



Credit Reporting Privacy Code 2004

*Incorporating amendments up to,
and including, Amendment No 14.*

Privacy Commissioner
Te Mana Mātāpono Matatapu

NEW ZEALAND

*This version of the code fully applies from 1 October 2019 and
incorporates the changes made by Amendments Nos 2, 3, 4,
5, 7, 8, 9, 10, 11, 13 and 14.*

Credit Reporting Privacy Code 2004

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This version of the code includes various notes which are set out in italics. This material is not part of the code but is included to assist users of the code. Reference must always be made to the rules or clauses themselves.

Credit Reporting Privacy Code 2004

I, MARIE SHROFF, Privacy Commissioner, having given notice in accordance with section 48(1) of the Privacy Act 1993 of my intention to issue a code of practice and having satisfied the requirements of the subsection, now issue under section 46 of the Act the Credit Reporting Privacy Code 2004.

Issued by me at Wellington on 6 December 2004

THE SEAL of the)
Privacy Commissioner was) [L.S.]
affixed to this code of practice)
by the Privacy Commissioner)

Marie Shroff
Privacy Commissioner

Note: A code of practice issued under section 46 of the Privacy Act 1993 is deemed to be a disallowable instrument for the purposes of the Legislation Act 2012 – Privacy Act, s. 50.

Note: This edition is consolidated as at 28 September 2017. It incorporates Amendments No 2, 3, 4, 5, 7, 8, 9, 10, 11, 13 and 14.

Part 1: Preliminary

1. Title

This code of practice is the Credit Reporting Privacy Code 2004.

2. Commencement

(1) Subject to subclause (2), this code will come into force on 1 April 2006.

(2) Clauses 7 and 8 will come into force on 1 April 2005.

Note: Clause 7 concerns charging for access and correction, and clause 8 concerns internal complaints procedures.

Note: Provisions affected by Amendments No 2, No 3, No 4, No 5, No 7, No 8, No 9, No 10, No 11, 13 and No 14 had commencement dates given in these amendments. These amendments commenced as follows:

- *Amendment No 2 – 1 April 2006*
- *Amendment No 3 – 22 February 2010*
- *Amendment No 4 – 1 October 2011 and 1 April 2012*
- *Amendment No 5 – 1 December 2011 and 1 April 2012*
- *Amendment No 7 – 29 March 2013, 1 April 2013 and 30 June 2013*
- *Amendment No 8 – 30 June 2013*
- *Amendment No 9 – 1 September 2014*
- *Amendment No 10 – 5 November 2015*
- *Amendment No 11 – 28 September 2017*
- *Amendment No 13 – 18 September 2018*
- *Amendment No 14 – 1 April 2019, 1 July 2019 and 1 October 2019.*

3. Review

[Deleted]

Note: Clause 3 was amended by Amendment No 5 and deleted by Amendment No 14.

4. Application and effect of code

(1) This code applies to credit reporters.

(2) This code:

- (a) applies or modifies the application of the information privacy principles and prescribes how the principles are to be applied or complied with;
- (b) modifies the application of Public Register Privacy Principle 2;
- (c) imposes controls in relation to the comparison of personal information with other personal information for the purpose of producing or verifying information about an identifiable individual;
- (d) in relation to charges under section 35 of the Act, prescribes circumstances where no charge may be imposed; and

- (e) prescribes procedures for dealing with complaints alleging a breach of the code.

5. Interpretation

Note: A word or expression used in the code has the same meaning as in the Privacy Act (see s.34 Interpretation Act 1999).

(1) In this code:

Note: The first part of this clause designated as subclause 5(1) by Amendment No 14.

[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]

Note: This definition was inserted by Amendment No 11.

access log means a record of every access made to credit information held by a credit reporter, other than access that is automatically generated by the credit reporter itself

Note: Access logs must include the details set out in rule 5(5).

Act means the Privacy Act 1993

[confirmed credit non-compliance action information means credit non-compliance action information that has been confirmed by a subscriber in accordance with clause 3A of Schedule 3]

Note: This definition was inserted by Amendment No 5. Credit non-compliance action is also defined.

[credit means a contract, arrangement or understanding to provide property or services before payment or money on loan]

Note: This definition was substituted by Amendment No 5.

[credit account information means the credit information listed in paragraph (da) of the definition of credit information]

Note: This definition was inserted by Amendment No 4.

[credit default means either a debtor credit default or a guarantor credit default]

Note: This definition was inserted by Amendment No 5.

[credit default information means the credit information listed in paragraph (e) of the definition of credit information]

Note: This definition was inserted by Amendment No 2.

credit information means the following types of personal information:

- (a) the following identification information:

- (i) full name;
 - (ii) any alias or previous name;
 - (iii) sex;
 - (iv) date of birth;
 - (v) address; and
 - (vi) any previous address;
- (b) the following supplementary identification information:
- (i) occupation;
 - (ii) any previous occupation;
 - (iii) employer; [...]
 - (iv) any previous employer;
 - (v) [in relation to a driver licence:
 - (A) driver licence number; and
 - (B) driver licence card number];and
 - (vi) NZBN;]

Note: Paragraphs (b)(iii) and (b)(iv) were amended and paragraph (b)(v) was inserted by Amendment No 4. Paragraph (b)(vi) was inserted by Amendment No 14.

Note: For special limits on disclosure of “supplementary identification information” see rule 11(3).

Note: For special controls relating to driver licence numbers see Schedule 5.

- (c) information relating to identification documents reported lost or stolen or otherwise compromised;
- (d) the following information reported by a credit provider about an application for credit by an individual:
- (i) type of credit sought;
 - (ii) amount sought;
 - (iii) capacity of the individual (such as applicant, joint applicant or guarantor);
 - (iv) date of the application;
 - (v) details of the credit provider; and
 - (vi) credit provider’s client reference number;

- [(da) The following information reported by a credit provider about a credit account held by an individual:
- (i) type of credit account;
 - (ii) amount of credit extended;
 - (iii) capacity of individual (such as account holder, joint account holder or guarantor);
 - (iv) status of account as open or closed and:
 - (A) date account was opened; and
 - (B) if account closed, date account was closed;
 - (v) details of the credit provider;
 - (vi) credit provider’s client reference number; [and
 - (vii) repayment history information in relation to the account]]

Note: Paragraphs (da)(i)-(vi) were inserted by Amendment No 4 and paragraph (da)(vii) was inserted by Amendment No 5.

- [(e) the following information relating to a credit default:

- (i) capacity of the individual concerned as either debtor or guarantor;
- (ii) details of the default including dates of default and of notice to individual concerned, type of credit, amount in default and the total amount owing;
- (iii) status of the default including details of any referral to a debt collector and any payment, part payment, scheme of arrangement or write-off subsequent to the default;
- (iv) details of the final settlement of an amount of default; and
- (v) details of the subscriber that reported the default and any subscriber reference number;]

Note: Paragraph (e) was substituted by Amendment No 5.

Note: For further requirements in relation to the reporting of credit default information, see the definitions of debtor credit default and guarantor credit default.

- (f) serious credit infringement information;
- [(fa) credit non-compliance action information (including confirmed credit non-compliance action information);]

Note: Paragraph (fa) was inserted by Amendment No 5. Credit non-compliance action is also defined.

- (g) information relating to summary instalment orders or judgments for monies owed that have been entered against an individual;
- (h) the following insolvency information:
 - (i) adjudications, discharges, suspensions of discharges and annulments of bankruptcy;
 - (ii) entry to, and termination and discharge from, the no asset procedure;
- (i) information sourced from a specified public register;
- (j) an access log;
- (k) a credit score;
- (l) a correction statement or notice of disputed debt attached to credit information in accordance with rule 7;
- (m) administrative information incidental to credit reporting activities

[credit non-compliance action means an action done by an individual:

- (a) that a reasonable person would consider indicates an intention, on the part of the individual, no longer to comply with the individual's obligations in relation to credit; and
- (b) where a subscriber has, after taking such steps as are reasonable in the circumstances, been unable to contact the individual about the action]

Note: This definition was inserted by Amendment No 5.

credit provider means an agency that carries on a business involving the provision of credit to an individual

credit report means credit information about an individual that is disclosed by a credit reporter

Note: A credit report will not necessarily contain all of the credit information held by the credit reporter about an individual.

credit reporter means an agency that carries on a business of reporting to other agencies, for payment, information relevant to the assessment of the creditworthiness of individuals

credit score means a statistically based rating of the credit default risk of an individual that is produced by a credit reporter

debt collector means an agency that carries on a business of collecting debt

[debtor credit default refers to a payment (including a payment that is wholly or partly a payment of interest) that the individual is overdue in making in relation to credit that has been provided by a credit provider to the individual if:

- (a) the individual is at least 30 days overdue in making the payment;
- (b) the credit provider has notified the individual of the overdue payment and requested that the individual pay the amount of the overdue payment;
- (c) in addition to notifying the individual, the credit provider has taken other steps to recover the amount of the overdue payment from the individual;
- (d) the credit provider is not prevented by or under any law from bringing proceedings against the individual to recover the overdue payment; and
- (e) the overdue payment is equal to or more than [\$125]

Note: This definition was inserted by Amendment No 5 and the \$100 threshold was replaced by a \$125 threshold by Amendment No 14. For transitional provisions relating to the temporary ongoing reporting of small defaults for between \$100 and \$125, see clause 2.2 of Schedule 8.

[direct marketing has the meaning given in section 9(2) of the Privacy Act 1993]

Note: This definition was inserted by Amendment No 4.

[driver licence means a New Zealand driver licence]

Note: This definition was inserted by Amendment No 4.

[driver licence card number means the card number displayed on a driver licence to indicate the version of that licence]

Note: This definition was inserted by Amendment No 4.

[driver licence number means the unique identifier displayed on a driver licence to distinguish the licence and the licence holder from other driver licences and licence holders]

Note: This definition was inserted by Amendment No 4.

[electricity retailer means an agency that falls within the definition set out in section 2(1) of the Electricity Act 1992 and that is a member of the Electricity and Gas Complaints Commission]

Note: This definition was inserted by Amendment No 5.

[externally regulated credit provider means:

- (a) a registered credit provider;
- (b) an electricity retailer;
- (c) a gas retailer; or
- (d) a telecommunications service provider]

Note: This definition was inserted by Amendment No 5.

[gas retailer means an agency that falls within the definition set out in section 2(1) of the Gas Act 1992 and that is a member of the Electricity and Gas Complaints Commission]

Note: This definition was inserted by Amendment No 5.

