

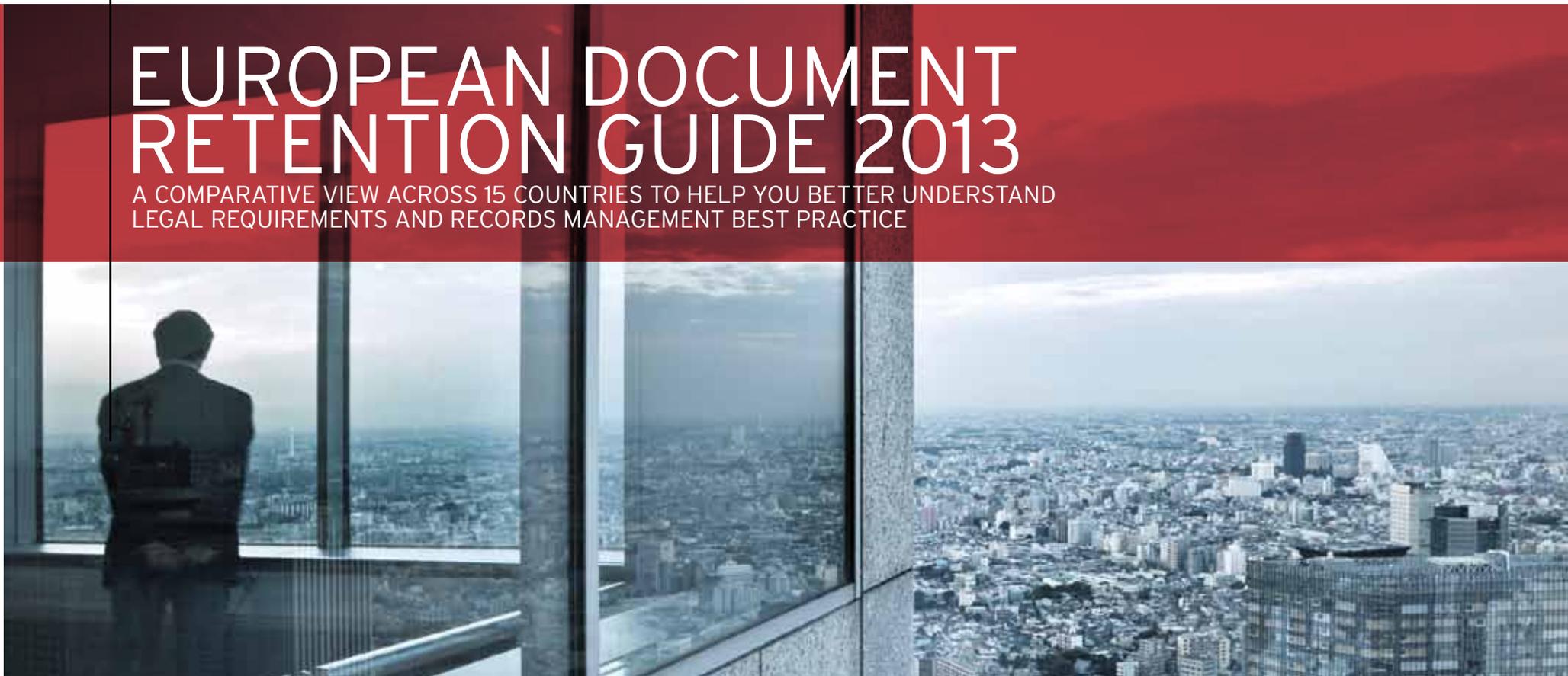
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# EUROPEAN DOCUMENT RETENTION GUIDE 2013

A COMPARATIVE VIEW ACROSS 15 COUNTRIES TO HELP YOU BETTER UNDERSTAND  
LEGAL REQUIREMENTS AND RECORDS MANAGEMENT BEST PRACTICE



# CONTENTS

## A QUICK GUIDE TO RECORDS MANAGEMENT AND RETENTION

MEETING YOUR CORPORATE DATA CHALLENGES	04
THE BENEFITS OF COMPLIANT RECORDS MANAGEMENT	05
RECORDS MANAGEMENT CASE STUDIES	06

## BEST PRACTICE TO IMPLEMENT A COMPLIANT RECORDS MANAGEMENT PROGRAMME

FOUR STEPS TO A COMPLIANT RECORDS MANAGEMENT PROGRAMME	08
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## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

REQUIREMENTS TO SET OUT IN WRITING	12
MINIMUM AND MAXIMUM RETENTION PERIODS	13
REQUIREMENTS TO RETAIN CERTAIN RECORDS IN PAPER FORMAT	14
REQUIREMENTS TO RETAIN CERTAIN COMPANY RECORDS ON COMPANY PREMISES OR WITHIN THE JURISDICTION	14
REQUIREMENTS REGARDING THE ELECTRONIC CONVERSION AND RETENTION OF A COMPANY'S PAPER BOOKS AND RECORDS	15
EVIDENTIARY VALUE OF ELECTRONIC RECORDS IN LEGAL PROCEEDINGS	16

## A COMPARATIVE VIEW OF RETENTION PERIODS ACROSS EUROPE

GENERAL COMPANY RECORDS	18
TAX AND ACCOUNTING RECORDS	19
PAYROLL AND SALARY RECORDS	20
HR/EMPLOYMENT/PENSION RECORDS	21
MEDICAL/SAFETY RECORDS	22
TRANSPORT RECORDS	23
ENVIRONMENTAL RECORDS	24
INSURANCE RECORDS	25
MARKETING RECORDS	25
PURCHASING RECORDS	25
LEGAL FILES/CONTRACTS & AGREEMENTS	26
OTHER RECORDS	26

## RETENTION GUIDE BY COUNTRY

AUSTRIA	27
BELGIUM	45
DENMARK	73
FINLAND	97
FRANCE	117
GERMANY	138
HUNGARY	157
IRELAND	179
ITALY	209
THE NETHERLANDS	226
POLAND	246
ROMANIA	275
SPAIN	294
SWEDEN	314
UNITED KINGDOM	340

# A QUICK GUIDE TO RECORDS MANAGEMENT AND RETENTION

## DELIVERING EFFECTIVE AND COMPLIANT RECORDS MANAGEMENT:

Meeting your corporate data challenges

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The benefits of compliant records management

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Records management case studies



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## MEETING YOUR CORPORATE DATA CHALLENGES

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We are all faced with an ever increasing volume of records, including emails and traditional paper documents. And legislation and regulation covering records management is so complex and far-reaching that compliance can become a major challenge, and a drain on your resources. This makes a mandatory retention policy indispensable for minimising both business risks and the chance of costly litigation caused either by destroying information before, or retaining it beyond, the end of its legally required retention period.

This guide gives you an overview of the regulations governing record retention and relevant legal issues. The quick references help you cut through the complexity and get a clear picture of different record types and their business functions, as well as the legislation that affects them. It also offers practical suggestions to meet challenges.

### WHY COMPLY?

Fines for non-compliance are increasing

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Risk of investigatory audits by the authorities

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Reputational risks are substantial with an ever less tolerant public

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Risk of prosecution, claims for damages or claims for injunctions in civil proceedings

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It pays to be compliant: don't store what you don't need to

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An inventory is not a maybe, it's a must

**'BECAUSE I DON'T KNOW WHAT TO KEEP AND WHAT TO DESTROY, I'M STORING TOO MUCH AND EXPOSING MYSELF TO CONSIDERABLE LEGAL RISK.'**

**'DESTRUCTION IS AN ARBITRARY PROCESS THAT I CAN'T CONTROL.'**

**'I HAVE TO RE-EVALUATE MY PROCESSES EVERY TIME A NEW REGULATION COMES OUT.'**

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## THE BENEFITS OF COMPLIANT RECORDS MANAGEMENT

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Effective records management is about planning, organising and controlling the different stages in the life of a record – from its creation, through its active and inactive periods, to its destruction or permanent storage. Efficient records management meets the dual needs of providing easy retrieval of information while keeping costs to a minimum.

A comprehensive records management programme gives you immediate and long-term benefits:

### Controlling record volumes

Implementing a records retention schedule and destroying unnecessary records can cut your physical and digital storage requirement by up to 40%. Managing the creation of new records will reduce the costs of organising, maintaining and disposing of them.

### Improving access to information

With the right systems and procedures in place you can respond faster to business challenges, provide better customer service and make informed decisions.

### Ensuring regulatory compliance

You're faced with a multitude of industry-specific rules, national laws and European regulations on corporate bookkeeping and records conversion, retention and maintenance. A records management programme determines which records must be kept and for how long, in order to remain compliant.

### Improving efficiency and productivity

Poor record keeping and badly managed or non-integrated systems mean costly delays when searching for misfiled records and prevents timely meeting of e-discovery orders or governmental subpoenas.

### Safeguarding critical information

It is estimated that more than a third of all businesses that suffer a disaster never resume operations. An efficient records management programme ensures that you have protected copies of all business-critical records.

## WHAT DOES COMPLIANCE INVOLVE?

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Knowing the requirements – European, national and sector

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Seeking appropriate legal advice to help you create your own retention schedule

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Closed chain of custody – knowing what you've got and where it is, and monitoring who gained access for what purposes

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Secure, organised storage

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Secure, timely destruction

**36% OF COMPANIES KEEP ALL THEIR INFORMATION IN CASE IT IS NEEDED**

**41% OF COMPANIES SEE MANAGING THEIR PAPER LEGACY AS A MAJOR FUTURE CHALLENGE**

**31% OF COMPANIES SEEK LEGAL ADVICE REGARDING DATA RETENTION BEFORE TAKING ACTION**

SOURCE: BEYOND AWARENESS: THE GROWING URGENCY OF DATA MANAGEMENT FOR THE EUROPEAN MID-MARKET - PWC REPORT IN CONJUNCTION WITH IRON MOUNTAIN, 2013

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## RECORDS MANAGEMENT CASE STUDIES

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The following are some examples of different companies across Europe that enjoyed the benefits of an effective records management strategy.

### MANUFACTURING - BAE SYSTEMS

#### The challenge

BAE Systems is one of the world's leading defence manufacturers employing over 100,000 people in locations across the world. In 2004, the company identified a problem. Paper records were stored in disparate locations ranging from cupboards to large containers and document retrieval processes entailed a risk of loss or damage. BAE was looking for a solution that would help better organise its information and safeguard their valuable information assets in highly secure facilities.

#### The solution

Dedicated Iron Mountain experts work on-site to manage indexing, storage, retrieval and transport

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200,000 cubic feet of records stored at Iron Mountain facilities which meet the stringent security standards required

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Highly classified documents stored in dedicated vault with relevant Iron Mountain staff vetted by the Ministry of Defence

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Iron Mountain catalogues statutory retention periods and carries out secure destruction as appropriate

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IM Connect™, the Iron Mountain online customer portal, allows authorised BAE personnel to find documents and securely request retrieval

#### Value

BAE Systems has benefited from enhanced customer confidence in a highly security-conscious industry.

### PROFESSIONAL SERVICES - KPMG - THE NETHERLANDS

#### The challenge

KPMG The Netherlands offers audit and tax consultancy services. The company has over 4,000 employees in 15 offices across the Netherlands. Audit firms in the Netherlands have to comply with strict regulations governing records management. The company found that requirements for the safe storage and transport of documents were making these operations too complicated and expensive to handle themselves.

