

Credit Reporting Privacy Code Amendment No. 4

I, MARIE SHROFF, Privacy Commissioner, now issue under section 51 of the Privacy Act 1993, this amendment to the Credit Reporting Privacy Code 2004.

Issued by me at Wellington on 14 December 2010.

The SEAL of the Privacy Commissioner was)
affixed to this amendment to the Credit)
Reporting Privacy Code 2004 by the)
Privacy Commissioner)

Marie Shroff
Privacy Commissioner

1. Title

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

2. Commencement

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

- (a) clauses 3(2), 4(2), 5, 8(2), 10(2), 16(2) and 18 which will come into force on 1 April 2012; and
- (b) subrule 11(3)(c), contained in the amendment made by clause 11(2), which will come into force on 1 April 2012.

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

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

- Delete** : from paragraph (b)(iii) the word “and”
- Insert** : at the end of paragraph (b)(iv) the word “and”
- Insert** : in paragraph (b)
- (v) in relation to a driver licence:
- (A) driver licence number; and
- (B) driver licence card number;

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

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

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

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

4. Other amendments to clause 5

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

- Insert** : in the appropriate alphabetical order:

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

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

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

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

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

Insert : in the appropriate alphabetical order:

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

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

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

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

Rule 5 is amended in the following manner:

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

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

(b) summarise the outcome of that review; and

(c) be prepared and submitted by either:

- (i) an independent person having expertise in undertaking a systematic review, such as a trained auditor; or
- (ii) a review committee, established by the credit reporter, that includes an independent person with expertise in relation to matters of compliance with this code.

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

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

- Insert** : (2A) Where, in accordance with subrule (1)(b), an individual is given access to a credit score, the individual must be provided with a statement outlining:
- (a) the general methodology used to create the score, including the types of credit information used; and
 - (b) the range within which that score is placed.

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

- Delete** : rule 6(3)
Substitute : (3) Where a credit reporter notifies an individual of its decision on a request, the credit reporter must:
- (a) if refusing that request, advise the individual of the complaints procedure available under clause 8; and
 - (b) provide the individual with a copy of the Summary of Rights.

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

- Delete** : rule 6(4)(b)
Substitute : (b) notified the individual that the summary is available on the credit reporter's website and offered to make a copy available on request.

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

(1) Rule 7 is amended in the following manner:

- Delete** : from rule 7(3)(b) the words "subject to subrule (4),"

(2) Rule 7 is amended in the following manner:

Delete : rule 7(4)(b)
Substitute : (b) notified the individual that the summary is available on the credit reporter's website and offered to make a copy available on request.

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

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

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

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

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

(a) contain an assurance that the credit reporter has carried out a systematic review as required under subrule (3)(f) during the year to 30 June;

(b) summarise the outcome of that review; and

(c) be prepared and submitted by either:

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

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

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

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

Delete : rule 9(2)
Substitute : (2) Where a credit reporter holds credit information of a type specified in column 1 of Schedule 1, that credit reporter must not keep that information for longer than 12 months after the expiration of the maximum reporting period.

(2) Rule 9(3) is revoked.

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

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

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

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

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

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

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

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

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

Delete : rule 11(3)

Substitute : (3) A credit reporter must not disclose:

(a) supplementary identification information except by confirming identical information supplied by a subscriber;

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

(c) credit account information to a subscriber, unless that subscriber is a registered credit provider.

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

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

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

Rule 12 is amended in the following manner:

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

13. Amendments to clause 8 (complaints)

Clause 8 is amended in the following manner:

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

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

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

Schedule 1 is amended in the following manner:

Delete : Schedule 1
Substitute : **Schedule 1**
Maximum Reporting Periods

<i>Column 1</i>	<i>Column 2</i>
Types of Credit Information	Maximum Reporting Period
Lost, stolen or compromised identification documents information	5 years from date of report
Credit application information	5 years from date of application
Credit account information (other than repayment history information)	2 years from date credit account closed
Credit default information	5 years from date of default
Serious credit infringement information	5 years from date of report
Judgments	5 years from date of judgment
Single bankruptcy	4 years from date of discharge from bankruptcy
Single entry to no asset procedure	4 years from date of discharge from no asset procedure
Multiple insolvency events (as provided in Insolvency Act 2006, section 449A)	Indefinite
Summary instalment orders	5 years from date of order
Previous enquiry record	5 years from date of enquiry
Credit score	2 working days from date of creation

