on tackling overindebtedness

The document outlined six priority areas for reform of the Act and in February we published a report summarising the responses to the consultation. Overall there was strong support for the priorities, plus two other areas for the review were identified. As a result we have commenced focus group discussions and a series of seminars with industry representatives, consumer groups and regulators to clarify the issues and identify options on each of the following priority areas:

- ❖ the financial limit and exempt agreements under the Act
- ❖ the early settlement regulations
- ❖ enabling consumers to conclude credit agreements on line
- ❖ changing the licensing regime to target enforcement on keeping the loan sharks out of the market
- ❖ making the extortionate credit provisions more effective
- ❖ simplifying the advertising regulations, including the regulations on APRs, and
- ❖ simplifying the rules on multiple agreements

This consultation document takes forward the first of those priority areas - the level of the Act's financial limit and the extent of exempt agreements - and seeks your views on options for:

- ❖ increasing/removing the financial limit for credit agreements regulated by the Act
- ❖ re-defining or excluding business lending caught by the Act, and
- ❖ reducing the categories of agreement exempted from the Act

In the main these options would increase consumer protection by bringing more credit agreements within the regulatory regime. They also reflect the approach likely to be proposed in the European Union, where the Commission is looking to increase

consumer protection under the Consumer Credit Directive by removing the financial limit and reducing the current exemptions.

With the FSA regulating the majority of mortgages from the second quarter of 2004, whatever their value, we seek views on raising or removing the current financial limit of £25,000 on consumer credit agreements to ensure most, if not all, consumer borrowing is regulated. We also want to explore whether any increase should continue to include business lending – the Act covers loans to sole traders, partnerships and unincorporated bodies as well as individual consumers. Finally, some credit agreements, in particular many mortgage loans, are exempt from the Act. While the FSA will regulate most mortgages there will still be some lending secured on homes that will not be covered by FSA regulation, or because of the exemptions in it, the current Consumer Credit Act. We want to consider whether these current exemptions, as well as those for some forms of unsecured credit and hire agreements, remain appropriate.

How any changes might be implemented through legislative change is uncertain at this early stage, as much will depend on the outcome of this consultation and those on the other priority issues. It may be early in 2003 before it is clear what changes need to be made to primary and secondary legislation, and how they might be implemented.

1.2 WHAT WE WANT FROM YOU:

The main issues and options are set out in this consultation document, and include a number of questions on which we want your views. A summary list of the questions is in part six.

We also want your help in estimating the compliance costs and benefits of each option in this document – see part six.

As already stated this is a consultation on the first of the priority areas identified for review. Further consultations will be undertaken during the remainder of 2002 and through to the Spring of 2003 on each of the priority areas. Consultees are therefore asked to confine their response to just the issues of financial limits and exempt agreements.

1.3 RESPONSES

You can respond to this consultation by emailing us at Gary.R.Smith@dti.gsi.gov.uk or by writing to Gary Smith, Consumer Affairs Directorate, Room 407, Department of Trade & Industry, 1 Victoria Street, London SW1H 0ET. The deadline for responses is 21 June 2002.

We aim to publish a summary of the responses to this consultation by the end of September 2002.

Your response to this consultation document may be made publicly available in whole or in part at the Department's discretion. If you do not wish all or part of your

response (including your identity) to be made public, you must state in the response which parts you wish us to keep confidential. Where confidentiality is not requested, responses may be made available to any enquirer, including enquirers outside the UK, or published by any means, including on the Internet.

1.4 CONSULTEES

We are sending this document to the consultees listed in Annex A. Additional copies of this document may be made without seeking permission. Alternatively please see the Department's website;

<http://www2.dti.gov.uk/CACP/ca/policy/consumercredit/review.htm>

or contact Peter Jones on 020 7215 3818(Fax 020 7215 0339) or E-mail: Peter.D.Jones@dti.gov.uk for additional copies.

2. THE FINANCIAL LIMIT & BUSINESS LENDING

2.1 INTRODUCTION

The current purpose of the Consumer Credit Act is to protect consumers when entering into small to medium value credit agreements. The Act lays down rules for the protection of consumers, such as the way in which credit can be advertised, the method of calculating the Annual Percentage Rate, the form and content of the agreement and procedures in the event of default, termination or early settlement. It originally covered most credit agreements up to a financial limit of £5,000, but this was increased to £15,000 in 1985, and to its present limit of £25,000 in 1998; on both occasions to reflect inflation.

