
STATUTORY INSTRUMENTS

2000 No. 290

**CONSUMER CREDIT
DATA PROTECTION**

**The Consumer Credit (Credit
Reference Agency) Regulations 2000**

<i>Made</i>	- - - -	<i>8th February 2000</i>
<i>Laid before Parliament</i>		<i>9th February 2000</i>
<i>Coming into force</i>	- -	<i>1st March 2000</i>

Whereas the Secretary of State has consulted the Data Protection Commissioner in accordance with section 67(3) of the Data Protection Act 1998⁽¹⁾:

Now, therefore, the Secretary of State, in exercise of powers conferred on him by sections 157(1), 158(1) and (2), 159(5) (read with section 160(5)), 160(3) and 182(2) of the Consumer Credit Act 1974⁽²⁾, and by section 9(3) of the said Act of 1998, makes the following Regulations:—

Title, commencement, revocation and savings

1.—(1) These Regulations may be cited as the Consumer Credit (Credit Reference Agency) Regulations 2000 and shall come into force on 1st March 2000.

(2) Subject to paragraph (3) below, the Consumer Credit (Credit Reference Agency) Regulations 1977⁽³⁾ are revoked.

(3) The Consumer Credit (Credit Reference Agency) Regulations 1977 shall continue to apply—

- (a) in any case where a credit reference agency has, on or before 29th February 2000, received a request under section 158(1) of the 1974 Act (other than a request made by reference to the 1998 Act) but does not, until after that date, comply with section 158(1) and (2) of that Act or deal with the request under section 160(3); and
- (b) in any case where a credit reference agency has received a request under section 158(1) of the 1974 Act and has complied with section 158(1) and (2) of that Act or dealt with the request under section 160(3) before 1st March 2000.

(1) 1998 c. 29.

(2) 1974 c. 39; section 189(1) contains a definition of “prescribed”.

(3) S.I. 1977/329.

Interpretation

2. In these Regulations—

“the 1974 Act” means the Consumer Credit Act 1974;

“the 1998 Act” means the Data Protection Act 1998;

“agency” means a credit reference agency; and

“business consumer” means a consumer(4) carrying on a business who has been given information under section 160 of the 1974 Act.

Prescribed period for the purposes of sections 157(1), 158(1) and 160(3) of the 1974 Act

3. The period of seven working days is prescribed for the purposes of sections 157(1), 158(1) and 160(3) of the 1974 Act.

Statement of rights under sections 159 and 160 of the 1974 Act

4.—(1) The form in Schedule 1, completed in accordance with the footnotes, is prescribed for the purposes of section 9(3) of the 1998 Act.

(2) The form in Schedule 2, completed in accordance with the footnotes, is prescribed for the purposes of section 158(2) of the 1974 Act.

(3) The form in Schedule 3, completed in accordance with the footnotes, is prescribed for the purposes of section 160(3) of the 1974 Act.

Applications to the relevant authority under section 159(5) of the 1974 Act

5.—(1) This regulation prescribes the manner in which applications under section 159(5) of the 1974 Act by—

- (a) objectors(5),
- (b) business consumers, and
- (c) agencies

shall be made to the relevant authority(6).

(2) An application by an objector, a business consumer or an agency shall state the name and address of the agency and of the objector or business consumer and shall give an indication of when the notice of correction under section 159(3) of the 1974 Act was served by the objector or business consumer on the agency.

(3) An application by an objector or a business consumer shall give particulars of the entry in the file or, as the case may be, of the information received by him from the agency and shall state why he considers the entry or information to be incorrect and why, if it is not corrected, he considers that he is likely to be prejudiced.

(4) An application by an agency shall be accompanied by—

- (a) a copy of the file given by the agency to the objector, or of the information given by the agency to the business consumer under section 160(3) of the 1974 Act;
- (b) a copy of the notice of correction; and

(4) “Consumer” is defined in section 158(1) of the Consumer Credit Act 1974, as amended by section 62 of the Data Protection Act 1998.

