



HR Record Retention Requirements – Switzerland

Legal Framework

Legislative Framework for Record Retention Requirements

As most HR professionals know, document retention for employee-related records—such as personnel files, payroll information, benefits records, and background checks—is a particularly complicated process, required by law, with variations from country to country. Complicating the process further, each document in each country has its own individual retention requirements, and the financial penalties for noncompliance can be significant. A carefully designed and implemented HR record retention policy is a necessary step to support an employer’s robust compliance program.



While disposing of too many records can increase a company's legal exposure, disposing of too few records may also increase legal exposure as well as the cost of storage. Employers must identify which records should be retained, how long records should be retained and the different formats in which records may be stored. Employers must also determine how to ensure

internal HR record retention policies comply with all applicable regulations and local laws.

General Recordkeeping Requirements

Keeping HR records through a robust document retention policy may be useful to employers for various reasons, including (a) maintaining the corporate memory of the company; (b) satisfying legal or regulatory requirements; (c) preserving documents with an enduring business value to the company; and (d) protecting the company against the risks of litigation and the need to preserve evidence and comply with disclosure obligations as necessary.

However, a balance must often be struck between keeping documents for a sufficiently long period of time, so as to meet an employer’s legitimate business objectives, and not keeping those documents unnecessarily, which could give rise to a breach of data protection laws or otherwise create unnecessary risk.

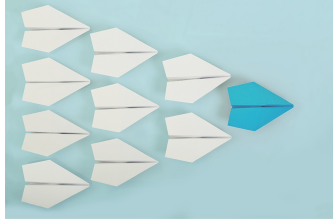
Retention Periods

Most countries have minimum and maximum retention periods for certain HR records. Even if there is no statutory minimum retention period for a certain category of records in a particular country, it is often recommended to retain records until the expiration of the relevant time limits for bringing legal actions or regulatory investigations (statutes of limitations).

In addition to maintaining minimum retention periods, some countries also have maximum retention periods. A record’s survival must often be limited so as to safeguard the privacy of persons whose personal data is contained in that

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record. In particular, records must be kept for no longer than is necessary for achieving the purposes for which the records were collected or subsequently used.



After the maximum retention periods have expired, the documents should be either permanently

deleted or anonymized (i.e., all references to data subjects should be redacted so that it is no longer possible to identify those persons).

Format of Records

Multiple laws, decisions, and even everyday life practices apply when assessing the retention period of a document. While it is generally permissible to retain only electronic copies of employment related records, and these records are admissible in civil proceedings, it is recommended that Swiss employers maintain archived copies of non–natively electronic (i.e. physical) employee-related records in the event a judge or authority specifically requires it.

Regardless of format, HR documents (including employment contracts, working time records, salary records, social charges and immigration

documents) should remain accessible in case of an audit. Employers must be able to provide tax and accounting documents to the authorities at any time, upon their request (Art. 958f Code of Obligations and Ordinance on Business Records (Geschäftsbücherverordnung)).

Note that official paper documents that are provided by Swiss authorities and documents related to travel time for professional drivers should be kept in their original paper format.

General Limitation Period

The general limitation period for contractual claims is 10 years. This limitation period is also applicable to claims arising from an employment relationship, unless the claim has a remedy of financial compensation, in which case that becomes time-barred after five years. The potential for social security institutions to reclaim unlawfully obtained benefits ends five years after the disbursement (except in case of intentional and gross-negligent acts where it is 10 years). With taxes, the federal tax authorities can only impose taxes within an absolute limitation period of 15 years (with some exceptions). The limitation period for personal injuries is 20 years.

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