[guarantor credit default refers to a payment that the individual is overdue in making as a guarantor under a guarantee given against any default by the debtor in repaying any or all of the debt deferred under credit provided by a credit provider to the debtor if:

- (a) the credit provider has notified the individual of the debtor's default that gave rise to the individual's obligation to make the overdue payment and requested that the individual pay the amount of the overdue payment;
- (b) at least 30 days have passed since the day on which the individual was notified;
- (c) in addition to notifying the individual, the credit provider has taken other steps to recover the amount of the overdue payment from the individual;
- (d) the credit provider is not prevented by or under any law from bringing proceedings against the individual to recover the overdue payment; and
- (e) the overdue payment is equal to or more than [\$125]

Note: This definition was inserted by Amendment No 5 and the \$100 threshold was replaced by a \$125 threshold by Amendment No 14. For transitional provisions relating to the temporary ongoing reporting of small defaults for between \$100 and \$125, see clause 2.2 of Schedule 8.

identification information means the credit information listed in paragraph (a) of the definition of credit information

[independent person, for the purposes of [clause 9 and Schedule 6], means a person who is not an employee, director, or owner of the credit reporter]

Note: This definition was inserted by Amendment No 4 and amended by Amendment No 5.

[maximum reporting period means, in relation to credit information of the types specified in column 1 of Schedule 1, the corresponding period set out in column 2 of Schedule 1]

Note: This definition was inserted by Amendment No 4.

[NZBN means New Zealand Business Number;]

Note: This definition was inserted by Amendment No 14.

previous enquiry record means that part of the access log relevant to the assessment of creditworthiness that is displayed in a credit report

prospective employer, in relation to an individual, means a person who has offered to employ or appoint that individual, or who has entered into negotiations to employ or appoint that individual

[prospective insurer, in relation to an individual, means a person who has offered, or has entered into negotiations for, insurance in respect of a credit related transaction relating to that individual]

Note: This definition was substituted by Amendment No 5.

prospective landlord, in relation to an individual, means a person who has offered to grant a tenancy of premises to that individual, or who has entered into negotiations to grant a tenancy to that individual

[registered credit provider means a credit provider that is registered under Part 2 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008]

Note: This definition was inserted by Amendment No 4.

[registered insurer means an insurer that is registered under Part 2 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008]

Note: This definition was inserted by Amendment No 5.

[related company has the meaning given in section 2(3) of the Companies Act 2016]

Note: This definition was inserted by Amendment No 14.

[repayment history information means, in relation to a credit account for which there are periodic payments:

- (a) whether or not in any given month a periodic payment is due and payable;
- (b) where a periodic payment is due and payable in that month, whether or not the individual concerned has made that payment; and
- (c) any other information required to identify or classify the payment]

Note: This definition was inserted by Amendment No 5.

rule means a rule set out in clause 6

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

Note: This definition was inserted by Amendment No 11.

[serious credit infringement means an action done by an individual:

- (a) that involves fraudulently obtaining credit, or attempting fraudulently to obtain credit; or
- (b) that involves fraudulently evading the individual's obligations in relation to credit, or attempting fraudulently to evade those obligations]

Note: This definition was substituted by Amendment No 5.

specified public register means a public register maintained pursuant to a public register provision listed in Schedule 2

subscriber means an agency that has entered into a subscriber agreement with a credit reporter

subscriber agreement means a written agreement providing a subscriber with access to credit information held by the credit reporter

Note: For subscriber agreement requirements see rules 5(2), 8(3) and 11(2) and Schedule 3.

Summary of Rights means the summary of rights set out in Schedule 4 [...]

Note: The words "or a document to the same effect" were omitted by Amendment No 4.

supplementary identification information means the credit information listed in paragraph (b) of the definition of credit information

[telecommunications service provider means a provider of a "telecommunications service", as defined in section 5 of the Telecommunications Act 2001, that is a member of the Telecommunications Dispute Resolution Service]

Note: This definition was inserted by Amendment No 5.

*Note: Some additional terms are used and defined in Schedule 7 including, **initial request, release request, cancellation request** and **pre-existing credit accounts**.*

[(2) A credit reporter must not be directly or indirectly involved in any understanding, arrangement, structure or agreement with a related company (**Arrangement**) where:

- a) the purpose or effect of the Arrangement is to circumvent the application of the Code on an activity to be undertaken by the related company; or

- b) the purpose or effect of the Arrangement is to enable the related company to use or disclose credit information sourced from the credit reporter that would be a breach of the Code if the use or disclosure had been made directly by the credit reporter.]

Note: Subclause 5(2) was inserted by Amendment No 14.

Note: Words and expressions defined in the Privacy Act and used multiple times in this code include the following: agency, collect, Commissioner, correct, individual, individual concerned, intelligence and security agency, personal information, public register, unique identifier, working day. There are also a number of other defined terms in the Act that are used once or twice in particular parts of the Code.

Part 2: Credit Reporting Privacy Rules

6. Credit reporting privacy rules

The credit reporting privacy rules are as follows:

Rule 1 Purpose of Collection of Credit Information

- (1) Personal information must not be collected by a credit reporter unless:
 - (a) the information is collected for a lawful purpose connected with a function or activity of the credit reporter; and
 - (b) the collection of the information is necessary for that purpose.
- (2) A credit reporter must not collect personal information for the purpose of credit reporting unless it is credit information.

Note: An action is not in breach of this rule if it is authorised or required by or under law - Privacy Act, s.7(4).

Note: This rule applies only to the collection of information after the commencement of this rule.

Rule 2

Source of Credit Information

- (1) Where a credit reporter collects credit information, it must collect the information directly from the individual concerned.
- (2) It is not necessary for a credit reporter to comply with subrule (1) if the credit reporter believes, on reasonable grounds:
 - (a) that the information is publicly available information;
 - (b) that the individual concerned authorises collection of the information from another source;
 - (c) that non-compliance is necessary:
 - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences;
 - (ii) for the enforcement of a law imposing a pecuniary penalty;
 - (iii) for the protection of the public revenue; or
 - (iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation);
 - (d) that the information:
 - (i) will not be used in a form in which the individual concerned is identified; or
 - (ii) will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; [...]

Note: The word "or" was omitted by Amendment No 2.

- [(da) that the information collected is necessary for the purposes of:
 - (i) undertaking pre-screening in accordance with Schedule 9; or
 - (ii) undertaking tracing in accordance with Schedule 10;]

Note: Paragraph (da) was inserted by Amendment No 14.

- [(e) that:
 - (i) the collection is from a debt collector that is enforcing a debt owed by the individual concerned; and
 - (ii) the information is identification information, supplementary identification information, credit default information[, serious credit infringement information or credit non-compliance action information (including confirmed credit non-compliance action information); or]]

Note: Paragraph (e) was omitted, and a new paragraph (e) inserted by Amendment No 2. Paragraph (e) was amended by Amendment No 5.

- [(f) that the collection of the information is in accordance with an authority granted under section 54 of the Act.]

Note: Paragraph (f) was inserted by Amendment No 2.

Note: An action is not in breach of this rule if it is authorised or required by or under law - Privacy Act, s.7(4).

Note: This rule applies only to the collection of information after the commencement of this rule.

Rule 3
Collection of Credit Information from Individual

- (1) Where a credit reporter collects credit information directly from the individual concerned, the credit reporter must take such steps (if any) as are, in the circumstances, reasonable to ensure that the individual concerned is aware of:
 - (a) the fact that the information is being collected;
 - (b) the purposes for which the information is being collected;
 - (c) the intended recipients of the information;
 - (d) the name and address of:
 - (i) the agency that is collecting the information; and
 - (ii) the agency that will hold the information;
 - (e) whether or not the supply of the information is voluntary or mandatory and if mandatory the particular law (if any) under which it is required;
 - (f) the consequences (if any) for that individual if all or any part of the requested information is not provided; and
 - (g) the rights of access to, and correction of, credit information held by the credit reporter provided by rules 6 and 7.
- (2) A credit reporter must conspicuously display on the credit reporter's website a statement that sets out the purposes for which it collects credit information and the purposes for which the information will be used and disclosed.
- (3) The steps referred to in subrule (1) must be taken before the information is collected or, if that is not practicable, as soon as practicable after it is collected.
- (4) A credit reporter is not required to take the steps referred to in subrule (1) in relation to the collection of credit information from an individual if the credit reporter has taken those steps in relation to the collection, from that individual, of the same information or information of the same kind, on a recent previous occasion.
- (5) It is not necessary for a credit reporter to comply with subrule (1) if the credit reporter believes, on reasonable grounds:
 - (a) that non-compliance would not prejudice the interests of the individual concerned;
 - (b) that non-compliance is necessary:
 - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences;
 - (ii) for the enforcement of a law imposing a pecuniary penalty;
 - (iii) for the protection of the public revenue; or
 - (iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation);

- (c) that compliance would prejudice the purposes of collection;
- (d) that compliance is not reasonably practicable in the circumstances of the particular case; or
- (e) that the information:
 - (i) will not be used in a form in which the individual concerned is identified;
or
 - (ii) will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.

Note: An action is not in breach of this rule if it is authorised or required by or under law - Privacy Act, s.7(4).

Note: This rule applies only to the collection of information after the commencement of this rule.

Rule 4
Manner of Collection of Credit Information

- (1) Credit information must not be collected by a credit reporter:
 - (a) by unlawful means; or
 - (b) by means that, in the circumstances of the case:
 - (i) are unfair; or
 - (ii) intrude to an unreasonable extent upon the personal affairs of the individual concerned.
- (2) [A credit reporter must not bundle a request for authorisation of an additional unrelated use or disclosure of credit information into application processes for:
 - (a) access to credit information under rule 6;
 - (b) correction to credit information under rule 7; or
 - (c) suppression of credit information under rule 11.
- (3) Subrule (2) does not prevent a credit reporter from seeking authorisation from an individual to use the identity details submitted as part of an application process to confirm or update the credit reporter's records but a credit reporter must not impose as a condition of the application that such authorisation be given.]

Note: The first part of this rule was renumbered subrule 4(1) by Amendment No 14.

Note: Subrules (2) and (3) inserted by Amendment No 14.

Note: An action is not in breach of this rule if it is authorised or required by or under law - Privacy Act, s.7(4).

Note: This rule applies only to the collection of information after the commencement of this rule.

