

Netherlands – Data Privacy

The Constitution of the Netherlands provides traditional privacy rights for all individuals and protects the personal data of individuals. The Netherlands, as a member of the European Union ("EU"), was required to implement the EU Data Protection Directive 95/46/EC (the "Directive") into its national legislation. The Directive was implemented in the Netherlands pursuant to the Personal Data Protection Act (the "Act") (*Wet bescherming persoonsgegevens*), which revised and expanded the Data Registration Act (*Wet persoonsregistraties*). The Dutch Data Protection Authority ("DPA") enforces the Act.

Collection and Processing of Personal Data	
<i>Compliance Alternatives</i>	<p>Personal data may be processed in circumstances including where: 1) the employee has unambiguously given his or her consent; 2) the processing is necessary (a) to perform a contract to which the employee is a party (e.g., an employment relationship is a de facto contract) or (b) to take steps at the employee's request prior to entering into a contract; 3) the processing is necessary to comply with a legal obligation to which the employer is subject (e.g., tax law provisions regarding income tax), 4) the processing is necessary to protect the vital interests of the employee; 5) the processing is necessary for the proper performance of a public law duty by an administrative body, or 6) the processing is necessary for upholding the legitimate interests of the employer or of a third party to whom the data is supplied, except where the interests or fundamental rights and freedoms of the employee, in particular the right to protection of individual privacy, prevail.</p> <p>Personal data may only be collected and processed for specified, explicit, and legitimate purposes. The data must be adequate, relevant, and not excessive in relation to the purposes for which it is collected and/or further processed.</p> <p>Generally, the processing of sensitive data (e.g., racial or ethnic origin, health, citizen service number/former social security number, criminal behaviour, political opinions, party affiliation, and religion) is prohibited. There are exemptions. An exemption e.g., exists for processing data about employees' race for identification purposes or in connection with an affirmative action program provided that certain requirements are fulfilled.</p> <p>An employer must provide employees with information including the purpose(s) of the processing for which the data are intended. More detailed information should be provided where given the type of data, the circumstances in which they are to be obtained or the use to be made thereof, this is necessary in order to guarantee that the processing is carried out in a proper and careful manner. An exemption to this requirement exists if the employee already possesses the described information.</p>
<i>Disclosure/ Registration</i>	<p>Generally, the fully or partly automated (and certain manual) data processing must be reported to the DPA for registration in a public registry. However, certain categories of data processing (e.g., personnel and human resources data) are exempt from the reporting requirement, provided certain requirements are fulfilled.</p>
<i>Other Requirements</i>	<p>An employer may submit a code of conduct to the DPA for review and determination that the code implements the Act and other legal provisions in connection with the processing of personal data. This is usually used by a group of organizations in a particular line of business.</p> <p>An employer must secure and maintain the confidentiality of personal data.</p> <p>An employee may request access to his or her personal data, and request that an employer correct, supplement, delete, or block his or her data if it is factually inaccurate, incomplete, or irrelevant to the purpose or purposes of processing, or is being processed in any other way which infringes a legal provision.</p>

This summary is intended to reflect local law and practice as at 1 May 2013. Please note, however, that recent amendments and legal interpretations of the local law may not be included in these summaries. In addition, corporate governance, administration, and option plan design facts that are specific to your company may impact how the local laws affect the company's equity based compensation plans.

With these matters in mind, companies should not rely on the information provided in this summary when implementing their stock plans.

Transfer of Personal Data

<i>Compliance Alternatives</i>	<p>Under the Act, an employer is permitted to transfer employees' personal data to EU member countries and non-EU countries with adequate levels of data protection, provided that the other requirements of the Act are fulfilled.</p> <p>An employer may transfer data to a country with an inadequate level of data protection in circumstances including where: 1) the employer obtains unambiguous consent to the proposed transfer from the employee; 2) transfer is necessary (a) for the performance of a contract between the employee and the employer or (b) to take steps at the employee's request prior to concluding a contract which are necessary for the conclusion of a contract; or 3) transfer is necessary for the performance or conclusion of a contract concluded or to be concluded in the interests of the employee between the employer and a third party.</p> <p>Alternatively, an employer may apply for a permit from the Minister of Justice for transfer of personal data to a country with an inadequate level of data protection. The use of EU standard contractual clauses will facilitate the grant of a permit. In the future, if a bill is approved a permit will no longer be required if unamended standard contractual clauses are used.</p>
<i>Other Requirements</i>	None applicable.

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