



Privacy Commissioner  
Te Mana Matapono Matatapu

## Proposed Amendment No 4 to the Credit Reporting Privacy Code 2004

16 June 2010

This document sets out a proposed amendment to the Credit Reporting Privacy Code. Reference should be made to the accompanying information paper. Submissions on this proposed amendment may be made by 13 August 2010.

## Credit Reporting Privacy Code 2004 Amendment No. 4

### 1. Title

This amendment is the Credit Reporting Privacy Code 2004 Amendment No. 4.

### 2. Commencement

This amendment will come into force on 1 April 2011, except for:

- (a) clauses 6, 7, and 17, which will come into force on 1 October 2011;
- (b) clauses 3(2), 4(1), 4(5), 4(7), 5, 8(2), 11(3), 16(2), 16(4), 16(6) and 18, which will come into force on 1 April 2012; and
- (c) subrule 11(3)(c), contained in the amendment made by clause 11(2), which will come into force on 1 April 2012.

### 3. Amendments to clause 5 (definition of credit information)

- (1) The definition of “credit information” in clause 5 is amended in the following manner:

**Delete** : from paragraph (b)(iii) the word “and”

**Insert** : at the end of paragraph (b)(iv) the word “and”

**Insert** : in paragraph (b)  
 (v) in relation to a driver licence:  
 (A) driver licence number; and  
 (B) driver licence card number;

- (2) The definition of “credit information” in clause 5 is amended in the following manner:

**Insert** : (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; and
- (vi) credit provider’s client reference number;

- (3) The definition of “credit information” in clause 5 is amended in the following manner:

**Delete** : from paragraph (e)(i) the words “an account”  
**Substitute** : “a credit account”

#### 4. Other amendments to clause 5

- (1) Clause 5 is amended in the following manner:

**Insert** : in the appropriate alphabetical order:

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

- (2) Clause 5 is amended in the following manner:

**Insert** : in the appropriate alphabetical order:

**driver licence** means a New Zealand driver licence

- (3) Clause 5 is amended in the following manner:

**Insert** : in the appropriate alphabetical order:

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

- (4) Clause 5 is amended in the following manner:

**Insert** : in the appropriate alphabetical order:

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

- (5) Clause 5 is amended in the following manner:

**Insert** : in the appropriate alphabetical order:

**independent person**, for the purposes of rules 5(2A) and 8(3A), means a person who is not an employee, director, or owner of the credit reporter

- (6) Clause 5 is amended in the following manner:

**Insert** : in the appropriate alphabetical order:

**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

(7) Clause 5 is amended in the following manner:

**Insert** : in the appropriate alphabetical order:

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

(8) Clause 5 is amended in the following manner:

**Delete** : from the definition of **Summary of Rights** the words “or a document to the same effect”

#### 5. Amendments to clause 6: Rule 5 (storage and security)

Rule 5 is amended in the following manner:

**Insert** : (2A) A credit reporter must submit to the Commissioner no later than 30 September each year a report which must:

(a) contain an assurance that the credit provider has carried out a systematic review as required under subrule (2)(h) during the preceding year to 30 June;

(b) summarise the outcome of that review; and

(c) be prepared and submitted either by:

(i) an independent person, having expertise in undertaking a systematic review, such as a qualified auditor; or

(ii) an audit committee, established by the credit reporter, that includes an independent person with expertise in relation to matters of compliance with this code.

#### 6. Amendments to clause 6: Rule 6 (access)

(1) Rule 6 is amended in the following manner:

**Insert** : (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 explaining:

(a) the general methodology used to create the score, including the types of credit information used; and

(b) the score range within which that score is placed.

(2) Rule 6(3) is amended in the following manner:

**Delete** : rule 6(3)

**Substitute** : (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.

(3) Rule 6(4) is amended in the following manner:

**Delete** : rule 6(4)(b)

**Substitute** : (b) notified the individual that the summary is available on the credit reporter's website and offered to make a copy available on request.

## 7. Amendments to clause 6: Rule 7 (correction)

Rule 7 is amended in the following manner:

**Delete** : rule 7(4)(b)

**Substitute** : (b) notified the individual that the summary is available on the credit reporter's website and offered to make a copy available on request.

