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## Credit Reporting Privacy Code 2020

This Code of Practice is made under section 32 of the Privacy Act 2020 by the Privacy Commissioner.

I, JOHN EDWARDS, Privacy Commissioner, having given notice in accordance with section 33(3) of the Privacy Act 2020 of my intention to issue a code of practice and having satisfied the requirements of the subsection, now issue under section 32 of the Act the Credit Information Privacy Code 2020.

Issued by me at Wellington on 28 October 2020.

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

John Edwards  
Privacy Commissioner

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**Code of Practice**

- 1 Title**  
This code of practice is the Credit Reporting Privacy Code 2020.
- 2 Commencement**  
This code comes into force on 1 December 2020.

### 3 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; and
  - (b) 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; and
  - (c) in relation to charges under section 66 of the Act, prescribes circumstances where no charge may be imposed; and
  - (d) prescribes procedures for dealing with complaints alleging a breach of the code.

### 4 Interpretation

- (1) In this code,—

**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

**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

**Act** means the Privacy Act 2020

**confirmed credit non-compliance action information** means credit non-compliance action information that has been confirmed by a subscriber in accordance with clause 5 of Schedule 3

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

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

**credit default** means either a debtor credit default or a guarantor credit default

**credit default information** means the credit information listed in paragraph (f) of the definition of credit information

**credit information** means the following types of personal information—

- (a) the following identification information—
  - (i) full name; and
  - (ii) any alias or previous name; and
  - (iii) sex; and
  - (iv) date of birth; and
  - (v) address; and
  - (vi) any previous address;

- (b) the following supplementary identification information—
  - (i) occupation; and
  - (ii) any previous occupation; and
  - (iii) employer; and
  - (iv) any previous employer; and
  - (v) in relation to a driver licence:
    - (A) driver licence number; and
    - (B) driver licence card number; and
  - (vi) NZBN;
- (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; and
  - (ii) amount sought; and
  - (iii) capacity of the individual (such as applicant, joint applicant or guarantor); and
  - (iv) date of the application; and
  - (v) details of the credit provider; and
  - (vi) credit provider's client reference number;
- (e) the following information reported by a credit provider about a credit account held by an individual—
  - (i) type of credit account; and
  - (ii) amount of credit extended; and
  - (iii) capacity of individual (such as account holder, joint account holder or guarantor); and
  - (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; and
  - (vii) repayment history information in relation to the account;
- (f) the following information relating to a credit default—
  - (i) capacity of the individual concerned as either debtor or guarantor; and
  - (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; and

- (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; and
- (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;
- (g) serious credit infringement information;
- (h) credit non-compliance action information (including confirmed credit non-compliance action information);
- (i) information relating to the making, cancellation and completion of debt repayment orders or judgments for monies owed that have been entered against an individual;
- (j) the following insolvency information
  - (i) adjudications, discharges, suspensions of discharges and annulments of bankruptcy; and
  - (ii) entry to, and termination and discharge from, the no asset procedure;
- (k) information sourced from a specified public register;
- (l) an access log;
- (m) a credit score;
- (n) a correction statement or notice of disputed debt attached to credit information in accordance with rule 7;
- (o) 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

**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

**credit reporter** means an agency that carries on the 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; and
- (b) the credit provider has notified the individual of the overdue payment and requested that the individual pay the amount of the overdue payment; and
- (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; and
- (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

**direct marketing** means—

- (a) the offering of goods or services; or
- (b) the advertising of the availability of goods or services; or
- (c) the solicitation of donations or contributions for charitable, cultural, philanthropic, recreational, political, or other purposes—

by means of—

- (d) information or goods sent to any person by mail, facsimile transmission, electronic mail, or other similar means of communication, where the information or goods are addressed to a specific person or specified persons by name; or
- (e) telephone calls made to specific persons by name

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

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

**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

**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 Utilities Disputes

**externally regulated credit provider** means—

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

**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 Utilities Disputes

**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; and
- (b) at least 30 days have passed since the day on which the individual was notified; and
- (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; and
- (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

