

1977 No. 329

CONSUMER CREDIT**The Consumer Credit (Credit Reference Agency)
Regulations 1977**

<i>Made</i> - - - -	28th February 1977
<i>Laid before Parliament</i>	8th March 1977
<i>Coming into Operation</i>	16th May 1977

The Secretary of State, in exercise of powers conferred on him by sections 157(1), 158(1) and (2), 159(5), 160(3), 182(2) and 189(1) of the Consumer Credit Act 1974(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Consumer Credit (Credit Reference Agency) Regulations 1977 and shall come into operation on 16th May, 1977.

(2) In these Regulations—

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

“agency” means a credit reference agency;

and other expressions used in these Regulations have the same respective meanings as in the Act.

(3) The Interpretation Act 1889(b) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Statement of consumer's rights under sections 159 and 160 of the Act

2. For the purposes of section 158 of the Act (which relates to the duty of an agency to disclose filed information on the request of a consumer) and of section 160 of the Act (which makes similar provision in the case of a consumer who carries on a business), the forms set out in Schedule 1 and in Schedule 2 to these Regulations respectively are hereby prescribed as the statements of a consumer's rights under section 159 of the Act (which provides for correction of wrong information held by an agency about any individual) and, in the case of a business consumer, under section 160 of the Act.

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

3. The period of 7 working days is hereby prescribed for the purposes of—

- (a) section 157(1) of the Act (which relates to the duty of a creditor, owner or negotiator to disclose on the request of the debtor or hirer the name and address of any agency consulted by him);

(a) 1974 c. 39.

(b) 1889 c. 63.

- (b) section 158(1) of the Act; and
- (c) section 160(3) of the Act.

Provided that in the case of any request to which the provision referred to in paragraph (b) or in paragraph (c) above relates which is received before 16th November 1977 this regulation shall have effect with the substitution of 15 working days for 7 working days.

Correction of wrong information in file of credit reference agency (section 159(5) of the Act)

4.—(1) Application may be made to the Director in accordance with the following provisions of this regulation—

- (a) by a consumer who has not received a notice under section 159(4) of the Act within the time thereby required, and
- (b) by an agency to which it appears that it would be improper because of any reason referred to in section 159(5)(b) of the Act to publish a notice of correction which is required by a consumer to be added to its file about him.

(2) Any application under section 159(5) of the Act shall state the name and address of the agency and of the consumer and shall give an indication of when the notice of correction under subsection (3) of that section was given by the consumer to the agency.

(3) An application under section 159(5) of the Act by a consumer shall give particulars of the entry in the file or 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 under section 159(5) of the Act by an agency shall be accompanied by—

- (a) a copy of the file given by the agency to the consumer or, as the case may be, of the information included in or based on entries in the file given under section 160(3) of the Act by the agency to a consumer who carries on a business;
- (b) a copy of the notice of correction; and
- (c) a copy of related correspondence and other documents which have passed between the agency and the 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.

John Fraser,

28th February 1977.

Department of Prices and Consumer Protection.
Minister of State,

(Regulation 2)

SCHEDULE 1
CREDIT REFERENCE AGENCY FILES
CONSUMER'S RIGHTS UNDER SECTION 159 OF THE
CONSUMER CREDIT ACT 1974

1. With this statement is a copy of the credit reference agency's file on you.

Your rights if an entry is wrong

2. If you think that anything in the file is wrong and you are likely to suffer as a result, you have the following rights.

3. If you think that there is no basis at all for the entry, you may write to the agency requiring it to remove the entry.

4. If the entry is incorrect you may write to the agency requiring it to remove or amend the entry. When writing to the agency, you should say why you think that the entry is incorrect.

What happens then?

5. Within 28 days of receiving your letter the agency should write and tell you that it has removed the entry from the file, or amended it, or taken no action. If the entry has been amended, the agency must send you a copy of the amended entry.

What can you do if you are not satisfied?

6. If the agency tells you that it has taken no action, or if it does not reply to your letter within the 28 days, or if it makes an amendment which you think is unsatisfactory, you may write a note correcting the entry and send it to the agency with a letter requiring the agency—

to add the note to its file about you

and

to include a copy of it when furnishing information included in or based on the entry which it corrects.

7. Your note of correction should give a clear and accurate explanation of why you consider the entry to be incorrect. It must not be more than 200 words long. You can prepare the note yourself or with the help of, for example, a citizens' advice bureau, a consumer advice centre or a solicitor.

NB If the agency considers that your note of correction is incorrect, or defamatory, or frivolous, or scandalous, or unsuitable for any other reason, it can ask the Director General of Fair Trading to give a ruling as to what it must do.

IMPORTANT

8. If the agency has replied to the first letter in which you objected to the entry, you must send your note of correction within 28 days of receiving its reply.

9. If the agency did not reply to your first letter within 28 days, your note of correction must be sent within the next 28 days.

10. If the agency accepts your note of correction (i.e. is not seeking a ruling from the Director General), it must tell you within 28 days that it intends to comply with your request.

Your rights if the agency does not accept your note of correction within 28 days

11. You may write to the Director General of Fair Trading at the Office of Fair Trading, Field House, Bream's Buildings, London EC4A 1PR, who **may make whatever order he thinks fit**. You should say that you are writing under Section 159(5) of the Consumer Credit Act 1974 and give: —

your full name and address (and telephone number, if any);

name and address of the credit reference agency;

the agency's reference number (if any);

details of the entry you consider incorrect, including,

 why you consider it incorrect,

 why you consider it prejudicial to your interests, and

 an indication of when you sent to the agency the note of correction mentioned in paragraph 6.

Before deciding what to do, the Director General may ask the agency for its side of the case by sending it a copy of your letter. In return, you will be sent any comments the agency makes.