#### The solution

Iron Mountain active file management offered KPMG the dual benefits of fast, authorised access and compliant, secure storage

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Twice-daily scheduled visits by vetted Iron Mountain staff pick up and drop off required documents in state-of-the-art secure vehicles

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Barcode scanning and a strict chain of custody make files fully traceable, and support compliance with strict regulations

#### Value

As well as being able to meet compliance needs, KPMG The Netherlands has reduced costs and saved space.

# BEST PRACTICE TO IMPLEMENT A COMPLIANT RECORDS MANAGEMENT PROGRAMME

WITH REGARD TO COMPLIANCE, A 'RECORD' REFERS TO ALL DOCUMENTS IN WHATEVER MEDIUM, RECEIVED OR CREATED BY AN ORGANISATION IN THE COURSE OF ITS BUSINESS, AND AS EVIDENCE OF ITS ACTIVITIES OR BECAUSE OF THE INFORMATION CONTAINED



To comply with current regulations, an information management programme must include documented policies covering retention and disposal, as well as documented procedures covering proof of training, communication and implementation throughout the organisation.

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## FOUR STEPS TO A COMPLIANT RECORDS MANAGEMENT PROGRAMME

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The four steps below describe best practices that can help you with the ongoing development of your own compliant information management programme.

**1**

### CREATING A RECORDS RETENTION POLICY

**2**

### INDEXING AND ARCHIVING OF RECORDS

**3**

### ENSURING CERTIFIED DESTRUCTION OF RECORDS

**4**

### OFF-SITE STORAGE OF BACKUP DATA

#### **STEP ONE: CREATING A RECORDS RETENTION POLICY**

The records retention policy dictates how long a record should be stored before it is destroyed. To develop an effective policy, your company must have a thorough understanding of the records that it stores across all formats, including paper documents, electronic files, telephone call records and social media.

Research must be conducted to determine the relevant national and industry regulations for different record types. This guide will provide an overview, but you are advised to also seek specialist legal advice to ensure you are compliant with all relevant obligations for your company.

As well as the information provided in the guide, seek specialist legal advice to determine:

What are the applicable document retention laws in your country?

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Which document retention laws are applicable to your industry?

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What are the financial penalties and other consequences of non-compliance?

For a more in-depth guide to these four steps, download the Path to Compliance ebook 'Implementing a Compliant Records Management Programme' at

[ironmountain.co.uk/compliance](http://ironmountain.co.uk/compliance)

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## FOUR STEPS TO A COMPLIANT RECORDS MANAGEMENT PROGRAMME

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### STEP TWO: INDEXING AND ARCHIVING OF RECORDS

Effective indexing and archiving of records will ensure you can easily locate files and rapidly retrieve them as and when they are needed. Many organisations consider the scanning or digitising of paper documents an effective way to index and archive files while reducing costs through space saving. The above information covers some of the issues to consider when scanning and storing documents to protect their legal integrity, and here are some further do's and don'ts when implementing a scanning programme:

#### Get staff support

This is essential for the successful conversion to digital information. Without staff support, employees may make their own copies and print outs, resulting in unstructured archives in multiple locations.

#### Get legal advice

Take the time to survey the regulatory landscape for your country and industry, and build in the ability to meet any regulatory requirements from the outset.

#### Only digitise what you need

Documents from existing files that will rarely be retrieved should only be absorbed into the digital system if and when they are actually required.

#### Use internal and external experts

Staff who use the documents regularly are in the best position to recommend effective tags and labels, guided by external experts.

**Effective methods of indexing and archiving print and digital documents are discussed in more detail in the Path to Compliance ebook 'Implementing a Compliant Records Management Programme' at**

[ironmountain.co.uk/compliance](http://ironmountain.co.uk/compliance)

## FOUR STEPS TO A COMPLIANT RECORDS MANAGEMENT PROGRAMME

### STEP THREE: ENSURING CERTIFIED DESTRUCTION OF RECORDS

Before destroying any documents in accordance with your retention schedule, you should also be aware of the following:

#### Legal

Check with your legal department to ensure documents are not required for any ongoing legal proceedings or statutory minimum retention periods.

#### Chain of custody

Confidential waste needs to be tracked from the moment it is designated for destruction until it is destroyed. For certain documents certification of destruction is required.

#### Standards

There are standards that govern secure destruction. Standards cover security processes and the size of the pieces of shredded paper to ensure your confidential information cannot be reconstituted.

#### Costs

If a 200 employee company produces an average of 400kg paper waste per week, of which 15% is confidential, what are the costs of secure destruction? If an average machine shreds 2.5kg per hour it would take 24 employee hours per week to shred. On a junior's salary of £25,000/€30,000, annual destruction costs could be around £15,000/€18,000.

Source: Secure Information Destruction, Iron Mountain, 2011

#### Environment

Recycling one tonne of shredded paper can save around 15 trees, helping meet environmental targets for your organisation.

Source: Baxter CVG case study

### STEP FOUR: OFF-SITE STORAGE OF BACKUP DATA

Ensure your current data backup programme enables you to answer the following questions:

What conditions are your media stored in to protect against environmental damage?

How quickly and easily can you access your backup data in the event of an emergency?

How is your data stored to protect against security breaches without compromising the availability of data that will benefit your business?

What processes do you have available if you are unable to locate a specific file?

Do you have/require a mix of encrypted and unencrypted data?

**'40% OF COMPANIES  
CONSIDER NATURAL  
DISASTER TO BE THE  
BIGGEST THREAT  
TO INFORMATION  
SECURITY.'**

SOURCE: EXTREME WEATHER AND BUSINESS CONTINUITY, IRON MOUNTAIN, 2012

# LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

A COMPREHENSIVE RECORDS MANAGEMENT PROGRAMME HAS TO TAKE INTO ACCOUNT ALL LEGAL ISSUES WHICH AFFECT THE CREATION, CONVERSION, RETENTION AND DESTRUCTION OF RECORDS. THESE LEGAL ISSUES INCLUDE:

Requirements to set out in writing

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Minimum and maximum retention periods

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Requirements to retain certain records in paper format

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Requirements to retain specific corporate records on company premises or within the jurisdiction

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Requirements regarding the electronic conversion and retention of a company's books and records

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Evidentiary value of electronic records in legal proceedings

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## REQUIREMENTS TO SET OUT IN WRITING

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In all of the jurisdictions surveyed, there are legal requirements that certain agreements or deeds have to be set out in writing, require a handwritten signature or require that a paper copy be provided to a third party in order to be valid or enforceable. These writing requirements seem to be intended to enhance legal certainty and protect the weaker party (e.g. a consumer, an agent) in a contractual relationship. Examples of agreements which are required to be set out in writing in some of the jurisdictions surveyed are:

The creation or transfer of property rights and security interests

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The assignment, licence or transfer of copyright

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Settlement agreements, sworn declarations, debt acknowledgements and wills

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Employment contracts and relating fixed-term, non-compete or probationary period clauses

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Commercial agency agreements

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Hire-purchase agreements

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Lease agreements

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Donations

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Arbitration agreements

In addition to the statutory writing requirements, parties are free to agree their own writing requirements, such as the requirement that certain notices under or changes to their agreement are explicitly made in writing.

Most jurisdictions also have specific requirements regarding the manner in which written documents must be signed or certified.

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## MINIMUM AND MAXIMUM RETENTION PERIODS

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All jurisdictions surveyed provide for minimum and maximum retention periods for certain records. This guide includes a survey of the retention periods for the main types of company records in the jurisdictions surveyed.

### Minimum retention periods

For example, all jurisdictions surveyed require the retention of a company's books and accounting records. The minimum retention periods differ in each jurisdiction and vary from five years in Poland, six years in Germany, Finland and Spain, seven years in Austria, Sweden and the Netherlands, eight years in Hungary and ten years in Belgium, France, Italy and Romania (and for certain records in Germany and Finland).

Even if there is no statutory minimum retention period for a certain category of records in a certain jurisdiction, it is often recommended to retain these records until the expiry of the relevant time limits for bringing legal actions or tax investigations. If records are relevant for the corporate memory it is recommended to retain these permanently. For example, in Poland it is recommended to retain approved financial statements permanently. Such retention period recommendations are included in the overview of retention periods as included in this guide.

### Maximum retention periods

In addition to minimum retention periods, all jurisdictions surveyed also provide for maximum retention periods for certain records. The purpose of limiting a record's survival is mainly for purposes of protecting the privacy of persons whose personal data are contained in those records. European data protection laws, which are implemented in all jurisdictions surveyed, prohibit the retention of records containing personal data for a period longer than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is "necessary" in this respect, and therefore what maximum retention period applies, differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have expired, the documents should be (i) disposed of, (ii) de-identified (i.e. all references to data subjects should be rendered illegible), or in some jurisdictions, (iii) stored in a closed archive. Any national requirements relating to this process have to be taken into account. In certain jurisdictions, an exception can be created by means of a "legal" or "tax hold notice", issued by an authorised officer or department within the company. A legal or tax hold notice instructs relevant staff to suspend disposal, de-identifying or archiving of certain documents in the event of reasonable anticipation of litigation, tax audits or investigations. In such case, the retention period may be prolonged until the legal or tax hold is no longer valid, or in the event of pending litigation proceedings, until the execution of a court judgment given in last instance.

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## REQUIREMENTS TO RETAIN CERTAIN RECORDS IN PAPER FORMAT

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Most jurisdictions surveyed require certain types of company records to be retained in paper format. For example, profit and loss accounts and financial statements have to be retained in paper format in Denmark, Finland, Germany and the Netherlands. An exception is for example France, which does not require paper format retention for company records (except for documents relating to family and inheritance, security on property and certain personal guarantees). In addition, in some jurisdictions, certain records in principle have to be retained in the format in which they were received or created.

Please note that these paper records need not always be original records. A print-out based on an electronic bookkeeping system will in some jurisdictions suffice.

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## REQUIREMENTS TO RETAIN CERTAIN COMPANY RECORDS ON COMPANY PREMISES OR WITHIN THE JURISDICTION

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Some of the jurisdictions surveyed prescribe that certain records must be kept at the company premises or within the relevant jurisdiction. Belgian and Swedish law for example require that the share register be kept at the company's premises. In Denmark, Finland and Sweden, accounting information must as a general rule be kept in the jurisdiction and may only be retained in another country under specific circumstances. Under German law, a company is in principle required to keep its books and records in Germany. Exemptions apply under certain circumstances for multinationals and companies can apply for an exemption to the local tax authority.

For more information regarding these requirements, please see the De Brauw EU Country Guide Data Location & Access Restrictions 2013.

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## REQUIREMENTS REGARDING THE ELECTRONIC CONVERSION AND RETENTION OF A COMPANY'S PAPER BOOKS AND RECORDS

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The main purpose of retaining a company's books and records is to comply with the legal requirement that the company's rights and obligations must be able to be presented at any time. This purpose affects the way in which these records must be retained. For this reason, all jurisdictions surveyed in principle allow the creation, conversion and retention of electronic records, provided that adequate measures are taken to ensure the records' authenticity, integrity, accessibility and legibility.

Most of the jurisdictions surveyed have legal requirements for the proper conversion of paper records into electronic format and retention thereof, for example a company's tax and accounting records. A common denominator of these requirements is that converted electronic records must be accurate and complete reproductions of the original records, be accessible during their retention period, and be able to be made legible within a reasonable time frame. Technical measures which can be taken to ensure compliance with these requirements include for example secure access and storage, the use of electronic signatures, regular checks and print-outs, automatic duplication, and the retention and updating of reading equipment.

In addition to statutory requirements relating to electronic retention, most jurisdictions surveyed have guidelines (issued for example by tax authorities), as well as national adaptations of international standards such as ISO 15489 (described further below).