We have undertaken focus group discussions over the past couple of months with representatives from the lending industry, consumer bodies and regulators on the issue of increasing the financial limit, and as a consequence of that whether we should re-define business lending caught by the Act. Through these groups we have been able to identify key options for both issues and these are set out below. It should be noted that the options are not mutually exclusive, and therefore could be implemented in combination in order to ensure that the goal of protecting consumer borrowing without imposing unnecessary burdens on lenders is achieved.

2.2 THE FINANCIAL LIMIT:

2.2.1 Background

Three factors mean we need to examine whether it is appropriate to extend coverage of the Act to ensure most, if not all, consumer borrowing is regulated. First, the Financial Services Authority (FSA) will commence the regulation of 1st charge mortgages in the second quarter of 2004 and there will be no financial limit. This will highlight the fact that a large swath of consumer borrowing, primarily 2nd charge mortgages and unsecured credit above £25,000, will be un-regulated unless the financial limit under the CCA is increased.

Second, consumers are increasingly borrowing more than the current regulated limit for 2nd charge and unsecured loans. Advertisements on the Internet, and in newspapers etc. offer secured and unsecured loans well in excess of £25,000, often aimed at consumers with low credit ratings who may be most in need of the protection of the Act.

Third, the European Commission is looking at increasing consumer protection in the area of consumer credit. The current Consumer Credit Directive (CCD) covers most consumer credit up to approximately £13,000. However, the Commission is expected to shortly issue a draft revision of the CCD, which is expected to include proposals for removing the ceiling on consumer credit. Discussions on a revised

CCD are expected to be a longer process than our CCA review, but we expect that substantially increasing our own ceiling or removing it will be in line with the Commission's plans.

2.2.2 Issues:

The main issue is whether the financial limit should be increased – and, if so, to what level - or removed entirely. Information provided by lenders suggests there is a significant volume of 2nd charge mortgage lending in excess of the current £25,000 limit, which will remain un-regulated when FSA regulation of other mortgage lending comes into effect. Similarly, both secured and unsecured loans in excess of £25,000 are regularly advertised in the newspapers. 2nd charge and unsecured lending in excess of £100,000 on the other hand would appear to be very much the exception at present.

The regulatory regime is targeted at lower value loans because consumers are least likely to seek independent advice on these and the most vulnerable consumers might not have access to such advice, help and protection. But there is no evidence to suggest that consumers borrowing larger amounts do routinely take independent advice, and detriment can be greater if the consumer's financial exposure is higher.

Concerns have been raised about unfair trading practices and, lack of transparency in terms and conditions for some types of unregulated loan in recent years. Problems with secured lending to non-status borrowers – people with low credit ratings who often have difficulty in obtaining finance from mainstream lenders such as banks and building societies – prompted the Director General of Fair Trading to issue guidelines for lenders and brokers in this market in 1997. Concerns have also been raised about consolidation loans, particularly when borrowers pay off a number of unsecured loans with one secured loan without perhaps fully understanding the increased risk of losing their home. Many non-status and consolidation loans are unregulated because they are for amounts above £25,000 (although some of these loans will fall to be regulated by the FSA from 2004).

Finally, the introduction of mortgage regulation by the FSA without a financial limit and emerging developments within the European Union where the European Commission is looking to increase consumer protection by means of a revised Consumer Credit Directive, demonstrate a move towards ensuring consumers who borrow, whatever the level and whatever the type of loan, are adequately protected.

2.2.3 Options for change:

Option one is to increase or remove the financial limit, so that the vast majority or all consumer borrowing is caught by the Act. While we know that consumer borrowing above £25,000 takes place, it has not been possible to quantify what is effectively the current ceiling for most unsecured loans. Any financial limit may be fairly arbitrary, and could create distortions in the market place – it is clear that some lenders currently provide loans starting at £25,001 specifically in order to avoid CCA regulation.

In order to regulate most or all 2nd charge mortgages there would be a need to set the ceiling high or even remove it entirely. Removal of the limit for at least 2nd charge mortgages would be compatible with the FSA approach for regulated 1st charge mortgages, where the risks and need for protection are considered to be the same, regardless of the size of the loan.

Option two is to place a limit on unsecured lending regulated by the Act, but cover all 2nd charge mortgages, whatever their value. The effect on consumers of maintaining a ceiling on the level of unsecured lending covered by the Act would be minimal as there is a financial level beyond which most lenders will be unwilling to offer unsecured loans. The objective is to determine what this level is and then use it as the financial limit on unsecured loans. Maintaining a limit would, however, ensure that larger loans to unincorporated businesses and partnerships were not subject to the legislation. Such an option might therefore go some way to addressing the concerns voiced by lenders about the removal of the financial limit for business lending.

