

# STATES OF JERSEY



## **DRAFT REGISTER OF NAMES AND ADDRESSES (AMENDMENT) (JERSEY) LAW 202- (P.56/2023): COMMENTS**

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**Presented to the States on 6th September 2023  
by the Economic and International Affairs Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

### Background

The Draft Register of Names and Addresses (Amendment) (Jersey) Law 202- [P.56/2023](#) (the draft Law) will, if adopted, amend the [Register of Names and Addresses \(Jersey\) Law 2012](#) (the RNA Law) to allow the Chief Minister to provide prescribed credit reference agencies (CRAs) with certain information on Jersey Residents held within the Register of Names and Addresses (the Register).

The draft Law's primary intention has been ascertained to be to decrease the barriers to Islanders undergoing credit checks when applying for credit cards and other services. This is indicated to effectively support the performance of affordability checks and Customer Due Diligence (CDD) verification checking, and facilitate continued improvements driven by banks and credit service providers through the digitalisation of their processes.<sup>1</sup>

Information provided to CRAs will also be provided for use in the purposes of Anti-Money Laundering and Counter Terrorist Financing (AML/CFT) or the performance of statistical analysis of credit risk assessment whereby the individuals are not referred to by name or made identifiable.<sup>2</sup>

The Economic and International Affairs Scrutiny Panel (the Panel) has posed questions to the Chief Minister and has formed these comments to provide further information to aid in the Assembly's consideration of the draft Law.<sup>3</sup>

### Consultation

The Panel has been informed by the Chief Minister that a pro-active consultation approach has been undertaken by officials, who have directly contacted key parties and continuously monitored feedback channels to prepare necessary responses. The Panel had previously been informed by the Assistant Chief Minister that a programme of meetings with banks was being undertaken in April 2023.<sup>4</sup>

The Chief Minister has also highlighted that, as well as engagement with senior representatives from Jersey retail banks, consumer representative bodies such as the Jersey Consumer Council have been engaged during the development of the draft Law.

The Chief Minister has outlined that the Government of Jersey (the Government) has worked with representatives from the three main credit references in the UK, Equifax, Experian and TransUnion, throughout the development of this policy to ensure that the design would be fit for purpose. It was highlighted in the Chief Minister's letter of 18<sup>th</sup> August 2023, that although the three main CRAs had received the finalised draft Law, responses had not been received at that time with officials meeting with them that week.

An open consultation was launched 17th July 2023, with a deadline for comments of 25th August 2023. The Panel has been informed that the consultation had been provided directly to the key industry and consumer representative groups, with some responses received and some confirming that they did not intend to provide a response.

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<sup>1</sup> [Consultation: Credit reference agency access to information](#)

<sup>2</sup> [The Draft Register of Names and Addresses \(Amendment\) \(Jersey\) Law 202-](#)

<sup>3</sup> [Letter – Chief Minister to Economic and International Affairs Scrutiny Panel re P.56/2023 – 18 August 2023](#)

<sup>4</sup> [Transcript - Quarterly Public Hearing with the Assistant Chief Minister - 21 April 2023](#)

The Panel questioned the timing of the consultation, noting that it was being undertaken during the lodging period of P.56/2023. The Panel was informed that the draft Law was a subject of public interest and a key political priority to deliver without delay. The Chief Minister has indicated that the pace of delivery has been enabled by efforts, prioritisation and collaboration from officials across numerous departments.

The Panel highlighted the proximity of the close of the consultation and the deadline for amendments to P.56/2023. The Panel was informed by the Chief Minister that:

- the draft Law has built in powers for transitional amendments where further adaption is necessary; and,
- should a more fundamental change be determined as necessary in responses received towards the close of the consultation, the Chief Minister would inevitably look to re-lodge the proposition.

The Panel requested confirmation of any required actions following closure of the consultation. It has been informed no issues have been raised which prompt the need for amendment by the Chief Minister. The Panel has been advised that the public survey tool received strong engagement with 85% of the 122 responses supporting the policy delivery.

The Panel anticipates that feedback from the consultation will be published by the week commencing the 4th September 2023. The Panel has not received any comment from Islanders or stakeholders on the draft Law.

