

ELECTRONIC ARCHIVING OF PAPER ORIGINALS

Legal Framework for Electronic Archiving

Although some countries require certain types of documents to be kept and archived in their original paper form, for most categories of documents, including HR-related records, there is no such requirement, and it is generally acceptable to use electronic versions of paper records (i.e., scanned copies of paper originals) during most government agencies' inspections and audits or in court proceedings.



The evidential or probative value of electronic versions of paper records may be more easily challenged before a court than it would be for the originals. This is mainly because the original records could be tampered with or changed before being scanned, and, unless proper technology has been used (e.g., encryption and timestamping), it may not be easy to detect such changes from a scanned copy. In specific situations, it may be good practice for employers to retain archives of paper originals in the event such originals would be requested by a specific investigator, auditor, judge or authority.

Are electronic scanned copies of paper originals legally valid?

Yes, an electronic scanned copy of a paper original has the same validity as a hard-copy in Chile. The courts usually grant a hard-copy (and by extension an electronic scanned copy) the same value as paper originals. However, this is assessed on a case by case basis, and some documents should be presented in original or duly legalized form.

Are there any legal requirements for electronic archiving systems (EAS)?

Although there is no specific regulation for electronic archiving, the Labor Board has established various requirements for implementing an electronic process of labor documentation (Ruling No. 789/015, 16.02.2015). Electronic archiving systems should be able to:

- allow the labor inspector a direct consultation of the information via Internet, from any computer of the Labor Board;
- consider a security measure allowing the revision said above to be carried out without impediment or restriction, either by date, volume, type of document, or any other cause that prevents or limits its practice. This requirement involves the possibility of carrying out the



inspection processes without having to have the authorization of the surveilled employer;

- allow the same consultation and form of access previously indicated from computers of the surveilled employer, in the workplace; and,
- allow the printing of labor documentation, and its certification through simple or advanced electronic signature, if applicable, depending on the legal nature of the document and the effects that it should produce.



HR Best Practices:

Scanned electronic copies of paper originals are permitted in Chile. That said, it is not possible to guarantee that all paper documents can be destroyed. Indeed, the acceptance of digital copies remains subject to the discretion of the judge. Consider the potential risk associated with each type of record and whether a paper copy could be necessary if questioned in court, prior to destroying paper originals. In addition, follow general best practices to ensure the veracity of the record throughout and after the scanning process.

Last updated January 2020.

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. © 2020 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.



HR Compliance Assist

www.hrcomplianceassist.com - hrcomplianceassist@people-doc.com