

## 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 they may carry less weight in some State 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 5 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.<sup>1</sup>

### 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,

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

- 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.

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