(5) “Objector” is defined in section 159(1) of the Consumer Credit Act 1974, as amended by section 62 of the Data Protection Act 1998.

(6) “Relevant authority” is defined in section 159(8) of the Consumer Credit Act 1974, as amended by section 62 of the Data Protection Act 1998.

(c) a copy of related correspondence and other documents which have passed between the agency and the objector or business consumer;
and shall state the grounds upon which it appears to the agency that it would be improper for it to publish the notice of correction.

8th February 2000

Kim Howells,
Parliamentary Under-Secretary of State for
Consumers and Corporate Affairs,
Department of Trade and Industry

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulation 4(1)

CREDIT REFERENCE AGENCY FILES
INDIVIDUALS (INCLUDING SOLE TRADERS)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

YOUR RIGHTS UNDER SECTION 159 OF THE CONSUMER CREDIT ACT 1974,
AND UNDER THE DATA PROTECTION ACT 1998,
IF YOU THINK ANY ENTRY IN OUR FILE IS WRONG

This statement of your rights is provided by [Note 1] together with all the information we hold about you on our files. Our postal address is [Note 2].

Your rights are as follows—

If you think that any of the information we have sent you is wrong and that you are likely to suffer because it is wrong, you can ask us to correct it or remove it from our file.

You need to write to us telling us what you want us to do. You should explain why you think the information is wrong.

If you write to us, we have to reply in writing within 28 days.

Our reply will tell you whether we have corrected the information, removed it from our file or done nothing. If we tell you that we have corrected the information, you will get a copy.

If our reply says that we have done nothing, or if we fail to reply within 28 days, or if we correct the information but you are not happy with the correction, you can write your own note of correction and ask for it to be included on our file.

To do this, you will need to write to us within 28 days of receiving our reply. If you did not get a reply from us and you want the information we sent you to be corrected, you will need to write to us within 8 weeks of the letter you wrote to us in which you asked us to correct the information or remove it from our file.

Your letter will need to—

- include the note of correction you have written. It must not be more than 200 words long and should give a clear and accurate explanation of why you think the information is wrong. If the information is factually correct but you think it creates a misleading impression, your note of correction can explain why.
- ask us to add your note of correction to our file and to include a copy of it whenever we give anyone any of the information you think is wrong or any information based on it.

If we accept your note of correction, we have to tell you in writing within 28 days that we are going to add it to our file.

If we think it would be wrong to add your note of correction to our file, we have to apply for a ruling from the Data Protection Commissioner.

We will apply for a ruling if we do not want to include your note of correction because we think it is wrong, or because we think it is defamatory, frivolous or scandalous, or unsuitable for publication for some other reason. We can only refuse to include your note of correction if the Commissioner agrees with us.

If we have not written to you within 28 days of receiving your note of correction, or if we have written telling you that we are not going to add your note of correction to our file, you can appeal to the Data Protection Commissioner.

If you want to do this, you will have to write to the following address [Note 3]—

The Data Protection Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone no. 01625-545700
Fax no. 01625-524510
e.mail: data@wycliffe.demon.co.uk

Note 1: insert the name of the credit reference agency issuing the statement.

Note 2: insert the credit reference agency's postal address.

Note 3: if the address, telephone number, fax number or e.mail address of the Data Protection Commissioner have changed, substitute the correct details.

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When you write, you must give the following details—

- your full name and address
- our name and address
- details of the information you think is wrong, including—
 - why you think it is wrong,
 - why you think you are likely to suffer because it is wrong, and
 - an indication of when you sent us your note of correction.

It would be helpful to the Commissioner if you could include a copy of your note of correction.

Before deciding what to do, the Commissioner may ask us for our side of the story and send us a copy of your letter. In return, you will be sent any comments we make.

The Commissioner can make any order she thinks fit when she has considered your appeal. For example, she can order us to accept your note of correction and add it to our file.

If at any stage we fail to correct or remove wrong information, you can ask the Data Protection Commissioner to check whether we are meeting the requirements of the Data Protection Act 1998.