The Panel is generally supportive of the engagement and consultation undertaken on the draft Law. While having expressed some apprehension on this being carried out concurrently with the lodging period of P.56/2023, the Panel has not received any indication of concern on the draft Law. It also has been reassured by Government Officers that no issues have been raised through the consultation that would require amendment to the draft Law.

### **Situation and Proposals**

As highlighted in the accompanying report to P.56/2023, there has been an increase in reported instances in which Islanders have faced challenges in the application of financial services such as the provision of credit cards, with local media identifying issues as early as September 2022.<sup>5</sup>

CRAs give lenders, such as banks, a range of information about potential borrowers, which is used to make decisions about whether they will offer credit or not for services such as credit cards.<sup>6</sup> Most of the information held by the CRAs relates to an individual's maintenance of their credit and service/utility accounts as well as details of previous addresses.

CRAs operating in the United Kingdom (UK) operate under licence by the [Financial Conduct Authority](#). They currently hold information relating to Jersey residents which is furnished by businesses including banks and lenders, advising on individuals' indebtedness and affordability.

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<sup>5</sup> [ITV News "Channel Islanders struggling to get credit cards as providers pull out" 06 September 2022](#)

<sup>6</sup> <https://ico.org.uk/for-the-public/credit/#:~:text=The%20three%20main%20consumer%20CRAs,credit%20and%20service%2Futility%20accounts>

The accompanying report to P.56/2023 identifies that a key source of information used by the UK CRAs is the UK electoral register, highlighting that the Jersey electoral register is not supplied to credit reference agencies as it is not permissible under the [Elections \(Jersey\) Law 2002](#).

The Panel queried the Assistant Chief Minister with Responsibility for Financial Services (the Assistant Chief Minister), Deputy Elaine Miller, on the situation during a Quarterly Hearing of 21st April 2023.<sup>7</sup> The Panel was informed by the Assistant Chief Minister that, at that time, a programme of meetings with banks was being undertaken. This had identified the absence of a centralised electoral roll as a barrier to credit card operation in Jersey and that consideration of the matter was being progressed by the Cabinet Office.

The Assistant Chief Minister highlighted a number of complexities around use of a centralised register. A Government blog also recognises that, although the use of Jersey's electoral register was considered, it was not the best solution, owing to operational challenges of having a separate electoral register in each of the 12 Parishes of Jersey, each with a separate data controllers. There also would be strategic misalignment as residents will only be eligible to vote after two years of residency.<sup>8</sup>

The draft Law will allow the Chief Minister to provide prescribed CRAs with certain information on Jersey Residents held within the Register. Under the RNA law the Register currently contains:

- the individual's name (including title) and residential address;
- the individual's date and place of birth;
- the individual's date of arrival in Jersey (if the individual was not born in Jersey);
- the individual's gender; and,
- the individual's social security number.

The draft Law stipulates that provision of information from the Registry to the CRA would be limited to that held for individuals aged 18 years and above, and only include:

- Full name;
- Residential Address; and,
- Full date of birth.

The Chief Minister has indicated to the Panel that these information fields are those which are critically missing for Jersey residents, as identified through consultation with the CRAs. The Panel has been reassured that the Register is sufficiently maintained to provide this information accurately for these purposes.

Under the draft Law, CRAs will only be provided information from the registry for the clear purposes of:

- (a) The performance of affordability and credit checks;
  - (b) Meeting anti-money laundering obligations (e.g. the performance of CDD);
- and,

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<sup>7</sup> [Transcript - Quarterly Public Hearing with the Assistant Chief Minister - 21 April 2023](#)

<sup>8</sup> [Q&A: Credit reference agencies and access to information \(gov.je\)](#)

- (c) The performance of statistical analysis of credit risk assessment whereby the individuals are not referred to by name or made identifiable.

