**Credit Reporting Privacy Code 2004**

**Amendment No 11**

1. **Title**

This amendment is the Credit Reporting Privacy Code 2004 Amendment No 11.

1. **Commencement**

This amendment will come into force on 28 September 2017.

*Note: The commencement of the amendment aligns with the commencement of amendments made to the Privacy Act 1993 by the Intelligence and Security Act 2017.*

1. **Amendment to Clause 5 (Interpretation)**

Clause 5 is amended by inserting the following definitions in the appropriate alphabetical order:

 **access agreement** means a written agreement between an intelligence and security agency and a credit reporter providing access to credit information to enable the intelligence and security agency to perform security clearance assessments.

 **security clearance assessment** has the same meaning as in section 220 of the Intelligence and Security Act 2017

1. **Amendment to Rule 11 (Limits on Disclosure of Credit Information)**

(1) Subrule 11(1) is amended by inserting the following new paragraphs:

(ca) that the disclosure of the information is necessary to enable an intelligence and security agency to perform any of its functions other than the performance of security clearance assessments;

*Note: Security clearance assessments are dealt with under rule 11(1)(cb) using ann access agreement.*

(cb) in accordance with an access agreement.

*Note: See Intelligence and Security Act 2017, ss 10-16, for the functions of intelligence and security agencies.*

*Note: Intelligence and Security Act, section 122(3) provides that the Director-General of an intelligence agency may certify that he or she believes on reasonable grounds that the disclosure is necessary, for the purpose of enabling an agency to decide whether to disclose the information.*

(2) Subrule 11(2A) is amended by inserting after the word ‘subrules’:

 (1)(ca), (cb),

(3) Rule 11(3)(a) is amended by inserting after the phrase ‘supplied by a subscriber’:

 or by an intelligence and security agency in accordance with an access agreement

1. **Insertion of new Schedule 3A: Access Agreement**

The following Schedule 3A is inserted:

**Schedule 3A**

**Access agreement**

*(Rules 11(1)(cb) and 11(3)(a))*

An access agreement must include provisions imposing the following obligations on the intelligence and security agency:

***Access to credit information by agency***

1. The intelligence and security agency must co-operate with all reasonable compliance checks conducted by the credit reporter.

***Steps to safeguard credit information by agency***

1. The intelligence and security agency must take appropriate measures, including the following, to safeguard credit information accessed under the access agreement against improper access:
2. Develop written policies and procedures to be followed by its employees, agents and contractors;
3. Establish controls, including;
	1. The use of passwords, credential tokens or other mechanisms; and
	2. User identification
4. Provide information and training to ensure compliance with the policies and controls;
5. Monitor usage and regularly check compliance with the policies and controls; and
6. Take appropriate action in relation to identified breaches of the policies and controls.

***Agency to cooperate with credit reporter’s systematic reviews***

1. The intelligence and security agency must promptly co-operate with the credit reporter in its efforts to undertake a systematic review of the effectiveness of the policies, procedures and controls in place under this Schedule.
2. **Amendment to Schedule 4 (Summary of Rights)**

Schedule 4 is amended by inserting into the material under the heading ‘Only certain people can access your report for certain purposes’ the following additional item to appear after the item relating to debt collectors:

* an intelligence and security agency that is conducting a security clearance assessment;
1. **Amendment to Schedule 6 (Assurance Reports)**

Schedule 6 is amended by adding the following new paragraph (l) into clause 3 (and consequently moving the word ‘and’ from the end of paragraph (j) to (k), appropriately punctuated):

 (l) the intelligence and security agencies complied with any access agreements and controls.

*The text in italics is for information only and is not part of the amendment as issued.*

***Legislative history***

*6 June 2017 Public notice of intention to issue Amendment No 11 (Privacy Act, s 48)*

*25 August 2017 Amendment No 11 issued (Privacy Act, s 51)*

*31 August 2017 Gazette notice concerning issue, commencement and availability (Privacy Act, s 49)*

*28 September 2017 Commencement of Amendment No 11*