The Data Protection Act 1998 requires us to take reasonable steps to check the accuracy of personal information. If you think we have failed to correct or remove wrong information about you, you have the right to ask the Data Protection Commissioner, at the above address, to check whether our dealing with your information has met this requirement.

IMPORTANT NOTE: The various time limits referred to in this statement (mostly 28 days) start with the day following receipt and end with the day of delivery. That means (for example) that if you have 28 days to reply to a letter from us, the period starts with the day after you receive our letter; and you then have to make sure that your reply is delivered to us no later than 28 days from that date. In order to avoid the risk of losing your rights you should therefore allow for postal delays.

SCHEDULE 2

Regulation 4(2)

CREDIT REFERENCE AGENCY FILES PARTNERSHIPS AND OTHER UNINCORPORATED BODIES

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

YOUR RIGHTS UNDER SECTION 159 OF THE CONSUMER CREDIT ACT 1974
IF YOU THINK ANY ENTRY IN YOUR FILE IS WRONG

This statement of your rights is provided by [Note 1] together with all the information we hold about you on our files. Our postal address is [Note 2].

Your rights are as follows—

If you think that any of the information we have sent you is wrong and that you are likely to suffer because it is wrong, you can ask us to correct it or remove it from our file.

You need to write to us telling us what you want us to do. You should explain why you think the information is wrong.

If you write to us, we have to reply in writing within 28 days.

Our reply will tell you whether we have corrected the information, removed it from our file or done nothing. If we tell you that we have corrected the information, you will get a copy.

If our reply says that we have done nothing, or if we fail to reply within 28 days, or if we correct the information but you are not happy with the correction, you can write your own note of correction and ask for it to be included on our file.

To do this, you will need to write to us within 28 days of receiving our reply. If you did not get a reply from us and you want the information we sent you to be corrected, you will need to write to us within 8 weeks of the letter you wrote to us in which you asked us to correct the information or remove it from our file.

Note 1 : insert the name of the credit reference agency issuing the statement.

Note 2 : insert the credit reference agency's postal address.

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Your letter will need to—

- include the note of correction you have written. It must not be more than 200 words long and should give a clear and accurate explanation of why you think the information is wrong. If the information is factually correct but you think it creates a misleading impression, your note of correction can explain why.
- ask us to add your note of correction to our file and to include a copy of it whenever we give anyone any of the information you think is wrong or any information based on it.

If we accept your note of correction, we have to tell you in writing within 28 days that we are going to add it to our file.

If we think it would be wrong to add your note of correction to our file, we have to apply for a ruling from the Director General of Fair Trading.

We will apply for a ruling if we do not want to include your note of correction because we think it is wrong, or because we think it is defamatory, frivolous or scandalous, or unsuitable for publication for some other reason. We can only refuse to include your note of correction if the Director General agrees with us.

If we have not written to you within 28 days of receiving your note of correction, or if we have written telling you that we are not going to add your note of correction to our file, you can appeal to the Director General of Fair Trading.

If you want to do this, you will have to write to the following address [Note 3]—

The Director General of Fair Trading
Office of Fair Trading
Fleetbank House
2/6 Salisbury Square
London
EC4Y 8JX
Telephone no. 0171-211 8000
Fax no. 0171-211 8800
e.mail: enquiries@oft.gov.uk

When you write, you must give the following details—

- your full name and address
- our name and address
- details of the information you think is wrong, including—
 - why you think it is wrong,
 - why you think you are likely to suffer because it is wrong, and
 - an indication of when you sent us your note of correction.

It would be helpful to the Director General if you could include a copy of your note of correction.

Before deciding what to do, the Director General may ask us for our side of the story and send us a copy of your letter. In return, you will be sent any comments we make.

The Director General can make any order he thinks fit when he has considered your appeal. For example, he can order us to accept your note of correction and add it to our file.

IMPORTANT NOTE: The various time limits referred to in this statement (mostly 28 days) start with the day following receipt and end with the day of delivery. That means (for example) that if you have 28 days to reply to a letter from us, the period starts with the day after you receive our letter; and you then have to make sure that your reply is delivered to us no later than 28 days from that date. In order to avoid the risk of losing your rights you should therefore allow for postal delays.