The Panel questioned the rationale for inclusion of AML/CFT as a reason for sharing of information from the Register,<sup>9</sup> and was informed by the Chief Minister:

*“This proposition does not bring with it new requirements for anti-money laundering checks. You are correct that businesses are already performing these checks, however with rising compliance costs businesses are seeking more efficient and effective means of performing this by utilising digital straight through processes. Businesses in the UK can already obtain from credit reference agencies, using digital automation, a consumer report to use as a reliable source against which to verify a customer’s address when processing an application. Our engagement with banks has identified challenges implementing improved digital account opening processes, in particular the use of digital means for address capture and validation. The ability to use a consumer report from a credit reference agency to validate the information in a photo capture of a utility bill will support businesses servicing Jersey residents to implement more efficient digital onboarding processes.”*

The Panel has been advised that, where the processing identifies the subject (points a and b outlined above), there will typically need to be an application, through which a consumer would be acknowledging the performance of the checks.

The Panel also questioned the provision of information for statistical analysis. The Panel has been informed by Government Officers that this is consistent with the UK and Isle of Man, and is typically performed to create the context upon which to analyse creditworthiness. It has been highlighted that, where there is credit analysis which does not identify data subjects (directly or through implication), applications and/or consent are not required as it will not identify the data subject.

The consultation document identifies that information will be extracted from the RNA Register and securely provided on a monthly basis.<sup>10</sup> The Chief Minister anticipates the supply of information to be effective in early 2024, which will supplement the creation of customer reports already formed by the CRAs.

It is proposed that the draft Law will enable an administrative fee to be set for the supply of relevant information. The Panel has been informed that this will be established by Order in parallel to the prescription of the CRAs. The Chief Minister has indicated that administrative costs will not be materially different for provision of similar information in England and Wales and that, if an equivalent model was adopted, a fee of £1,300 per annum per credit reference agency could be expected.

The Panel agrees that this is a sensible way forward to enable the work of CRAs. However, the Panel notes that the delivery of financial services, such as provision of credit cards, remain a commercial decision for banks. As such, further dialog with credit card providers should continue.

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<sup>9</sup> [Letter – Chief Minister to Economic and International Affairs Scrutiny Panel re P.56/2023 – 18 August 2023](#)

<sup>10</sup> [Consultation: Credit reference agency access to information](#)

## **Protections**

CRAs hold a wide range of customer data and process this data for a large number of consumers. Misuse or loss of data through poor controls or cyber attack could have potential reputational risks to the Island, particularly following the provision of personal information from the Register.

Noting this risk, the Panel questioned safeguards that would be put in place. It was informed by the Chief Minister that provision of the information will be based on the condition that the prescribed CRA has adequate systems in place for securing the confidentiality and integrity of relevant information and would use the relevant information only for the purposes which have been specified within the draft Law. It is proposed by the Government that the sharing of data will be provided subject to Data Sharing Agreements being put in place with the CRAs, these clearly specifying the purposes for use.<sup>11</sup>

The Government has indicated that, in line with data protection law, individuals can request their information be omitted from the information supplied to CRAs. However, in doing so an individual should recognise the impacts this may have on that individual's future applications for credit products.<sup>12</sup>

The Chief Minister has highlighted that a further condition will require that any CRA that is prescribed for the purposes of the draft Law to be authorised:

- in the UK to provide credit references under the UK Financial Services and Markets Act 2000; or,
- to provide credit references in another jurisdiction with equivalent regulation, and with data protection legislation equivalent to the Data Protection (Jersey) Law 2018.

It has been outlined by the Chief Minister that they intend to ensure that this is brought into effect through performing due diligence to ensure a CRA has adequate systems in place prior to prescribing them in an Order and entering agreements to confirm this with each CRA prior to the supply of information.

Noting that the Chief Minister will be undertaking due diligence checks prior to prescribing any CRAs, the Panel is content that suitable protections can be anticipated provided that government itself keeps its systems secure.

## **Conclusion**

The Panel is generally satisfied that the draft Law is a necessary and sensible solution to enable the operation of Credit Reference Agencies and is hopeful that the enhanced provision of information will allow greater provision of credit services to Islanders.

However, the Panel highlights that further work may need to be undertaken by Government Officers to continue encouraging providers to provide full commercial services, such as credit cards and to ensure it keeps data in its own possession secure at all times.

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<sup>11</sup> [Data access for CRAs Consultation](#)

<sup>12</sup> [Q&A: Credit reference agencies and access to information \(gov.je\)](#)