



HR Electronic Records – Japan

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.



In Japan, 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 Japanese e-Document law (2005), electronically scanned copies are considered legally valid as long as the original document is allowed to be created in an electronic format. That said, a copy of a document is not considered to have the same value as the original (whether electronic or paper) in Japanese civil procedures.

Therefore, where an electronic document is a scanned copy of a paper original, its value as evidence is less than that of the paper original. Conversely, where a paper document is just a printed copy of the electronic original, the paper's value is less than that of the electronic record. In instances where a scanned copy looks substantially the same as the original and it's successfully established as similar, the copy may have nearly equal value.

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

Any archives that include personal information should include security measures to prevent leaks, damage and loss (Amended Act on the Protection of Personal Information, 2016 and further revised in the 2020 Revisions, effective April 2022).

Under Japan's E-document Law (2005) and related administrative guidelines, personnel documents that are required to be retained under the law can be stored electronically by:

- creating and storing the file in a natively electronic format; or,
- creating the file in a paper format, scanning the document, and then storing it electronically.

Electronically stored documents must be clear and organized, or immediately printable when requested by the relevant authority (ex., during investigations). Electronic documents should be stored in a way that:

- the employer is unable to change, delete, or confuse the document (intentionally or accidentally) with other documents;
- properly records the date, time or other property;
- differentiates data in the document from other data which is not subject to statutory retention requirements;
- correctly records the data;
- allows the employer to store the data for the statutory period; and,
- allows the document to be easily restored when compressed.



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. In Japan, when paper employment documents have been hand-signed, employers generally retain the original since some courts prefer to verify using the original version of a document. Employers that want to switch to electronic-only archiving In Japan should consider developing processes that require electronic-only originals (where possible).

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