2.3 BUSINESS LENDING:

2.3.1 Background:

The current definition in the Act regulates loan/hire agreements made to 'individuals - including a partnership or other unincorporated body of persons not consisting entirely of bodies corporate'. This extends the Act beyond 'natural persons' or 'consumers' in the popular sense so that all borrowers/hirers are potentially covered except for bodies corporate, including limited companies.

2.3.2 Issues:

There are both benefits and disadvantages with the current regime of protecting unincorporated bodies as well as natural persons. The categories of those protected by the Act are simple, straightforward and easy to apply. A benefit of the current regime is that many business start-ups and small unincorporated businesses which may not have ready access to financial advice are protected by statute. However, it is open to criticism in that large partnerships receive protection whilst small limited companies do not. In addition, the requirements of the Act impose procedures and protections that can hinder or be inappropriate for business lending, for example, cancellation periods, default procedures, etc. can delay and increase the cost of providing credit to unincorporated businesses and even restrict its availability to such borrowers.

From our consultation undertaken in July 2001 there was a view from some of the respondents that business lending should be exempt from regulation. However, this is counter-balanced by the views of some consumer groups and initial feedback from some small business representatives who oppose such a development on the grounds that sole traders and small partnerships may have little more expertise in credit matters than most consumers, and so may require the same levels of protection.

2.3.3 Options for change:

Re-defining the scope of the Act in respect of 'business lending' could be done in isolation, but probably sits more appropriately in conjunction with the options on the financial limit. If the view is that business lending should continue to be covered by the Act, the question is then whether it should remain as currently defined, or changed.

Option one is to leave it as currently defined. Option two is to retain the protections of the Act for sole traders, small partnerships, and other un-incorporated bodies, but remove larger partnerships. There is strong support for such an approach. Sole traders and small partnerships often take out mixed purpose loans (business and personal usage), and it would be inappropriate to exclude these types of lending from the protections of the Act.

Excluding larger partnerships from the scope of the Act would generally be welcomed by lenders, particularly if the financial limit of the Act was raised significantly, but careful consideration would be necessary of what would be an appropriate, but inevitably fairly arbitrary, cut off point. Suggestions have included limiting the number of partners to two, but this would mean some small family partnerships would be excluded. There is an argument that along with small partnerships the Act should continue to cover other unincorporated bodies, such as schools and charities, which may require at least the same protection as sole traders given that they are not 'in business' and may have only limited knowledge of credit matters.

Option three is to remove all business lending from the Act. This is a clean solution, but this approach was rejected in 1997 when, under the last Conservative Government, and as part of a deregulation exercise, consideration was given to removing business lending from the Act by exempting loans which are either wholly or predominantly for business use. However, the Commons Deregulation Committee rejected these proposals on the basis that they would reduce necessary protection for small businesses.

2.4 QUESTIONS:

- Q1. Do you consider the financial limit should be increased or removed? Please explain your views. If you think the financial limit should be increased, please say what you think the new limit should be and why.**
- Q2. Do you support the option of a financial limit for unsecured loans and no limit for 2nd charge mortgages? If so, please state what the limit should be and why.**
- Q3. Should business lending be re-defined or removed from the Act? If you support some change, please explain what and why?**
- Q4. If you are a lender, what is your current level of business lending to sole traders, partnerships and other unincorporated bodies? Please provide figures both above and below the current limit of £25,000 in terms of number of agreements and amounts, in bands of £25,000. Please also detail how much of this is secured and unsecured.**

3. RELATED ISSUES

3.1 Background

The Act was designed for relatively small credit agreements and it is arguable that some of its provisions are not appropriate for higher value loans. If the financial limit is to be increased or removed, it may be necessary to change these provisions.

