

## 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 Hong Kong through the Electronic Transactions Ordinance. Electronic records, including contracts, cannot be

denied in court solely because of the electronic format. In order for an electronic record to be considered valid, the information that's stored in the electronic record must remain accessible for future reference. Records that are required to be given in person or by mail can be sent through an electronic information system designated by the individual (ex., a document sent to an email

address). When there is a legal requirement to retain records, the record can be stored electronically if:

- the information in the original record remains accessible for future reference;
- the electronic copy is retained in the original format in which it was generated/sent/received, or in a way that accurately represents the original information; and,
- the information which enables the identification of the origin and destination of the electronic record and the date and time when it was sent or received, is retained.

Therefore, HR-related documents (e.g. employment contracts, letters of intent, etc.) can be created directly in electronic form, without need for a paper original. That said, in practice, for crucial contractual documents (e.g. employment contracts), most employers prefer to keep a physical copy.

Last updated February 2020.

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