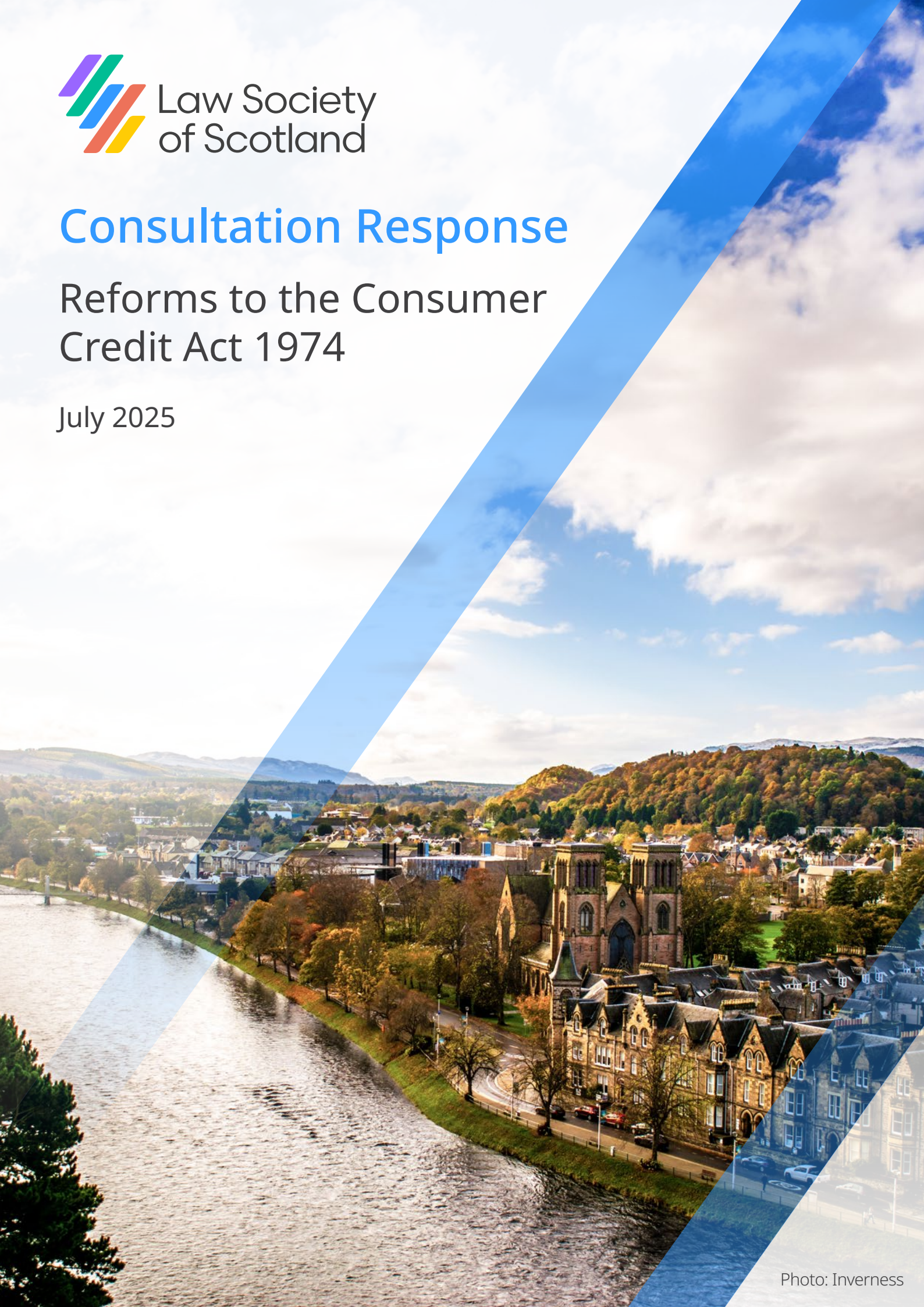


Consultation Response

Reforms to the Consumer Credit Act 1974

July 2025



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Introduction

The Law Society of Scotland is the professional body for over 14,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Consumer Law sub-committee welcomes the opportunity to consider and respond to the UK Government Consultation: Reforms to the Consumer Credit Act 1974¹. In summary;

- We are generally supportive of the proposed reforms to the Consumer Credit Act 1974 (**CCA**) and believe that simplifying the legislation will make it more accessible for consumers;
- We believe that proposed reforms represent a much needed update to the CCA and make provision to address the changes seen in the consumer credit market since the legislation was first implemented;
- We are supportive that the Financial Conduct Authority will have significant responsibility in regulating and enforcing standards in the consumer credit market.

General Remarks

We welcome the proposed reforms to the CCA and believe these will strengthen consumer protection in Scotland (and the wider UK). We recognise that attempts are being made to simplify the law in this area and believe this will increase its accessibility for consumers by replacing previously complex legal jargon with clearer, more user-friendly text.

As with the Regulation of Legal Services (Scotland) Act 2025, we believe these proposals will also improve redress mechanisms for aggrieved consumers and provide them with easier means to resolve their disputes. We believe the reforms address the excessively technical and formulaic terminology that is used in the current CCA which often results in consumers needing to resort to the Courts to provide a determination on a matter in dispute. However, as many consumers do not have the financial means to achieve these ends, we believe the proposed reforms will improve access to justice in the credit market.