Provided that adequate safeguards have been put in place, the original paper records may generally be destroyed after conversion, although some jurisdictions only allow destruction of the original records after a certain period has lapsed. Furthermore, certain records need to be retained in paper format, as described above. Again, this often may be achieved by making a paper print of the electronic records.

**'ELECTRONIC RECORDS  
MAY HAVE SIMILAR  
EVIDENTIARY VALUE  
AS PAPER RECORDS,  
PROVIDED THAT  
ADEQUATE MEASURES  
ARE TAKEN.'**

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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS IN LEGAL PROCEEDINGS

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In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, in all jurisdictions surveyed, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes could have been made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

In all jurisdictions surveyed, the evidentiary value of electronic records may be increased by demonstrating to the court that adequate measures have been taken to safeguard the authenticity and integrity of the record. In this regard, most of the jurisdictions surveyed have national adaptations of international standards such as ISO 15489 accompanied by national implementation guidelines.

The main points contained in the ISO standard regarding the retention of records in an archive are:

**Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities**

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**Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another**

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**Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes**

If such measures are taken, courts in most jurisdictions surveyed will in practice consider the digital version to serve as the initial proof of the existence and contents of the original record. It is then in principle up to the other party to prove the contrary and some jurisdictions even provide for a shift of the burden of proof under certain circumstances. In practical terms, this results in more or less the same evidentiary value of electronic documents as of written documents.

# A COMPARATIVE VIEW OF RETENTION PERIODS ACROSS EUROPE

## THIS SUMMARY COVERS THE FOLLOWING DOCUMENT TYPES:

General company records

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Tax and accounting records

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Payroll and salary records

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HR/employment/pension records

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Medical/safety records

---

Transport records

---

Environmental records

---

Insurance records

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Marketing records

---

Purchasing records

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Legal files/contracts & agreements

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Other records

## DOCUMENT RETENTION PERIODS ACROSS EUROPE

This is a comparative overview of the document retention periods in all participating jurisdictions as applicable and in force on 31 January 2013. Please note that this is a general summary of the more detailed retention periods in the guides for each participating jurisdiction. The country guides further provide valuable specific information with regard to the documents subject to each retention obligation, the exceptions to these obligations and the start and length of each retention period. Information contained in the comparative view should therefore not be relied or acted upon without first consulting the corresponding country guide and seeking the advice of a competent legal adviser. See further our general disclaimer on page 361.

DOCUMENT DESCRIPTION	COUNTRY															
GENERAL COMPANY RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK	
General obligation for retention of company accounts, books of account and records	7 y	7-10 y	10 y	5 y	6 y	6-10 y	10 y	8 y	6 y	10 y	7 y	5 y	5-10 y	7 y	3-6 y	
Shareholders' resolution, Articles of incorporation, Shareholders' register, Board resolutions, Standing orders, Boards' and shareholders' meetings minutes, Supervisory Board's rules of procedure, Supervisory Council's Rules of procedure	7 y	5 y	6 y-P	-	P+6 y	10 y - P*	5 y*	P	13 y - P*	10 y	P+7 y	P+5 y	P	S	S	
Financial statements, audit reports, etc	7 y	7-10 y	10 y	5 y	6 y	10 y	10 y	8 y	-	10 y	7 y	P	P	7 y	3-6 y	
Profit and loss accounts	7 y	7-10 y	10 y	5 y	6 y	10 y	10 y	8 y	-	10 y	7 y	5 y	10 y	7 y	3-6 y	
Records and documents of the dissolved legal entity	7 y	5 y	10 y	10 y*	P+6 y	10 y	5 y*	8 y	7 y - P*	10 y	7 y	5 y	10 y	S	S	
Membership records in a cooperative association	7 y	P+5 y*	3 y	5 y	6 y R	P*	-	P	-	-	10 y	-	P	-	S	
Subsidy records and documents	7 y	D*	-	5 y	6 y	S	10 y	P	-	10 y	7 y	10 y	10 y	7 y	S	

**LEGEND** Black text: minimum retention period. Blue text: maximum retention period. \*: Recommended retention period. X: Retention prohibited. D: Duration of the contract or permit. P: For the entire duration of the company and/or permanently. R: As long as required for the relevant purpose. S: Situation specific or too detailed for the scope of the summary and/or guide.

DOCUMENT DESCRIPTION	COUNTRY														
	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
<b>TAX AND ACCOUNTING RECORDS</b>															
General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers	7 y	7 y	6-10 y	10 y*	10 y	6-10 y	6 y	7 y	6 y	4-10 y	7 y	5 y	5-10 y	7 y	1-6 y
A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes	7 y	7 y	10 y	5 y	10 y	6 y	3 y*	7 y	6 y	10 y	7 y	5 y	10 y	7 y	6 y
General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU															
Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	22 y	-	-	10 y	10-13 y	13 y	6 y	-	D+6 y	10 y	9 y	-	10 y	-	-
Taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	7 y	7 y	-	5 y	8-18 y	6-10 y	3 y*	7 y	6 y	4-5 y	7 y	5 y	5-10 y	7 y	-
Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes	7 y	7-10 y	-	-	10 y	6-10 y	3 y*	-	S	10 y	-	-	10 y	-	-
Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers.	3 y	-	-	-	3 y	S	3 y	7 y	3 y	4-5 y	7 y	5 y	10 y	5 y	3 y
Regional and municipal taxes	7 y*	S	S	-	10 y	S	1-3 y*	7 y	-	4-5 y	S	5 y	10 y	-	-

**LEGEND** Black text: minimum retention period. Blue text: maximum retention period. \*: Recommended retention period. X: Retention prohibited. D: Duration of the contract or permit. P: For the entire duration of the company and/or permanently. R: As long as required for the relevant purpose. S: Situation specific or too detailed for the scope of the summary and/or guide.

DOCUMENT DESCRIPTION	COUNTRY														
PAYROLL AND SALARY RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.	7 y	5 y	6-10 y	-	10 y	6-10 y	3-5 y*	7 y	6y	4-5 y	7 y	5 y	50 y	7 y	3-6 y
A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.	7 y*	S	-	-	10 y	6-10 y	5 y	7 y	3 y - D+7 y	4-5 y	5 y	5 y	-	7 y	-
Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)	7 y*	5 y	10 y	5 y	D+4 y	6 y R	3-5 y 5 y	7 y	3 y - D+7 y	R	7 y	5 y R	50 y	7 y R	3-6 y
Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	7 y R	R	R	-	R	6 y R	- R	R	R		R	50 y R	-	7 y R	R

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DOCUMENT DESCRIPTION	COUNTRY														
	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
HR/EMPLOYMENT/PENSION RECORDS															
Employment contract	3-30 y	S	-	R	D+4 y	D+10 y*	5 y*	3-5 y*	D+7 y*	10 y*	7 y	50 y	10 y	7 y	D+6 y
Identification documents of foreign nationals	3-30 y	D+1 y* R	1 y	R	D+4 y	4 y	-	-	D+7 y*	10 y*	5 y	-	-	-	2 y
Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	7 y	D* 5 y	6 y	5 y	4 y	6-10 y	5 y*	5 y	P	10 y*	7 y	- 50 y	10 y	7 y	6 y
Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	3-7 y	D*	-	5 y R	4 y	10 y / 10 y- P* R	5 y*	5 y	P	10 y*	-	-	-	-	6 y
Data of rejected job applicants (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	R	R	R	R	3 y R	2 y - P* R	2 y*	X	12m	R	4 wks -1y	R	-	R	6 m*
Data concerning a temporary worker	3-7 y R	5 y R	2 y R	R	D+4 y R	R	D*	5 y R	D+18 m R	R	2 y	50 y R	-	R	D+6 y
Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references, and sick leave records)	3-7 y R	D+1 y* R	R	R	D+4 y R	2 y - P* R	- D*	5 y* R	D+7 y R	R	2 y	50 y R	-	R	D+6 y
Employee stock purchase and options records	3-7 y R	5 y R	R	R	D+4 y R	P* R	-	5 y R	P R	R	2 y	-	-	7 y R	S
Copies of identification document	3-30 y R	D+1 y* R	R	R	D+4 y R	R	5 y*	X	D+7 y R	R	5 y 2 y	5 y R	-	R	2 y D+6 y
Expats records and other records relating to foreign employees (e.g. visa, work permit)	3-30 y R	D+1 y* R	R	R	D+4 y R	4 y R	5 y* 5 y*	D R	S R	R	2 y	5-50 y R	-	R	2 y D+6 y
Data concerning pension and early retirement	7 y R	D+1-3 y* R	6 y R	5 y R	D+4 y R	10 y* R	5 y	5 y R	P R	R	7 y 2 y	50 y R	10 y	7 y R	6 y

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DOCUMENT DESCRIPTION	COUNTRY															
	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK	
<b>MEDICAL/SAFETY RECORDS</b>																
Medical (occupational health & safety company doctor) files; medical documents in cases of a medical treatment contract	30 y	15-40 y	10 y	10 y	P+5 y R	S S	X	30 y	D+7 y 40 y*	P	15 y	20-50 y	D	-	S R	
Floor plans and directions	-	-	-	-	R+5 y R	R	5 y	R	P	10 y*	R	2 y	50 y	-	S	
Work-related medical examinations related to hazardous substances	-	30-40 y	40 y	40 y	P+5 y R	-	X	30 y	40 y - P	D	40 y	50 y	40 y	10 y	40 y	
List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	-	-	-	-	P+5 y R	-	P*	50 y*	S	D+ 10 y*	40 y	40 y	40 y	40 y	5- 40 y	
Register of employees who work with 3rd and 4th category biological agents	-	10-30 y	D D	10 y	10-40 y	40 y	10 y	-	10-40 y	D+ 10 y*	10 y	10 y	40 y	-	40 y	
Lists/register of employees who have been exposed to asbestos dust	40 y	40 y	40 y	40 y	40 y	80 y	P*	50 y	40 y - P	40 y	40 y	40 y	40 y	40 y	40 y	
Administration concerning measurements of radioactive substances	-	5 y	-	-	20 y	-	P*	5 y	S	D+ 10 y*	5 y	3-5 y	10 y	-	S	
Records of radiation	-	30 y	30 y 100 y	-	30 y	5 y - R	P*	5 y	5 y - P	10 y*	5 y	30 y	10 y	10 y - P	S	
Medical records of employees who have possibly been exposed to ionizing radiation	-	-	30 y 100 y	30 y	30 y	30 y	P*	50 y	S	30 y	30 y	30 y	40 y	30 y	5- 40 y	
Registration of work and rest periods (in appropriate format)	R	R	2 y	1 y R	D+4 y R	2 y R	D*	R	3-7 y* R	R	1 y 2 y	3 y D	R	3 y R	2-3 y R	
Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	R	-	R	10 y R	D+4 y R	R	D*	R	D+7 y - P R	R	R	20-50 y	R	R	D+6 y	

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DOCUMENT DESCRIPTION	COUNTRY														
TRANSPORT RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
Administration regarding transport of biofuels and biofuels stock control	-	-	-	-	1-15 y	3 m - 4 y	30 y*	5 y	6y	-	7 y	5 y	5-10 y	-	S
Loading or unloading plan (by captain or terminal representative)	-	-	6 m	-	1-15 y	6 m	5 y*	6 m	7 y*	-	6 m	6 m	5-10 y	-	S
The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board) • Captain • Harbour manager	3 y	S	-	S 2 y	1-15 y	S	S 3 y	-	3 y	-	S 5 y	S 5 y	S 5-10 y	S 1 y	S