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

**independent person**, for the purposes of clause 8 and Schedule 7, means a person who is not an employee, director, or owner of the credit reporter

**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

**NZBN** means New Zealand Business Number

**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 their individual

**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

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

**related company** has the meaning given in section 2(3) of the Companies Act 1993

**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; and

- (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

**rule** means a credit reporting privacy rule set out in clause 5

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

**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

**specified public register** means a 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 that complies with Schedule 3

**Summary of Rights** means the summary of rights set out in Schedule 5

**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

- (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;
  - (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.
- (3) A term or expression defined in the Act and used, but not defined, in this code has the same meaning as in the Act.



## Part 2: Credit Reporting Privacy Rules

### 5 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.
- (3) If the lawful purpose for which personal information about an individual is collected does not require the collection of an individual's identifying information, the credit reporter may not require the individual's identifying information.

#### Rule 2

##### Source of credit information

- (1) If a credit reporter collects credit information, the information must be collected 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 individual concerned authorises collection of the information from another source; or
  - (b) that the information is publicly available information; or
  - (c) that non-compliance is necessary—
    - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) for the enforcement of a law that imposes a pecuniary penalty; or
    - (iii) for the protection of 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); or
    - (v) to prevent or lessen a serious threat to the life or health of the individual concerned or any other individual; or
  - (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; or
- (e) that the information collected is necessary for the purposes of—
  - (i) undertaking pre-screening in accordance with Schedule 10; or
  - (ii) undertaking tracing in accordance with Schedule 11; or
- (f) 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
- (g) that the collection of the information is in accordance with an authorisation granted under section 30 of the Act.

### **Rule 3**

#### **Collection of credit information from individual**

- (1) If a credit reporter collects credit information from the individual concerned, the credit reporter must take any steps that are, in the circumstances, reasonable to ensure that the individual concerned is aware of—
  - (a) the fact that the information is being collected; and
  - (b) the purposes for which the information is being collected; and
  - (c) the intended recipients of the information; and
  - (d) the name and address of—
    - (i) the agency that is collecting the information; and
    - (ii) the agency that will hold the information; and
  - (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; and
  - (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 on a recent previous occasion in relation to the collection, from that individual, of the same information or information of the same kind.
- (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; or
  - (b) that non-compliance is necessary—
    - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) for the enforcement of a law that imposes a pecuniary penalty; or
    - (iii) for the protection of 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); or
  - (c) that compliance would prejudice the purposes of collection; or
  - (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.

#### **Rule 4**

##### **Manner of collection of credit information**

- (1) A credit reporter may collect credit information only—
  - (a) by a lawful means; and
  - (b) by a means that, in the circumstances of the case (particularly in circumstances where the information is being collected from children or young persons),—
    - (i) is fair; and
    - (ii) does not 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; or
  - (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.

### **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 are reasonable, in the circumstances to take, against—
    - (i) loss; and
    - (ii) access, use, modification, or disclosure that is not authorised by the credit reporter; 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; and
  - (b) impose access authentication controls such as the use of passwords, credential tokens or other mechanisms; and
  - (c) provide information and training to ensure compliance with the policies, procedures and controls; and
  - (d) ensure that a subscriber agreement is in place before disclosing information under rule 11(2); and
  - (e) monitor usage and regularly check compliance with the agreement, policies, procedures and controls and the requirements of this code; and
  - (f) identify and investigate possible breaches of the agreement, policies, procedures and controls; and
  - (g) take prompt and effective action in respect of any breaches that are identified; and

- (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.

**Rule 6**  
**Access to credit information**

- (1) An individual is entitled to receive from a credit reporter upon request—
  - (a) confirmation of whether a credit reporter holds any credit information about them; and
  - (b) access to their credit information.
- (2) 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).
- (3) If an individual concerned is given access to credit information, the individual must be advised that, under rule 7, the individual may request the correction of that information.
- (4) 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.
- (5) 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 7; and
  - (b) provide the individual with a copy of the Summary of Rights.
- (6) 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 6(2)(b).

