

Important information for Pawnbrokers about credit laws



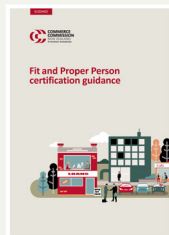
Do credit laws apply to my pawnbroking business?

Depending on the terms of your pawnbroking contract, it may also be a [consumer credit contract](#), meaning you have to comply with the Credit Contracts and Consumer Finance Act 2003 (as well as the Secondhand Dealers and Pawnbroker's Act 2004). The Commerce Commission (Commission) recommends you get your own legal advice if you are not sure how the law applies to your business.

Certification

From 1 October 2021, directors and senior managers of businesses that provide consumer credit, including pawnbrokers, must be certified as 'fit and proper' to provide this service. This means that you will need to apply for certification and satisfy the Commission that you are a fit and proper person to hold those positions. The Commission needs to be satisfied that you are financially sound, honest, reputable, reliable and competent to perform your role. The aim of certification is to set a high standard of personal and professional integrity for those involved in providing a lending service, which includes pawnbrokers.

When applying for certification you will need to consider who your directors and senior managers are. We encourage you to read our [guidance](#) to understand more about the definition of a director and senior manager.



If you are already registered on the Financial Service Providers Register (FSPR), you can apply for certification through the 'Maintain Financial Services' tab on your FSPR dashboard. If you are not already registered on the FSPR, then you will need to get registered in order to apply for certification. Please visit the [FSPR website](#) for more information.



We have provided a [sample application form](#) on our website which you can review before submitting your application. An application fee of \$1,055 (excluding GST) is payable for each director or senior manager included in an application. The Commission won't start processing your application until all fees are paid.

In assessing whether an individual is a 'fit and proper' person to hold their position, the Commission will consider assessment criteria which looks at the suitability, competency and capability of individuals. If a director/senior manager fails the 'fit and proper' person assessment, you may need to remove them in order to be certified. If we intend to refuse certification, you will have an opportunity to make a submission to us before a final decision is made. You can appeal the decision to refuse to certify (or to certify with conditions) to the District Court.

You must also keep the Commission notified of any material changes that could affect your certification. There is more information about this in our [guidance](#).

You may face serious penalties if you breach the certification requirements – a company may have to pay up to \$600,000 and individuals up to \$200,000.

For more information, please read our [guidance](#) and visit our website to review our [FAQs](#) and for general enquiries, please email us at certification@comcom.govt.nz.

Responsible Lending

From 1 December 2021, lenders, including pawnbrokers, must comply with new regulations that set out the types of inquiries that need to be made before agreeing to lend money to a borrower, or before agreeing to provide further credit under an existing loan. The purpose of these changes is to increase certainty about lenders' obligations when conducting loan suitability and affordability assessments.

Advertising and fees

From 1 December 2021, lenders, including pawnbrokers must comply with 'Advertising Standards' that are set out in new regulations. This means that certain information must be included in advertising, and certain advertising practices are prohibited. Also, lenders, including pawnbrokers, will be required to keep records about how they have calculated each credit and default fee, and they will be required to review their fees where they become aware of a change that is likely to affect the reasonableness of a fee.