Rule 5
Storage and Security of Credit Information

- (1) A credit reporter that holds credit information must ensure:
 - (a) that the information is protected, by such security safeguards as it is reasonable in the circumstances to take, against:
 - (i) loss;
 - (ii) access, use, modification, or disclosure, except with the authority of the credit reporter concerned; and
 - (iii) other misuse, including misuse by anyone with authorised access; and
 - (b) that if it is necessary for the information to be given to a person in connection with the provision of a service to the credit reporter, everything reasonably within the power of the credit reporter is done to prevent unauthorised use or unauthorised disclosure of the information.
- (2) Without limiting subrule (1), a credit reporter must take the following measures to safeguard the credit information it holds against unauthorised access or misuse:
 - (a) develop written policies and procedures to be followed by its employees, agents and contractors;
 - (b) impose access authentication controls such as the use of passwords, credential tokens or other mechanisms;
 - (c) provide information and training to ensure compliance with the policies, procedures and controls;
 - (d) ensure that a subscriber agreement that complies with Schedule 3 is in place before disclosing information under rule 11(2);
 - (e) monitor usage and regularly check compliance with the agreement, policies, procedures and controls and the requirements of this code;
 - (f) identify and investigate possible breaches of the agreement, policies, procedures and controls;
 - (g) take prompt and effective action in respect of any breaches that are identified;
 - (h) systematically review the effectiveness of the policies, procedures and controls and promptly remedy any deficiencies; and
 - (i) maintain an access log.
- (3) Subrules (1) and (2) apply to credit information held by a credit reporter that was obtained before or after the commencement of this rule.
- (4) The access authentication controls required by subrule (2)(b) must include, in respect of accesses made after the commencement of this rule, a means of identifying both the subscriber and the specific user.

- (5) The access log required by subrule (2)(i) must include a record of the time, date, subscriber purpose in relation to each access and must identify, or provide a means to identify, the specific user.

Note: An action is not in breach of this rule if it is authorised or required by or under law – Privacy Act, s.7(4).

Rule 6
Access to Credit Information

- (1) Where a credit reporter holds credit information in such a way that it can readily be retrieved, the individual concerned is entitled:
- (a) to obtain from the credit reporter confirmation of whether or not the credit reporter holds such information; and
 - (b) to have access to that information.

[(1A) Where, as part of its business of reporting to other agencies on the creditworthiness of individuals a credit reporter usually generates for those other agencies a general credit score or scores from credit information it holds or has access to, the credit reporter must generate a credit score or scores on the same basis for inclusion with information to which the individual concerned is given access under subrule (1)(b).]

Note: Subrule (1A) inserted by Amendment No 14.

- (2) Where, in accordance with subrule (1)(b), an individual is given access to credit information, the individual must be advised that, under rule 7, the individual may request the correction of that information.

[(2A) Where, in accordance with subrule (1)(b), an individual is given access to a credit score, the individual must be provided with a statement outlining:

- (a) the general methodology used to create the score, including the types of information used; and
- (b) the range within which that score is placed.]

Note: Rule 6(2A) was inserted by Amendment No 4.

[(3) Where a credit reporter notifies an individual of its decision on a request, the credit reporter must:

- (a) if refusing that request, advise the individual of the complaints procedure available under clause 8; and
- (b) provide the individual with a copy of the Summary of Rights.]

Note: Rule 6(3) was substituted by Amendment No 4.

[(3A) Wherever a credit reporter displays information on its website describing charges made for access, the information must be in accordance with the explicit limit imposed by clause 7(2)(b).]

Note: Rule 6(3A) was inserted by Amendment No 9.

- (4) A copy of the Summary of Rights need not be given pursuant to subrule (3)(b) if the credit reporter has either:

- (a) made the summary available to the individual on a recent previous occasion;
or
- (b) [notified the individual that the summary is available on the credit reporter's website and offered to make a copy available on request.]

Note: Rule 6(4)(b) was substituted by Amendment No 4.

- (5) The application of this rule is subject to:
 - (a) Part 4 of the Act (which sets out reasons for refusing access to personal information);
 - (b) [subject to subrules (5A) and (5B),] Part 5 of the Act (which sets out procedural provisions relating to access to personal information); and
 - (c) clause 7 (which concerns charges).

Note: Paragraph (b) amended by Amendment No 14.

[(5A) On receiving an access request under rule 6, a credit reporter must, as soon as reasonably practicable, and in any case not later than 10 working days after the day on which the request is received, give or send to the requester a response to the request.

(5B) Any notice given under section 41(3) of the Act effecting an extension of time must be given to the individual who made the request within 10 working days after the day on which the request is received.]

Note: Subrules (5A) and (5B) inserted by Amendment No 14.

- (6) This rule applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.

Note: This rule is subject to provisions in enactments which authorise or require personal information to be made available or Acts which prohibit, restrict, or regulate the availability of personal information – Privacy Act, s.7(1) and (2). Under s.7(3) it is also subject to certain regulations which prohibit, restrict or regulate the availability of personal information.

Rule 7
Correction of Credit Information

- (1) Where a credit reporter holds credit information, the individual concerned is entitled:
 - (a) to request correction of the information; and
 - (b) to request that there be attached to the information a statement of the correction sought but not made.
- (2) A credit reporter that holds credit information must, if so requested by the individual concerned or on its own initiative, take such steps (if any) to correct that information as are, in the circumstances, reasonable to ensure that, having regard to the purposes for which the information may lawfully be used, the information is accurate, up to date, complete, and not misleading.
- (3) Where a credit reporter receives a request for correction under subrule (1)(a) the credit reporter must:
 - (a) pending the taking of a decision on the request, either suppress the disputed information or clearly identify the information as disputed and being checked for accuracy; and
 - (b) provide the individual with a copy of the Summary of Rights.

Note: The words "subject to subrule (4)" were omitted from subrule (3)(b) by Amendment No 4.
- (4) A copy of the Summary of Rights need not be given pursuant to subrule (3)(b) if the credit reporter has either:
 - (a) made the summary available to the individual on a recent previous occasion; or
 - (b) [notified the individual that the summary is available on the credit reporter's website and offered to make a copy available on request.]

Note: Rule 7(4)(b) was substituted by Amendment No 4.
- (5) Where a credit reporter that holds credit information is not willing to correct the information in accordance with a request by the individual concerned, the credit reporter must:
 - (a) advise the individual of the individual's entitlement under subrule (1)(b); and
 - (b) if so requested by the individual concerned, take such steps (if any) as are reasonable in the circumstances to attach to the information, in such a manner that it will always be read with the information, any statement provided by the individual of the correction sought.
- (6) Where a credit reporter has taken steps under subrules (2) or (5), the credit reporter must, if reasonably practicable, inform each person or body or agency to whom the credit information has been disclosed of those steps.

- (7) Where a credit reporter receives a request made pursuant to subrule (1), the credit reporter must:
- (a) inform the individual concerned of the action taken as a result of the request;
 - (b) provide the individual with a copy of any corrected information; and
 - (c) if it refuses the request, advise the individual of the complaints procedure available under clause 8.
- (8) The application of this rule is subject to Part 5 of the Act (which sets out procedural provisions relating to the correction of personal information) and clause 7 (which concerns charges).
- (9) This rule applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.

Note: An action is not in breach of this rule if it is authorised or required by or under law - Privacy Act, s.7(4).

Rule 8
Accuracy, etc, of Credit Information

- (1) A credit reporter that holds credit information must not use or disclose that information without taking such steps (if any) as are, in the circumstances, reasonable to ensure that, having regard to the purpose for which the information is proposed to be used or disclosed, the information is accurate, up to date, complete, relevant, and not misleading.
- (2) A credit reporter must, when undertaking a comparison of personal information with other personal information for the purpose of producing or verifying information about an identifiable individual, take such measures as are reasonably practicable to avoid the incorrect matching of the information.
- (3) Without limiting subrule (1), a credit reporter must:
 - (a) ensure that a subscriber agreement that complies with Schedule 3 is in place before disclosing information under rule 11(2);
 - (b) establish and maintain controls to ensure that, as far as reasonably practicable, only information that is accurate, up to date, complete, relevant, and not misleading is used or disclosed;

[(ba) in relation to a driver licence number, take the additional steps set out in Schedule 5 before using that information;]

Note: Paragraph (ba) was inserted by Amendment No 4.

Note: For corresponding requirements on subscribers to provide the credit reporter with the driver licence card number and to take reasonable steps to establish the identity of the individual, see Schedules 3 and 5.

- (c) monitor information quality and conduct regular checks on compliance with the agreements and controls;
 - (d) identify and investigate possible breaches of the agreements and controls;
 - (e) take prompt and effective action in respect of any breaches that are identified; and
 - (f) systematically review the effectiveness of the agreements and controls and promptly remedy any deficiencies.
- (4) Subrule (1) applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.

Note: An action is not in breach of this rule if it is authorised or required by or under law - Privacy Act, s.7(4).

Rule 9
Retention of Credit Information

- (1) A credit reporter that holds credit information must not keep that information for longer than is required for the purposes for which the information may lawfully be used.
- (2) [Where a credit reporter holds credit information of a type specified in column 1 of Schedule 1, that credit reporter must not keep that information for longer than 12 months after the expiration of the maximum reporting period.]

Note: Rule 9(2) was substituted by Amendment No 4.

Note: For the definition of maximum reporting period see clause 5.

- (3) [Revoked]

Note: Rule 9(3) was revoked by Amendment No 4.

- (4) This rule applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.

Note: An action is not in breach of this rule if it is authorised or required by or under law - Privacy Act, s.7(4).

Rule 10
Limits on Use of Credit Information

- (1) A credit reporter that holds credit information that was obtained in connection with one purpose must not use the information for any other purpose unless the credit reporter believes, on reasonable grounds:
- (a) that the source of the information is a publicly available publication [and that, in the circumstances of the case, it would not be unfair or unreasonable to use the information];

Note: Rule 10(1)(a) was amended by Amendment No 10.

- (b) that the use of the information for that other purpose is authorised by the individual concerned;
- (c) that non-compliance is necessary:
- (i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences;
 - (ii) for the enforcement of a law imposing a pecuniary penalty;
 - (iii) for the protection of the public revenue; or
 - (iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation);
- (d) that the use of the information for that other purpose is necessary to prevent or lessen a serious [...] threat to:
- (i) public health or public safety; or
 - (ii) the life or health of the individual concerned or another individual;

Note: the words "and imminent" were omitted from rule 10(1)(d) by Amendment No 8. The Privacy Act definition of "serious threat" is reprinted in Appendix 1.