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DOCUMENT DESCRIPTION	COUNTRY															
	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK	
ENVIRONMENTAL RECORDS																
Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	10 y	10 y	10 y	10 y	10 y	10 y	10 y	5 y	D	10 y	10 y	10 y	10 y	10 y	10 y	
The names and addresses of the clients/buyers of the above mentioned substances and preparations	10 y	10 y	10 y	-	10 y	-	10 y	-	D	10 y	1 y	10 y	10 y	3 y	10 y	
Documents related to an environmental permit	S	0-5 y	S	-	3-8 y	S	-	D+5 y*	S	-	S	D	-	5-10 y	S	
Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	7 y	3-5 y	3 y	5 y	3 y	6 y	3-5 y	5-10 y	S	5 y	5 y	-	3 y	3 y	S	
Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal		3-5 y	12 m	-	3 y	3 y	3-5 y	5-10 y	3 y		5 y	5 y	1 y	1 y		
Documents on results of inspections on the discharge of domestic waste water		S	3-10 y	-	3-8 y	-	30 y	-	S	-	-	-	-	-		
Documents containing audits on radioactivity and all results of measurements taken		30 y	-	-	20 y	D	10 y	5 y	S		5 y	3 y	-	-		
Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	10 y	S	10 y	-	10 y	10 y	10 y	-	10 y	5 y	10 y	10 y	-	10 y	10 y	
Technical documentation and declaration of performance on construction products	10 y	S	10 y	10 y	10 y	10 y	10 y	10 y	6-12 y	-	5 y	10 y	10 y	10 y	10 y	
The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	-	-	-	-	4 y	-	10 y	-	P*	10 y*	7 y	5 y	10 y	-	S	
Accident reports	7 y*	R	-	-	5 y	-	5 y	5 y	10 y	5 y	5 y	5 y	S	-	3 y	
A copy of the documents concerning the transfer of waste materials sent by the competent authority	7 y*	S	3 y	3 y	3-20 y	3 y	3 y	5 y	S	5 y	5 y	3 y	1 y	3 y	2-3 y	
Documents containing train number, date and time of checks, identified irregularities, and measures taken	7 y*	-	3 m	3 m	3 m - 10 y	3 m	3 m	-	S	-	3 m	5 y	1-3 y	3 m	3 m	
The operator of a dumpsite must retain the description of the waste materials under certain circumstances	7 y*	S	R	3 y*	3-20 y	3 y	3-5 y	P	S	30 y	5 y	P	1-3 y	30 y	3-5 y	
The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	7 y*	S	R	3 y*	3-20 y	1 m	3-5 y	-	S	30 y	5 y	1 m	3 y	30 y	-	
Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	7 y*	3-5 y	3 y	3 y*	3-20 y	-	3-5 y	-	S	30 y	5 y	5 y	3 y	10 y	3 y	
Transmission systems operators need to retain all records of quality indicators	7 y*	S	-	-	S	-	-	-	S	10 y*	10 y	45d	1 y	-	S	
Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	10 y	S	10 y	10 y	10 y	10 y	10 y	-	10 y	10 y	10 y	10 y	10 y	10 y	10 y	

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DOCUMENT DESCRIPTION	COUNTRY														
INSURANCE RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
Insurance policies	3-7 y	D*	-	3 y	2-10 y	P*	2 y*	D+5 y*	6 y	10 y	7 y	3 y	10 y	-	S

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DOCUMENT DESCRIPTION	COUNTRY														
MARKETING RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber	7 y*	R	-	-	3 y R	R	3 y 3 y - D	R	R	-	-	-	R	-	-

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DOCUMENT DESCRIPTION	COUNTRY														
PURCHASING RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	7 y	7 y	6-10 y	5 y	15 y	6-10 y	3 y	5 y	6 y	10 y	7 y	5 y	10 y	7 y	3-6 y
General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	7 y	7-10 y	6-10 y	5 y	6 y	6-10 y	10 y	8 y	-	10 y	7 y	5 y	10 y	7 y	5-6 y
Procurement records	7 y	7-10 y	6-10 y	3 y	6 y	-	10 y	5 y	-	10 y	7 y	5 y	10 y	7 y	-
Debtors and creditors records	7 y R	R	6-10 y R	5 y 5 y	6 y R	6-10 y R	D	R	R	R	2 y	5 y R	5-10 y	R	R
Customers and suppliers records	7 y R	R	6-10 y R	5 y	6 y	R	D+3 y*	R	R	R	2 y	5 y R	5-10 y	R	R

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DOCUMENT DESCRIPTION	COUNTRY															
LEGAL FILES/CONTRACTS & AGREEMENTS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK	
Intellectual property records	7 y	D*	-	3 y*	P*	-	5 y	5 y	P*	-	-	3-10 y*	10 y	D*	D+6 y*	
Contracts, agreements and other arrangements	7 y	D**R	-	5 y	D+15	D+10 y-P*	5-30 y	D+5 y*	7-13 y	10 y	7 y	D+3-10 y*	10 y	D*	D+6 y*	
Permits, licences, certificates	7 y	D**R	-	3 y*	D+6 y	D+2 y*	5 y	D*	S	10 y	7 y	D+3-10 y*	10 y	D*	S	
Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	-	D**R	-	3 y*	D+15 y	D+10 y-P*	5 y	D+5 y*	7 y	10 y	20 y*	50 y	10 y	D*	D+6 y*	
Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)	7 y	D**R	5-10 y	3-5 y*	15 y	D+10 y-P*	-	-	6 y	10 y	5 y	2 y	10 y	D*	D+6 y*	

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DOCUMENT DESCRIPTION	COUNTRY															
OTHER RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK	
Correspondence	7 y	D**R	6-10 y	3 y	6 y R	-	P*	-	-	10 y	7 y	-	10 y	-	R -	
The processing of personal data, if this differs from the process as notified to the local DPA	-	7-10 y	-	-	3 y	-	D	-	-	R	3 y	-	-	-	-	
Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	7-30 y R	R	R	S	D+5 y R	R	D	D	R	R	6 m	50 y R	2 y R	R	R	
Login and logout data of visitors	R	R	R	R	1 m R	R	R	R	R	R	6 m	R	2 y R	R	R	
Camera recordings	3 d	1 m-R	R	S R	1 m R	R	1 m	3 d	R	R	4 w	R	2 y R	1m-R	R	

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# RETENTION GUIDE BY COUNTRY: AUSTRIA



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

Although being essential for a company's everyday business, the retention of electronic documents is rather rudimentary regulated in Austria. There exist no specific provisions dealing with the storage of documents. Therefore, whenever it comes to the setup of a proper data management tool general storage principles like those set out in the Austrian Commercial Code or in the Austrian Data Protection Act have to be considered when evaluating how long and what kind of documents have to be stored. The same is true for evaluating whether the documents have to be stored in a specific form or format. Apart from specific legal areas, such as law enforcement or military regulations, the Austrian legal framework in general hardly provides for regulations about how documents have to be stored.

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### REQUIREMENTS TO SET OUT IN WRITING

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As in other countries, also in Austria certain documents have to be set out in writing. Certain types of bonds (Wertpapiere), for example, can only be issued in paper form and in writing. Such documents must be stored as papers and cannot be substituted through electronic documents.

Other documents have to be set out in writing but are nevertheless allowed to then be converted in electronic records. So it is frequently the case that agreements that have been set out in writing are then stored electronically. However, it should be kept in mind that the evidentiary value of the original paper record is higher due to the fact that only the paper record allows an assessment of the genuineness of the signatures.

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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original

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Ensure the authenticity and integrity of the electronic record during its retention period

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Ensure the electronic record's accessibility and legibility during its retention period

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice might consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.

## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

### Minimum retention obligation

As indicated above, Austrian laws do not provide for specific regulations about document retention. Yet there exist two provisions of key relevance for the storage of documents: Section 212 of the Austrian Commercial Code (Unternehmensgesetzbuch - "UGB") and Section 132 of the Austrian Federal Fiscal Code (Bundesabgabenordnung - "BAO"). In a nutshell it can be said that Section 212 of the Commercial Code regulates the retention of business documents and business correspondence while Section 132 of the Austrian Federal Fiscal Code basically aims at the storage of tax related documents. However, both provisions unanimously set forth a seven year storage period. This is why most of the business relevant documents in Austria have to be retained for a period of seven years. The records falling within the scope of these provisions need to be retained in such a manner that the rights and obligations of the company can be shown at any time.

In principle, the company books and records may be created and retained in electronic format. The requirement that the company's rights and obligations must be able to be presented at any time entails that:

### The authenticity and integrity of the electronic records should be adequately ensured

### Electronic records should be accessible during their retention period

### The electronic records should be made legible within a reasonable time frame

Whether certain documents such as employment contracts need to be retained for a minimum period of seven years, has to be evaluated based on their content. If such documents contain rights and obligations not covered by any other documentation, they should be kept for at least seven years as well.

### Maximum retention periods

To the extent records contain personal data as defined by the Austrian Data Protection Act (Datenschutzgesetz 2000 - "DSG"), these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is "necessary" and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be either (i) disposed, (ii) de-identified (i.e. all references to data subjects should be rendered unreadable), or (iii) stored in a closed archive. An exception can be created by means of a so-called "legal" or "tax hold notice", issued by an authorised officer or department within the company. A legal or tax hold notice instructs relevant staff to suspend disposal, de-identifying or archiving of certain documents in the event of reasonable anticipation of litigation, tax audits or investigations. In such a case, the retention period may be prolonged until the ultimate limitation period, or in the event of pending litigation proceedings, until execution has ended of a court judgment given in last instance.

This guide provides an overview of minimum as well as maximum data retention periods.

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## ÖNORM S 2109

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In Austria the standard series ÖNORM S 2109 regulates the destruction of files and data as follows:

The ÖNORM S 2109-1 specifies the conditions that have to be met for valid destruction of data printed on paper

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The ÖNORM S 2109-2 specifies the conditions that have to be met for valid destruction of data printed on plastics and composites

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The ÖNORM S 2109-4 specifies the conditions that have to be met for valid destruction of data stored on electronic equipment<sup>1</sup>

<sup>1</sup>ÖNORM S 2109-3 is of no significant relevance in the present scenario.

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## ISO 15489

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In the context of a record's evidentiary value, as well as the requirements under Austrian law for the conversion of paper to electronic records, the NEN-ISO 15489 standard is leading. The ISO 15489 international standard for records management provides guidelines on the maintenance of an archive system, regardless of its form or medium. The main points contained in the ISO standard regarding the retention of records in an archive are:

Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities

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Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another

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Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes

In conclusion, if the ISO standard is followed, the evidentiary value of an electronic record will be very high. Providing proof to the contrary will be almost impossible. In legal proceedings, this means that a court considers the prints of these electronic documents to be initial proof. In practice, the evidentiary value of prints of electronic documents is hardly ever disputed.