3.2 Issues

We have already identified some of these issues as matters for the review of either the Act or the Directive:

- Multiple agreements (section 18)
- Connected lender liability (section 75)
- Early settlement (section 95)

Our paper *Tackling loan sharks – and more!* and our focus groups with lenders and consumer groups have also identified some additional issues:

- Voluntary termination of hire-purchase (HP) and conditional sale agreements (sections 99/100). Consumers can terminate these agreements at any time by paying up to half the total amount due under the agreement. Motor financiers argue that given the volatility of the second hand car market this can result in them incurring financial losses following early termination. If the financial limit increases significantly, they argue that HP and conditional sale products will not be economically sustainable, which could stifle the market in this area.
- Section 56 gives rise to a deemed agency between lenders and their credit brokers/suppliers and lenders are concerned that if the limit under the Act increases significantly their potential liabilities under this section will increase proportionately, making affected loans too risky. This could stifle such lending and distort the credit market.
- Section 61(2)(3) - the "consideration period" in secured loan transactions could hold up conveyancing if mortgage lending ceases to be exempt.
- Section 68 - "cooling off", there have been suggestions that cancellation rights may not be appropriate for high value transactions.

We want your views on whether there are other protections in the Act that need to be re-considered if the financial limit is increased significantly. We are only interested in those issues that arise as a result of an increase, or could significantly impact on the conduct of business for higher value loans that would for the first time come under

the coverage of the Act. We are not seeking comments on protections that exist, and are appropriate, whatever the size of the loan.

3.3 QUESTIONS

Q5. Do you agree that these issues require further consideration if the financial limit is increased significantly?

Q6. Are there other areas of the Act that should also be examined? If so please state why and provide information on the practical effects and costs, and where appropriate the degree of detriment.

4. EXEMPTIONS FROM THE CONSUMER CREDIT ACT

4.1 Background

Some categories of credit and hire agreements were originally exempted from the Act where alternative safeguards already existed or where to impose regulation might not be in the interests of consumers. The various exemptions from the Act are mainly set out in section 16 of the Act and the Consumer Credit (Exempt Agreements) Order 1989 (SI 1989/869). The main areas of exemption are:

- Mortgage lending
- Low-cost credit
- Short-term trade credit
- Overseas finance
- Certain land transactions.
- Insurance policies connected to exempt mortgages
- Overdrafts

Consultees are asked to consider whether these exemptions remain valid in the modern credit market. We expect the European Commission's proposal for a revised CCD to suggest that the number of exemptions should be reduced and this may limit our scope for retaining some or all of the above categories. Each of the exemptions is discussed in more detail below but there are three basic questions we would like addressed.

4.2 QUESTIONS

Q7. Should any of the existing exemptions be retained?

Q8. Should any of the exemptions be revoked?

Q9. Should any of the exemptions be modified so it is more clearly targeted on the type of lending for which it was created?

Additional questions are raised in the discussion of each exemption below.

4.3 Mortgage lending

The Act contains powers that would enable Ministers to exempt many land mortgage agreements but these have not been used as widely as they could have been. Only agreements made by certain specified bodies such as banks and building societies are exempted and, even for these bodies, the exemption is largely limited to mortgage agreements financing:

- the purchase of land or the provision of dwellings on land (such as the ordinary mortgage for house purchase);
- the alteration, enlargement, repair or improvement of a dwelling provided the creditor originally financed the purchase of the dwelling or land (such as a further advance on a mortgage for property renovation).

However, the Act does not generally regulate local authority or housing authority mortgages. These exemptions are wider than those given to other lenders on grounds that the activities of these bodies are subject to legislation.

Mortgage lending for house purchase and associated purposes has been exempted from most of the Act's provisions because the main lenders for house purchase, banks and building societies, are subject to legislation or supervision and further regulatory control was not deemed necessary. There was additional concern that some of the Act's requirements would slow down conveyancing.

Most 2nd charge mortgages, such as consolidation loans, are not exempt. A loan for car purchase or a consolidation loan secured by mortgage would not fall within this exemption and would be subject to control by the Act (provided it was for an amount less than £25,000).

The Government has already decided that the FSA will assume responsibility for the regulation of most 1st charge mortgages from mid-2004 and, to avoid dual regulation, these loans will effectively be carved-out of the Act. However, the FSA will only regulate those mortgages where:

- the borrower is an individual or trustee;
- the lender takes a first charge over UK property; and
- the property is at least 40% occupied by the borrower or his immediate family.

Some mortgages, such as those for properties purchased for investment purposes (buy to let) will not be covered by the FSA regime. Those loans which take the form of a further advance on an existing mortgage secured on the borrower's own property will be regulated but those where the loan is secured by a mortgage on the buy to let property will not be covered.

4.4 QUESTIONS

Q10. Is there a case for regulating under the Consumer Credit Act any of those 1st charge loans secured on property that will not fall to be regulated by the FSA in 2004?