- (e) that the purpose for which the information is used is directly related to the purpose in connection with which the information was obtained;
- (f) that the information:
- (i) is used in a form in which the individual concerned is not identified; or
 - (ii) is used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or
- (g) that the use of the information is in accordance with an authority granted under section 54 of the Act.

[(1A) A credit reporter may use information obtained pursuant to section 78F of the Births, Deaths, Marriages, and Relationships Registration Act [1995] for the purpose of suppressing credit information about deceased individuals.]

Note: Rule 10(1A) was inserted by Amendment No 4 and amended by Amendment No 14.

- [[1B) Except as provided in Schedule 9, a credit reporter must not use credit information for any purpose related to marketing or direct marketing, including without limitation, any of the following:
- (a) facilitating of marketing or direct marketing by a subscriber or any other agency;
 - (b) developing a tool or service for subscribers, or providing such a tool or service to subscribers, for the purpose of:
 - (i) assisting subscribers to assess the likelihood that an individual might accept an offer of credit or insurance in relation to credit, or variation of credit or insurance; or
 - (ii) otherwise to target individuals for offers of credit or insurance.]]]

Note: Rule 10(1B) was inserted by Amendment No 4, further amended by Amendment No 5 and finally replaced by Amendment No 14.

[(1C) Deleted.]

Note: Rule 10(1C) was inserted by Amendment No 5 and deleted by Amendment No 14 (to be replaced by Schedule 9.).

(1D) A credit reporter may use credit information in accordance with Schedule 10 for tracing purposes to facilitate the return of money owed to individuals.

Note: Subrule (1D) was inserted by Amendment No 14.

(2) Subrule (1) does not apply to credit information held by a credit reporter that was obtained before 1 July 1993.

[(3) A credit reporter must not, in creating a credit score, use:

(a) credit information that is derived from an enquiry made by a credit provider pursuant to rule 11(2)(b)(i)(B); [...]

[(aa) credit information that is derived from an enquiry made by a credit provider pursuant to rule 11(2)(b)(i)(C) or a prospective insurer pursuant to rule 11(2)(b)(iv)(B); or]

(b) the fact that an individual made a request for suppression, or had their credit information suppressed, pursuant to Schedule 7.]

Note: Rule 10(3) was inserted by Amendment No 5. The word "or" was omitted from paragraph (a), and paragraph (aa) was inserted, by Amendment No 7.

Note: An action is not in breach of this rule if it is authorised or required by or under law - Privacy Act, s.7(4).

Rule 11
Limits on Disclosure of Credit Information

- (1) A credit reporter that holds credit information must not disclose the information unless the credit reporter believes, on reasonable grounds:
- (a) that the information consists solely of information sourced from a publicly available publication [and that, in the circumstances of the case, it would not be unfair or unreasonable to disclose the information];

Note: Rule 11(1)(a) was amended by Amendment No 10.

- (b) that the disclosure is to the individual concerned;
- (c) that the disclosure of the information is necessary to prevent or lessen a serious [...] threat to:
- (i) public health or public safety; or
 - (ii) the life or health of the individual concerned or another individual;

Note: the words "and imminent" were omitted from rule 11(1)(c) by Amendment No 8. The Privacy Act definition of "serious threat" is reprinted in Appendix 1.

- [(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 an access agreement.

- [(cb) that the disclosure is in accordance with an access agreement;]

Note: Rules 11(1)(ca) and (cb) were inserted by Amendment No 11 and rule 11(1)(cb) was substituted by Amendment No 12 (temporary).

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 and security 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.

- (d) that the disclosure of the information is necessary to facilitate the sale or other disposition of a business as a going concern;

- (da) that the disclosure is of an initial request by an individual for suppression under Schedule 7 and is to another credit reporter for the purpose of facilitating an initial suppression by that other credit reporter;

Note: Paragraph (da) inserted by Amendment No 14.

- (e) that the disclosure of the information is in accordance with an authority granted under section 54 of the Act; or

- (f) that the disclosure is permitted by subrule (2).
- (2) A credit reporter that holds credit information may disclose the information in accordance with a subscriber agreement that complies with Schedule 3 if the credit reporter believes, on reasonable grounds:
- (a) that the disclosure of the information is to a debt collector for the purpose of enforcement of a debt owed by the individual concerned;
 - (b) that the disclosure is authorised by the individual concerned and is made to:
 - (i) [[a credit provider, or that credit provider's agent, for the purpose of:
 - (A) making a credit decision affecting that individual (and for directly related purposes including debt collection); [...]
 - (B) providing that individual with a quotation of the cost of credit;] [or]
 - (C) verifying the identity of that individual in accordance with the requirements of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;]

Note: Subparagraph (b)(i) was substituted by Amendment No 5. Subparagraph (b)(i)(C) was inserted by Amendment No 7. For limits on the use of information derived from an enquiry made pursuant to subparagraphs (b)(i)(B) or (b)(i)(C), see rule 10(3).

- (ii) a prospective landlord, or that prospective landlord's agent, for the purpose of assessing the creditworthiness of that individual as a prospective tenant or as a guarantor of a tenancy;
- (iii) a prospective employer, or that prospective employer's agent, for the purpose of a pre-employment check of that individual for a position involving significant financial risk;
- [(iv) a prospective insurer, or that prospective insurer's agent, for the purpose of:
 - (A) making a decision on the underwriting or continuation of insurance in respect of a credit related transaction relating to that individual; or
 - (B) verifying the identity of that individual in accordance with the requirements of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;]

Note: Subparagraph (b)(iv) was substituted by Amendment No 7.

- (c) that disclosure is necessary:
 - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences;
 - (ii) to enable an insurer to investigate a case of suspected insurance fraud;
 - (iii) for the enforcement of a law imposing a pecuniary penalty;
 - (iv) for the protection of the public revenue; or
 - (v) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
- (d) that the information:
 - (i) is to be used in a form in which the individual concerned is not identified; or

- (ii) is to be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.

[(2A) A credit reporter that holds credit information of a type specified in column 1 of Schedule 1 must not disclose that information for the purposes of credit reporting pursuant to subrules [(1)(ca), (cb),] (2)(a), (b) and (c) beyond the maximum reporting period.]

Note: Rule 11(2A) was inserted by Amendment No 4, and further amended by Amendment No 11.

(3) [A credit reporter must not disclose:

- (a) supplementary identification information except by confirming identical information supplied by a subscriber [or by an intelligence and security agency in accordance with an access agreement;]

Note: Paragraph (a) amended by Amendment No 11.

- (b) [credit information for any purpose related to marketing or direct marketing, including the facilitating of marketing or direct marketing by a subscriber or any other agency]; or

Note: Paragraph (b) amended by Amendment No 14.

- (c) credit account information other than to the following classes of subscriber for the indicated purpose:
 - (i) an externally regulated credit provider for the purpose of making a credit decision affecting an individual (and for any directly related purpose including debt collection); or
 - (ii) a prospective insurer that is a registered insurer for the purpose of a decision on the underwriting or continuation of insurance in respect of a credit related transaction relating to an individual; or
- (d) credit information for the purpose of credit reporting when it is suppressed pursuant to Schedule 7, unless the disclosure is permitted by the applicable provisions of that Schedule.]

Note: Rule 11(3) was substituted by Amendments No 4 and No 5.

Note: For additional requirements related to the disclosure of the driver licence number see Schedule 5.

(4) A credit reporter may make available for valuable consideration, in accordance with this rule, credit information sourced from a specified public register that has been re-sorted, or combined with other information sourced from a specified public register, notwithstanding that such re-sorting or combination might otherwise breach public register privacy principle 2.

[(4A) A credit reporter may disclose the fact that credit information held about an individual has been:

- (a) suppressed pursuant to rule 10(1A); or

(b) suppressed pursuant to Schedule 7.]

Note: Rule 11(4A) was substituted by Amendment No 5.

- (5) This rule applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.

Note: An action is not in breach of this rule if it is authorised or required by or under law – Privacy Act, s.7(4) and s.60(3).

Note: Sections 92A-92I of the Summary Proceedings Act 1957 set up a scheme that permits the Ministry of Justice to disclose information about unpaid fines to credit reporters. Credit reporters are then permitted to disclose this information to subscribers. This fines information is not credit information and may not be retained by the credit reporter on a credit report. The scheme is regulated further by the Summary Proceedings (Credit Reporting of Fines) Regulations 2011.

Rule 12 Unique Identifiers

- (1) A credit reporter must not assign a unique identifier to an individual unless the assignment of that identifier is necessary to enable the credit reporter to carry out one or more of its functions efficiently.
- (2) A credit reporter must not assign to an individual a unique identifier that, to that agency's knowledge, has been assigned to that individual by another agency, unless those two agencies are associated persons within the meaning of [subpart YB of the Income Tax Act 2007].

Note: Rule 12(2) was amended by Amendment No 10.

- (3) A credit reporter that assigns unique identifiers to individuals must take all reasonable steps to ensure that unique identifiers are assigned only to individuals whose identity is clearly established.
- (4) A credit reporter must not require an individual to disclose any unique identifier assigned to that individual unless the disclosure is for one of the purposes in connection with which that unique identifier was assigned or for a purpose that is directly related to one of those purposes.

[(4A) The collection and use of driver licence numbers by a credit reporter must be undertaken in accordance with the requirements of Schedule 5.]

Note: Rule 12(4A) was inserted by Amendment No 4.

- (5) Subrules (1), (2) and (3) do not apply in relation to the assignment of unique identifiers before the commencement of this rule.
- (6) Subrule (4) applies to any unique identifier, whether assigned before or after the commencement of this rule.

Note: An action is not in breach of this rule if it is authorised or required by or under law – Privacy Act, s.7(4).

Part 3: Miscellaneous

7. Charges

- (1) The circumstances in which a credit reporter may impose a charge under section 35(3) of the Act are limited by subclause (2).
- (2) No charge may be made for:
 - (a) responding to a request made pursuant to rule 6(1)(a);
 - (b) making available credit information in accordance with rule 6(1)(b) unless the individual concerned requests that the information be made available within [3 working days], in which case [a charge not exceeding \$10.00 (including GST)] may be made;
 - (c) correcting any credit information in compliance with a request made pursuant to rule 7(1)(a); or
 - (d) providing a copy of any corrected information pursuant to rule 7(7)(b).

Note: The phrase "a reasonable charge" in clause 7(2)(b) was substituted with "a charge not exceeding \$10.00 (including GST)" by Amendment No 9.

