

News Update

Amendment to Dutch Data Protection Act

On 9 February 2012 an amendment to the Dutch Data Protection Act entered into force. The requirement of a permit for the transfer of data to countries outside the EEA is finally abolished. Several other measures aim to reduce the administrative burden and compliance costs of the Act. Some powers of the Dutch Data Protection Authority are strengthened.

This amendment precedes a more comprehensive revision of the Act, for which the government has recently circulated a draft for public comment:

<http://www.internetconsultatie.nl/camerabeelden>

The most important amendments effective from 9 February 2012 are:

- No permit needed for transfer of personal data outside EEA
For a long time, one of the more onerous obligations for international companies has been the requirement to obtain a permit from the Ministry of Justice for the transfer of personal data to a country outside the European Economic Area not having an adequate level of protection of personal data. Although permits were usually granted, the procedure could take several months. A permit is no longer necessary if the parties use the Model Clauses, drawn up by the European Commission for this purpose.
- Central investigation of black list
Banks, insurance companies and, in general, international groups of companies often use blacklists. In the context of these schemes, criminal data may be collected, which requires prior investigation of the CBP. It is now sufficient that one of the controllers obtains a statement from the CBP that the processing is lawful; the other group or branch companies can rely on such statement.
- Processing sensitive data without a data subject's consent
Sensitive data may be processed in case this is necessary to protect the vital interest

of the data subject. This will be particularly relevant in case the data subject's health is endangered.

- Fines
The fines for violation of the Act, including the fine for failing to register the processing of personal data with the CBP, are increased to €7,600 and, in case of an intentional act or omission, €19,000.

Contact



Wolter Wefers Bettink

T +31 (0)20 605 6167

E w.bettink@houthoff.com



Annemarie Bloemen

T +31 (0)20 605 6554

E a.bloemen@houthoff.com



Thomas de Weerd

T +31 (0)20 605 6985

E t.de.weerd@houthoff.com