Q11. Will some loans secured by 2nd charges on property remain unregulated if the financial limit is increased without some modification to the exemptions for mortgage lending? If so, what type of loan and how many will be affected?

4.5 Low-cost credit

This exemption is intended to cover non-business credit, such as student loans and loans by employers to employees. Generally, credit agreements can be exempt where they are not available to the general public and the APR does not exceed the sum of 1% and the highest of the main clearing banks' base rates (currently around 5.5%). However, credit union loans with an APR that does not exceed 12.7% are also exempt.

This exemption is designed to reduce the burden on lenders who offer relatively cheap loans to a restricted class of persons, for example employers offering loans to employees. DTI has no evidence of consumers suffering any detriment as a result of this exemption. If it was revoked it could make such lending uneconomical and mean that the availability of cheap loans would be reduced. This would not be in consumers' best interests. Credit Unions, for example, provide a valuable service to those on low income and help to reduce social exclusion. They are prudentially regulated by the FSA and there is little to be gained by subjecting them to the CCA's licensing regime.

4.6 QUESTION

Q12. Should non-commercial low-cost loans remain exempt on the grounds that there is no perceived consumer detriment? If not, please explain why.

4.7 Short term trade credit

Some fixed-sum credit agreements are exempt if there are four or less repayments within a 12-month period. Running-account credit agreements can also be exempt where the whole amount of credit is repaid by one payment in a specified period, such as a month. These exemptions were designed to exclude short-term trade credit, such as the weekly newspaper bill and monthly accounts. The running-account exemption also covers charge cards.

The Government originally proposed that the four or less payments exemption should be limited to agreements where the number of payments did not exceed two. This was considered to be too strict and the provision was eventually based on previous legislation that exempted transactions where the number of payments was four or less.

These exemptions as currently drafted allow some agreements that do not constitute trade credit to be exempt. Whereas newspaper bills would not include an interest charge for the credit, the exemptions are not restricted to such cases. For example, an interest-bearing credit agreement for insurance premiums that is paid in four instalments in a period of up to 12 months can be exempt. This may be one of a number of payment options offered by the creditor. However, whereas a payment option that required 12 monthly repayments would be regulated and the lender would need to quote an APR, the four instalment option would be unregulated and the lender would not have to quote the APR. It is possible that in relative terms the four instalment option is more expensive but this may not be immediately apparent to the consumer.

4.8 QUESTIONS

Q13. Should the number of repayments be further restricted for short-term trade agreements to qualify for exemption?

Q14. Should these exemptions be restricted to those agreements where there is no interest charge?

4.9 Overseas Finance

Credit agreements made in connection with the import or export of goods or services and those made solely in connection with trade outside the UK are exempt. In addition, loans made by certain American creditors to US armed forces personnel, employees or their families are exempt.

Agreements connected with overseas trade were exempted to avoid hampering this activity and DTI is not aware of any problems consumers have encountered in this area. The basic rationale for exempting agreements made between American lenders and citizens is that these are covered by the equivalent American law and there is no need to impose additional requirements under the Act. Again, DTI is not aware of any problems that have resulted from this exemption.

4.10 Certain land transactions

Some agreements to finance the purchase of land that are repaid in four instalments are exempt. As with mortgages, the exemption exists so that the process of conveyancing is not hampered. However, the exemption applies to both secured and unsecured loans. DTI has little information on how often this exemption is used. Nor are we aware of any problems that consumers have encountered with this type of exempt loan.

4.11 Insurance policies connected to exempt mortgages

Some credit agreements to pay for buildings and contents, mortgage protection or indemnity insurance connected to exempt mortgage agreements are exempt in certain circumstances. There have been consumer complaints about some of these products but these tend to be in terms of the cost of the product and/or its suitability for the borrower, not the terms of the credit agreement. However, it might be argued that this exemption is no longer justified in the current market.

4.12 Overdrafts

Overdrafts differ from the exemptions listed above as the exemption is less general. The bulk of the Act applies to overdrafts but they are largely exempt from part V of the Act, which includes sections covering rights of cancellation and withdrawal and documentary requirements, such as the form and content of agreements. In addition, advertisements for overdrafts do not have to include a statement of the APR.

Instead, the lender may substitute a statement of the interest rate calculated in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980 but based on the assumption that there are no other charges arising under the agreement. The advert must include a statement of any other charges arising under the agreement.

This different treatment of overdrafts appears to have been justified on grounds that it would be impracticable to require the inclusion of non-interest charges that arise under the overdraft where the amount varies according to usage of the account and size of the facility, such as arrangement fees and land registry fees.

