

HR Electronic Records – Ireland

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 Irish law, electronically scanned copies of paper originals are generally permitted (Electronic Commerce Act, 2000).

Documents and electronic records may be retained electronically only if:

- the continued integrity of the document in electronic form can be ensured;
- the document can be viewed in intelligible form by those who need to view it; and,
- at the time of the document's electronic generation, it was reasonable to assume the information could be easily accessible for future reference.

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

Under Ireland's Electronic Commerce Act, information can be retained and provided electronically if:

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- the integrity of the content can be assured from the time of the record's creation to the final form;
- the data is capable of being displayed in an intelligible form (i.e. it's understandable); and,
- the record remains accessible and usable for future reference (i.e. those who need access to the record can continue to access it).

Public bodies can decide when a specific document can be stored electronically and determine the technological and procedural requirements (as long as they are shared publicly and are objective, transparent, non-discriminatory and proportionate). When a document is stored electronically on behalf of a non-public body, electronic records are permitted

if the individual (i.e. the employee whose data is being requested/required) consents to the document being retained in that form.

HR Best Practices:



While scanned electronic records are permitted in Ireland, it is not possible to

guarantee that all paper documents can be destroyed. 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.

Last updated July 2022.

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