

## 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?

Under Singapore's Electronic Transactions Act (ETA) (Sec. 6), information cannot be denied legal effect solely because the information is in an electronic format. In addition, electronic scanned copies of original records are allowed if (ETA, Cap. 88, Sec. 9):

- the information in the record remains accessible for subsequent reference;
- the electronic record is retained in the format it was generated/sent/received or, is retained in a format which can be demonstrated to accurately reflect the original content;
- the information (if any) enables the identification of the origin and destination of the electronic record as well as the date and time it was sent/received/retained; and,
- the natively electronic document meets any additional requirements outlined by the public agency which has supervision over the retention of the records.

In addition, the Evidence Act (Cap. 97) (Evidence Act) provides that electronic records which have been manifestly or consistently acted on, relied upon, or used as information recorded or stored on a computer system, can be considered primary evidence (Sec. 64). It also introduces legal presumptions relating to

electronic records, including the accuracy and reliability of an electronic record and, the authenticity of an electronic record (Sec. 116A).

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

Records can be retained electronically through electronic archiving systems if they meet the requirements listed above.

In certain circumstances a party may choose to obtain Evidence Act certification for electronic records. This has the benefit of the court presuming that electronic documents accurately represent the originals. Note that Evidence Act certification is not mandatory for electronic records to be admitted in court.



#### **HR Best Practices:**

Any disputes relating to scanned electronic copies of paper originals will come down to a question of proof. 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.

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