This means that when a consumer borrows on overdraft there are no formal loan documents to sign and the only documentation required is a written confirmation by the creditor after the event containing the specified information. The overdraft facility is not cancellable under the Act.

Although the debtor is given advance notice of the charges payable under an overdraft facility the absence of the APR means it is more difficult for him to compare overdrafts with other credit facilities. Overdrafts are not the only credit products where nothing is known about how the facility will be used. Credit card APRs, for example, are based on typical examples and assumptions are used in the calculation. A similar approach could be used for overdrafts.

Some of the responses to our consultation on *Tackling loan sharks – and more!* called for the overdraft exemption to be revoked to create a level playing field. However, while it may be possible for lenders to quote APRs for overdrafts, imposing all the Act documentary requirements might mean that lenders were less likely to offer such facilities. The overdraft as a short-term credit facility is highly valued by consumers for its simplicity and easy access.

4.13 QUESTIONS

Q15. Should advertisements for overdrafts quote an APR?

Q16. Should the exemption be revoked entirely or limited further so overdrafts are subject to the Act's documentary requirements?

5. CONSUMER HIRE AGREEMENTS

5.1 BACKGROUND

The Act also regulates consumer hire agreements which are capable of lasting more than three months and do not require the hirer to make payments of more than £25,000. The level of regulation is not identical to that for consumer credit agreements but the Act does contain provisions on the form and content of agreements, cancellation and termination rights and other matters. In the past, the upper financial limits for consumer credit and hire agreements have increased in tandem. DTI has little information about what level of consumer hire there is above £25,000 but the same arguments about the potential for consumer detriment if the limit remains unchanged might apply here as for credit agreements.

5.2 SHORT-TERM HIRE AGREEMENTS

As stated above, the current definition of regulated consumer hire agreements excludes those that cannot last more than three months. This facilitates the short-term hire of goods at short notice with minimal documentation. DTI has no evidence that this practice causes any consumer detriment and our view is that to impose the Act's rigid documentation requirements here could have an adverse effect for both consumer and lender.

5.3 HIRE AGREEMENTS FOR METERING EQUIPMENT SUPPLIED BY PUBLIC UTILITIES.

Agreements for the hire of metering equipment used for the supply of gas, electricity and water are exempt from the Act. Metering equipment is technically hired to the customer but it was considered onerous to require utility companies to comply with the Act. There does not appear to be evidence of consumer detriment as a result of this practice.

5.4 QUESTIONS:

- Q17. Should the exemption on the hire of metering equipment be extended to other utility providers, for example telephone and television service providers?**
- Q18. Is there a case for regulating more consumer hire agreements, either by increasing the upper financial limit for these agreements, changing the definition of a regulated consumer hire agreement or revoking/modifying the existing exemption?**

6. SUMMARY OF QUESTIONS

6.1 FINANCIAL LIMITS

- Q1. Do you consider the financial limit should be increased or removed? Please explain your views. If you think the financial limit should be increased, please say what you think the new limit should be and why.
- Q2. Do you support the option of a financial limit for unsecured loans and no limit for 2nd charge mortgages? If so, please state what the limit should be and why.

6.2 Business Lending

- Q3. Should business lending be re-defined or removed from the Act? If you support some change, please explain what and why?
- Q4. If you are a lender, what is your current level of business lending to sole traders, partnerships and other unincorporated bodies? Please provide figures both above and below the current limit of £25,000 in terms of number of agreements and amounts, in bands of £25,000. Please also detail how much of this is secured and unsecured.

6.3 Related Issues

- Q5. Do you agree that these issues require further consideration if the financial limit is increased significantly?
- Q6. Are there other areas of the Act that should also be examined? If so please state why and provide information on the practical effects and costs, and where appropriate the degree of detriment.

6.4 Exemptions

- Q7. Should any of the existing exemptions be retained?
- Q8. Should any of the exemptions be revoked?
- Q9. Should any of the exemptions be modified so it is more clearly targeted on the type of lending for which it was created?
- Q10. Is there a case for regulating under the Consumer Credit Act any of those 1st charge loans secured on property that will not fall to be regulated by the FSA in 2004?
- Q11. Will some loans secured by 2nd charges on property remain unregulated if the financial limit is increased without some modification to the exemptions for mortgage lending? If so, what type of loan and how many will be affected?
- Q12. Should non-commercial low-cost loans remain exempt on the grounds that there is no perceived consumer detriment? If not, please explain why.

