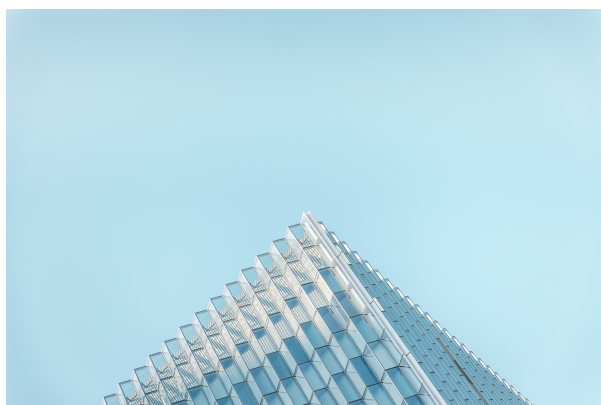


HR Electronic Records – The Netherlands

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?

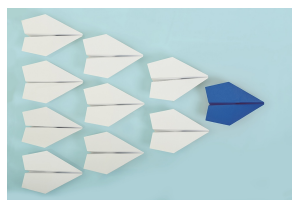
Under Dutch law, there are no specific statutory rules about how scanned and digital documents should be stored. Note that in the event an electronically scanned copy of a paper original is questioned in court, it will be up to the provider of the scanned document (i.e., the employer) to prove it is legally valid.

In order to increase the value of an electronically scanned copy, consider using qualified digital/electronic signatures, where applicable.

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

Not generally, but according to Dutch Civil Law (Book 2, Article 10), bookkeeping records (excluding balance sheets and income statements) can be stored electronically as long as the records are transferred in a way that allows the information to continue to be readable and the information is correct and complete. The information must also be reasonably available for access during storage.

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. Indeed, the acceptance of digital copies remains subject to the discretion of the judge.



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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.

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