Note: The phrase "5 working days" in clause 7(2)(b) was substituted with "3 working days" by Amendment No 14.

Note: Schedule 7, clause 7.1, also limits charging in respect of requests for suppression.

8. Complaints of breach of code

- (1) A credit reporter must designate a person or persons to deal with complaints alleging a breach of this code and facilitate the fair, simple, speedy and efficient resolution of complaints.
- (2) A credit reporter must have a complaints procedure which provides that:
 - (a) when a complaint alleging a breach of this code is received:
 - (i) the complaint is acknowledged in writing within 5 working days of receipt, unless it has been resolved to the satisfaction of the complainant within that period;
 - (ii) the complainant is informed of any relevant internal and external complaints procedures; and
 - (iii) the complaint and the actions of the credit reporter regarding the complaint are documented;
 - (b) within 10 working days of acknowledging the complaint, the credit reporter must:
 - (i) decide whether or not the complaint is justified; or

- (ii) decide that more time is needed to investigate the complaint and inform the complainant of the additional time required and the reasons for it; and
 - (c) as soon as practicable after the credit reporter decides whether or not it accepts that a complaint is justified, it must inform the complainant of:
 - (i) the decision;
 - (ii) the reasons for the decision; and
 - (iii) any actions the agency proposes to take; and
 - (d) if the credit reporter decides that a complaint is not justified, it must also inform the complainant of:
 - (i) any appeal procedure the credit reporter has in place; and
 - (ii) the right to complain to the Privacy Commissioner.
- (3) The information provided to the complainant under subclause (2)(a)(ii) must include a copy of the Summary of Rights, unless a copy has been provided to that complainant on a recent previous occasion.

[(3A) A credit reporter must conspicuously display on the credit reporter's website:

- (a) a copy of the Summary of Rights; and
- (b) any official translation of the Summary of Rights released by the Privacy Commissioner.]

Note: Clause 8(3A) was inserted by Amendment No 4.

Note: The Summary of Rights is also available in Arabic, Farsi, Fijian, Hindi, Korean, Maori, Samoan, Simplified Chinese, Spanish, Tongan and Traditional Chinese. The Summary may be made available in other languages from time to time.

(4) Nothing in this clause limits or restricts any provision in the Act.

9. [Credit reporter must provide assurance report

- (1) A credit reporter must submit to the Commissioner annually an assurance report prepared in accordance with the requirements of Schedule 6.
 - (2) The report must be prepared by either:
 - (a) an independent person having expertise in undertaking a systematic review, such as a trained auditor; or
 - (b) a review committee, established by the credit reporter, that includes an independent person with expertise in relation to matters of compliance with this code.
 - (3) The report must:
 - (a) cover the year to 30 June; and
- (b) be submitted to the Commissioner within 3 months of the end of the year; and

(c) [include a statement from the independent person confirming their independence, summarising their expertise and outlining their involvement with the assurance process and preparation of the report.]]

Note: Paragraph (c) was inserted by Amendment No 14.

Note: Clause 9 was inserted by Amendment No 5.

Schedule 1
Maximum Reporting Periods
(Rules 9(2) and 11(2A))

| Types of Credit Information | Maximum Reporting Period |
|---|---|
| Lost, stolen or compromised identification documents information | 5 years from date of report |
| Credit application information | 5 years from date of application |
| Credit account information (other than repayment history information) | 2 years from date credit account closed |
| [Repayment history information | 2 years from month following due date of periodic payment] |
| [Credit default information relating to debtor credit default | 5 years from date of default] |
| [Credit default information relating to guarantor credit default | 5 years from date of notification of debtor's default to guarantor] |
| [Serious credit infringement information | 5 years from date of action] |
| [Credit non-compliance action information | 6 months from date of action] |
| [Confirmed credit non-compliance action information | 5 years from date of action] |
| Judgments | 5 years from date of judgment |
| Single bankruptcy | 4 years from date of discharge from bankruptcy |
| Single entry to no asset procedure | 4 years from date of discharge from the no asset procedure |
| Multiple insolvency events (as provided in Insolvency Act 2006, section 449A) | Indefinite |
| Summary instalment orders | 5 years from date of order |
| Previous enquiry record | [4 years] from date of enquiry |
| Credit score | 2 working days from date of creation |

Note: Schedule 1 was substituted by Amendment No 4. New entries relating to repayment history information, credit default information, serious credit infringement information and credit non-compliance action information were inserted by Amendment No 5. The retention period for previous enquiries was shortened to 4 years by Amendment No 14.

Schedule 2
Specified Public Register Provisions
(Clause 5 and Rule 11(4))

| Enactment | Public Register Provision |
|---------------------------------------|----------------------------------|
| Companies Act 1993 | Section 189 |
| Insolvency Act 1967 | Section 118 |
| Insolvency Act 2006 | Sections 62, 354 and 368 |
| Limited Partnerships Act 2008 | Section 54 |
| Personal Property Securities Act 1999 | Section 139 |

Note: Schedule 2 was substituted by Amendment No 4.

Schedule 3
Subscriber Agreement
(Rules 5(2), 8(3), 10(1C) and 11(2))

A subscriber agreement must include provisions imposing the following obligations upon the subscriber:

Collection of information by subscriber

1. Where the subscriber collects credit information directly or indirectly from the individual concerned for disclosure to the credit reporter, the subscriber must inform the individual of the purposes for which the credit reporter is collecting the information and the purposes for which the information will be used and disclosed.

Steps to ensure accuracy by subscriber

2. The subscriber must not disclose information to the credit reporter without taking such steps as are, in the circumstances, reasonable to ensure that the information is accurate, up to date, complete, relevant, and not misleading.

[2A. Where the subscriber collects a driver licence number from the individual concerned and discloses that driver licence number to the credit reporter, the subscriber must take the additional steps set out in subclauses 1(a), (b) and (c) of Schedule 5.]

3. The subscriber must, as soon as reasonably practicable, update any [credit account information,] credit default information[, serious credit infringement information or credit non-compliance action information (including confirmed credit non-compliance action information)] previously disclosed to the credit reporter and ensure that the information remains accurate, up to date, complete, relevant, and not misleading.

[3A. Where the subscriber has disclosed credit non-compliance action information to the credit reporter, the subscriber must, after 3 months but within 6 months, confirm to the credit reporter whether it remains of the view that the action is an action that a reasonable person would consider indicates an intention, on the part of the individual, no longer to comply with the individual's obligations in relation to credit.]

Access to credit information by subscriber

4. The subscriber must nominate the relevant purpose or purposes under rule 11 for which access may be sought, and confirm the relevant purpose at the time of each access.
5. The subscriber must co-operate with all reasonable compliance checks conducted by the credit reporter and, for that purpose, must supply, upon request, evidence to confirm compliance with the requirements of [the parts of the agreement giving effect to this Schedule, or with] rule 11 or evidence to substantiate any [credit account information,] credit default information[, serious credit infringement information or credit non-compliance action information (including confirmed credit non-compliance action information)] disclosed to the credit reporter by the subscriber.

Assistance to be provided to credit reporter when investigating complaints

6. The subscriber must promptly cooperate with the credit reporter in its efforts to investigate and resolve complaints and requests for correction of credit information and must, for those purposes, supply, upon request, evidence to confirm compliance with the requirements of [the parts of the agreement giving effect to this Schedule, or with] rule 11 or evidence to substantiate any [credit account information,] credit default information[, serious credit infringement information or credit non-compliance action information (including confirmed credit non-compliance action information)] disclosed to the credit reporter by the subscriber.

Steps to safeguard credit information by subscriber

7. The subscriber must take appropriate measures, including the following, to safeguard the credit information held by the credit reporter against improper access:
 - (a) develop written policies and procedures to be followed by its employees, agents and contractors;
 - (b) establish controls, including:
 - (i) the use of passwords, credential tokens or other mechanisms; and
 - (ii) user identification;
 - (c) provide information and training to ensure compliance with the policies and controls;
 - (d) monitor usage and regularly check compliance with the policies and controls; and
 - (e) take appropriate action in relation to identified breaches of the policies and controls.

Subscriber to cooperate with credit reporter's systematic reviews

- [8. The subscriber must promptly cooperate with the credit reporter in its efforts to undertake a systematic review of the effectiveness of the policies, procedures and controls in place under rules 5 and 8 and this Schedule.]

Subscriber to take certain steps before submitting direct marketing list to credit reporter for pre-screening

- [9. [Where the subscriber seeks to have a credit reporter pre-screen a direct marketing list under Rule 10(1B), the subscriber must ensure that it both: (1) is eligible under condition 1 of Schedule 9; and (2) meets all applicable requirements under conditions 2 and 3.]]

[Subscriber obligation to provide quotation enquiries if offering risk-based pricing for credit products

10. Where the subscriber is offering risk-based pricing for a credit product (including insurance in relation to a credit-related transaction) that involves obtaining access to credit information held by a credit reporter to fix the price offered to an individual depending upon his or her creditworthiness, the subscriber must:

- (a) provide the option for the individual to obtain a quotation for the cost of the credit; and

(b) ensure that it nominates quotation for the cost of credit as the enquiry purpose in accordance with clause 4.]

[Additional subscriber obligations: tracing to facilitate the return of money owed to individuals

11. Where the subscriber seeks to have a credit reporter use credit reporting information under rule 10(1D) for tracing purposes to facilitate the return of money owed to individuals, the subscriber must ensure that it meets all applicable requirements of Schedule 10.]

Note: Clauses 2A and 8, and additions to clauses 5 and 6 were inserted by Amendment No 4. Clauses 3A and 9 and further additions to clauses 3, 5 and 6 were inserted by Amendment No 5. A replacement clause 9, and new clauses 10 and 11, were inserted by Amendment No 14.

Note: Different subscribers may have different levels of obligation depending on their access rights under the Code. Schedule 3 sets out the information that must be included in a subscriber agreement, where applicable.

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

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

Agency to cooperate with credit reporter's systematic reviews

3. 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.

Note: Schedule 3A was inserted by Amendment No 11.

Schedule 4

Summary of Rights

(Rules 6 and 7 and clause 8)

A Summary of your rights under the Credit Reporting Privacy Code 2004

The Credit Reporting Privacy Code 2004 promotes fairness, accuracy, and privacy in the practice of credit reporting. Credit reporters gather and sell information about you, such as a failure to pay your bills or if you have been made bankrupt. The Code, together with the Privacy Act 1993, gives you specific rights, many of which are summarised below. You can find the complete text of the Code and a link to the Privacy Act at www.privacy.org.nz.

