



# Privacy regulation

Stichting Pensioenfonds DSM Nederland

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# SECTION 1 – GENERAL PROVISIONS

## 1. DEFINITIONS

- 1.1. In this Privacy Regulation (hereinafter referred to as ‘the Regulation’) the following terms have, in accordance with and in supplement to the General Data Protection Regulation, the following meanings:

<b>GDPR</b>	The General Data Protection Regulation.
<b>Filing System</b>	Any structured set of Personal Data which are accessible according to specific criteria, whether centralized, decentralized or dispersed on a functional or geographical basis.
<b>Data Subject</b>	The person to whom an item of personal data relates that is processed for the Controller's purposes.
<b>Special Personal Data</b>	Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health, or data concerning a natural person's sex life or sexual orientation.
<b>Third Party</b>	Every person/body other than: (i) the Data Subject, (ii) the Controller, (iii) the Processor, or (iv) persons who, under the direct authority of the Controller or Processor, are authorized to process personal data.
<b>Sensitive Personal Data</b>	Personal Data as referred to in Article 7(6) of the Federation of the Dutch Pension Funds' <i>Gedragsslijn Verwerking Persoonsgegevens Pensioenfondsen</i> (code of conduct for the processing of personal data by pension funds).
<b>Recipient</b>	The person/body to whom/which the Personal Data are disclosed.
<b>PDN</b>	Stichting Pensioenfonds DSM Nederland, with its registered office in Heerlen.
<b>Personal Data</b>	Any information relating to an identified or identifiable natural person.
<b>Profiling</b>	Any form of automated Processing of Personal Data consisting of the use of Personal Data to evaluate certain personal aspects relating to a natural person, in particular to analyze or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.
<b>PW</b>	The Pensions Act ( <i>Pensioenwet</i> ).
<b>Consent</b>	Any freely given, specific, informed and unambiguous indication of the Data Subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the Processing of Personal Data relating to him or her.
<b>Processor</b>	The person/body who or that processes Personal Data for the Controller's purposes.

<b>Processing</b>	Any operation or set of operations which is performed on Personal Data or on sets of Personal Data such as collecting, recording, organizing, structuring, storing, adapting or altering, retrieving, consulting, using, disclosing by transmitting, disseminating or making available in some other manner, aligning or combining, restricting, erasing, or destroying.
<b>Controller</b>	PDN, as the body that determines the purposes and means of the Processing of Personal Data.

## 2. SCOPE

- 2.1. This Regulation applies to the processing of Personal Data of Data Subjects by wholly or partly automated means. This Regulation also applies to the processing of Personal Data of Data Subjects by non-automated means which form part of a Filing System or are intended to form part thereof. This relates to the Processing for which PDN qualifies as the Controller.

## SECTION 2 – PROCESSING AND PERSONAL DATA

### 3. PURPOSES OF THE PROCESSING:

- 3.1. PDN processes the Personal Data exclusively to be able to meet its obligations prescribed by law and its objects laid down in the Articles of Incorporation, including:
- a) performing activities related to the fulfilment of obligations under the Articles of Incorporation, Administration Agreement and pension regulations and the management of the resultant relations, inclusive of the prevention of fraud;
  - b) processing for historical, statistical, or scientific purposes;
  - c) providing information about pension matters;
  - d) optimizing the services.

### 4. BASIS FOR PROCESSING

- 4.1. PDN processes Personal Data exclusively:
- a) with the Consent of the Data Subject or on the Data Subject's request; or
- 4.2. When this is necessary for:
- a) the performance of an agreement to which the Data Subject is a party;
  - b) PDN's fulfilment of or compliance with a statutory obligation, or;
  - c) the representation of the legitimate interests of PDN or of a Third Party to which the data are provided, unless the interests or the fundamental rights and freedoms of the Data Subject, in particular the right to the protection of privacy, prevail.

## 5. OBTAINING PERSONAL DATA

- 5.1. The data that are processed are, in so far as they are not derived from other data being processed, obtained from
- a) the Data Subject or his/her legal representative;
  - b) the affiliated employer as referred to in the Articles of Incorporation, Administration Agreement, and pension regulations of PDN;
  - c) the Persons Database, including the *Register Niet-Ingezetenen* (non-residents database);
  - d) the Employee Insurance Agency (UWV) and other organizations engaged in the administration of social security legislation;
  - e) the Tax and Customs Administration (Belastingdienst);
  - f) a process server's process;
  - g) the former employer or employers of the Data Subject;
  - h) the former pension insurer or insurers of the Data Subject;
  - i) other natural persons, bodies and organizations authorized by the Data Subject to provide data.