- Q13. Should the number of repayments be further restricted for short-term trade agreements to qualify for exemption?
- Q14. Should these exemptions be restricted to those agreements where there is no interest charge?
- Q15. Should advertisements for overdrafts quote an APR?
- Q16. Should the exemption be revoked entirely or limited further so overdrafts are subject to the Act's documentary requirements?

6.5 Consumer Hire Agreements

- Q17. Should the exemption on the hire of metering equipment be extended to other utility providers, for example telephone and television service providers?
- Q18. Is there a case for regulating more consumer hire agreements, either by increasing the upper financial limit for these agreements, changing the definition of a regulated consumer hire agreement or revoking/modifying the existing exemption?

6.6 Compliance costs and estimates of savings.

- In addition to the questions above it is important that we can evaluate any compliance costs and estimated savings arising from any of the options in this document. Please identify and quantify recurring and non-recurring costs and savings separately. Examples of recurring costs include the costs of extra administration, or materials. Non-recurring costs are costs such as one-off expenditure on materials, buildings and computer systems.
- To put the figures into perspective, please provide figures against estimates of new credit advanced and credit outstanding at the end of the most recent financial year for which information is available. Leasing/hire business should provide figures against an estimate of expected income from hire agreements over a one-year period.
- If any business expects activity levels to increase as a consequence of an option being implemented, please provide an estimate of the growth of volume.
- If some costs and savings cannot be quantified but can be identified, please list them and give an indication of the importance you attach to them.

6.7 Small Business impact assessment:

- The Department pays particular attention to the impact of the options on small business. We request that if you are or represent small business please supply information about the estimated impact of these options.

7. REGULATORY IMPACT ASSESSMENT:

No Regulatory Impact Assessment (RIA) has been made at this stage as this consultation document is exploring a number of options, rather than a defined proposal, for increasing the financial limit and changing the agreements exempted from the Act. Therefore it is difficult for us to quantify the costs and benefits arising from each option. However, we would be grateful if respondents could consider the possible implications of the various proposals and provide us with information about compliance costs and benefits that would result from these (please refer to section 6.6 above for the specific questions we would like respondents to address.)

Following consideration of the responses to this document a further consultation will be undertaken on specific proposals for reforming the Act. An RIA will be included in that consultation and will draw on the compliance costs and benefits identified in this exercise.

List of consultees approached:

CHARITABLE BODIES

Age Concern

Help The Aged

Money Advice Trust

National Council for Voluntary Organisations

CONSUMER ORGANISATIONS

Birmingham Settlement Money Advice Services

Consumers Association

Consumers in Europe Group

Federation of Information Advice Centres

General Consumer Council for Northern Ireland

Institute of Consumer Affairs

International Consumer Policy Bureau

Money Advice Association

Money Advice Scotland

National Association of Bank & Insurance Customers

National Association of Citizens Advice Bureaux

National Association of Citizens Advice Bureaux (North Region)

National Consumer Council

National Federation of Consumer Groups

Scottish Association of Citizens Advice Bureaux

Scottish Consumer Council

Welsh Consumer Council

CREDIT AND HIRE INDUSTRY ORGANISATIONS

Association for Payment & Clearing Services

British Bankers Association

British Cheque Cashers Association
British Vehicle Rental & Leasing Association
Building Societies Association
Construction Plant Hire Association
Consumer Credit Association
Consumer Credit Trade Association
Corporation of Finance Brokers Limited
Council of Mortgage Lenders
Credit Card Research Group
Credit Industry Fraud Avoidance Systems
Credit Services Association
Finance and Leasing Association
Hire Association Europe
Institute of Credit Management
The National Consumer Credit Federation
National Pawnbrokers Association

CREDIT REFERENCE AGENCIES

Callcredit PLC
Credit Data and Marketing Services
Dun and Bradstreet Limited
Equifax Limited
Experian Limited

EUROPEAN COMMISSION/GOVERNMENT

Bank of England
Building Societies Commission
Cabinet Office

Charity Commission
Commission for Racial Equality
Department of Economic Development (Northern Ireland)
DTI Competitiveness Unit
DTI Small and Medium Enterprise Policy Directorate
Equal Opportunities Commission
European Commission
Lord Chancellor's Department
The National Assembly for Wales
The Office of the Information Commissioner
Scotland Office
Scottish Executive
HM Treasury
UKREP
Welsh Office