Warning: This is only a generalised summary. If there is a difference between this summary and a provision of the Code or Act, the Code or Act prevails.

Some information can be reported about you

Credit reporters can collect only certain types of information for their credit reporting databases. The types of information they can collect are set out in the Code. Some of the information is about:

- the credit accounts you hold, including their credit limits and repayment history;
- any times you have defaulted on credit repayments (where a failure to pay has gone to debt collection);
- any court judgments that have been made against you; and
- any times you have been made bankrupt or entered into an insolvency arrangement.

There are time limits for keeping and reporting information

Credit reporters can:

- generally disclose this information for only 4 to 5 years and keep it only one further year;
- disclose information about your current accounts until two years after those accounts have closed;
- keep identification information indefinitely; and
- keep information about multiple bankruptcies indefinitely.

Only certain people can access your report for certain purposes

The Code limits the people who can gain access to your credit information. These will usually be credit providers who are considering your application for credit. In some strictly limited circumstances, the information may be made available to:

- prospective landlords who have offered you a tenancy;
- prospective employers who have offered you a job, as long as that job involves significant financial risk;
- prospective insurers involved in insuring your mortgage;
- debt collectors enforcing a debt against you;
- an intelligence and security agency that is conducting a security clearance assessment;
- people involved in court proceedings; and

- certain public sector agencies acting under another law.

Your credit information may not be disclosed by a credit reporter for direct marketing purposes.

Your consent is needed in most situations

Most credit checks can take place only with your consent. This applies to access by credit providers, prospective landlords and prospective employers. Your consent may not be required for access by certain public sector agencies, people involved in court proceedings and debt collectors. The credit reporter must log each access that is made to your information and will normally let you know this information if you ask.

You can ask a credit reporter to suppress your credit information if you think you're the victim of fraud

If you believe you are the victim of fraud, including identity fraud, you can ask a credit reporter to suppress your credit information for 10 working days. While your credit information is suppressed, the credit reporter cannot disclose it in the normal way.

If a credit provider asks the credit reporter for your information, the credit reporter can tell them that your credit information is suppressed. The credit provider will know that you may be the victim of fraud and that someone else may be applying for credit in your name.

If you want to apply for credit while your credit information is suppressed, you can ask the credit reporter to release the information to a particular credit provider. The credit reporter must take careful steps to confirm your identity before agreeing to do this.

If you think the fraud is continuing, you can ask the credit reporter to extend the suppression beyond 10 working days. The credit reporter must give you the chance to prove that you are the victim of fraud. They can refuse to suppress your information if they do not think you are the victim of fraud.

You can find out what is held about you

What you can ask for

You are entitled to ask credit reporters for a copy of the credit information they hold about you. You can ask for just the information in your credit report or for all the information held about you. Extra information not included in your credit report could include things like a complete list of people who have accessed your report. If a credit reporter has generated a credit score about you, you have the right to an explanation of this score.

Getting the information

The credit reporter must provide the information to you without too much delay. [If you want the information quickly (within 3 working days) you may need to pay a reasonable charge – not exceeding \$10 - but otherwise no charge may be made.] A credit reporter must check the identity of anyone making a personal access request. This may involve asking you for certain identification details, although these cannot be added to the credit reporter's database without your consent.

You can dispute inaccurate information with the credit reporter

Credit reporters must take reasonable steps to ensure the information they hold is accurate, and promptly correct any errors they become aware of. If you tell a credit reporter that your report contains an inaccuracy, the credit reporter must, if appropriate, take steps to correct it. They will usually check the information you provide with the source, such as a credit provider who submitted a default. During this checking process, the credit reporter must flag your report to show that the item has been disputed.

When the credit reporter must make a decision about inaccurate information

The credit reporter must decide as soon as they can whether to make the correction you have requested or to confirm the accuracy of the information. If the credit reporter needs longer than 20 working days to make a decision they must let you know and tell you why.

What happens if the correction you asked for is not made

If the correction you asked for is not made, you must be told why. You may also ask for a note of your request to be added to your file. This note will be included with future reports.

What happens if a correction is made

If a correction is made, the credit reporter must tell anyone who has recently received your credit report. The credit reporter must tell you what they have done and give you a copy of the amended report.

Sometimes correction may not be appropriate

A credit report describes your credit history, not simply your current debts. Certain information can continue to be reported as long as it is updated to reflect later developments. This includes things like a past bankruptcy or a default that has since been paid in full. In this way, the report remains an accurate statement of those past events.

You have the right to complain if you think the Code has been breached

If you believe a credit reporter has breached the Code, you should first approach that credit reporter directly. Each credit reporter must have their own complaints procedure, and a person who specialises in helping to resolve complaints in a way that is fair, simple and efficient.

If your complaint is not resolved, you may complain to the Privacy Commissioner, who has powers to investigate the matter. Some cases that cannot be settled can be taken to the Human Rights Review Tribunal.

In addition to your rights under the Code, you may take a credit reporter to court. You may choose to do this if you are claiming defamation or negligence. For more information, contact a lawyer or community law centre.

Contact information:

Credit reporter:

[Insert details about where to go to exercise access and complaint rights, including:

Freephone line (if appropriate)

Email address

*Web address
Postal address]*

Office of the Privacy Commissioner:
Enquiries line: 0800 803 909
Email address: enquiries@privacy.org.nz
Web address: www.privacy.org.nz
Postal address: PO Box 10094, Wellington 6143



Note: Schedule 4 was substituted by Amendment No 4 and further amended by Amendments No 5, No 7, No 11 and No 14.

Note: For additional obligations on credit reporters in relation to the Summary of Rights, see rules 6(3), 6(4), 7(3) and 7(4) and clause 8(3A).

Note: The original version of the Summary of Rights was awarded the WriteMark to recognise that it met certain standards of plain English. The WriteMark is not part of the code as issued.

Note: The Summary of Rights is also available in Arabic, Farsi, Fijian, Hindi, Korean, Maori, Samoan, Simplified Chinese, Spanish, Tongan and Traditional Chinese. Clause 8(3A) requires credit reporters to display these translations on their websites. The Summary may be made available in other languages from time to time.

Schedule 5
Driver Licence Numbers
(Rules 8, 11 and 12 and Schedule 3)

Collection and disclosure by subscriber

1. A credit reporter must take such steps as are reasonable in the circumstances to ensure that, where a subscriber collects a driver licence number from an individual for disclosure to the credit reporter, the subscriber:
 - (a) makes clear to the individual that the provision of the driver licence number is voluntary;
 - (b) collects the driver licence card number from the individual and discloses this to the credit reporter; and
 - (c) where the driver licence number and driver licence card number are collected from the individual in person, takes reasonable steps to ensure that the individual is the individual shown on the driver licence.

Verification by credit reporter

2. A credit reporter must, before using a driver licence number, take such measures as are reasonably practicable to verify:
 - (a) that the driver licence number relates to a licence issued by the New Zealand Government;
 - (b) that the driver licence number does not relate to a licence that has been recorded on the national register of driver licences as lost or stolen; and
 - (c) that the driver licence card number is the most recent driver licence card number.
3. Where a driver licence number has been successfully verified as relating to a valid driver licence that has not been recorded as lost or stolen, and is the most recent version, a credit reporter may confirm this by disclosing the driver licence number back to the subscriber in a masked form, by removing the last two digits and replacing them with characters that are neither blank spaces, nor numerical characters nor letters.
4. Where a driver licence number has not been successfully verified as relating to a valid driver licence that has not been recorded as lost or stolen, and is the most recent version, a credit reporter may disclose the full driver licence number and card number back to the subscriber. The subscriber is thereby enabled to check that the correct number was collected from the individual and disclosed to the credit reporter or make other consequent checks.

Hashing by credit reporter

5. If, after having taken measures to verify a driver licence number, the credit reporter wishes to retain information derived from that number for matching, it must convert the driver

licence number to a hash value using a non-reversible hash function and may only retain it in this form.

6. The driver licence number must not be written into any database by the credit reporter.

Matching by credit reporter

7. The credit reporter may use the hash value obtained from the driver licence number as supplementary identification information to retrieve and match credit information on individuals, in conjunction with other identification information such as name, address or date of birth.

Note: Schedule 5 was inserted by Amendment No 4.

Schedule 6

Assurance Report

(Rules 5 and 8 and clause 9)

Clause 9 requires a credit reporter to provide the Commissioner with a report, prepared with the involvement of an independent person, which is to reflect the outcome of the credit reporter's systematic reviews undertaken under rules 5(2)(h) and 8(3)(f) and monitoring activities undertaken under rules 5(2)(e) and 8(3)(c) and to provide other assurances in relation to code compliance, as set out below.

Process of review and reporting

1. The report must include:

- (a) a summary of the systematic review process and the methodology followed by the reviewer;
- (b) where the report was prepared by a review committee, a statement identifying the members of that committee, including the independent person;
- (c) [a statement from the independent person as required by clause 9(3)(c) of the Code]; and
- (d) confirmation that the independent person is not an employee, director, or owner of the credit reporter.

Note: Paragraph (c) was substituted by Amendment No 14.

Assurances relating to policies, procedures, controls and subscriber agreements

2. The report must provide a reasonable assurance that, in relation to the applicable period, the credit reporter:

- (a) had policies in place that give effect to the requirements of the code;

[(aa) had policies in place to ensure that any arrangement with a related company accords with clause 5(2) of this Code;]

- (b) had internal procedures and controls in place to give effect to the policies and requirements of the code;

[(bb) had appropriate procedures in place to ensure that any information requested under rule 6 is received only by that individual or, where the request is made by an agent on behalf of the individual, only by that individual or his or her agent [such procedures must amongst other things ensure, as far as possible, that where information intended for an individual is received by a properly authorised agent that it is not subject to bundled authorisations for other purposes that would have the purpose or effect of circumventing the code's prohibitions on marketing and direct marketing];

- (c) provided information and training to its staff to ensure compliance with the policies, procedures and controls; []
- (d) ensured that subscriber agreements that complied with Schedule 3 were in place before disclosing credit information; [and
- (e) ensured that access agreements under Schedule 3A were in place before disclosing credit information].

Note: Paragraphs (aa), (bb) and (e) inserted by Amendment No 14.