## 8. Amendments to clause 6: Rule 8 (accuracy)

(1) Rule 8(3) is amended in the following manner:

**Insert** : (ba) in relation to a driver licence number, take the additional steps set out in Schedule 5 before using that information.

(2) Rule 8 is amended in the following manner:

**Insert** : (3A) A credit reporter must submit to the Commissioner no later than 30 September each year a report which must:

(a) contain an assurance that the credit provider has carried out a systematic review as

required under subrule (3)(f) during the preceding year to 30 June;

(b) summarise the outcome of that review; and

(d) be prepared and submitted either by:

(j) an independent person, having expertise in undertaking a systematic review, such as a qualified auditor; or

(ii) an audit committee, established by the credit reporter, that includes an independent person with expertise in relation to matters of compliance with this code.

#### 9. Amendments to clause 6: Rule 9 (retention)

(1) Rule 9(2) is amended in the following manner:

**Delete** : rule 9(2)

**Substitute** : (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.

(2) Rule 9(3) is revoked.

#### 10. Amendments to clause 6: Rule 10 (use)

(1) Rule 10 is amended in the following manner:

**Insert** : (1A) A credit reporter that holds credit information must not use the information for any purpose related to direct marketing, including the facilitating of direct marketing by a subscriber.

(2) Rule 10 is amended in the following manner:

**Insert** : (1B) A credit reporter may use information obtained pursuant to section 78F of the Births, Deaths, Marriages and Relationships Registration Act 1996 for the purpose of suppressing credit information about deceased individuals.

#### 11. Amendments to clause 6: Rule 11 (disclosure)

(1) Rule 11 is amended in the following manner:

**Insert** : (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 (2)(a), (b) and (c) beyond the maximum reporting period.

(2) Rule 11(3) is amended in the following manner:

- Delete** : rule 11(3)  
**Substitute** : (3) A credit reporter must not disclose:
- (a) supplementary identification information except by confirming identical information supplied by a subscriber;
  - (b) credit information for any purpose related to direct marketing, including the facilitating of direct marketing by a subscriber; or
  - (c) credit account information unless that disclosure is to a registered credit provider.

(3) Rule 11 is amended in the following manner:

- Insert** : (4A) A credit reporter may disclose to a subscriber that credit information held about an individual has been suppressed pursuant to rule 10(1B).

#### 12. Amendments to clause 6: Rule 12 (unique identifiers)

Rule 12 is amended in the following manner:

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

#### 13. Amendments to clause 8 (complaints)

Clause 8 is amended in the following manner:

- Insert** : (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 translations of the Summary of Rights released by the Commissioner.

#### 14. Substitution of new Schedule 1 (maximum reporting periods)

Schedule 1 is amended in the following manner:

- Delete** : Schedule 1  
**Substitute** : **Schedule 1**

**Maximum Reporting Periods  
(Rule 11(2A))**

<i>Column 1</i>	<i>Column 2</i>
<b>Types of Credit Information</b>	<b>Maximum Reporting Period</b>
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
Credit default information	5 years from date of default
Serious credit infringement information	5 years from date of report
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 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	5 years from date of enquiry
Credit score	2 working days from date of creation

**15. Substitution of new Schedule 2 (specified public register provisions)**

Schedule 2 is amended in the following manner:

**Delete** : Schedule 2  
**Substitute** : **Schedule 2**  
**Specified Public Register Provisions**  
**(Clause 5 and Rule 11(4))**

<b>Enactment</b>	<b>Public Register Provision</b>
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

**16. Amendments to Schedule 3 (subscriber agreement)**

(1) Schedule 3 is amended in the following manner:

**Insert** : (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.

(2) Schedule 3 is amended in the following manner:

**Insert** : in clause 3 after “any” and before “credit”  
credit account information,

(3) Schedule 3 is amended in the following manner:

**Insert** : in clause 5 after “requirements of”  
the parts of the agreement giving effect to this  
schedule,

(4) Schedule 3 is amended in the following manner:

**Insert** : in clause 5 after “substantiate any”  
credit account information,

(5) Schedule 3 is amended in the following manner:

**Insert** : in clause 6 after “requirements of”  
the parts of the agreement giving effect to this  
schedule,

(6) Schedule 3 is amended in the following manner:

**Insert** : in clause 6 after “substantiate any”  
credit account information,

(7) Schedule 3 is amended in the following manner:

**Insert** : (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.

**17. Substitution of new Schedule 4 (summary of rights) to come into force on 1 October 2011**

Schedule 4 is amended in the following manner:

**Delete** : Schedule 4  
**Substitute** : **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, 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 1993 at [www.privacy.org.nz](http://www.privacy.org.nz).