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Austrian law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Minimum 7 years	End of respective financial / calendar year	Section 212 Austrian Commercial Code (Unternehmensgesetzbuch - "UGB")
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards' and shareholders' meetings minutes (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	See section 1		
3	Financial statements, audit reports, etc	See section 1		
4	Profit and loss accounts	See section 1		
5	Records and documents of the dissolved legal entity	See section 1		
6	Membership records in a cooperative association (original)	See section 1		
7	Subsidy records and documents	See section 1		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show its rights and obligations in the interest of levying taxes</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p>	Minimum 7 years	End of respective financial / calendar year	Section 132 Para 1 Austrian Federal Fiscal Code (Bundesabgabenordnung - "BAO")
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes</p> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU</p>	See section 8		
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	Minimum 22 years	End of respective financial / calendar year	In specific cases, special retention periods may apply. E.g., pursuant to Section 18 Para 10 of the Austrian VAT Act (Umsatzsteuergesetz - "UStG"), books and records relating to real estate within the meaning of the Austrian Real Estate Transfer Tax Act (Grunderwerbsteuergesetz - "GrEStG") must be stored for 22 years.
	<b>CORPORATE INCOME TAX</b>			
11	Austrian taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	See section 8		
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes	See section 8		
	<b>CUSTOMS</b>			
13	Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers.	Minimum 3 years	End of respective calendar year	EU Law Regulation (EC) No. 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes	No specific retention period. See section 8		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.	See section 8		
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.	No specific retention period. See section 8		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind) Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	Minimum retention period: see section 1. No specific maximum retention period, general rules apply.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract	Depending on the type of contract: 3 years / 7 years / 30 years	After end of employment	Section 1486 Civil Code (Allgemeines Bürgerliches Gesetzbuch - "ABGB"): the 3-year period relates to claims arising from the employment contract; Section 212 UGB: the 7-year period is applicable in case the document are held by a company which is governed by Austrian Commercial Code; Section 1479 ABGB; the 30-year period is the absolute limitation period for civil actions
19	Identification documents of foreign nationals (copy)	No specific retention period, see section 18		
20	Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	No specific retention period, see section 8		
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	Minimum: 3 years / 7 years	After end of employment	Section 1486 ABGB: the 3-year period relates to claims arising from the employment contract; Section 132 Para 1 BAO: the 7-year period is applicable in case the documents for this category relate to tax
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	No specific maximum retention period, general rules apply		
23	Data concerning a temporary worker	Minimum retention period, see section 21. No specific maximum retention period, general rules apply.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	Minimum retention period, see section 21. No specific maximum retention period, general rules apply.		
25	Employee stock purchase and options records	Minimum retention period, see section 21. No specific maximum retention period, general rules apply.		
26	Copy of identification documents	Minimum retention period. See section 8 and 18. No specific maximum retention period, general rules apply.		
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	Minimum retention period. See section 18. No specific maximum retention period, general rules apply.		
28	Data concerning pension and early retirement	Minimum retention period. See section 8. No specific maximum retention period, general rules apply.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
29	Medical (occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	Minimum 30 years	From the medical examination and on	Section 10 Para 1 Hospital and Sanatorium Code (Bundesgesetz über Krankenanstalten und Kuranstalten - "KAKuG")
30	Floor plans and directions	No specific retention period		
31	Work-related medical examinations related to hazardous substances	No specific retention period		
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	No specific retention period		
33	Register of employees who work with 3rd and 4th category biological agents	No specific retention period		
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	After the last exposure	Section 47 Para 3 Worker Protection Act (ArbeitnehmerInnenschutzgesetz "ASchG")
35	Administration concerning measurements of radioactive substances	No specific retention period		
36	Records of radiation	No specific retention period		
37	Medical records of employees who have possibly been exposed to ionizing radiation	No specific retention period		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	No specific maximum retention period, general rules apply		
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	No specific maximum retention period, general rules apply		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	No specific retention period		
41	Loading or unloading plan (by captain or terminal representative)	No specific retention period		
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board)	Minimum 3 years	End of respective calendar year	Section 3 Para 1 Disposal Directive (Entsorgungsverordnung) which refers to Directive 2000/59/EC

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied Control of major accident hazards involving dangerous substances	Minimum 10 years Minimum 5 years	After the completion of the manufacture, import, supply or use End of the respective year	Article 36 of the Regulation 1907/2006/EC "REACH" Section 49 Regulation 1272/2008/EC Section 84c Para 7 Trade Act (Gewerbeordnung 1994 "GewO")
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 10 years	After the substance was last supplied	Article 49 of the Regulation No 1272/2008 on classification, labelling and packaging of substances and mixtures
45	Documents related to an environmental permit	Depends on the environmental permit		
46	Registered data concerning the recycling or disposal of waste materials Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal Documents on results of inspections on the discharge of domestic waste water Documents containing audits on radioactivity and all results of measurements taken	Minimum 7 years	End of respective calendar year	Section 17 Para 5 Austrian Waste Management Act (Abfallwirtschaftsgesetz - "AWG")
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	After manufacturing the last product	Section 8 Para 6 Ecodesign directive 2007 (Ökodesign-Verordnung 2007 "ÖDV 2007")
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	After placing on the market	Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	No specific retention period		
50	Accident reports	No specific retention period. See section 1.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years, but we recommend to retain these documents 7 years	After the completed transfer	Article 20 of the Regulation (EC) No 1013/2006 on Shipments of Waste
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 years, but we recommend to retain these documents 7 years	After the completed transfer	Section 5.4.4.1 European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) Section 5.4.4.1 Regulation concerning the International Carriage of Dangerous Goods by Rail (RID) Section 212 UGB
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	No specific retention period. See section 46.		
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	No specific retention period. See section 46.		
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	No specific retention period. See section 46.		
56	Transmission systems operators need to retain all records of quality indicators	No specific retention period. See section 46.		
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	After manufacturing the last product	Annex 5 and 6 of the Directive for Noise Emissions (Verordnung über Geräuschemissionen)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	No specific retention period. See section 21.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber	No specific retention period. See section 1.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS</b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	See section 1		
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	See section 1		
62	Procurement records	See section 1		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	Minimum retention period, see section 1. No specific maximum retention period, general rules apply.		
64	Customers and suppliers records	Minimum retention period, see section 1. No specific maximum retention period, general rules apply.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>				
65	Intellectual property records	No specific retention period. See section 1.		
66	Contracts, agreements and other arrangements	See section 1	Once the document has lost its actual value	
67	Permits, licences, certificates	See section 1	Once the document has lost its actual value	
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	No specific retention period		
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)	See section 1	Once the document has lost its actual value	

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries	See section 1	Once the document has lost its actual value	
71	The processing of personal data, if this differs from the process as notified to the DPA	No specific retention period		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	Minimum retention period: depending on the type of contract: 3 years / 7 years / 30 years. No specific maximum retention period, general rules apply.		Section 1486 Civil Code; the 3-year period relates to claims arising from the employment contract; Section 212 UGB, the 7-year period is applicable in case the documents for a company which is governed by Austrian Commercial Code; Section 1479 ABGB; the 30-year period is the absolute limitation period for civil actions
73	Login and logout data of visitors	Minimum: No specific retention period. Maximum: As long as required to secure proper evidence		
74	Camera recordings	Minimum: No specific retention period. Maximum: 72 hours (longer data retention has to be specifically justified)		Section 50b Data Protection Act (Datenschutzgesetz 2000 - "DSG")

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# RETENTION GUIDE BY COUNTRY: BELGIUM



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contract be set out in writing

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Whether legal obligation exists to retain certain records in original (paper or electronic) format

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Legal requirements in respect of the conversion of written paper records which belong to a company's administration into electronic format

Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the conversion to, retention, and accessibility of electronic records

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The minimum and maximum retention periods applying to the records

## REQUIREMENTS TO SET OUT IN WRITING

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Under Belgium law, certain agreements or instructions have to be set out in writing. General examples include:

A fixed-term employment agreement

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The purchase of a house by a private individual

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A lease agreement for main residence

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A commercial mortgage

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A deed of civil pledge for matters exceeding EUR 375

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The assignment/transfer of copyright

The requirement to set certain matters out in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

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The requirement that certain notices are made in writing

Though certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record to an electronic record. In some cases, however, the paper version has more evidentiary value in court.

## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

### Rules of evidence - Electronic records as evidence in legal proceedings

In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

As a general rule under Belgian civil law, only “written” and signed original documents are conclusive evidence of transactions or agreements of which the value exceeds or amounts to EUR 375 (Articles 1341 and 1322 of the Civil Code).

The concept of “signature” is not defined under Belgian law but is commonly referred to as a handwritten sign by which people usually present themselves to third parties and appropriate to themselves the content of the document to which the signature is affixed.

The second requirement of the above provision is the need for a “written document”. Again, the law does not provide for any definition thereof. Legal authors and courts unanimously recognise that a “written document” can be handwritten, typewritten or photocopied. Some however insist on a very strict application of these terms, requiring a paper document, while others have argued for a broad interpretation of those terms.

This last interpretation was confirmed in the preparatory works for the Law of 9 July 2001 creating rules for electronic signatures and certification services, where it is stressed that the notion of “written document” should not be considered in relation to the medium containing information, but rather in relation to the nature of the information itself. To determine whether a document qualifies as a “written document”, emphasis should therefore be put on three characteristics of this document: its integrity, stability and legibility. Information lodged on any medium (disk, CD-ROM, CD-RW, DVD, microchip) must be regarded as a “written document”, regardless of its method of transmission (including electronic), provided that it has not been modified and that it is legibility and understandable.

As an exception to the above, a document which cannot be considered as a written and signed document in the sense of Article 1322 of the Civil Code can still be used as evidence in the following circumstances:

1. Agreements of which the amount is lower than EUR 375 constitute the first exception to the need for a written and signed document. Their validity can be proven by any means.
2. The principle of the freedom of evidence in “commercial law” (being the law governing the relationship between companies or merchants, to the exclusion of relationships with consumers or workers) is a second major exception (Article 1341, par. 2 of the Civil Code). Indeed, parties to commercial litigation are entitled to present any type of evidence.
3. Parties in civil litigation are also entitled to present pieces of evidence referred to as initial proof or “beginning of written evidence” (Article 1347 of the Civil Code), i.e. documents which do not comply with the requirements of Article 1322 of the Civil Code but present certain guarantees in consideration of their form (literal), origin (emanating from the opposing party) and content (they suggest that the alleged fact or agreement is likely). A copy of an original document is often an example of “beginning of evidence”.

## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

4. Article 1348 of the Civil Code allows parties to present all types of evidence when they can demonstrate that it was impossible for them to obtain a written document, this impossibility being material (fire, etc.), moral (parenthood, etc.) or resulting from an established and consistently followed practice in the specific field.

5. Given that Article 1341, para. 2 of the Civil Code is not a mandatory rule, it is also possible for parties to agree, by signing a (written and signed) agreement, that certain support will constitute admissible evidence in the framework of their relationship.

6. Finally and importantly, the Laws of 20 October 2000 introducing electronic signatures in judicial and non-judicial proceedings and 9 July 2001 creating rules for electronic signatures and certification services have established the principles that (i) an electronic document bearing the electronic signature of its author is an admissible piece of evidence that a judge is not allowed to dismiss on the grounds that it is not a document signed by hand and that (ii) such a document bearing an “advanced” electronic signature and complying with two additional requirements guaranteeing its integrity (a “qualified” electronic signature) must be recognised by a judge as having the same evidentiary value as a document signed by hand, this issue not being left to the judge’s assessment.

For the purposes of these provisions, (a) an electronic signature is defined as “data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication”, (b) an “advanced” electronic signature is defined as: “an electronic signature which meets the following requirements: it is uniquely linked to the signatory; it is capable of identifying the signatory; it is created using means that the signatory can maintain under its sole control; and it is linked to the data to which it relates in such a manner that any subsequent change of the data is detectable”, and (c) an “advanced” electronic signature is conclusive evidence provided that it is based on a qualified certificate (as described in Annexes I and II of the Law of 9 July 2001) and created by a secured device for creation of signatures (as described in Annex 3 to the Law of 9 July 2001). An advanced electronic signature complying with the above requirements (a “qualified” electronic signature) is assimilated to a document bearing a handwritten signature.<sup>1</sup>

<sup>1</sup> Such a document still can be repudiated, just like any handwritten signature, by its alleged author who will however have to bear the burden of showing that he/she did not actually sign the document. It should also be noted that the requirement for multiple originals provided in Article 1325 of the Civil Code is not applicable to electronic agreements.