JOURNALS

Consumer Law Today
Trading Standards Review

LEGAL PROFESSION AND SIMILAR BODIES

Association of District Judges
Faculty of Advocates
The General Council of the Bar
Law Centres Federation
Law Commission
The Law Society
The Law Society of Northern Ireland
The Law Society of Scotland
Scottish Law Commission
Sheriffs Association

Society of Public Teachers At Law

LOCAL AUTHORITIES

Birmingham City Council

Essex County Council

Glasgow City Council

Hertfordshire County Council

Kent County Council

Surrey County Council

LOCAL AUTHORITY ASSOCIATIONS

Association of County Councils

Association of District Councils

Association of Local Authorities in Northern Ireland

Association of London Authorities

Association of Metropolitan Authorities

Convention of Scottish Local Authorities

Local Government Association

London Boroughs Association

Welsh Local Government Association

OMBUDSMEN

The Financial Ombudsman Service

ORGANISATIONS REPRESENTING SMALL FIRMS

Alliance of Independent Retailers and Businesses

Association of Independent Businesses

Federation of Small Businesses

The Forum of Private Business

The Independent Food Retailers Confederation

London Personal Finance Association

The Union of Independent Companies

OTHER BODIES, BUSINESSES OR INDIVIDUALS

Abbey National PLC

Anthony Sharp Associates

Berwin Leighton Paisner

Birmingham Midshires Building Society

BOC Limited

Cameron McKenna

Campaign for Plain English

Peter Cartwright

Clifford Chance

Cornhill Insurance PLC

Denton Wilde Sapte

Paul Dobson

Dundas & Wilson

Professor Sir Roy Goode

Geraint Howells

igroup Limited

JCB Finance Limited

Kensington Mortgage Company

Kent Reliance Building Society

Key Business Finance Corporation PLC

Lester Aldridge

Lloyds of London

Prof. Eva Lomnicka

Professor Macleod

Mercedes Benz Finance Limited

Mortgagecheck

Norwich Union Group Legal

Malcolm Padgett
Palmer Hart
Mr John Patrick
Clifford Payton
Personal Finance Research Centre
Politics International Limited
Premier Writers
Mr John Purcell
Renault UK Limited
RGMR
Ross & Co
S & U PLC
Salans Hertzfeld & Heilbronn HRK
Selwood Research
Sonnenscheins
John Stephens
Swift Advances PLC
Time Retail Finance
Christian Twigg-Flesner
Mr Edward Vaizey
Virgin Management Limited
W & J Burness
Mr A I Warwood
Yorkshire Building Society

OTHER ORGANISATIONS OR BODIES REPRESENTING BUSINESS

The Association of British Chambers of Commerce
Association of British Insurers
British Insurance and Investment Brokers Association
British Retail Consortium

Confederation of British Industry
Direct Marketing Association
House Builders Federation
Institute of Chartered Accountants in England and Wales
Institute of Directors
ISBA - the Voice of British Advertisers
The Institute of Management
The Mail Order Traders Association
The Radio Advertising Bureau
Retail Motor Industry Federation
Scottish Grocers Federation
Scottish Motor Trade Association
Society of Motor Manufacturers and Traders Limited

REGULATORY OR SUPERVISORY BODIES

Advertising Standards Authority
Broadcast Advertising Clearance Centre
Direct Mail Services Standards Board
Finance Industry Standards Association
Financial Services Authority
Independent Television Commission
Office for the Regulation of Electricity and Gas (Northern Ireland)
Office of Fair Trading
Office of Gas and Electricity Markets
Personal Investment Authority
Radio Advertising Clearance Centre
Radio Authority

TRADING STANDARDS

Institute of Trading Standards
Local Authorities Co-ordinating Body on Food and Trading Standards

THE CONSULTATION CRITERIA

1. *Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.*
2. *It should be clear who is being consulted, about what questions, in what timescale and for what purpose.*
3. *A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.*
4. *Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others) and effectively drawn to the attention of all interested groups and individuals.*
5. *Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation*
6. *Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and the reasons for decisions finally taken.*
7. *Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.*

The complete code is available on the Cabinet Office's web site, address www.cabinet-office.gov.uk/servicefirst/index/consultation.htm

COMMENTS OR COMPLAINTS

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to Mr P Martin, DTI Consultation Co-ordinator, Room 550, 1 Victoria Street, London SW1H 0ET or telephone him on 020 7215 6509 or [mail to: philip.martin@dti.gov.uk](mailto:philip.martin@dti.gov.uk)

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