## 6. TYPES OF PERSONAL DATA:

- 6.1. PDN processes Personal Data including the following:
- a) Personal details, including title, surname, forenames, nationality, gender, date of birth, place of birth, country of birth, civil status, BSN, file guide, and signature
  - b) Contact information, including home address, postal address, email address, and telephone number
  - c) Correspondence, including statutory pension correspondence, personal correspondence, copy of proof of identity, bank statements, life certificate, and study certificate
  - d) Pension details, including pension benefits and entitlements, years of membership and details of the previous employer and any previous pension administrators, where relevant
  - e) Employment details, including employer, part-time percentage salary, personnel number, and degree of incapacity for work as determined by the Employee Insurance Agency (UWV)
  - f) Education information, including certificates, diplomas, evaluations, assessments, and curriculum vitae
  - g) Login details, including IP address, login name, and password

## 7. CATEGORIES OF DATA SUBJECTS

- 7.1. PDN processes Personal Data of the following categories of Data Subjects:
- a) Members (including deferred members)
  - b) Pension beneficiaries
  - c) Partners/former partners and children of Data Subjects classified under a) and b)
  - d) Visitors to PDN's website
  - e) Board members and members of pension fund bodies
  - f) Contact persons of PDN's business contacts

## **8. PROCESSING OF PERSONAL DATA**

- 8.1. PDN processes Personal Data in a proper and prudent manner, and in accordance with the applicable legislation and regulations, including the GDPR and Pensions Act.
- 8.2. PDN maintains a record of processing activities in accordance with the provisions of the GDPR. This record contains all relevant information about the manner in which the Processing is performed.
- 8.3. PDN will not disclose the data to Third Parties unless required to do so by a court or regulations and/or except as provided for by the provisions of Article 10.
- 8.4. PDN's does not process data in a manner that is incompatible with the purposes for which they were obtained.
- 8.5. PDN does not process Special Personal Data or Sensitive Personal Data unless this is necessary for the purpose of the Processing and is permitted by the GDPR or the rules arising therefrom.
- 8.6. Personal Data are not retained for longer than is necessary for the purposes referred to in Article 3, unless a statutory retention obligation is applicable. PDN implements this standard in accordance with the *Service document Bewaartermijnen van de Pensioen* (retention periods for pension service documents).
- 8.7. In principle, PDN processes Personal Data solely in the Netherlands. Personal Data are processed outside the Netherlands with the agreement of the Board and when, and to the extent that, the country in which the Personal Data are processed provides an adequate level of protection or other appropriate equivalent guarantees.

## **9. RECIPIENT OF THE PERSONAL DATA**

- 9.1. Third Parties are provided with Personal Data solely to the extent that this arises from the purpose of the Processing or is required pursuant to any statutory provision. The provision of data arising from the purpose of the Processing is also considered to extend to the provision of data to Third Parties in relation to statistical research, market research, or opinion polls conducted by this Third Party for PDN in connection with the development of the pension policy, funding policy, or investment policy.
- 9.2. In all other cases data are provided to Third Parties solely with the express written agreement of the Data Subject.
- 9.3. Data are provided to Third Parties in hard copy form or when so required on an automatically processable data carrier.

# **SECTION 3 – RIGHTS AND OBLIGATIONS**

## **10. RIGHT OF INFORMATION AND ACCESS**

- 10.1. All Data Subjects can request PDN, in writing and at reasonable intervals, to notify him/her whether PDN is processing his/her Personal Data. When addressing this request, PDN is entitled to inquire after the Data Subject's reasons for his/her wishing to exercise this right to access so that PDN can more effectively serve the interests of the Data Subject.