Assurances relating to monitoring of policies, procedures, controls and subscriber agreements

3. The report must provide a reasonable assurance that, in relation to the applicable period, the credit reporter undertook monitoring activities to ensure reasonable compliance with the code, including that:
 - (a) the credit reporter followed its own policies, procedures and controls;
 - (b) the information held by the credit reporter was protected by reasonable security safeguards;
 - (c) the credit reporter processed information privacy requests in accordance with rules 6 and 7;
 - (d) the credit reporter took such measures as were reasonably practicable to avoid the incorrect matching of information held by the credit reporter;
 - (e) the information held by the credit reporter was subject to reasonable checks to ensure that it was accurate, up to date, complete, relevant and not misleading;
 - (f) the credit reporter's reporting and retention of credit information was in accordance with rule 9 and Schedule 1;
 - (g) the credit reporter processed direct marketing lists in accordance with rule [Schedule 9];
 - (h) the credit reporter processed suppression, release or cancellation requests in accordance with Schedule 7;
 - (i) the credit reporter processed complaints in accordance with clause 8;
 - (j) the credit reporter's website displayed accurate information that gave effect to rules 6(4)(b), 7(4)(b), clause 8(3A) and clause 8.1 of Schedule 7;[]
 - (k) subscribers complied with agreements and controls; []
 - (l) the intelligence and security agencies complied with any access agreements and controls]; [and

- (m) the requirements on both the subscribers and the credit reporter under Schedule 10 in relation to tracing individuals were met.]

Note: Paragraph (g) was amended by Amendment No 14, paragraph (l) was inserted by Amendment No 11 and paragraph (m) was inserted by Amendment No 14.

Assurances relating to action taken on deficiencies identified

- 4. The report must provide a reasonable assurance that, in relation to the applicable period:
 - (a) where, during its systematic reviews, monitoring activities or as a result of a complaint, the credit reporter identified a breach of an agreement, policy, procedure, control, or requirement of the code, the credit reporter investigated that breach and, where appropriate, took prompt remedial action; and
 - (b) where a deficiency was identified in the previous year's report, the credit reporter, where appropriate, took prompt remedial action.

Note: Schedule 6 was inserted by Amendment No 5.

Note: During the implementation of Amendment No 14, the assurance report must also include the information set out in Schedule 8.

Note: The report will be made public by the Commissioner. If the credit reporter wishes any information to be kept confidential, it should communicate this information separately from the report and explain why the information should remain confidential. Information held by the Commissioner is nonetheless liable to be released upon request under the Official Information Act unless there is good reason to refuse a request.

Schedule 7

Suppression of Credit Information where Individual may be a Victim of Fraud

(Rule 11)

The purpose of this Schedule is to enable an individual who reasonably believes that he or she may be likely to become a victim of fraud to have a credit reporter suppress a credit report thereby making it less likely that another person might fraudulently obtain new credit in the individual's name.

The Schedule outlines:

- how a suppression may be obtained and lifted;
- the responsibilities of credit reporters; and
- the effect of a suppression.

Suppression is directed towards preventing new credit accounts being opened fraudulently. Accordingly, some ongoing access to credit reports is permitted during suppression. Some ongoing updating of suppressed credit reports is permitted.

Initial request

1.1. Where a credit reporter holds credit information about an individual, the individual concerned is entitled to make an **initial request** to the credit reporter seeking to have that information suppressed on the basis that the individual believes that he or she has been, or is likely to be, a victim of fraud (including identity fraud).

Note: The meaning of "suppressed" for the purposes of this Schedule is outlined at clause 9.1 below.

Note: Clause 5.1 provides that credit reporters must verify the identity of requesters.

1.2. Where a credit reporter receives an initial request, the credit reporter must suppress the individual's credit information for 10 working days from the day on which the request is received and, as soon as reasonably practicable, notify the individual of:

- (a) the suppression and its duration; and
- (b) the effect of an initial suppression and the process to make an extension request, release request and cancellation request.

1.3. At the same time as notification under clause 1.2, the credit report must issue the requester with a password or Personal Identification Number (**PIN**) to be produced by the individual in conjunction with any associated extension request, release request or cancellation request.

[1.4 To simplify the process for individuals, credit reporters may establish and maintain an arrangement for notifying other credit reporters of any initial requests received. Such an arrangement may include agreement to accept that an initial request to one credit reporter will be treated as being an initial request to all credit reporters participating in the arrangement. Such arrangements must remain consistent with this Schedule and be operated in a way that the individual and participating authorities are each clear about

their responsibilities, the effect of the arrangement on the request and of the resultant suppressions.]

Note: Clause 1.4 inserted by Amendment No 14.

Extension request

2.1. Where an individual has had credit information suppressed under any of the provisions of this Schedule, that individual is entitled to make an **extension request** to the credit reporter.

2.2. Where a credit reporter receives an extension request, the credit reporter must:

- (a) pending taking a decision on the request – continue to suppress the individual's credit information;
- (b) notify any credit providers that have listed credit accounts on a credit reporter's records prior to the request (**pre-existing credit accounts**) of the fact of the extension request; and
- (c) as soon as reasonably practicable, decide whether or not to extend the duration of the suppression.

2.3. Where a credit reporter decides to extend the duration of the suppression, the credit reporter must:

- (a) determine whether to extend the suppression for either:
 - (i) a fixed period that it considers is reasonable in the circumstances, being not less than 12 months; or
 - (ii) an indefinite period; and

Note: A suppression granted for an indefinite period continues until cancelled in response to an individual's cancellation request (see clause 4.1) or terminated by the credit reporter (see clause 6.1).

- (b) notify the individual of that decision, as soon as reasonably practicable, and include in that notification:
 - (i) details of any pre-existing credit accounts that have been verified in accordance with clause 9.2(a);
 - (ii) an explanation of the process for making a release request or cancellation request; and
 - (iii) in any case where the suppression has been extended for a fixed period, the process for making a further extension request[; and
- (c) [provide the individual with the option to opt out of receiving notification from the credit reporter of the imminent expiry of the suppression.]

Note: Paragraph (c) inserted by Amendment No 14.

2.4. A credit reporter may refuse an extension request if it believes, on reasonable grounds, that:

- (a) the individual has not been or, as the case may be, is not likely to be, a victim of fraud; or
- (b) the request is vexatious or is not made in good faith.

2.5. Where a credit reporter refuses an extension request, the credit reporter must notify the individual of that decision, as soon as reasonably practicable, and include in that notification:

- (a) the reason for that refusal; and
- (b) details of the complaints procedure available under clause 8 of the code.

2.6. Notwithstanding clause 1.2, where a credit reporter receives an initial request from an individual in respect of whom the credit reporter has previously received an initial request, the credit reporter may treat the request as an extension request.

[2.7 Subject to clause 2.3(c), a credit reporter must notify the individual of the imminent expiry of the suppression not less than 5 working days before the end of the extended suppression period.]

Note: Clause 2.7 inserted by Amendment No 14.

Release request

3.1. Where an individual has had credit information suppressed under any of the provisions of this Schedule, that individual is entitled to make a temporary **release request** to the credit reporter authorising the disclosure of credit information for the purpose of credit reporting either:

- (a) to a nominated credit provider or providers; or
- (b) for a set period.

3.2. Where a credit reporter receives a release request, the credit reporter must, as soon as reasonably practicable, either:

- (a) temporarily lift the suppression consistently with the request and notify the individual; or
- (b) notify the individual of a refusal.

Note: Typically a refusal may result if a release request does not conform to the credit reporter's requirements or where a requester has not provided sufficient information to verify the requester's identity or has not provided the individual's password or PIN.

Cancellation request

4.1. Where a credit reporter has suppressed credit information under any of the provisions of this Schedule, the individual concerned is entitled to make a **cancellation request** to the credit reporter authorising the permanent cancellation of the suppression.

4.2. Where a credit reporter receives a cancellation request, the credit reporter must, as soon as reasonably practicable, either:

- (a) cancel the suppression and notify the individual; or
- (b) notify the individual of a refusal.

Identity verification obligations

5.1. A credit reporter must not act on any request made under this Schedule unless satisfied concerning the identity of the individual making the request.

5.2. In addition to any other reasonable identification requirements, a credit reporter must require an individual making an extension request, release request or cancellation request to provide the password or PIN issued under clauses 1.3 or 5.3.

5.3. Where an individual has failed to retain the password or PIN issued under clause 1.3, a credit reporter may on request issue a new password or PIN once it is satisfied concerning the identity of the individual.

Terminating a suppression

6.1. A credit reporter may terminate a suppression if the credit reporter believes, on reasonable grounds, that the suppression was obtained as a result of a misrepresentation by the individual concerned of a material fact.

6.2. Where a credit reporter decides to terminate a suppression, it must, as soon as reasonably practicable, notify the individual of its decision and:

- (a) give the reasons for that decision; and
- (b) provide the individual with details of the complaints procedure available under clause 8 of the code.

Charging

7.1. A credit reporter may not charge an individual for a request made under any of the provisions of this Schedule but may make a reasonable charge to replace a password or PIN under clause 5.3.

Credit reporter to make available details of request processes

8.1. A credit reporter must make available on request and on the credit reporter's website details of the credit reporter's processes to make an initial request, extension request, release request and cancellation request which should include, amongst other matters, guidance on:

- (a) the supporting documentation that might typically be expected;
- (b) the requirements for agents making applications on behalf of individuals;
- (c) the credit reporter's criteria for deciding on an extension request;

- (d) the likely processing time for requests;
- (e) [any arrangement between credit reporters of the type anticipated in clause 1.4 for sharing and acting upon initial requests.]

Note: Paragraph (e) was inserted by Amendment No 14.

Meaning of “suppressed” for purposes of Schedule

9.1. For the purposes of this Schedule, where credit information is required to be “suppressed” (or is subject to a “suppression”) that information may not be:

- (a) updated or added to except in accordance with clause 9.2;
- (b) used except in accordance with clause 9.3; or
- (c) disclosed except in accordance with clause 9.4.

9.2. Credit information that is suppressed may be updated or added to in the following circumstances:

- (a) the addition or updating of any credit information:
 - (i) in relation to pre-existing credit accounts – only after reasonable steps have been taken to verify that the accounts appear to be genuine and unaffected by third party fraud;

Note: pre-existing credit accounts are defined in clause 2.2(b) as credit accounts listed on a credit reporter’s records prior to receiving a suppression request.

