

## EMPLOYEE ACCESS RIGHTS

### Do individuals have the right to access their personal information?

Data protective jurisdictions tend to guarantee the right of individuals to contact an organization directly and find out whether personal data is being tracked. Access procedures and acceptable exceptions (such as business secrecy) are determined by law and may be subject to the control of data protection authorities. In the context of HR, personal data access requests can include information tracked by the company as well as data tracked by third-party solutions, such as background check vendors.

Data subjects in Malaysia have the right to request access to their personal data and have it corrected when it's inaccurate, incomplete, misleading or outdated. Employees must be informed of their right to request both access and correction to their personal data.

Employers are required to respond to access and correction requests within 21 days of receipt of the request. Employers may take a one-time extension of 14 days to respond provided that the employer (a) notifies the employee before the expiration of the 21-day period; (b) informs the employee of the reason for the extension, and (c) complies with the request to the extent possible before expiration of the 21-day period.

Once an employee's (or other data subject's) request for correction is completed, the employer must provide a copy of the corrected data to the employee and, in cases where the information was disclosed to a 3<sup>rd</sup> party, provide that 3<sup>rd</sup> party with the corrected information (this is only necessary if the data was provided to the 3<sup>rd</sup> party within the last 12 months and the 3<sup>rd</sup> party is likely still processing the personal data).

In cases where an employee's data access or correction request is refused, the employer must notify the employee within 21 days. The employee must also be notified if there is a delay in complying with a request.



### Employee Access Requests

Employers can refuse access requests if:

- the identity of the individual making the request cannot be verified;
- the employer isn't given enough information to identify the information that is requested;
- the burden/expense of providing access outweighs the risks to the employee's privacy;
- the employer can't comply with the request without revealing others' personal data (unless the other individuals consent or it's reasonable to comply without consent of the other individuals);
- another data user controls the data;
- it would violate a court order;
- it would disclose confidential commercial information; or,
- the data is regulated by another law.

Employers (and other data users) are not subject to employee access requests when the personal information is being processed for: the assessment/collection of taxes, duties or other similar impositions; the prevention/detection of a crime; or, the apprehension/prosecution of offenders.

## Employee Correction Requests

Employers can deny an employee's personal data correction request when not satisfied that the data is incorrect. In addition, employers can refuse correction requests if:

- the identity of the individual making the request cannot be verified;
- the employer isn't given enough information to ascertain how the relevant personal data needs to be corrected;

- the employer is not satisfied that the personal data is inaccurate, incomplete, misleading or outdated;
- the employer is not satisfied that the requested correction is accurate, complete, not misleading, or up-to-date;
- another data user controls the data.



### HR Best Practices:

When processing an access request from an employee, make sure not to disclose information connected to other employees. Employers should establish official procedures and contacts for employee requests.

Last updated February 2019.

DISCLAIMER: The information contained in this form is for general information purposes only and is not intended to be a source for legal, or any other advice and should not be relied upon as such. This information is not intended to create, and the receipt of it by the reader does not constitute, an attorney-client relationship. Organizations or individuals receiving this document should always seek the advice of competent counsel in their home jurisdiction. Laws may change and The Ultimate Software Group, Inc. cannot guarantee that all the information in this form is current or correct. THE ULTIMATE SOFTWARE GROUP, INC. MAKES NO REPRESENTATION OR WARRANTIES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE DOCUMENT OR CONTENT AND SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY, OR COMPLETENESS OF THIS INFORMATION. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, NEITHER THE ULTIMATE SOFTWARE GROUP, INC., NOR ITS AGENTS, OFFICERS, EMPLOYEES, SUBSIDIARIES, OR AFFILIATES, ARE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR PROFITS, OR BUSINESS INTERRUPTION), EVEN IF THE ULTIMATE SOFTWARE GROUP, INC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT, ARISING IN ANY WAY OUT OF THE USE OF OR INABILITY TO USE THIS INFORMATION. This document and the content are proprietary and confidential information of The Ultimate Software Group, Inc. No part of this document or content may be reproduced in any form or distributed to any third party without the written consent of The Ultimate Software Group, Inc. © 2019 The Ultimate Software Group, Inc. All rights reserved.

## PeopleDoc HR Compliance Assist

HR Compliance Assist helps companies manage compliance of their HR files and employees' data with foreign laws and regulations. The HR Compliance Assist team works with an international network of lawyers to provide best practices on topics such as HR document retention, employee data privacy, electronic signature and electronic archiving.

HR Compliance Assist is available to customers of PeopleDoc by Ultimate Software, a leading HR Service Delivery provider. In 2018, PeopleDoc joined Ultimate Software, a leading provider of human capital management cloud solutions. Today, Ultimate serves approximately 4,500 customers with employees in 180 countries.

More information about PeopleDoc by Ultimate Software can be found at [www.people-doc.com](http://www.people-doc.com).



HR Compliance Assist

[www.hrcomplianceassist.com](http://www.hrcomplianceassist.com) - [hrcomplianceassist@people-doc.com](mailto:hrcomplianceassist@people-doc.com)