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

Schedule 2 is amended in the following manner:

Delete : Schedule 2
Substitute : **Schedule 2**
Specified Public Register Provisions

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

16. Amendments to Schedule 3 (subscriber agreement)

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

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

Insert : in clause 5 after "requirements of"
the parts of the agreement giving effect to this Schedule, or with

Insert : in clause 6 after "requirements of"
the parts of the agreement giving effect to this Schedule, or with

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

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

Insert : in clause 3 after "any" and before "credit"
credit account information,

Insert : in clause 5 after "substantiate any"
credit account information,

Insert : in clause 6 after "substantiate any"

credit account information,

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

Schedule 4 is amended in the following manner:

Delete	:	Schedule 4
Substitute	:	Schedule 4 Summary of Rights

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

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

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

Limited information can be reported about you

Credit reporters can collect only certain classes of information, set out in the Code, for their credit reporting databases. Credit reporters can generally only disclose this information for 4 to 5 years and can only keep it for a further year. Credit reporters can keep identification information and details of multiple bankruptcies indefinitely.

Only certain people can access your report for certain purposes

The Code limits the people who can gain access to your credit information. These will usually be credit providers who are considering your application for credit. In some strictly 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;
- 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 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 5 working days) you may need to pay a reasonable charge, but otherwise no charge can 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

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

Schedule 4 is amended in the following manner:

Delete	:	Schedule 4
Substitute	:	Schedule 4 Summary of Rights

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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.

Limited information can be reported about you

Credit reporters can collect only certain classes of information, set out in the Code, for their credit reporting databases. Some of the information relates to the credit accounts you hold, including their credit limits. Credit reporters can collect information about the times you have defaulted on credit repayments. Credit reporters can also report any court judgments made against you, or any times that you have been made bankrupt or entered into an insolvency arrangement.

Information can only be reported and kept for a certain time

Credit reporters can generally only disclose this information for 4 to 5 years and can only keep it for a further year. Credit reporters can disclose information about your current accounts until two years after those accounts have closed and can keep identification information and details of multiple bankruptcies indefinitely.

Only certain people can access your report for certain purposes

The Code limits the people who can gain access to your credit information. These will usually be credit providers who are considering your application for credit. In some strictly 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;
- 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. Only registered credit providers can have access to information about your credit accounts.

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.

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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.

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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.

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Office of the Privacy Commissioner:

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Email address: enquiries@privacy.org.nz

Web address: www.privacy.org.nz

Postal address: PO Box 10094, Wellington 6143

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

The following schedule 5 is inserted:

**Insert : Schedule 5
Driver licence numbers**

Collection and disclosure by subscriber

1. A credit reporter must take such steps as are reasonable in the circumstances to ensure that, where a subscriber collects a driver licence number from an individual for disclosure to the credit reporter, the subscriber:

- (a) makes clear to the individual that the provision of the driver licence number is voluntary;
- (b) collects the driver licence card number from the individual and disclose this to the credit reporter; and
- (c) where the driver licence number and driver licence card number are collected from the individual in person, takes reasonable steps to ensure that the individual is the individual shown on the driver licence.

Verification by credit reporter

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

Hashing by credit reporter

5. If, after having taken measures to verify a driver licence number, the credit reporter wishes to retain information derived from that number for matching, it must convert the driver licence number to a hash value using a non-reversible hash function and may only retain it in this form.
6. The driver licence number must not be written into any database by the credit reporter.

Matching by credit reporter

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

Legislative history:

14 December 2010 – amendment issued

23 December 2010 – amendment notified in the Gazette

1 October 2011 – certain parts of amendment commence

1 April 2012 – remainder of amendment commences

Explanatory note:

This note is not part of the amendment, but is intended to indicate its general effect.

This amendment, which comes into effect in two stages on 1 October 2011 and 1 April 2012, amends the Credit Reporting Privacy Code 2004 to make changes to credit reporting regulation, including:

- 1. permitting more comprehensive credit reporting;*
- 2. regulating the use of driver licence numbers;*
- 3. requiring internal systematic compliance reviews to include an independent element and external report;*
- 4. permitting the use of information from additional public registers;*
- 5. regulating the retention of credit information; and*
- 6. making other changes to various parts of the code.*

The amendment is deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.