Note 3 : if the address, telephone number, fax number or e.mail address of the Director General of Fair Trading have changed, substitute the correct details.

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SCHEDULE 3

Regulation 4(3)

CREDIT REFERENCE AGENCY FILES
BUSINESS CONSUMERS(PARTNERSHIPS AND OTHER UNINCORPORATED BODIES
ONLY)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

YOUR RIGHTS UNDER SECTIONS 159 AND 160 OF THE CONSUMER CREDIT ACT 1974

This statement of your rights is provided by [Note 1]. Our postal address is [Note 2].

You asked us for a copy of all the information we hold about you on our files. Under section 160 of the Consumer Credit Act 1974, we have obtained a ruling from the Director General of Fair Trading which means that we do not have to give you all of that information. We are allowed to withhold some of that information because the Director General of Fair Trading is satisfied that letting you have a copy of it would adversely affect the service we provide to our customers.

We are therefore providing you with some of the information we hold about you on our files or information based on it.

Sections 159 and 160 of the Consumer Credit Act 1974 give you certain rights and this statement tells you what those rights are.

RIGHTS UNDER SECTION 159

Your rights under section 159 of the Consumer Credit Act 1974 exist where you think that any of the information we have sent you is wrong and that you are likely to suffer because it is wrong.

These rights are available to you whether or not you have appealed to the Director General under section 160 (see the section headed "RIGHTS UNDER SECTION 160" below).

If you think that any of the information we have sent you is wrong and that you are likely to suffer because it is wrong, you can ask us to correct it or remove it from our file.

You need to write to us telling us what you want us to do. You should explain why you think the information is wrong.

If you write to us, we have to reply in writing within 28 days.

Our reply will tell you whether we have corrected the information, removed it from our file or done nothing. If we tell you that we have corrected the information, you will get a copy.

If our reply says that we have done nothing, or if we fail to reply within 28 days, or if we correct the information but you are not happy with the correction, you can write your own note of correction and ask for it to be included on our file.

To do this, you will need to write to us within 28 days of receiving our reply. If you did not get a reply from us and you want the information we sent you to be corrected, you will need to write to us within 8 weeks of the letter you wrote to us in which you asked us to correct the information or remove it from our file.

Your letter will need to—

- include the note of correction you have written. It must not be more than 200 words long and should give a clear and accurate explanation of why you think the information is wrong. If the information is factually correct but you think it creates a misleading impression, your note of correction can explain why.
- ask us to add your note of correction to our file and to include a copy of it whenever we give anyone any of the information you think is wrong or any information based on it.

If we accept your note of correction, we have to tell you in writing within 28 days that we are going to add it to our file.

If we think it would be wrong to add your note of correction to our file, we have to apply for a ruling from the Director General of Fair Trading.

We will apply for a ruling if we do not want to include your note of correction because we think it is wrong, or because we think it is defamatory, frivolous or scandalous, or unsuitable for publication for some other reason. We can only refuse to include your note of correction if the Director General agrees with us.

If we have not written to you within 28 days of receiving your note of correction, or if we have written telling you that we are not going to add your note of correction to our file, you can appeal to the Director General of Fair Trading.

Note 1 : insert the name of the credit reference agency issuing the statement.

Note 2 : insert the credit reference agency's postal address.

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If you want to do this, you will have to write to the following address [Note 3]—

The Director General of Fair Trading
Office of Fair Trading
Fleetbank House
2/6 Salisbury Square
London
EC4Y 8JX
Telephone no. 0171-211 8000
Fax no. 0171-211 8800
e.mail: enquiries@oft.gov.uk

When you write, you must give the following details—

- your full name and address
- our name and address
- details of the information you think is wrong, including—
 - why you think it is wrong,
 - why you think you are likely to suffer because it is wrong, and
 - an indication of when you sent us your note of correction.

It would be helpful to the Director General if you could include a copy of your note of correction.

Before deciding what to do, the Director General may ask us for our side of the story and send us a copy of your letter. In return, you will be sent any comments we make.