- (7) A copy of the Summary of Rights need not be given pursuant to subrule (5)(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.
- (8) This rule is subject to—
  - (a) Part 4 of the Act, (which sets out the reasons for refusing access to information and procedural provisions relating to access to information) subject to subrules 9 and 10; and
  - (b) clause 6 (which concerns charges).
- (9) 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.
- (10) Any notice given under section 48(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.
- (11) This rule applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.

**Rule 7**  
**Correction of credit information**

- (1) An individual whose credit information is held by a credit reporter is entitled to request the credit reporter to correct the information.
- (2) A credit reporter that holds credit information must, on request or on its own initiative, take such steps (if any) that are reasonable in the circumstances 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) When requesting the correction of credit information, or at any later time, an individual is entitled to—
  - (a) provide the credit reporter with a statement of the correction sought to the information (a statement of correction); and
  - (b) request the credit reporter to attach a statement of correction to the information if the credit reporter does not make the correction sought.
- (4) Where a credit reporter receives a request for correction under subrule (1), 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.
- (5) A copy of the Summary of Rights need not be given pursuant to subrule (4)(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.
- (6) If a credit reporter that holds credit information is not willing to correct the information as requested and has been provided with a statement of correction, the credit reporter must—
  - (a) advise the individual of the individual's entitlement under subrule (3)(b); and
  - (b) take such steps (if any) that are reasonable in the circumstances to ensure that a statement of correction is attached to the information in a manner that ensures that it will always be read with the information.
- (7) If a credit reporter corrects credit information or attaches a statement of correction to credit information, that credit reporter must, so far as is reasonably practicable, inform every other person to whom the credit reporter has disclosed the information.
- (8) Where a credit reporter receives a request made pursuant to subrules (1) and/or (3), the credit reporter must—
  - (a) inform the individual concerned of the action taken as a result of the request; and
  - (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 7.
- (9) The application of this rule is subject to Part 4 of the Act (which sets out procedural provisions relating to the correction of personal information) and clause 6 (which concerns charges).
- (10) This rule applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.

### **Rule 8**

#### **Accuracy, etc, of credit information to be checked before use or disclosure**

- (1) A credit reporter that holds credit information must not use or disclose that information without taking any steps that are, in the circumstances, reasonable to ensure that 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 is in place before disclosing information under rule 11(2); and

- (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; and
  - (c) in relation to a driver licence number, take the additional steps set out in Schedule 6 before using that information; and
  - (d) monitor information quality and conduct regular checks on compliance with the agreements and controls; and
  - (e) identify and investigate possible breaches of the agreements and controls; and
  - (f) take prompt and effective action in respect of any breaches that are identified; and
  - (g) systematically review the effectiveness of the agreements and controls and promptly remedy any deficiencies.
- (4) This rule applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.

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

### **Rule 10**

#### **Limits on use of credit information**

- (1) A credit reporter that holds credit information that was obtained in connection with one purpose may not use the information for any other purpose unless the credit reporter believes, on reasonable grounds,—
  - (a) that the purpose for which the information is to be used is directly related to the purpose in connection with which the information was obtained; or
  - (b) 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; or



- (c) that the use of the information for that other purpose is authorised by the individual concerned; or
  - (d) 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; or
  - (e) that the use of the information for that other purpose is necessary—
    - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) for the enforcement of a law that imposes a pecuniary penalty; or
    - (iii) for the protection of 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); or
  - (f) 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; or
  - (g) that the use of the information is in accordance with an authorisation granted under section 30 of the Act.
- (2) 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.
- (3) Except as provided in Schedule 10, 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; or
  - (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.
- (4) A credit reporter may use credit information in accordance with Schedule 11 for tracing purposes to facilitate the return of money owed to individuals.
- (5) 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); or

- (b) 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
  - (c) the fact that an individual made a request for suppression, or had their credit information suppressed, pursuant to Schedule 8.
- (6) Subrule (1) does not apply to credit information held by a credit reporter that was obtained before 1 July 1993.