A document bearing another type of electronic signature is an admissible piece of evidence (according to the principle of “non-discrimination”) which cannot be dismissed for the sole reason that it bears an electronic signature. Its evidential value is however subject to the court’s assessment.

It follows from the above six categories of exceptions that non-paper documents can (and must), in certain circumstances, be admitted as evidence before a court. The fact that a document is “admissible” as evidence, however, does not mean that it is a conclusive piece of evidence; this conclusive character is left to the court’s assessment (as opposed to paper documents of which the evidentiary value is presumed).

Parties in a litigation presenting documents which are not paper documents and/or which do not bear a handwritten signature (with the exception of the “qualified” electronic signature, assimilated to the handwritten signature) will therefore have to convince the court that there are reasons to trust these documents. Such a conviction will be gained by demonstrating that the document is readable, understandable and that it is an “original” in the sense that it has not been modified since its creation.

## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

It is thus crucial for a company preserving documents in non-paper form and wishing to use these documents in the framework of possible subsequent litigation to put in place the necessary procedures ensuring a maximum level of security in order to preserve the integrity of these documents.

Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original

Ensure the authenticity and integrity of the electronic record during its retention period

Ensure the electronic record's accessibility and legibility during its retention period

### Rules of evidence - Electronic records as evidence before the tax administration

The principle of freedom of evidence is applicable in Belgian tax law. Documents can therefore be kept in any form provided that they are reliable (accurate and based on truthful information contained in existing documents). In fact, the content of documents prevails over their form. The logical consequence of this principle is that the tax administration is entitled to challenge a document using any means of proof admitted in civil law, except for oaths (Article 340 of the Income Tax Code and 59, § 1st of the VAT Code).

### Practical relevance

Documents other than original written paper documents are admissible (and may be conclusive) evidence in civil or commercial litigation, as mentioned above, and/or admitted by the social and tax administrations in relation to the company's duty to preserve certain documents if adequate technical measures are taken to ensure their authenticity and integrity. Courts in practice will consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore in practice have a similar evidentiary value as the paper document.

Microfilms, documents embodied in CD-ROMs, print-outs of electronic documents, electronic documents and other documents created by means of recently developed technologies are received as admissible evidence in the relationship between merchants (see above) and, in certain circumstances, in civil law relationships. The party invoking such evidence must however convince the judge that they are conclusive (except for electronic documents bearing a "qualified" electronic signature). The document should therefore be legible and understandable and the party who wants to rely on it should explain and demonstrate that the integrity of the document has been protected.

In tax and social legislation, as well as under accounting regulations, the above documents should be accepted even when an "original" document is required by law. This is sometimes expressly confirmed in the legislation. Documents can however always be contested by the administration if their integrity is questioned and not demonstrated.

In order to convince a judge or the administration that the integrity of a document has been preserved, a company should be able to describe the way the systems holding these documents are protected through the use of secure devices and procedures to prevent document modification or falsification.

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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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These measures and procedures can take several forms, including internal technical or organisational measures preventing or restricting access to the documents: identification (by the use of passcodes, active or passive cards, biometric procedures including eye recognition, digital printing, electronic signature, etc.) and strict surveillance of the people entitled to access the documents, contractual undertakings of those people not to modify the documents to which they have access, encryption, storage of the systems, CD-ROMs or disks in lockers, use of detective and corrective codes (in order to detect and repair possible modifications), use of a pair of keys held by two different people to access the documents, and any other measure likely to convince a judge or the administration that the documents presented were not exposed to alteration, deletion or additions after the time of their creation, and can therefore be considered as “originals”<sup>1</sup>. The integrity of documents is easier to sustain when they are embodied in CD-ROMs, CD-WORMs and DVDs than when they are fixed on a disk or microfilm. CD-ROMs, CD-WORMs and DVDs are indeed considered as unalterable and therefore offer the maximum level of security.

<sup>1</sup> A system recording all electronic transactions (including “clicks” made to accept general terms and conditions or to purchase products or services, data transfer, e-mails,...) is often put in place by companies for archiving and evidential purposes. This so-called “log books” system will however be recognised as having an evidential value only if it can be demonstrated that (i) the involved party agreed that electronically stored information may be used as evidence and (ii) that procedures have been put in place to prevent any modification of these logbooks.

With respect to electronic documents archived in the form of a paper document, an electronic document bearing a “qualified” electronic signature loses its evidentiary value when printed in the form of a paper document, even if it is signed by hand after printing. The electronic signature will not appear on this print-out. It is therefore advisable always to keep electronically signed documents in an electronic form.

In addition the integrity of certain electronic documents may not always be preserved over time. For example, the integrity of a document bearing an electronic signature created using public key cryptography cannot be guaranteed after a certain period of time due to the increase of computing power (the length of the private key used to sign the document may be secure at some point, but is likely to be insecure after a few years). To overcome this problem, certain trusted third party digital archival services exist that provide for a chain of trust and ensure the integrity of electronic documents over time. One of the tools used to control the integrity of archived electronic data over time is the re-signing of the data by the archivist at regular intervals. The chain of archivist’s electronic signatures should ensure the integrity of the data.

The multiplication of procedures aiming at protecting the integrity of a document or system substantially increases the likelihood that a judge or administration will regard the document as original. A combination of protective measures is therefore highly advisable.

## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

### Minimum retention obligation

Under Belgian law, companies have a retention obligation with respect to their accounting books. Pursuant to Article 9 of the Royal Decree of 12 September 1983 executing the Law of 17 July 1975 regarding the accounting of enterprises, undertakings are required to keep their books for ten (10) years from 1st January of the year following their finalisation. The ledger of daily entries, the central global ledger and inventory book must be kept in their original format. Other books may be kept in originals or copies. Except where otherwise provided, accounting documents may in principle be kept in any form, including in the form of an electronic document, a CD-ROM, etc., provided that the medium used for keeping the (accounting) books ensures the unalterability and accessibility of data registered therein during the entire prescribed archiving period.

Pursuant to the Belgian Companies Code, company books and documents must be kept during a period of five years from the date of the publication of the closure of the liquidation of the company in the annexes to the Belgian Official State Gazette. In addition, it is specified that company register of shareholders and register of bonds must be kept at the registered office of the company. In this respect, the Law of 14 December 2005 regarding the abolition of bearer securities (the "Act on bearer securities") contains a number of provisions that modify the Belgian Companies Code to expressly allow the use of electronic shareholders' registers. These provisions entered

into force on 23 December 2005. A royal decree, which was not adopted yet, may provide further conditions that an electronic shareholders' register will have to satisfy. Until such a royal decree is adopted, electronic shareholders' registers will only be valid if they fulfil similar functions to paper shareholders' registers. Accordingly, the electronic shareholders' register should be accessible by the company at its registered office. There are no requirements regarding the form in which corporate documents should or may be preserved. The preservation of these documents in non-paper form should therefore be allowed provided that their integrity, legibility and accuracy are ensured.

### Maximum retention periods

Under Article 4, § 1 of the Law of 8 December 1992<sup>1</sup> on the processing of personal data (the "DPA"), personal data (defined as "any information relating to a natural person who is identified or identifiable by reference to an identification number or factors specific to his/her physical, physiological, mental, economic, cultural or social identity") must be kept in a form which permits identification of data subjects for "no longer than is necessary" for the purposes for which the data were collected or for which they are further processed.

<sup>1</sup> Law of 8 December 1992 on the protection of individuals regarding the processing of personal data, modified among others by the Law of 11 December 1998, implementing Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

After these maximum retention periods have lapsed, the documents should be either (i) disposed of, (ii) de-identified (i.e. all references to data subjects should be rendered unreadable), or (iii) stored in a closed archive. An exception can be created by means of a "legal" or "tax hold notice", issued by an authorized officer or department within the company. A legal or tax hold notice instructs relevant staff to suspend disposal, de-identifying or archiving of certain documents in the event of reasonable anticipation of litigation, tax audits or investigations. In such a case, the retention period may be prolonged until the ultimate limitation period, or in the event of pending litigation proceedings, until execution has ended or a court judgment given in last instance.

This guide provides an overview of minimum as well as maximum data retention periods.

### Retention of certain records in original format

Certain types of records must be retained in original (paper or electronic) format (e.g. company's ledger of daily entries, central global ledger and inventory book must be kept in their original format).

### Conversion requirements

Except when the law prescribes that the document must be kept in its original paper format, the above retention obligations do not preclude existing paper records from being converted into electronic records. As mentioned above and for evidence matters, the authenticity and integrity of the converted records should be ensured and preserved during the entire retention period.

## FORM UNDER WHICH THE RECORDS MUST BE RETAINED

### General

As mentioned above, except when the law provides that the document must be kept in its original format, an original paper document can be converted into an electronic record for retention purpose. To our knowledge, there is no general provision under Belgian law imposing the use of any specific technical standard for electronic conversion of paper documents or electronic retention of documents, the general requirement being that the authenticity and integrity of the documents are preserved for the entire retention period.

### Tax-related records

With respect to documents relevant for the collection of certain taxes, certain provisions of a technical nature related to the electronic retention were adopted by the tax administration and are briefly described below.

#### (i) Decision No. ET 82752 of 27 March 1997 (the "Decision")

Pursuant to the Decision, those entities subject to the retention obligations of Article 60 of the Belgian VAT Code and/or Article 315 and 315bis of the Belgian Income Tax Code (see the table below for the content of these provisions) are allowed to retain the documents mentioned therein on a WORM ("Write Once, Read Many") disk ("CD-WORM"). The original documents may be destroyed once they have been reproduced on a CD-WORM.

Prior to the use of CD-WORMs, the following information must be communicated to the income tax and/or the VAT administration(s) as applicable:

The name or company name, address, VAT identification number and national identification number of the person wishing to benefit from the authorisation

Given that CD-WORMs are usually produced by third parties, the name or company name, address, VAT identification number of such third parties, as well as the name or company name and address of the owner of the hardware and software used

The brand and type of the hardware and software used

The precise description of the hardware and software, including the main technical characteristics of the registration process of the documents on the CD-WORM, clearly showing that the conditions of the Decision are complied with

The conditions to be fulfilled include, among others:

The CD-WORM must enable the reading of the image on a screen as well as the reproduction of the documents on paper in a form directly intelligible

The documents must be reproduced daily on a CD-WORM

In case the hardware required for the reading or reproduction of the documents retained on CD-WORM are no longer at their disposal, the persons concerned must take the necessary measures to ensure that the hardware provider makes its hardware and personnel available to the tax agents in order to provide them, without cost, with the relevant documents

The reproduction of the documents on a CD-WORM must apply to the entire accounting year

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## FORM UNDER WHICH THE RECORDS MUST BE RETAINED

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### (ii) Circular No. ET 112.081 AFER 16/2008 of 13 May 2008 (the "Circular")

The Circular applies to the electronic retention of invoices originally issued/received in paper format. When paper invoices are kept electronically, the technologies used or process must guarantee the authenticity of the origin and the integrity of the content of the invoices.

Since no process can guarantee that the scanned document is the original authentic document, original paper invoices must be preserved during one month from the date of the scanning in order for the tax administration to compare it to the image resulting from the secured scanning process.