- (ii) in relation to credit accounts created after receiving a suppression request (**new credit accounts**) – only accounts with a credit provider nominated by an individual in a release request, and in relation to which the credit reporter disclosed credit information while a release request was in effect, and only after reasonable steps have been taken to verify that such new accounts appear to be genuine and unaffected by third party fraud;
 - (b) the addition of the following credit information that is not necessarily related to a particular credit account:
 - (i) public record information of the classes listed in paragraphs (g), (h) or (i) of the definition of credit information;
 - (ii) access log information relating to accesses permitted pursuant to clause 9.4;
 - (iii) a notice of disputed debt; and
 - (iv) administrative information incidental to credit reporting activities; or
 - (c) the correction of credit information, or the addition of a statement of correction, in accordance with a correction request under rule 7.

9.3. For the avoidance of doubt, credit information that is suppressed may be used by a credit reporter in accordance with rule 10.

Note: For example, suppressed information can be used for the creation of a credit score or for pre-screening of a direct marketing list.

9.4. Credit information that is suppressed may be disclosed by a credit reporter only in the following circumstances:

- (a) in accordance with rule 11(1);
- (b) in accordance with rule 11(2), to any subscriber other than a credit provider; or
- (c) in accordance with rule 11(2), to a credit provider:
 - (i) that has listed with the credit reporter a pre-existing credit account or a new credit account – for purposes related only to that account; or
 - (ii) in accordance with the terms of a release request.

Note: During a suppression, a credit provider may access an individual's credit report in the usual way to update a credit reporter's records in relation to a pre-existing credit account, or for decisions relating to that account, but cannot obtain a credit report for the purposes related to the grant of new credit except where the process has been followed for temporary lifting of the suppression.

Note: Schedule 7 was inserted by Amendment No 5.

[Schedule 8 Transitional arrangements associated with Amendment No 14

Amendment No 14 affects the categories of credit information permitted to be collected, used, disclosed and retained by credit reporters. In some cases, the Amendment expands the permitted information (e.g. NZBN) or uses (e.g. tracing to return unclaimed money) and, in other cases, is more restrictive (e.g. previous enquiries). The Amendment will require the implementation of changes to credit reporters' systems and, in some cases, to both credit reporters' and subscribers' systems. There is some complexity in the timing of commencement of the changes with approximately 4 months provided between issue and initial commencement and a further 3-6 months before the balance of the changes commence. This Schedule is intended to ease the transition by authorising systems testing in anticipation of commencement and providing clarity on how small debts are to be treated.

Systems testing

- 1.1 A credit reporter may collect personal information from a subscriber or another agency and use that information to test its systems, or its subscribers' systems, for handling the effects of Amendment No 14 (e.g. in relation to additional or restricted classes of credit information).
- 1.2 Clause 1.1 is limited in the following ways:
 - (a) personal information must not be used for testing where de-identified or fictitious information would suffice; and
 - (b) information collected must not be made available for subscribers or disclosed in a credit report or kept for longer than is required for the purposes of systems testing.

Small defaults

- 2.1 From 1 October 2019 (the date of commencement of clause 5 of this amendment) the amended definitions of debtor credit default and guarantor credit default exclude defaults relating to an overdue payment of less than \$125 (the former threshold was \$100). From that date, no further information may be collected by a credit reporter regarding a credit default of less than \$125.
- 2.2 A credit reporter may continue to hold, use and disclose for the purpose of credit reporting any information it may hold as at 1 October 2019 about a credit default relating to an overdue payment equal to or more than \$100. This clause is subject to the usual maximum reporting period and any other applicable provision of the Code that might prohibit the continued holding, use and disclosure of the default. For the avoidance of doubt, information about a credit default relating to an overdue payment that was originally in an amount equal to or more than \$100 can continue to be held, used and disclosed in accordance with this clause, notwithstanding that the total amount owing on the credit default is below \$100 as at 1 October 2019.

Assurance report

- 3.1 An assurance report submitted under clause 9 of the Code, that relates to a period during which a credit reporter relied upon the provisions of this Schedule to undertake systems testing or to report credit defaults of less than \$125, must provide a reasonable assurance that the credit reporter undertook monitoring activities to ensure that:
 - (a) any systems testing undertaken by the credit reporter in reliance upon clause 1.2 met the requirements of clause 1.2;
 - (b) the credit reporter ceased collecting, using and disclosing information on credit defaults of less than \$125 from 1 October 2019 and only continued to report small defaults relating to an overdue payment equal to or more than \$100 in accordance with the requirements of this Schedule.]

Note: Schedule 8 was inserted by Amendment No 14.

[Schedule 9
Pre-screening to remove names from subscriber marketing lists
(Rule 10(1B))

A credit reporter may use credit information to remove names from a direct marketing list supplied by a subscriber if the following 4 conditions are all met:

Condition 1: The subscriber

The subscriber must be a credit provider that is either:

- a) an externally regulated credit provider; or
- b) a member of a self-regulatory association that binds members to responsible marketing practices.

Condition 2: The list

The list submitted to the credit reporter for pre-screening must:

- a) be warranted by, or on behalf of, the subscriber to have been compiled in compliance with the Act;
- b) omit the names of any individuals who have been registered with the New Zealand Marketing Association indicating that they do not wish to receive unsolicited marketing; and
- c) be used only for direct marketing related to the provision of credit by the subscriber.

Condition 3: Criteria for removal

The removal of names is based upon criteria agreed in advance between the credit reporter and the subscriber with the purpose of excluding individuals who represent an adverse credit risk and would be ineligible to receive the direct marketing.

Condition 4: Assurance of limitation of use

The credit reporter has a process in place to ensure that:

- a) the requirements of condition 2(a) and (b) are met;
- b) information derived from the list is not retained or used by the credit reporter for the purpose of credit reporting; and
- c) the list, after the removal of names, is:
 - i. used only for the purpose of the direct marketing permitted under clause 2(c); and
 - ii. not disclosed directly to the subscriber.]

Note: Schedule 9 inserted by Amendment No 14.

Schedule 10

Tracing to facilitate the return of money owed to individuals

Rule 10(1C)

A credit reporter may use credit information it holds to seek to trace an individual to facilitate the return by that subscriber of money owed to that individual if the following conditions are met.

Condition 1: Eligible subscriber

Any subscriber may request a credit reporter to seek to trace an individual to facilitate the payment by that subscriber of money held by the subscriber and owed to that individual. Intermediaries that do not hold the individual's money, but instead seek to obtain a share of the money owed to the individual, are not eligible to request tracing under this schedule.

Condition 2: Permitted purpose

Tracing permitted under this schedule is for the sole purpose of facilitating the return by a subscriber of money owed by that subscriber to an individual.

Condition 3: Subscriber to take steps before requesting tracing

Before submitting any request to a credit reporter to trace an individual under this schedule, the subscriber must have taken all reasonable steps to trace the individual using information held by the subscriber and publicly available information. As a minimum, a subscriber must have written to the individual at the last known address and may not request that a credit reporter trace an individual until at least 3 months after the last contact with that individual.

Condition 4: Matching of submitted details with credit information

The request by the subscriber will be accompanied by a name and identifying information held by the subscriber in relation to the individual to be traced. Matching of the details supplied against the information held by the credit reporter will be undertaken by the credit reporter.

Any new address produced by the matching process that is likely to relate to the individual is to be handled in accordance with condition 5. In any case that fails to produce a new address, the credit reporter is permitted to report back to the subscriber to confirm that there was no match or that the process confirmed information submitted in full or part.

Condition 5: Handling of new or more recent addresses revealed by a useful tracing match

The credit reporter must not disclose any new or more recent addresses directly to the subscriber but may instead send, or arrange to send, a notice prepared by the subscriber to the address revealed by the match. That notice will explain the situation and invite the recipient to respond directly to the subscriber (i.e. responses should not be routed through the credit reporter). The notice should explain how the individual's contact details have been obtained and confirm that they have not been released directly to the subscriber.

Condition 6: Assurances

The credit reporter must have a process in place to ensure that the conditions on both subscriber and credit reporter are met.

Note: Schedule 10 inserted by Amendment No 14.

Legislative history:

| | |
|-------------------|--|
| 6 December 2004 | Code issued |
| 1 April 2005 | Clauses 7 and 8 of code commenced |
| 9 August 2005 | Amendment No 1 (Temporary) issued |
| 24 February 2006 | Amendment No 2 issued |
| 1 April 2006 | Remainder of code commenced |
| 1 April 2006 | Amendment No 2 commenced (which revoked Amendment No 1 (Temporary)) |
| 18 December 2009 | Amendment No 3 issued |
| 22 February 2010 | Amendment No 3 commenced |
| 14 December 2010 | Amendment No 4 issued |
| 30 September 2011 | Amendment No 5 issued |
| 1 October 2011 | Amendment No 4, with the exception of some clauses, commenced |
| 1 December 2011 | Clauses 3.2 and 3.3 of Schedule 8 (inserted by Amendment No 5) commenced |
| 26 March 2012 | Amendment No 6 (Temporary) issued |
| 1 April 2012 | Amendment No 5 and remainder of Amendment No 4 commenced |
| 1 April 2012 | Amendment No 6 (Temporary) commenced |
| 1 February 2013 | Amendment No 7 issued |
| 29 March 2013 | Clause 6 of Amendment No 7 commenced |
| 31 March 2013 | Amendment No 6 (Temporary) expired |
| 31 March 2013 | Schedule 8 of code expires |
| 1 April 2013 | Amendment No 7 commenced |
| 7 May 2013 | Amendment No 8 issued |
| 30 June 2013 | Clauses 3 and 4 of Amendment No 7 commenced |
| 30 June 2013 | Amendment No 8 commenced |
| 21 July 2014 | Amendment No 9 issued |
| 1 September 2014 | Amendment No 9 commenced |
| 5 October 2015 | Amendment No 10 issued |
| 5 November 2015 | Amendment No 10 commenced |
| 25 August 2017 | Amendment No 11 issued |
| 20 September 2017 | Amendment No 12 (temporary) issued |
| 28 September 2017 | Amendment No 11 commenced |
| 28 September 2017 | Amendment No 12 (temporary) commenced |
| 15 August 2018 | Amendment No 13 issued |
| 18 September 2018 | Amendment No 12 (temporary) expired |
| 18 September 2018 | Amendment No 13 commenced |
| [date] 2018 | Amendment No 14 issued |
| [date] 2018 | Clause 25 of Amendment No 14 commenced |
| 1 April 2019 | Amendment No 14 commenced (with exception of certain provisions) |
| 1 July 2019 | Amendment No 14, selected provisions commenced |
| 1 October 2019 | Amendment No 14, all remaining provisions commence |

Credit Reporting Privacy Code 2004

*This consolidation: September 2017
Available to download at www.privacy.org.nz*

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