NOTE: The various periods of 28 days referred to in this statement start with the day following receipt and end with that of delivery, so in order to avoid any risk of losing your rights you should allow for postal delays.

(Regulation 2)

SCHEDULE 2

CREDIT REFERENCE AGENCY FILES

BUSINESS CONSUMER'S RIGHTS UNDER SECTIONS 159 AND 160 OF THE CONSUMER CREDIT ACT 1974

1. You requested a copy of the file kept by the credit reference agency about you and your business. Under a direction given by the Director General of Fair Trading the agency need not give you a complete copy of its file about you but is allowed to withhold certain information in it (for example, the source of the information), the disclosure of which might adversely affect the service of the agency to its customers.

2. Sections 159 and 160 of the Consumer Credit Act 1974 give you certain rights about your file and the correction of wrong information in it. You should read the notes below carefully to see what your rights are.

RIGHTS UNDER SECTION 160(4)

3. These rights apply if you are dissatisfied with the information sent to you, for example, because you cannot judge its accuracy without information which has apparently been withheld under the Director General's dispensation. (If the information is *incorrect*, as opposed to *incomplete*, your rights under Section 159 (not 160) are relevant—see below.) You should first get into touch with the agency, setting out the reasons for your dissatisfaction and asking it to help you.

What if the agency cannot help you?

4. You may write to the Director General of Fair Trading, Office of Fair Trading, Field House, Bream's Buildings, London EC4A 1PR, giving him a copy of the information you have received, the date you received it and notice that you are dissatisfied with it. He will also need to know what steps you have taken with the agency to remove the cause of your dissatisfaction.

5. You should do this within 28 days of originally receiving the information from the agency's file. If you cannot write within 28 days then write as soon as possible giving the reasons for the delay.

6. It will be helpful if, in your letter to the Director General, you say that you are writing under Section 160(4) of the Consumer Credit Act and include the following information—

- name, address (and telephone number, if any) of your business;
- name and address of the credit reference agency;
- the agency's reference number (if any).

7. If the Director General is satisfied that you have taken all reasonable steps with the agency, he may obtain disclosure to you of further information on your file.

RIGHTS UNDER SECTION 159

8. Whether or not you have applied to the Director General under Section 160, you have the following rights.

Your rights if information is wrong

9. If you think any of the information is wrong and you or your business are likely to suffer as a result, you have the following rights.

10. If there is no basis at all for the entry, you may write to the agency requiring it to remove the entry.

11. If the information is incorrect you may write to the agency requiring it to remove or amend the entry. When writing to the agency, you should say why you think the information is incorrect.

What happens then?

12. Within 28 days of receiving your letter, the agency should write and tell you that it has removed the entry from the file, or amended it, or taken no action. If the entry has been amended, the agency must send you a copy of the amended entry.

What can you do if you are not satisfied?

13. If the agency tells you that it has taken no action, or if it does not reply to your letter within the 28 days, or if it makes an amendment which you think is unsatisfactory, you may write a note correcting the information and send it to the agency with a letter requiring the agency—

to add the note to its file about you

and

to include a copy of it when furnishing information included in or based on the entry which it corrects.

14. Your note of correction should give a clear and accurate explanation of why you consider the information to be incorrect. It must not be more than 200 words long. You can prepare the note yourself, or you may care to obtain professional assistance, for example, from a solicitor.

NB If the agency considers that your note of correction is incorrect, or defamatory, or frivolous, or scandalous, or unsuitable for any other reason, it can ask the Director General of Fair Trading to give a ruling as to what it must do.

IMPORTANT

15. If the agency has replied to the first letter in which you objected to the information, you must send your note of correction within 28 days of receiving its reply.

16. If the agency did not reply to your first letter within 28 days, your note of correction must be sent within the next 28 days.

17. If the agency accepts your note of correction (i.e. is not seeking a ruling from the Director General), it must tell you within 28 days that it intends to comply with your request.

Your rights if the agency does not accept your note of correction within 28 days

18. You may write to the Director General of Fair Trading at the address mentioned in paragraph 4 explaining the situation. He may make whatever order he thinks fit.

19. You should say that you are writing under Section 159(5) of the Consumer Credit Act 1974 and give—

name, address (and telephone number, if any) of your business;

name and address of the credit reference agency;

the agency's reference number (if any);

details of the entry you consider incorrect, including—

why you consider it incorrect,

why you consider it prejudicial to your interests, and

an indication of when you sent to the agency the note of correction mentioned in paragraph 13.

Before deciding what to do, the Director General may ask the agency for its side of the case by sending it a copy of your letter. In return, you will be sent any comments the agency makes.

NOTE: The various periods of 28 days referred to in this statement start with the day following receipt and end with that of delivery, so in order to avoid any risk of losing your rights you should allow for postal delays.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations supplement sections 157 to 160 of the Consumer Credit Act 1974 which concern the disclosure to consumers of information about their financial standing held by credit reference agencies and the correction of any such information which is incorrect and which the consumer considers is likely to be prejudicial to him.

The Regulations make the following provisions—

- (a) Time limits are prescribed within which certain steps must be taken by creditors, owners, negotiators and credit reference agencies—regulation 3.
- (b) Statements of consumers' rights about the correction of information are prescribed—Regulation 2 and Schedules 1 and 2. (The appropriate statement must be sent to the consumer by a credit reference agency with a copy of its file—sections 158 and 160 of the Act.)
- (c) Provision is made about the manner of application to the Director General of Fair Trading for an order by a consumer in a case where an agency has not given notice to the consumer that it has corrected its file as requested by him and by an agency in a case where an agency considers that it would be improper to publish information supplied by a consumer for correction of the file—Regulation 4.

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