### **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 disclosure is to the individual concerned, or
  - (b) 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; or
  - (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; or
  - (d) 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; or
  - (e) that the disclosure is in accordance with an access agreement; or
  - (f) that the disclosure of the information is necessary to facilitate the sale or other disposition of a business as a going concern; or
  - (g) that the disclosure is of an initial request by an individual for suppression under Schedule 8 and is to another credit reporter for the purpose of facilitating an initial suppression by that other credit reporter; or
  - (h) that the disclosure of the information is in accordance with an authorisation granted under section 30 of the Act; or
  - (i) 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 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; or
  - (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); or
  - (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;
- (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; or
  - (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; or
  - (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; or
- (c) that disclosure is necessary—
    - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) to enable an insurer to investigate a case of suspected insurance fraud; or
    - (iii) for the enforcement of a law that imposes a pecuniary penalty; or
    - (iv) for the protection of 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.
- (3) 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)(d), (e), (2)(a), (b) and (c) beyond the maximum reporting period.
  - (4) 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; or
  - (b) credit information for any purpose relating to marketing or direct marketing, including the facilitating of marketing or direct marketing by a subscriber or any other agency; or
  - (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 8, unless the disclosure is permitted by the applicable provisions of that Schedule.
- (5) A credit reporter may disclose the fact that credit information held about an individual has been—
- (a) suppressed pursuant to rule 10(2); or
  - (b) suppressed pursuant to Schedule 8.
- (6) This rule applies to credit information held by a credit reporter that was obtained before or after the commencement of this rule.
- (7) This rule is subject to rule 12.

## **Rule 12**

### **Disclosure of credit information outside New Zealand**

- (1) A credit reporter (A) may disclose credit information to a foreign person or entity (B) in reliance on rule 11(1)(c), (f), (h), (2)(a), (b), (c) and (d), and (4)(c) only if—
- (a) the individual concerned authorises the disclosure to B after being expressly informed by A that B may not be required to protect the information in a way that, overall, provides comparable safeguards to those in the Act, as modified by this code; or
  - (b) B is carrying on business in New Zealand and, in relation to the information, A believes on reasonable grounds that B is subject to the Act, as modified by this code; or
  - (c) A believes on reasonable grounds that B is subject to privacy laws that, overall, provide comparable safeguards to those in the Act, as modified by this code; or
  - (d) A believes on reasonable grounds that B is a participant in a prescribed binding scheme; or

- (e) A believes on reasonable grounds that B is subject to privacy laws of a prescribed country; or
  - (f) A otherwise believes on reasonable grounds that B is required to protect the information in a way that, overall, provides comparable safeguards to those in the Act, as modified by this code (for example, pursuant to an agreement entered into between A and B); or
  - (g) that the disclosure of the information is in accordance with an authorisation granted under section 30 of the Act.
- (2) However, subrule (1) does not apply if the credit information is to be disclosed to B in reliance on rule 11(1)(c), (2)(c)(i), and (2)(c)(iii) – (v) and it is not reasonably practicable in the circumstances for A to comply with the requirements of subrule (1).
- (3) In this rule,—

**prescribed binding scheme** means a binding scheme specified in regulations made under section 213 of the Act

**prescribed country** means a country specified in regulations made under section 214 of the Act that are made without any qualification or limitation relating to a class of person that includes B, or to a type of information that includes credit information.

