



HR Electronic Records – Australia

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.

Are electronic scanned copies of paper originals legally valid?

Under Australian law, electronically scanned copies of paper originals are generally considered valid in the employment context, though their validity may be challenged in employment-related legal proceedings (e.g. workers' compensation or health and safety). Most legal claims that are employment related will proceed before Federal Courts and Tribunals where electronic records are admissible.

The Fair Work Act 2009 (Cth) permits the electronic retention of employee records and pay slips. Employee records must be retained:

- for seven years;
- in a legible form and in English; and,
- in a form that is readily accessible to a Fair Work Ombudsman Inspector.

In addition, records cannot be false or misleading (to the employer's knowledge), or altered (unless it is to correct an error).

Employee-related tax records can be scanned as long as they are a complete, true and clear reproduction. These records must be retained for the statutory period (at least 6 years), must not be altered or modified from the original, and must be capable of being retrieved and read at any time by revenue authorities.¹



¹ Australian Taxation Office, Fringe benefits tax - a guide for employers (2017).

UKG HR COMPLIANCE ASSIST

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

The Electronic Transactions Act 1999 (Act. No. 162 as amended) sets out rules for electronic archive systems which contain records required by law. These electronic archive systems must:

- allow information to be readily accessible;
- reliably assure “the maintenance of the integrity” of the information; and,
- if a regulation requires a specific type of storage, must follow that requirement.

In the case of electronic communications, archives must also retain the following information in a manner that’s readily accessible for future reference:

- the origin and destination of the electronic communication; and,
- the time when the electronic communication was sent and received.

Per the Electronic Transactions Act, electronic archiving systems that are used for employee-related tax records should be documented and include physical and logistical descriptions of the system's structure and programs, so that revenue authorities can ascertain that the system is performing as claimed. Employee-related tax records must be in English or in a format that readily allows conversion to English. In addition, there must also be adequate controls in place to safeguard the integrity and the security of the records.



HR Best Practices:

Electronic 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.

Last updated July 2022.

DISCLAIMER: The information contained in this document is for general information purposes only and is not intended to be a source for legal, tax, or any other professional 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. All legal or tax questions or concerns should be directed to your legal counsel or tax consultant. Laws and regulations may change and UKG Inc. (“UKG”) cannot guarantee that all the information in this document is accurate, current or complete. UKG MAKES NO REPRESENTATION OR WARRANTIES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE DOCUMENT OR THE INFORMATION OR CONTENT CONTAINED HEREIN 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 UKG, 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 UKG 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 UKG. No part of this document or its content may be reproduced in any form, or by any means, or distributed to any third party without the prior written consent of UKG © 2022 UKG Inc. All rights reserved.