¹ <https://www.gov.uk/government/consultations/consultation-on-consumer-credit-act-1974-cca-reform>

We also welcome the proposals that credit institutions are to proactively ensure that they are delivering good outcomes for consumers and that this consideration is to sit alongside their own commercial objectives. We see this as crucial in protecting the interests of consumers given the disproportionate power that credit institutions often possess.

Consultation Questions

Question 1: Do you agree with our vision for a Reformed Regime?

We agree with the vision of reform to the CCA and that steps are being taken to update this important piece of legislation. We believe the widespread changes noted in the consumer credit market since the CCA was first implemented have rendered certain provisions as being outdated and thus unfit for purpose. The changes include both the expansion and diversification in the type of credit products and services that is now offered, alongside significant reforms in the way the market is actually regulated.

In terms of changes to the type of products and services that are offered, we note that new lines of credit are now available to consumers. This includes an increase in the use of credit cards, pay-day loans and Buy Now, Pay Later services. This is alongside technological innovation in the way credit is obtained, including instant credit decisions and online lending platforms.

From a regulatory perspective, we also note that significant changes have been made to the body holding responsibility for oversight and compliance with the CCA. We note the transfer of these powers from the Office of Fair Trading (now closed) to the Financial Conduct Authority (**FCA**) in 2014. This change brought about the introduction of other important regulatory frameworks such as the Consumer Credit Sourcebook as set out in the FCA's Handbook.

In noting the above changes, we believe that reforms to the legislation are long overdue. The changes have brought into sharp focus a need to ensure consumer credit law and regulation achieves its primary objective of protecting consumers from unfair, misleading or aggressive business practice. Furthermore, we believe a need exists to safeguard consumers from the prevalence of new products and services within the market so as to ensure they meet certain and exacting standards. In order to achieve this, we believe mechanisms of redress need to be improved so that consumers have clear options available to them when the products and services provided to them fall below an acceptable standard. We believe the proposed reforms to the CCA are a step in the right direction and go some way to meeting these needs.

Question 2: Do you agree with our preferred approach to legislation?

We support the proposed approach to legislation that have been outlined and that the FCA is being given the primary responsibility for ensuring compliance with

consumer protection. We believe the FCA is well placed to regulate the consumer credit market via their associated regulations and Consumer Credit Sourcebook.

Question 3: Do you think the challenges in relation to the transitional provisions have been captured and what further thoughts do you have on possible appropriate transitional provisions?

We believe it is too early to say whether the proposed transitional provisions that have been suggested will be sufficient to work in practice. In reaching this conclusion, we point to the scale of regulatory change that is being proposed and believe that further analysis is required of the knock on effect of these changes. This includes in the areas of credit referencing, debt collection and existing technological delivery.

Question 4: Do you agree with our proposal to repeal the information provisions from the legislation and for these to be recast, as appropriate, into FCA rules?

We agree with this proposal.

Question 5: Do you agree with our conclusion that the FCA regime without sanctions provides a robust consumer protection?

Whilst we agree with this in principle, we would advocate that a cautious approach is taken to immediately repealing all criminal sanctions under the CCA. This is in consideration of the protections they currently offer to certain vulnerable consumers. In taking this approach, we would suggest that consideration is given to retaining a number of the provisions contained within the CCA such as the protection offered under Sections 48-49 (Canvassing Off Trade Premises) alongside Section 50 (Circulars to Minors).

A possible option could be to include a time limitation clause (often referred to as a “sunset clause”) for each of the sanctions provisions retained within a reformed CCA. This would enable such provisions to automatically expire upon a fixed date with responsibility then transferring to the FCA. The expiry of the provision would be dependant on whether creditors’ behaviours have met acceptable standards in terms of compliance with consumer protections as set out by the FCA.

Question 6: What are your views on the following approaches for criminal offences? Officials would need to review these options in the context of the wider CCA Reform proposals.

- a) Repealing all the criminal offences in the CCA, allowing the FCA to take enforcement action where possible;
- b) Keeping all the criminal offences in the CCA;
- c) Repealing all criminal offences (allowing the FCA to take enforcement action where possible) except those that relate to minors and canvassing off trade premises where criminal offences would remain.

Please see our answer to Question 5.

Question 7:

- a) Has this paper captured the key issues and barriers for each of the cross-cutting themes of:
 - a. Green Finance: [Yes/No]
 - b. Islamic Finance: [Yes/No]
 - c. Technology: [Yes/No]
- b) Is there anything else you think needs to be considered in our Phase 2 policy work?

We believe that further information and feedback will be required, particularly in the area of technology. We await this focus at Phase 2 of the consultation.

Question 8: Do you agree with the provisional assessment that, on balance, the Government's proposed proportionate approach to reform mitigates the negative impacts on those sharing particular protected characteristics and retain the positive equalities impacts of the products?

We have no further comments to make at present.

Question 9: Do you have any further data you can provide on the potential impacts on persons sharing any of the protected characteristics?

We do not have any further data to share at present.



For further information, please contact:

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