- 10.2. Within one month, PDN notifies the Data Subject whether this is case in a message in a commonly used electronic form. When Personal Data of the Data Subject are being processed, this notification contains a comprehensible list of the categories of Personal Data with information including the purpose of the Processing, the categories of Personal Data, and the Recipients or categories of Recipients, as well as the available information about the origin of the Personal Data, the rights of the Data Subject, and the right to lodge a complaint with the competent supervisory authority. On request, PDN provides a copy of the Data Subject's Personal Data processed by PDN.
- 10.3. When PDN expects that a Third Party will have reservations about a notification as referred to in Article 10.1 then PDN, unless this is not feasible or would cost disproportionate effort, offers the Third Party an opportunity to express its opinion before PDN gives the aforementioned notification.
- 10.4. PDN can refuse the request as referred to in Article 10.1 when and to the extent that this is necessary in connection with the vital interests of persons other than the person making the request. PDN will then notify the person making the request accordingly, in writing and accompanied by reasons, as soon as possible and in any case within one month of the receipt of the request.

## **11. RIGHT TO RECTIFICATION, DELETION, AND RESTRICTION OF DATA**

- 11.1. The person who has received notification of his/her Personal Data in accordance with Article 10 can request PDN to rectify, supplement, delete, or restrict these data in the event that the data are factually incorrect, incomplete, or not of relevance to the purpose of the Processing, or will otherwise be processed in contravention of a provision of law. The request must at least state the changes to be made.
- 11.2. PDN issues the person making the request written notification as to whether, and if so to what extent, the request will be granted. This notification is sent within one month of the receipt of the request. Any refusal is accompanied by a statement of the reasons.
- 11.3. PDN implements a rectification, deletion, or restriction decision as soon as possible.

## **12. RIGHT TO ERASURE ('RIGHT TO BE FORGOTTEN')**

- 12.1. A Data Subject can submit a request for the erasure of his/her Personal Data.
- 12.2. PDN will fulfil an erasure request when:
  - a) the Personal Data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;
  - b) the Data Subject withdraws consent on which the Processing is based and where there is no other legal ground for the Processing;
  - c) the Data Subject has lodged an objection to the Processing and this objection is declared well-founded under the complaints and dispute settlement scheme, provided that this is not contrary to the aforementioned need for Processing relating to the implementation of the pension regulations and/or performance of the Administration Agreement;
  - d) the Personal Data have been unlawfully processed;
  - e) it is necessary to comply with a legal obligation in Union or Member State law to which PDN is subject.

- 12.3. PDN is entitled to deny the erasure request when the Processing is necessary:
- a) for compliance with a legal obligation in Union or Member State law to which PDN is subject;
  - b) for, or for the prevention of, the establishment, exercise, or defense of legal claims;
  - c) for archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes;
  - d) for the performance of an agreement.
- 12.4. PDN issues the person making the request written notification as to whether, and if so to what extent, the request will be granted. This notification is sent within one month of the receipt of the request. Any refusal is accompanied by a statement of the reasons.
- 12.5. PDN implements an erasure decision as soon as possible. When deletion is technically not feasible or would involve great costs, then PDN adequately restricts the data.

### **13. RIGHT TO RESTRICTION OF PROCESSING**

- 13.1. A Data Subject can submit a request for the restriction of Processing.
- 13.2. PDN will fulfil a request to restrict the Processing when:
- a) The accuracy of the Personal Data is contested by the Data Subject, for a period enabling PDN to verify the accuracy of the Personal Data;
  - b) The Processing by PDN is unlawful but the Data Subject opposes the erasure of the Personal Data and requests the restriction of their use instead;
  - c) PDN no longer needs the Personal Data for the purposes of the Processing, but they are required by the Data Subject for the establishment, exercise, or defense of legal claims;
  - d) The Data Subject has objected to processing, pending the answer to the question whether the legitimate grounds of PDN override those of the Data Subject.
- 13.3. PDN issues the person making the request written notification as to whether, and if so to what extent, the request will be granted. This notification is sent within one month of the receipt of the request. Any refusal is accompanied by a statement of the reasons.

### **14. RIGHT TO DATA PORTABILITY**

- 14.1. A Data Subject can request the receipt of the data that he/she has provided to PDN in a structured, commonly used, and machine-readable format.
- a) PDN can grant this request when the Processing of the Personal Data is based on Consent or on a contract and is carried out by automated means.
  - b) The right to data portability does not immediately result in the deletion of the Personal Data, as PDN has adopted the specified retention periods.
- 14.2. The legal basis for the processing of Personal Data by PDN will usually be founded on a statutory obligation or a legitimate interest. Consequently, PDN will not then be able to meet the right to data portability. The right to value transfer relating to the transfer of pension entitlements as embodied in the Pensions Act is incorporated in the PDN pension regulations.
- 14.3. PDN issues the person making the request written notification as to whether, and if so to what extent, the request will be granted. This notification is sent within one month of the receipt of the request. Any refusal is accompanied by a statement of the reasons.