The secured scanning process must fulfil several conditions which are detailed in the Circular, such as the digital image minimum resolution, scan time stamp, unique identification of each invoice or set of invoices with a number and the set-up of an adequate back-up process. The digital image must also be secured at the time of scanning in order to ensure its unalterability.

The tax administration considers that, for example, the scanning of invoices with "qualified" electronic signatures (as defined above) and scanning of invoices with secure algorithms are in compliance with the Circular:

**Scanning with "qualified" electronic signatures: the invoice is scanned and secured by the "qualified" electronic signature of the recipient of the invoice (or its subcontractor). Invoices digitalised under this method may be stored on any medium. In addition, the Circular specifies that this method must apply to all invoices received in paper at least from one invoicing party during a period that cannot be inferior to twelve consecutive calendar months and which starts either (i) at the beginning of a calendar year or accounting year, or (ii) at the beginning of a declaration period.**

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**Scanning with secure algorithms: this method involves the integration of text information in the scanned image of the invoice which results from the mathematical sum of determined elements relating to the scanned invoice and the previous scanned invoice. The resulting digitalised data can be stored on any medium.**

In addition, pursuant to Article 60, § 2 of the Belgian VAT Code, invoices received and copies of invoices issued by the taxpayer (itself or in its name and on its behalf) must be stored in Belgium if the storage is not performed in an electronic form guaranteeing complete and online access in Belgium to the relevant data.

This section provides a general overview of the Decision and Circular and cannot be considered as a complete and detailed description and explanation of the provisions therein contained. Therefore, advice from a competent legal counsel or consultant should be sought before deciding to make use of the methods and technologies described in the Decision and Circular and to obtain more precisions and details as to the practical application/implementation thereof.

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Belgian law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Furthermore, this quick reference guide constitutes a general overview of the retention obligations under Belgian law in order to provide companies with a general survey of their obligations in this respect. Therefore, be advised that the information provided below is not tailor-made to each specific document of a company or to a specific business area. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Accounting books: Minimum 10 years  Supporting documents of accounting entries: Minimum 7 years (3 years for documents that cannot be used as evidence against third parties)	On 1st January of the year following the finalisation of the accounting book	Article 6 of the Law of 17 July 1975 regarding the accounting of enterprises and Article 9 of the Royal Decree of 12 September 1983 executing the Law of 17 July 1975 regarding the accounting of enterprises
2	Shareholders' resolution, Articles of incorporation, Shareholders' register, Board resolutions, Standing orders, Boards' and shareholders' meetings minutes	Minimum 5 years	On the date of the publication of the closure of the liquidation of the company in the annexes to the Belgian Official State Gazette. Therefore, the records must be kept as long as the company is active and for an additional period of at least five years	Article 195, § 2, 4° of the Companies Code
3	Financial statements, audit reports, etc	See sections 1 and 2		
4	Profit and loss accounts	See sections 1 and 8		
5	Records and documents of the dissolved legal entity	See section 2		
6	Membership records of non-profit organisations	The copy of the register of members of a non-profit organisation (and an updated list of members in case of later change in the composition of the organisation) must be filed with the relevant commercial court. The Law of 27 June 1921 relating to non-profit organisations, international non-profit organisations and foundations does not contain any retention period. However, since the statute of limitations for creditors' claims is five years from the publication of the decision relating to the allocation of the assets (Article 25), it is advisable to keep the register of members during the entire life of the organisation and for an additional five year period.		
7	Subsidy records and documents	Since subsidies appear in the accounting books, see section 1 and 8. In addition, it is advisable to keep subsidy records and documents as long as such subsidy is subject to reimbursement under the applicable legislation.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	TAX AND ACCOUNTING RECORDS			
	GENERAL TAXES			
8	<p>General obligation of taxpayers to retain the books and documents which allow the determination of the amount of taxable income</p>	<p>Minimum 7 years (unless these documents have been seized in the framework of judicial proceedings, or a specific derogation has been granted by the tax administration)</p>	<p>On 1st January of the year following the taxable period (per analogy to the scope of the obligation of communication provided under Article 315, § 1 of the Income Tax Code)</p>	<p>Article 315, § 3 of the Income Tax Code</p>
	<p>The documentation relating to the analysis, programming and operation of computerised systems used to hold, prepare, issue or keep, in whole or in part, the books and documents allowing the determination of the amount of taxable income</p>	<p>Minimum 7 years</p>	<p>On 1st January of the year following the taxable period (per analogy to the scope of the obligation of communication provided under Article 315, § 1 of the Income Tax Code)</p>	<p>Article 315bis, § 3 of the Income Tax Code</p>
	<p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p>			
	<p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p>			
	<p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p>			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all books and other documents of which the keeping, drafting, or issuance is prescribed by the VAT Code as well as (a) invoices (or documents serving the same purpose) related to intra-Community acquisitions of goods or purchases made abroad of VAT taxpayers' and legal persons not liable to VAT established in Belgium; books and accounting documents, contracts, documentation related to (i) services orders and deliveries of goods, (ii) expedition and deliveries of goods; bank account statements; payment documents and other books related to their activities; and (b) documentation relating to the analysis, programming and operation of computerised systems</p> <hr/> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received (copies of invoices sent by the VAT taxpayers themselves, purchaser, lessee, or by a third party in its name and behalf and invoices received); (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU</p>	<p>Minimum 7 years</p> <hr/> <p>Minimum 7 years</p> <hr/> <p>See top of section 9</p>	<p>(i) For books: on 1st January of the year following the finalization and closing of the relevant book; (ii) for other documents: on 1st January of the year following their date; (iii) for documents related to certain deliveries of works of art: on 1st January of the year following the year during which the right of deduction arose. On 1st January of the year following the last year during which the computerised system described in these documents was used.</p> <hr/> <p>On the 1st January of the year following the issuance of the invoice concerned</p> <hr/> <p>See top of section 9</p>	<p>Article 60, § 4 of the VAT Code</p> <hr/> <p>Article 60, §§ 1 and 3 of the VAT Code. See also Circular AAF No. 2/2013 of 23 January 2013 (AFZ/2011 - 0272) with the first comments of the law of 17 December 2012 modifying the VAT Code.</p> <hr/> <p>See top of section 9</p>
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	See section 8		
	<b>CORPORATE INCOME TAX</b>			
11	Taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	See section 8		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes			With respect to dividend records and taxation, see sections 1 and 8
	<b>CUSTOMS</b>			
13	General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers (e.g. invoices, cash books, inventories, books, registers, documents and correspondence related to the commercial activities)			<p>The General Law of 18 July 1977 on customs and excise does not contain provisions with respect to the retention of such documents. However, it provides that importers, exporters and any persons directly or indirectly concerned in the import or export of merchandise must, upon customs agents' (having at least the status of assistant controller) request, communicate these documents. Moreover, the documents relevant for customs and excise are subject to the retention provisions of the Income Tax Code and the VAT Code (see sections 8 to 12).</p> <p>Since Belgium is part of the customs territory of the European Community, the provisions of Regulation (EC) 450/2008 laying down the Community Customs Code apply. With respect to goods brought into or out of the customs territory of the Community, any person directly or indirectly involved in the accomplishment of customs formalities or in customs controls must, at the request of the customs authorities and within any time limit specified, provide those authorities with all the requisite documents and information, in an appropriate form, as well as all the assistance necessary for the completion of those formalities or controls (Article 9, § 1). As a general principle, the person concerned must, for the purposes of customs controls, keep such documents and information for at least three calendar years, by any means accessible by and acceptable to the customs authorities (Article 29, § 1).</p>
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes			In addition to taxes collected at the federal level, regional, provincial and municipal taxes, subject to local legislations, are or can be collected in each Region, Province and municipality in Belgium (e.g. regarding environmental matters). Given that this Retention Guide for Belgium aims to provide general guidance only, local legislation with respect to local taxes are not detailed here.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	<p>The employer must keep the individual account and the payslips of each worker containing all the wages data, including tax-exempt reimbursements and bonuses. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax and social security contributions.</p> <p>Copy of the quarterly declaration justifying the amounts of contributions due by the employer and having to be filed by the latter with the Belgian National Office for Social Security ("NOSS") the last day of the month of each quarter to which the declaration relates at the latest</p>	<p>Minimum 5 years</p> <hr/> <p>Minimum 5 years</p>	<p>At the end of the period covered by the worker's individual account</p> <hr/> <p>Not specified in the law. It is however recommended to keep a copy of the quarterly declaration from the date it is sent to the NOSS.</p>	<p>Articles 2 and 25 of the Royal Decree of 8 August 1980 on the keeping of social documents</p> <hr/> <p>Article 33, § 2 of the Royal Decree of 28 November 1969 on workers' social security</p>
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address	See section 18		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	<p>Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)</p> <hr/> <p>Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)</p>	<p>Minimum retention period: see section 15. No specific maximum retention period, general rules apply</p> <hr/> <p>No specific maximum retention period, general rules apply</p>	<p>See section 15</p> <hr/> <p></p>	<p>See section 15</p> <hr/> <p></p>

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
18	Employment contracts	General provisions regarding the retention of employment contracts do not exist under Belgian law. However, certain types of employment contracts are subject to specific retention obligations as further described below. With respect to full-time (non-temporary) employment contracts, although Belgian law does not contain any specific retention obligation, it is advisable to keep such contracts until the general legal statute of limitations for claims arising out of employment contracts has expired, i.e. for a period of one year following their termination (Article 15 of the Law of 3 July 1978 regarding employment contracts)		
	Part-time employment contracts	Minimum 5 years	On the date of the last mandatory inscription in the social documents	Article 167 of the Program Law of 22 December 1989
	Student employment contracts	Minimum 5 years	On the day following the termination of the student contract	Article 25 of the Royal Decree of 8 August 1980 on the keeping of social documents
	Homework contracts and professional immersion contracts	Minimum 5 years	Not specified in the law. By analogy to the retention period of student employment contracts, the retention period should start on the day following their termination	Article 25 of the Royal Decree of 8 August 1980 on the keeping of social documents
	Temporary employment contracts	Minimum 5 years	Not specified in the law. By analogy to the retention period of student employment contracts, the retention period should start on the day following their termination	Article 6bis of the Royal Decree No. 5 of 23 October 1978 relating to the keeping of social documents
19	Identification documents of foreign nationals	There are no specific provisions of law with respect to these documents as such. See also section 27		
20	Documents concerning pension schemes and related subjects. Administration regarding pension scheme (by pension administrator and pension association).	Records in relation to pension plans and group insurance should be retained as long as these insurance policies are valid and in force. They should be thereafter kept for a period sufficient to ensure/evidence the company's legitimate interests and rights in case of potential liability claims or litigation towards the workers.		
	Social documents: staff register and special staff register (in case the employer employs personnel at various workplaces), individual accounts and their annexes	Minimum 5 years	Not specified	Article 25 of the Royal Decree of 8 August 1980 on the keeping of social documents <sup>1</sup>
21	Career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, personnel handbook), social plans	There are no specific provisions of law in this respect as such. However, it is advisable to keep a copy of collective agreements or policies as long as they remain valid and in force. They should be thereafter kept for a period sufficient to ensure/evidence the company's legitimate interests and rights in case of potential liability claims or litigation towards the workers. Moreover, the internal operation rules, employee handbooks as such or alcohol and drugs policy must be mentioned in the work regulation which must be kept at every workplace of the employer as long as the employer employs workers.		
	Agreements concerning activities in relation to the works council	There are no specific provisions of law in this respect. However, it is advisable to keep a copy of collective bargaining agreements entered into within the works council at least for as long as they remain in force.		
	Work regulation	The work regulation must be kept as long as the employer employs workers at each workplace from the first employment agreement		

