

## NATIVELY ELECTRONIC DOCUMENTS

### **What is the legal value of native electronic documents (that do not require signature by the parties)?**

The majority of legislation generally recognizes the validity and probative value of documents that are natively electronic (i.e., created as electronic originals), subject to compliance requirements.

Electronic records are permitted in the United Arab Emirates under Federal Law No. (1) of 2006, On Electronic Commerce and Transactions. Under this Law, documents, records and information can be retained electronically as long as certain conditions are met (Art. 5):

- the electronic record should be retained in the format in which it was generated/sent/received or, in a format which can be demonstrated to accurately represent the information generated/sent/received;
- the information in the record is accessible so that it can be used for subsequent reference; and,
- any information that is retained, enables the identification of the origin and destination of the electronic record along with the date and time it was sent/received.

Electronic records cannot be denied in legal proceedings for being in an electronic format. The value of an electronic record in a legal proceeding is assessed based on the reliability of the (Federal Law No. (1) of 2006, Art. 10):

- manner of the operation(s) performed (i.e., executing, entering, generating, processing, storing, presenting or communicating);
- manner in which the integrity of the information was maintained;
- source of information, if identifiable; and, the
- manner in which the originator of the record was identified.
- other relevant factors may also be considered.

Therefore, electronic records are generally permitted in the context of human resources and can be considered as valid in legal proceedings, as long as they meet the requirements above.



There are several onshore (mainland) UAE data retention requirements. Under UAE Law No. 8 of 1980, as amended (the Labour Law), an employer who employs 5 or more employees more must retain the following personnel records:

- a personnel file for each employee with the following information: employee name; job; age; nationality; place of residence; marital

status; dates of employment; remuneration and any adjustments; disciplinary sanctions imposed; occupational injuries and diseases sustained; date and reason for employment termination; and,

- a leave card for each employee separately detailing annual leave, sick leave and other leave.



Employers with 15 or more employees, must keep the following additional records:

- a remuneration register detailing employee names, dates of employment and amount of wages (daily, weekly or monthly), benefits, commission, work days and termination date;
- an occupational injuries register (detailing any occupational accidents/diseases);
- basic work rules detailing timing of daily work, weekly rest, official holidays, health and safety rules; and,
- disciplinary rules setting out disciplinary procedure and sanctions.

The Labour Law requires that these records are maintained "in each main establishment, or branches or locality in which work is carried out." This would imply a requirement to maintain hard copy records (although note that there is no prohibition on maintaining electronic versions). In practice, Ministry of Labour inspectors often request to review hard copies of employee records during periodic spot checks to ensure compliance with the Labour Law.

Last updated June 2021.

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