### **Rule 13** **Unique identifiers**

- (1) A credit reporter (A) may assign a unique identifier to an individual for use in its operations only if that identifier is necessary to enable A to carry out 1 or more of its functions efficiently.
- (2) A may not assign to an individual a unique identifier that, to A's knowledge, is the same unique identifier as has been assigned to that individual by another agency (B), unless—
- (a) A and B are associated persons within the meaning of subpart YB of the Income Tax Act 2007; or
  - (b) the unique identifier is to be used by A for statistical or research purposes and no other purpose.
- (3) To avoid doubt, A does not assign a unique identifier under subrule (1) by simply recording a unique identifier assigned to the individual by B for the sole purpose of communicating with B about the individual.
- (4) A must take any steps that are, in the circumstances, reasonable to ensure that—
- (a) a unique identifier is assigned only to an individual whose identity is clearly established; and
  - (b) the risk of misuse of a unique identifier by any person is minimised (for example, by showing truncated account numbers on receipts or in correspondence).

- (5) A credit reporter may 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 is for a purpose that is directly related to one of those purposes.
- (6) The collection and use of driver licence numbers by a credit reporter must be undertaken in accordance with the requirements of Schedule 6.
- (7) Subrules (1) – (4)(a) do not apply to unique identifiers assigned before 1 July 1993.
- (8) However, subrule (2) applies to the assignment of unique identifiers on or after 1 July 1993 even if the unique identifier is the same as that assigned by another agency before that date.

### Part 3: Miscellaneous

#### **6 Charges**

- (1) The circumstances in which a credit reporter may impose a charge under section 66(1)(b) and 66(2)(b) 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); or
  - (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; or
  - (c) correcting any credit information in compliance with a request made pursuant to rule 7(1); or
  - (d) providing a copy of any corrected information pursuant to rule 7(8)(b).

#### **7 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; and
    - (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; and
  - (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; and
  - (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.
- (4) 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.
- (5) Nothing in this clause limits or restricts any provision in the Act.

## **8 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 7.
- (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.

## **9 Revocation**

The Credit Reporting Privacy Code 2004 is revoked.

**Schedule 1**  
**Maximum Reporting Periods**  
(Rules 9(2) and 11(3))

<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
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 the no asset procedure
Single entry to no asset procedure	4 years from date of discharge from the no asset procedure
Multiple No Asset Procedures (NAPs) or Bankruptcy events (as provided in the Insolvency Act 2006, section 449A)	Indefinite
Debt repayment 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



**Schedule 2**  
**Specified Public Register Provisions**  
(Clause 4(1))

<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

**Schedule 3**  
**Subscriber Agreement**  
(Rules 5(2), 8(3), 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.
- (3) 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 6.
- (4) 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.
- (5) 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*

- (6) 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.
- (7) 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*

- (8) 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*

- (9) 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; and
  - (b) establish controls, including—
    - (i) the use of passwords, credential tokens or other mechanisms; and
    - (ii) user identification; and
  - (c) provide information and training to ensure compliance with the policies and controls; and
  - (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*

- (10) 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*

- (11) Where the subscriber seeks to have a credit reporter pre-screen a direct marketing list under Rule 10(3), the subscriber must ensure that it both: (1) is eligible under condition 1 of Schedule 10; 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*

- (12) 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 their 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 6.

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

- (13) Where the subscriber seeks to have a credit reporter use credit reporting information under rule 10(4) for tracing purposes to facilitate the return of money owed to individuals, the subscriber must ensure that it meets all applicable requirements of Schedule 11.

**Schedule 4**  
**Access Agreement**  
(Rules 11(1)(e) and 11(4)(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; and
  - (b) establish controls, including—
    - (i) the use of passwords, credential tokens or other mechanisms; and
    - (ii) user identification; and
  - (c) provide information and training to ensure compliance with the policies and controls; and
  - (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.

## **Schedule 5**

### **Summary of Rights**

(Rules 6 and 7 and clause 7)

### **A Summary of your rights under the Credit Reporting Privacy Code 2020**

The Credit Reporting Privacy Code 2020 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 2020, 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](http://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 that 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

**Schedule 6**  
**Driver Licence Numbers**  
(Rules 8, 11, 12 and 13 and Schedule 3)

**Collation 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; and
  - (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; and
  - (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.

