

Repeal and Replacement of the Justice Sector Unique Identifier Code

Information paper on Changes to Notified Code

On 15 July 2020 the Privacy Commissioner publicly notified his intention to repeal and replace the Justice Sector Unique Identifier Privacy Code 1998 and invited public submissions. The changes in the notified code are part of a wider project to align the six privacy codes of practice with the Privacy Act 2020. The information paper summarising the Privacy Commissioner's approach to the revocation and replacement of the codes can be found [here](#).

The Commissioner received two submissions on the notified Justice Sector Unique Identifier Code. Following consideration of the submissions and a final review of the code, the Commissioner issued the Justice Sector Unique Identifier Code 2020 on 28 October 2020. The code comes into force on 1 December 2020. This paper explains the key changes made to the notified Justice Sector Unique Identifier Code after receiving the submissions.

Changes to the notified Justice Sector Unique Identifier Code

1. New subclause added to the interpretation clause of the code

During consultation as part of the wider project to align the codes of practice with the new Privacy Act, we asked submitters whether a new subclause should be added to the codes specifying that terms defined in the Privacy Act that are used but not defined in the code have the same meaning as the Act.

Although this question was not specifically asked of submitters on the proposed Justice Sector Unique Identifier Code, the general support for this new subclause by submitters on other codes supports its inclusion in this code also. Accordingly, the Commissioner has added the following new clause 3(3) to the code:

- (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.*

This follows drafting practices in regulations (see for instance reg 3(2) of the Privacy Regulations 2020) and will assist those using the codes to find defined terms.

2. Amendments made to reflect that the Road User Charges Collector now sits within Waka Kotahi rather than the Ministry of Transport

The Ministry of Transport used to be the Road User Charges (RUC) Collector, but Waka Kotahi NZ Transport Agency has now been appointed as the RUC Collector by Order in Council under the Road User Charges (RUC Collector) Order 2020 made under section 87 of the Road User Charges Act 2012. The RUC Collector has therefore replaced the Ministry of Transport as the entity responsible for the Road User Charges Act 2012 and the administration of the RUC system and is the holder of road user charges information.

Accordingly, the Commissioner has made the following changes to the notified code:

- Clause 4(1)(d) "*the Road User Charges Collector*" replaces "the Ministry of Transport";

- Schedule 1, column 3 in relation to unique identifiers originally assigned by the New Zealand Transport Agency, “*the Road User Charges Collector*” replaces “the Ministry of Transport”.

3. Amending references to the Motor Vehicles Register

The submitter also suggested that references in the third column of schedule 1 (under New Zealand Transport Agency) to “as owners of vehicles” and “Motor Register” should be replaced with “*in respect of motor vehicles*” and “*Motor Vehicles Register*”. This is because the Motor Vehicles Register does not record ownership and, for consistency with schedule 4 of the Privacy Act 2020.

The Commissioner agrees with this submission and the third column of schedule 1 relating to the Registrar of Motor Vehicles now reads:

“may assign for the purpose of verifying the identity of people who are, or apply to be, registered in respect of motor vehicles on the Motor Vehicles Register.”

4. Implementation of section 26 of the Privacy Act 2020 into the notified code

Submitters on the proposed code were asked whether they agreed that the application of rule 13 to agencies subject to the code should reflect section 26 of the Privacy Act 2020. The submitter agreed that rule 13 of the code should reflect section 26.

However, after considering the issue further and in light of a submission on the Superannuation Schemes Unique Identifier Code, the Commissioner thinks that, to better reflect section 26 of the Act and more accurately carry over the application of rule 13 in the 1998 code, the following new subclause 4(3) should be added to the code:

(3) *Subrules 13(2)(b) and (3) do not apply to unique identifiers assigned before 30 June 1998.*

Additionally, notified subclause 4(3) – now renumbered subclause 4(4) – has been amended to read:

(4) *However, subrule 13(2) applies to the assignment of a unique identifier:*

(a) on or after 1 July 1993 under subrule 13(2)(a); and

(b) on or after 30 June 1998 under subrule 13(2)(b);

even if the unique identifier assigned is the same as that assigned by another agency before that date.

5. Other matters

The language of the code has been amended to ensure it is gender neutral. Additionally, minor typographical errors have been corrected and agency names updated.