## **15. REQUESTS ON THE BASIS OF ARTICLES 10 TO 14 INCLUSIVE:**

- 15.1. When a Data Subject submits a request as referred to in articles 10 to 14 of this Privacy Regulation:
- a) PDN will, when a vital interest of the person making the request so requires, respond to the request other than in electronic form;
  - b) PDN will ensure that the identity of the person making the request is properly established;
  - c) the request, when the person making the request is younger than 16 or has been placed under conservatorship, must be submitted by the legal representative or representatives and PDN will address its response to this legal representative or these representatives;
  - d) PDN will, when it has rectified, deleted, or restricted Personal Data, notify Third Parties who had previously been provided with that data as quickly as possible unless this is not feasible or would cost disproportionate effort. PDN will, if so requested, inform the person making the request of the recipients of this notification.

## **16. RIGHT TO OBJECT**

- 16.1. A Data Subject can lodge an objection to a Processing activity by PDN pursuant to the provisions of Article 4.2.c) in connection with his/her special personal circumstances
- 16.2. PDN assesses whether the objection is justified within one month of it being lodged. PDN will terminate the Processing immediately when the objection is justified. Any refusal is accompanied by a statement of the reasons.

## **17. RIGHT TO OBJECT TO AUTOMATED INDIVIDUAL DECISION-MAKING**

- 17.1. A Data Subject has the right not to be subject to a decision based solely on automated Processing, including Profiling, which produces legal effects concerning him/her or similarly significantly affects him/ her.
- 17.2. A Data Subject can lodge an objection to automated Processing.
- 17.3. PDN assesses whether the objection is justified within one month of it being lodged. PDN will terminate the automated Processing immediately when the objection is justified. Any refusal is accompanied by a statement of the reasons.

# **SECTION 4 – MISCELLANEOUS PROVISIONS**

## **18. SECURITY AND CONFIDENTIALITY**

- 18.1. PDN implements appropriate technical and organizational measures to protect Personal Data against loss or unlawful Processing. These measures guarantee, taking account of the state of the art and the costs incurred in the implementation, a suitable level of security as based on the risks associated with the Processing and nature of the data that are to be protected.
- 18.2. PDN ensures that all persons under its authority who are not already obliged to maintain confidentiality pursuant to their office, profession or any provision of law are required to maintain the confidentiality of Personal Data of which they take cognizance unless they are required by any provision of law or by the nature of their duties to disclose that data.

## **19. ENGAGING A PROCESSOR**

- 19.1. PDN can engage a Processor to process Personal Data on behalf of PDN. PDN then ensures that this Processor provides sufficient guarantees for appropriate technical and organizational measures with respect to the Processing to be carried out.
- 19.2. PDN ensures that all persons under the authority of this Processor, and the Processor itself, who are not already obliged to maintain confidentiality pursuant to their office, profession, or any provision of law are required to maintain the confidentiality of Personal Data of which they take cognizance unless they are required by any provision of law or by the nature of their duties to disclose that data.

## **20. COMPLAINTS PROCEDURE**

- 20.1. Data Subjects can lodge a complaint with PDN's complaints and dispute committee about the Processing of Personal Data other than with respect to an infringement of Personal Data protection (a data leak). The complaint is handled in accordance with the procedure laid down in the complaints and dispute regulation and with advice from the data protection officer.

## **21. MONITORING**

- 21.1. PDN monitors compliance with articles 3 to 17 inclusive and compliance with the measures and confidentiality obligations referred to in articles 18 and 19.

## **22. ADOPTION AND ANNOUNCEMENT**

- 22.1. This regulation was adopted by the PDN Board on December 18, 2019, and replaces the Data protection policy as adopted by the PDN Board on April 20, 2018.
- 22.2. Copies of this regulation will be issued to affiliated employers or Data Subjects on request and without charge. The regulation can also be consulted on the PDN website, [www.pdnpensioen.nl](http://www.pdnpensioen.nl).