### **Limited information can be reported about you**

A credit reporter can only collect certain classes of information, set out in the Code, for its credit reporting database. A credit reporter can generally only disclose this information for 4-5 years and can only keep it for 5-6 years. Credit reporters can keep identification information and details of 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 defined situations the information may be made available to prospective landlords, employers or insurers, to debt collectors, to those involved in court proceedings and to certain public sector agencies. Your credit information cannot be used or disclosed by a credit reporter for direct marketing purposes.

### **Your consent is required in most situations**

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

### **You can find out what is held about you**

You are entitled to request a copy of the credit information held about you by a credit reporter. You can ask for just the information contained in your credit report or for all the information held about you (which may include additional information, such as a more complete list of those who have accessed your report). If a credit reporter has generated a credit score about you, you have the right to be given an explanation of this score.

If you want the information quickly (within 5 working days) you may be required to pay a reasonable charge, but otherwise no charge may be made. A credit reporter must take precautions to 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 authorisation.

### **You can dispute inaccurate information with the credit reporter**

Credit reporters must take reasonable steps to ensure the accuracy of the information they hold and must act promptly to correct any errors they become aware of. If you tell a credit reporter that your report contains an

inaccuracy, the credit reporter must take steps to correct it. This will usually involve checking the information you provide with the source, such as a credit provider who submitted a default. While the checking process is under way, the credit reporter must flag your credit report to show that the item has been disputed.

The credit reporter must, as soon as reasonably practicable, decide 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 it must notify you of the extension and the reasons for it. If the requested correction is not made you must be told the reason and you may ask to have a statement of the correction sought but not made, attached to the relevant information. This statement will be included with future reports.

If a correction is made or a correction statement is added, the credit reporter must inform anyone who has recently received your credit report of the change. They must tell you what they have done and provide you with a copy of the amended report.

A credit report describes your credit history, not simply your current debts. Information about a bankruptcy that has been discharged or a default that has subsequently been paid in full can continue to be reported, provided it is updated to reflect the later developments, as it remains an accurate statement of those historical events.

### **You have the right to make a complaint**

Each credit reporter must maintain an internal complaints procedure and have a designated person to facilitate the fair, simple, speedy and efficient resolution of complaints. If you believe a credit reporter has breached the Code you should first approach them directly.

If your complaint is not resolved you may complain to the Privacy Commissioner who has statutory powers to investigate the matter. Some cases that cannot be settled can be taken to the Human Rights Review Tribunal for final determination. Other civil law remedies may also be available including defamation and negligence.

### **Contact addresses:**

Credit reporter: *[Insert details about where to go to exercise access and complaint rights]*

Office of the Privacy Commissioner: PO Box 10094, Wellington 6143

Warning: This is only a generalised summary. In the event of a discrepancy between this summary and a provision of the code or Act, the code or Act prevails.

**18. Substitution of new Schedule 4 (summary of rights) to come into force on 1 April 2012**

Schedule 4 is amended in the following manner:

<b>Delete</b>	:	Schedule 4
<b>Substitute</b>	:	<b>Schedule 4</b> <b>Summary of Rights</b> <b>(Rules 6 and 7 and clause 8)</b>

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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 your credit limit, a failure to pay your bills, or if you have been made bankrupt. The Code, together with the Privacy Act, 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 1993 at [www.privacy.org.nz](http://www.privacy.org.nz).

**Limited information can be reported about you**

A credit reporter can only collect certain classes of information, set out in the Code, for its credit reporting database. Some of the information relates to the credit accounts you hold and includes the credit limits and a record of your repayments for those accounts. Credit reporters can collect information about the times that you have defaulted on credit repayments. Credit reporters can also report any court judgments made against you, or any times that you have been made bankrupt or entered into an insolvency arrangement.

