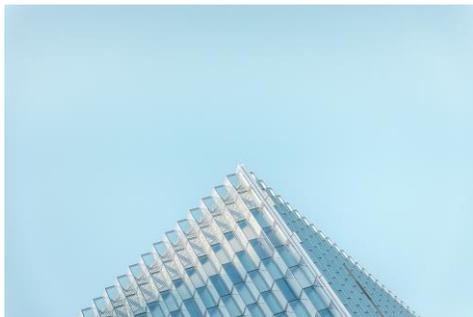


ELECTRONIC ARCHIVING OF PAPER ORIGINALS

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?

Electronically scanned copies of original paper records are generally permitted in Hong Kong and are equally legally recognized, per the Electronic Transactions Ordinance, as long as the integrity of the scanned copy can be reliably assured, and the information can be displayed in a legible form (i.e. you can view it later). During scanning, the content from the original record must remain complete and unaltered, apart from any endorsement/change which occurs during the normal course of communication, storage or display. In addition, the standard for reliability of the assurance of the scanned record should be assessed based on the purpose for which the record was generated and the other relevant circumstances.

When deciding whether an electronic HR record satisfies the above, employers need to exercise their own judgment, but should consider the following questions:

- Are the HR records complete and unaltered?
- Are the HR records sufficiently reliable to be used considering the original purpose of that document and all the other relevant circumstances?

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

Electronic archiving systems must meet a few different requirements, including:

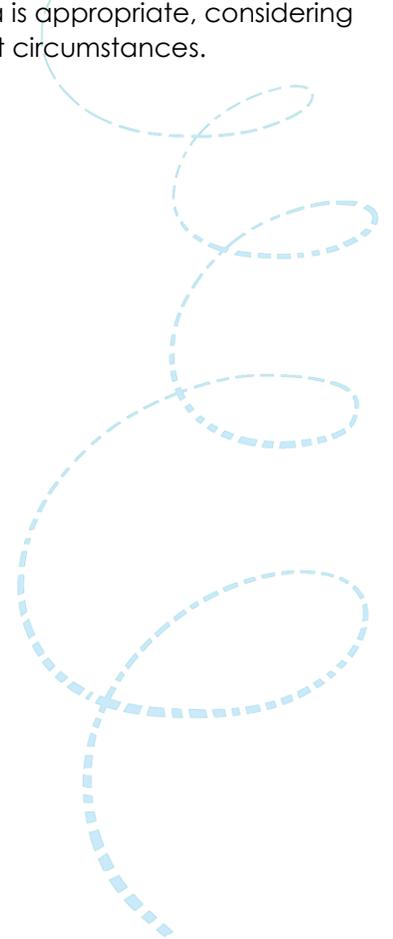
- allowing the information contained in the record to remain accessible for future reference;
- retaining the record in the format it was originally generated/sent/received or in a way which accurately represents the original data; and,
- using methods which retain the identification of the origin/destination of the record and the date and time which it was sent/received.



HR Best Practices:

Electronically scanned records are generally allowed in the employment context, provided the requirements for electronic archiving and electronic archive systems are followed. The full electronic archiving era is approaching, but for now it is not possible to guarantee that all paper documents can be destroyed.

When scanning paper originals, use a system that can reliably transfer the data stored in the record, and which prevents future alterations. Ensure the method that's used to store the data is appropriate, considering the type of document, the original purpose of that document, and other relevant circumstances.



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