The Director General can make any order he thinks fit when he has considered your appeal. For example, he can order us to accept your note of correction and add it to our file.

RIGHTS UNDER SECTION 160

If you are not happy with the information we have sent you because it is incomplete (rather than wrong), you can appeal to the Director General of Fair Trading, but you must first of all get in touch with us, telling us why you are unhappy and asking us to help you.

You may be unhappy with the information because, for example, you cannot work out whether it is accurate without seeing information which we have apparently withheld.

You can appeal by writing to the Director General of Fair Trading at the address set out above.

You will need to—

- give the Director General a copy of the information you have received and tell him the date you received it,
- tell him why you are unhappy with the information, and
- say what steps you have taken to persuade us to help you.

You need to do all this within 28 days of receiving the information from us. If you cannot write within 28 days, do so as soon as you can and explain why you could not write earlier.

If the Director General thinks that you have taken all reasonable steps to get a satisfactory response from us without success, he can tell us to send him a copy of all the information we hold about you on our files. The Director General can then pass all or some of that information on to you.

Your rights under section 160 are available whether or not you have written to us under section 159.

IMPORTANT NOTE: The various time limits referred to in this statement (mostly 28 days) start with the day following receipt and end with the day of delivery. That means that (for example) if you have 28 days to reply to a letter from us, the period starts with the day after you receive our letter; and you then have to make sure that your reply is delivered to us no later than 28 days from that date. In order to avoid the risk of losing your rights you should therefore allow for postal delays.

Note 3: if the address, telephone number, fax number or e.mail address of the Director General have changed, substitute the correct details.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke (with savings) the Consumer Credit (Credit Reference Agency) Regulations 1977 (“the 1977 Regulations”). They supplement sections 157 to 160 of the Consumer Credit Act 1974 (“the 1974 Act”) and section 9(3) of the Data Protection Act 1998 (“the 1998 Act”), which relate to the disclosure to consumers of information about their financial standing held by credit reference agencies and the correction of such information where it is found to be wrong or incomplete.

Section 157 of the 1974 Act requires a creditor, owner or negotiator to disclose to a debtor or hirer on request the name and address of any credit reference agency he has consulted about the debtor’s or hirer’s financial standing, and these Regulations prescribe a period of seven working days during which such a request must be complied with (regulation 3).

Sections 158(1) and 160(3) of the 1974 Act (as amended by section 62 of the 1998 Act) require credit reference agencies to give specified information to partnerships and other unincorporated bodies of persons (not consisting entirely of bodies corporate) on request, and these Regulations prescribe a period of seven working days during which such requests must be complied with (regulation 3). Sections 158(2) and 160(3) (as amended) require accompanying statements of rights under the 1974 Act to be given and these Regulations prescribe the form of such statements (regulation 4(2) and (3) and Schedules 2 and 3).

Section 9(3) of the 1998 Act requires credit reference agencies to give individuals statements of their rights under section 159 of the 1974 Act (as amended by section 62 of the 1998 Act) when complying with requests to disclose information. These Regulations prescribe the form of such statements (regulation 4(1) and Schedule 1). The prescribed form incorporates a statement of certain rights under the Data Protection Act 1998.

Finally, these Regulations prescribe the manner in which applications under section 159(5) of the 1974 Act (as amended by section 62 of the 1998 Act) must be made (regulation 5). Two sorts of applications are made under this section: applications by individuals and other consumers to the Data Protection Commissioner or the Director General of Fair Trading (“the relevant authority”) for an order where a credit reference agency has not given notice that it intends to include a notice of correction drawn up by the consumer on its files; and applications by credit reference agencies to the relevant authority where they think it would be improper to include such a notice of correction on their files.

A Regulatory Impact Assessment of the costs and benefits which will result from these Regulations has been prepared. Copies have been placed in the libraries of both Houses of Parliament and can also be obtained from the Consumer Affairs Directorate of the Department of Trade and Industry, Room 407, 1 Victoria Street, London SW1H 0ET.