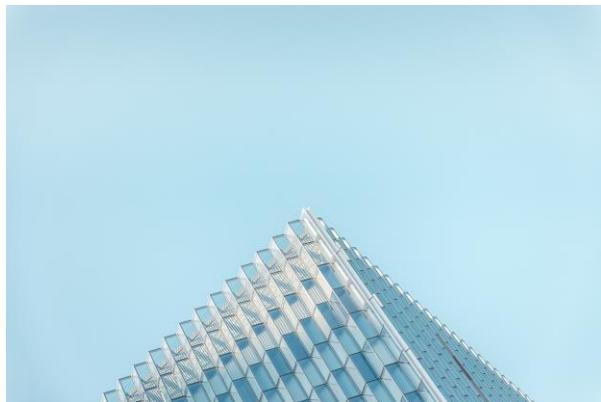


HR Electronic Records – Sweden

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?

While there is no specific legislation relating to electronic copies of paper originals in Sweden, electronically scanned copies are generally considered valid depending on the technical and other security measures taken to ensure that the electronically scanned copy is an accurate reproduction of the paper original.

The legal value of an electronically stored record in court will vary based on the technical measures taken, and the ability to prove the authenticity of the copy. In order to increase the legal value of a scanned record, technical measures may include:

- tools to prevent unauthorized access;
- safeguards against data loss/corruption;
- ensuring continued accessibility of the record;
- validations upon upload (time-stamps, record of the individual who uploaded the record, etc.); and,
- validation of the paper original prior to scanning the record.

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However, a Swedish court will always make its own assessment of any evidence presented and even if protective measures have been taken, this is no guarantee that the court will conclude that an electronically stored document is legally valid.

There are a few cases where the original version of a record may be required. Under the Accounting Act, the “original” version of a business receipt must be retained. If an employee submits an expense reimbursement and provides a physical receipt, that original must be retained for a certain period before it can be destroyed (Swedish Accounting Act (1990:1078) Ch. 7, Sec. 6). Note that an electronic copy can also be retained for archiving purposes.

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

There are no specific legal requirements in Sweden regarding electronic archiving systems.

That said, the General Data Protection Regulation (GDPR) should be complied with if personal employee, job applicant or other individual personal data is being archived.



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.

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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