

## **Proposed Amendment No 10 to the Credit Reporting Privacy Code 2004**

### **Information Paper**

**The Privacy Commissioner proposes to amend the Credit Reporting Privacy Code 2004 (the Code) to bring it up to date following several other statutory amendments.**

This information paper is intended to assist people who may wish to make a submission on the proposed amendment.

Amendment No 10 proposes to make several changes to the Code in order to:

- 1) reflect changes to the “publicly available publication” exception for the use and disclosure of personal information (information privacy principles 10 and 11) made to the Privacy Act by the Harmful Digital Communications Act 2015; and
- 2) update a reference in rule 12 to legislation which has since been replaced.

#### *“Publicly available publication” exception (clauses 4 and 5 of the proposed amendment)*

Rules 10(1)(a) and 11(1)(a) of the Code permit Credit Reporters to use or disclose credit information where the source of that information was a publicly available publication. These exceptions were based on the original wording of principles 10(a) and 11(b) of the Privacy Act.

However, from 3 July 2015 principles 10(a) and 11(b) of the Privacy Act have been amended by section 40 of the Harmful Digital Communications Act 2015 to restrict the circumstances in which agencies may use or disclose personal information. Agencies may now only use or disclose personal information which was obtained from a publicly available publication where, in the circumstances of the case, it would not be unfair or unreasonable to do so.

The amendment will insert the words “and that, in the circumstances of the case, it would not be unfair or unreasonable to [use/disclose] the information” into rules 10(1)(a) and 11(1)(a). These are exactly the same words that now appear in the Privacy Act and will ensure consistency between the Code and the Privacy Act.

#### *Change to Rule 12 (clause 5 of the proposed amendment)*

Rule 12(2)(a) provides an exception to the general rule that Credit Reporters must not use a unique identifier which has been assigned to an individual by another agency, for the purpose of identifying that same individual. The exception makes reference to a class of person defined under section OD7 of the Income Tax Act 1994.

However, the Income Tax Act 1994 has now been repealed by the Income Tax Act 2007. The relevant provisions can now be found in subpart YB of the 2007 Act.

### **Attachment**

Annexed to this paper is the text of the proposed amendment.

### **Invitations to make submissions**

Any person is welcome to make a written submission on the proposed amendment which must be received by 28 August 2015. Submissions should be addressed to [code@privacy.org.nz](mailto:code@privacy.org.nz) or posted to:

Credit Reporting Privacy Code Amendment Submissions  
Office of the Privacy Commissioner  
PO Box 10094  
Wellington 6143

If you have any questions, or would like to discuss the proposed amendment before making a submission, please feel free to contact us on 0800 803 909.

Submissions may be published on the website of the Office by the Privacy Commissioner or be released on request. If you would like the Commissioner to keep your submission, or part of the submission, confidential, please indicate the reasons with your submission and the Commissioner will consider your request in accordance with the Official Information Act 1982.

**Annex****Credit Reporting Privacy Code 2004  
Amendment No 10****1. Title**

This amendment is the Credit Reporting Privacy Code 2004 Amendment No 10.

**2. Commencement**

This amendment will come into force on 15 October 2015.

**3. Amendment to clause 6 (Credit reporting privacy rule 10)**

Rule 10(1)(a) is amended by inserting the following after “publicly available publication”:

Insert: “and that, in the circumstances of the case, it would not be unfair or unreasonable to use the information”

**4. Amendment to clause 6 (Credit reporting privacy rule 11)**

Rule 11(1)(a) is amended by inserting the following after “publicly available publication”:

Insert: “and that, in the circumstances of the case, it would not be unfair or unreasonable to disclose the information”

**5. Amendment to clause 6 (Credit reporting privacy rule 12)**

Rule 12(2) is amended in the following manner:

Delete: section OD7 of the Income Tax Act 1994

Substitute: subpart YB of the Income Tax Act 2007