**Information can only be reported and kept for a certain time**

A credit reporter can generally only disclose this information for 4-5 years and can only keep it for 5-6 years. Credit reporters can keep identification information and details of 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 defined situations the information may be made available to prospective landlords, employers or insurers, to debt collectors, to those involved in court proceedings and to certain public sector agencies. Your credit information cannot be used or disclosed by a credit reporter for direct marketing purposes. Only registered credit providers can have access to your credit account information.

**Your consent is required in most situations**

Most credit checks can only take place with your authorisation. This applies to access by credit providers, prospective landlords and prospective employers. Your authorisation may not be required for access by certain public sector

agencies, those involved in court proceedings and debt collectors. The credit reporter is required to log each access that is made to your information and will normally disclose this information to you on request.

### **You can find out what is held about you**

You are entitled to request a copy of the credit information held about you by a credit reporter. You can ask for just the information contained in your credit report or for all the information held about you (which may include additional information, such as a more complete list of those who have accessed your report). If a credit reporter has generated a credit score about you, you have the right to be given an explanation of this score.

If you want the information quickly (within 5 working days) you may be required to pay a reasonable charge, but otherwise no charge may be made. A credit reporter must take precautions to 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 authorisation.

### **You can dispute inaccurate information with the credit reporter**

Credit reporters must take reasonable steps to ensure the accuracy of the information they hold and must act promptly to correct any errors they become aware of. If you tell a credit reporter that your report contains an inaccuracy, the credit reporter must take steps to correct it. This will usually involve checking the information you provide with the source, such as a credit provider who submitted a default. While the checking process is under way, the credit reporter must flag your credit report to show that the item has been disputed.

The credit reporter must, as soon as reasonably practicable, decide 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 it must notify you of the extension and the reasons for it. If the requested correction is not made you must be told the reason and you may ask to have a statement of the correction sought but not made, attached to the relevant information. This statement will be included with future reports.

If a correction is made or a correction statement is added, the credit reporter must inform anyone who has recently received your credit report of the change. They must tell you what they have done and provide you with a copy of the amended report.

A credit report describes your current credit obligations and credit history, not simply your current debts. Information about your current accounts can be reported until two years after those accounts have been closed. Information about a bankruptcy that has been discharged or a default that has subsequently been paid in full can continue to be reported, provided it is updated to reflect the later developments, as it remains an accurate statement of those historical events.

### **You have the right to make a complaint**

Each credit reporter must maintain an internal complaints procedure and have a designated person to facilitate the fair, simple, speedy and efficient resolution of complaints. If you believe a credit reporter has breached the Code you should first approach them directly.

If your complaint is not resolved you may complain to the Privacy Commissioner who has statutory powers to investigate the matter. Some cases that cannot be settled can be taken to the Human Rights Review Tribunal for final determination. Other civil law remedies may also be available including defamation and negligence.

#### **Contact addresses:**

Credit reporter: *[Insert details about where to go to exercise access and complaint rights]*

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### **19. Insertion of new Schedule 5 (Driver licence numbers)**

The following schedule 5 is inserted:

- Insert** : **Schedule 5**  
**Driver licence numbers**  
**(Rules 8, 11 and 12 and Schedule 3)**
- Collection and disclosure by subscriber**
1. A credit reporter must have systems in place 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 disclose 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 genuine licence issued by the New Zealand Government;
  - (b) that the driver licence number does not relate to a licence that has been reported as lost, stolen or otherwise compromised; and
  - (c) that the driver licence number does not relate to a licence that has been superseded by a newer version.
3. Where a driver licence number has been successfully verified as relating to a valid driver licence that has not been stolen or superseded, 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 stolen or superseded, a credit reporter may disclose the full driver licence number back to the subscriber, to ensure that the correct number was provided.

### **Hashing by credit reporter**

5. If after the credit reporter has verified the driver licence number, it wishes to retain information derived from the driver licence 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 match credit information on individuals, in

conjunction with other identification information such as name, address or date of birth.

PROPOSED AMENDMENT