**Schedule 7**  
**Assurance Report**  
(Rules 5 and 8 and clause 8)

Clause 8 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)(g) and monitoring activities undertaken under rules 5(2)(e) and 8(3)(d) 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; and
  - (b) where the report was prepared by a review committee, a statement identifying the members of that committee, including the independent person; and
  - (c) a statement from the independent person as required by clause 8(3)(c) of the code; and
  - (d) confirmation that the independent person is not an employee, director, or owner of the credit reporter.

**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; and
  - (b) had policies in place to ensure that any arrangement with a related company accords with clause 4(2) of this code; and
  - (c) had internal procedures and controls in place to give effect to the policies and requirements of the code; and
  - (d) 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 their 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; and
  - (e) provided information and training to its staff to ensure compliance with the policies, procedures and controls; and
  - (f) ensured that subscriber agreements that complied with Schedule 3 were in place before disclosing credit information; and
  - (g) ensured that access agreements under Schedule 4 were in place before disclosing credit information.

**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; and
  - (b) the information held by the credit reporter was protected by reasonable security safeguards; and
  - (c) the credit reporter processed information privacy requests in accordance with rules 6 and 7; and
  - (d) the credit reporter took such measures as were reasonably practicable to avoid the incorrect matching of information held by the credit reporter; and
  - (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; and
  - (f) the credit reporter's reporting and retention of credit information was in accordance with rule 9 and Schedule 1; and
  - (g) the credit reporter processed direct marketing lists in accordance with Schedule 10; and
  - (h) the credit reporter processed suppression, release or cancellation requests in accordance with Schedule 8; and
  - (i) the credit reporter processed complaints in accordance with clause 7; and
  - (j) the credit reporter's website displayed accurate information that gave effect to rules 6(7)(b), 7(5)(b), clause 7(4) and clause 8.1 of Schedule 8; and
  - (k) subscribers complied with agreements and controls and;
  - (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 11 in relation to tracing individuals were met.

**Assurances relating to an 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.

## **Schedule 8**

### **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).
- 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.

#### **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; and
  - (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
  - (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); and
    - (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.
- 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 7 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.

### **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.

### **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—
- (c) cancel the suppression and notify the individual; or
  - (d) 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 7 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; and
  - (b) the requirements for agents making applications on behalf of individuals; and
  - (c) the credit reporter's criteria for deciding on an extension request; and
  - (d) the likely processing time for requests; and
  - (e) any arrangement between credit reporters of the type anticipated in clause 1.4 for sharing and acting upon initial requests.

## **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; or
  - (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; and
    - (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; or
  - (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 (i), (j) or (k) of the definition of credit information; and
    - (ii) access log information relating to accesses permitted pursuant to clause 9.4; and
    - (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.
- 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); or
  - (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.



**Schedule 9**  
**Continued transitional arrangements associated with holding, using and disclosing small debts between \$100 and \$125**

1. From 1 October 2019, under a predecessor code of practice, no further information was permitted to be collected by a credit reporter regarding a credit default of less than \$125 (the former threshold was \$100).
2. Under the former code, transitional arrangements allowed a credit reporter to continue to hold, use and disclose for the purpose of credit reporting any information it held as at 1 October 2019 about a credit default relating to an overdue payment equal to or more than \$100. This schedule continues the transitional arrangement under this code.
3. Accordingly, a credit reporter is permitted to 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 permission 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.
4. 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.
5. An assurance report submitted under clause 8 of this 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 the credit reporter 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.

**Schedule 10**  
**Pre-screening to remove names from subscriber marketing lists**  
(Rule 10(3))

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; and
- (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 condition 2(c); and
  - (ii) not disclosed directly to the subscriber.

## **Schedule 11**

### **Tracing to facilitate the return of money owed to individuals**

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.

Made at Location on 28 October 2020.

John Edwards  
Privacy Commissioner

Issued under the authority of the Privacy Act 2020.

Date of notification in *Gazette*: 2 November 2020

This legislation is administered by the Office of the Privacy Commissioner.