

## 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, electronic copies of paper originals are valid in Malaysia. Scanned electronic copies of paper

originals would be considered secondary evidence if questioned (Evidence Act 1950, Sec. 65) and the original version of a document is preferred in court proceedings (primary evidence). When electronically archiving paper originals, it's a best practice to also keep the original paper record until the document's expiration.

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

In Malaysia, electronic archiving is legally valid and documents can be created in natively electronic form. Note that, as mentioned above, copies of paper originals will have a lower probative value if questioned. Therefore, it's good practice to retain the original version of records, regardless of whether the original is in electronic or paper form.



**HR Best Practices:** The full electronic archiving era is approaching, but for now 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.

Similar to the electronic signature, electronic archiving will probably also develop to a three-level structure: simple, advanced and certified archiving. Over time, this means that certified electronic archiving will make the burden of proof fall under the responsibility of the challenging party.

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