<sup>1</sup>Although the Royal Decree of 8 August 1980 still refers to the staff register, such staff register does not exist as such in practice. Employers have to electronically register their workers on the Social Security website ([www.socialsecurity.be](http://www.socialsecurity.be)), in the form of an immediate declaration of employment, where these data will be kept (Royal Decree of 5 November 2002 establishing an immediate declaration of employment). However, the acknowledgment of receipt of the immediate declaration of employment must be kept for a period of six months from the date of receipt.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	No specific maximum retention period, general rules apply. Data of rejected applicants should be destroyed after a reasonable period of time (notified to the applicants) or kept in a form which does not permit identification of such rejected job applicants after the communication of the refusal decision		
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply. Minimum retention period: See section 18		
24	Reports on employee performance review meetings and assessment interviews (e.g. employment application forms of successful applicants; copies academic and other training received; correspondence concerning appointment; references)	No specific maximum retention period, general rules apply <sup>1</sup>		
	Promotions, demotions, evaluations, appraisals	See section 20		
	Sick leave records	There are no specific provisions of law in this respect <sup>2</sup>		
25	Employee stock purchase and options records	No specific maximum retention period, general rules apply. Minimum retention period: See section 2.		
26	Copy of identification documents	No specific maximum retention period, general rules apply. Minimum retention period: See section 23 (Reports on employee performance review meetings and assessment interviews).		
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	No specific maximum retention period, general rules apply <sup>3</sup>		
28	Data concerning pension and early retirement	No specific maximum retention period, general rules apply <sup>4</sup>	Article 3 of the Royal Decree of 30 March 1982 No. 33 on a hold on disability benefits Article 33, § 2 of the Royal Decree of 28 November 1969 on workers social security	

<sup>1</sup> Also no specific minimum retention period. However, it is advisable to keep them until the general legal statute of limitations for claims arising out of employment contracts has expired. In this respect, they should be kept for a period of one year following the termination of the employment contract to which they relate (Article 15 of the Law of 3 July 1973 regarding employment contracts).

<sup>2</sup> It should be noted that with respect to blue-collar workers, vacation certificates (of which the communication to the vacation fund is not mandatory required except when requested by it) must be kept until 31 December of the fourth year following the year during which the vacations must be accepted (Article 21, § 2 of the Royal Decree of 30 March 1967 establishing the general arrangements for implementing the laws relating to workers' annual holidays).

<sup>3</sup> Also no specific minimum retention period. It should be noted that all official documents provided by the authorities such as the work permit must be returned to the authorities after the expiration date of such documents (or prior to such expiration date in case of termination of the employment agreement) and must thus not be kept by the employer. However, it is advisable to retain copies of work permits and documents relating to the application for these work permits during at least one year following the termination of the employment contract of the worker concerned.

<sup>4</sup> Also no specific minimum retention period. However, it is advisable to keep a copy of such documents and more precisely the declarations to the National Office for Pension ("NOP") for a period sufficient to ensure/evidence the company's legitimate interest and rights in case of potential liability claims or litigation towards the workers (i.e. minimum one year after the end of the employment agreement - see section 20) or the NOP (i.e. minimum 3 years from sending the statement to the NOP). See also section 15 and 20.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical files, medical documents in cases of a medical treatment contract	(i) Minimum 15 years (ii) Minimum 30 years if the worker was exposed to biological agents which caused an infection (iii) Minimum 40 years if the worker was exposed to asbestos, carcinogens or mutagens	(i) From the day following the termination of the employment agreement (ii) From the end of the exposure (iii) From the end of the exposure	(i) Article 84 and 85, § 2 of the Royal Decree of 28 May 2003 on the health surveillance of workers (ii) Article 42 of the Royal Decree of 4 August 1996 relating to the protection of the workers against the risks related to the exposure to biological agents at work (iii) Article 36 of the Royal Decree of 16 March 2006 on the protection of workers against the risks related to the exposure to asbestos and Article 16 of the Royal Decree of 2 December 1993 on the protection of workers against the risks related to exposure to carcinogens and mutagens at work
30	Floor plans and directions	No specific legal requirement		
31	Work-related medical examinations related to hazardous substances	For the worker exposed to biological agents which caused an infection: minimum 30 years  For the worker exposed to asbestos, or to carcinogens and mutagens: minimum 40 years	From the end of the exposure	Article 42 of the Royal Decree of 4 August 1996 relating to the protection of the workers against the risks related to the exposure to biological agents at work  Article 36 of the Royal Decree of 16 March 2006 on the protection of workers against the risks related to the exposure to asbestos and Article 16 of the Royal Decree of 2 December 1993 on the protection of workers against the risks related to exposure to carcinogens and mutagens at work
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat (carcinogens and mutagens or chemical agents at work)	No specific legal requirement	From the date of the employees' last exposure to those hazardous conditions or other threats	Article 13 of the Royal Decree of 2 December 1993 on the protection of workers against the risks related to exposure to carcinogens and mutagens at work
33	Register of employees who work with 3rd and 4th category biological agents	Minimum 10 years or minimum 30 years if the exposure is likely to cause specific infections	From the end of the exposure or from the last known exposure, if the exposure is likely to cause specific infections	Article 12 of the Royal Decree of 8 August 1996 relating to the protection of workers against the risks related to the exposure of biological agents at work
34	Lists/register of employees who have been exposed to asbestos dust	40 years	From the end of the exposure	Article 19 of Directive 2009/148/EC of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work and Article 31 of the Royal Decree of 16 March 2006 on the protection of workers against the risks related to the exposure to asbestos
35	Administration concerning measurements of radioactive substances. Global prevention plans relating to the risks at work place relating to safety and health (e.g. administration concerning measurements of dangerous substances, required workplace adaptations, etc)	Minimum 5 years	From the date of drafting	Article 10 of the Royal Decree of 27 March 1998 on the policy on the wellbeing of workers in the performance of their work

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
36	Documents containing audits on radioactivity and all results of measurements taken (records of radiation)	Minimum 30 years	Not specified	Federal legislation. See inter alia Article 23.2 of the Royal Decree of 20 July 2001 on the protection of the population, workers and the environment against ionizing radiations and Article 12 of the Royal Decree of 25 April 1997 on the protection of workers against the hazards of ionizing radiation
37	Medical records of employees who have possibly been exposed to ionizing radiation	There are no specific provisions of law with respect to these documents as such. However, the employer is required to submit each worker to a medical examination, prior to exposure. The results of this medical examination have to be inserted in the medical file (see above section 30).		The Royal Decree of 25 April 1997 on the protection of workers against the hazards of ionizing radiation
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	No specific maximum retention period, general rules apply Also no specific minimum retention periods <sup>1</sup>		Article 25 of the Royal Decree of 8 August 1980 on the keeping of social documents
39	Necessary data for emergency medical care	There are no specific provisions of law with respect to these documents as such. However, each employer in Belgium has to draw up a work regulation containing several mandatory provisions, such as the necessary data for emergency medical care (Article 6 of the Law of 8 April 1965 establishing the work regulations)		

<sup>1</sup> However, with respect to part-time work, in case of flexible work schedule, the employer must bring the daily schedules to the workers' attention by posting a notice in the company premises at least five days in advance. This notice must be retained during a period of one year from the day when the daily schedules contained therein cease to be effective (Article 160 of the Program Law of 22 December 1989). In addition, the employer employing part-time workers must record all derogations to the work schedule in a document which must be retained for a period of five years from the date of the last mandatory inscription in the document. Although there is no specific obligation regarding the retention of registration of work and rest periods, they appear, in principle, in the individual account which must be preserved during a period of five years from the end of the period covered by the individual accounts.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>TRANSPORT RECORDS</b>				
40	Administration regarding transport of biofuels and biofuels stock control Documents related to transport/shipment of merchandise	See sections 9 to 13		
41	Loading or unloading plan (by captain or terminal representative)			
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed on to the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity waste and other materials on board)	Please note that the implementation of the Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues is particularly complex in Belgium since it is a regional matter (the three Regions are competent to regulate in the field of waste - see section "ENVIRONMENTAL RECORDS - Preliminary remarks regarding Belgium's institutional framework"). The applicable legislation are thus not detailed here		

**Preliminary remarks regarding Belgium's institutional framework:**

Belgium is a federal state, consisting of three Communities (essentially entrusted with “personal” matters) and three Regions (the Flemish, the Walloon and the Brussels Metropolitan Regions).

Article 6, § 1, II of the Special Institutional Reform Act of 8 August 1980 entrusts the areas of environmental protection (including planning and zoning law) almost entirely to the regional authorities. Only the transit of waste, the protection against ionizing radiations (including radioactive waste), the product regulations and matters of occupational safety and health remain in the scope of the federal authority.

Consequently, the bodies responsible for conceiving and developing environmental policies are the federal and regional authorities (most often within the more global framework provided by the legal instruments adopted at EU level). Enforcement of these regulations is taken up by the federal and regional administrations.

Environmental matters thus fall under either federal legislation or regional legislations. When referring to regional legislations, the current section will use the following abbreviations: “F” for Flemish Region, “B” for Brussels Metropolitan Region and “W” for Walloon Region.

Given Belgian’s institutional complexity and the large amount of environmental legislation, the current section on ENVIRONMENTAL RECORDS will not review all applicable environmental legislation but focus on the most important topics. As for the other sections of this Guide, the ENVIRONMENTAL RECORDS section is thus not to be considered as exhaustive.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances and preparations for these which a company has manufactured, imported, supplied or used (downstream user)	Minimum 10 years	After having manufactured, imported, supplied or used the chemical or preparation	<p>Article 36 of Regulation 1907/2006/EC, better known as REACH</p> <p>Article 49 of Regulation 1272/2008/EC on classification, labelling and packaging of substances and mixtures (only applicable to suppliers). Article 7 of the Royal Decree of 11 January 1993 on the classification, packaging and labelling of dangerous mixtures (only applicable to the manufacturer or the one who puts the product on the market). The Royal Decree does not specify the retention period.</p> <p>We have not reviewed the obligations arising from the Directive 96/82/EC on control of major accident hazards involving dangerous substances (so called Seveso Directive) as they have been implemented by a complex inter-regional agreement in Belgium</p>
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	See comment in section 43 re. downstream users	See comment in section 43 re. downstream users	See comment in section 43 re. downstream users

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
45	Documents related to an environmental permit <sup>1</sup>	<b>F:</b> no retention obligation as such but obligation to post the permit on the operation site during 30 days <sup>2</sup> <b>B:</b> obligation to post the permit and to keep it on the operation site for the duration of the permit <sup>2</sup> <b>W:</b> obligation to keep all applicable permits (duration not specified) <sup>2 3</sup>	Granting of the permit	<b>F:</b> Article 31 of the act of the Flemish Government of 6 February 1991 acting the Flemish regulations on environmental permits (better known as "VLAREM I") <b>B:</b> Article 63 of the Brussels Ordinance of 5 June 1997 regarding environmental permit <b>W:</b> Article 59 of the Walloon Decree of 11 March 1999 regarding environmental permit
	Documents related to building permit	<b>F:</b> no retention obligation as such but obligation to post the permit on the operation site during 30 days <sup>4</sup> <b>B and W:</b> obligation to post the permit and to keep it on the operation site during the works <sup>4</sup>	Granting of the permit	<b>F:</b> Article 4.7.19 and 4.7.26 of the Flemish Zoning Law Codex <b>B:</b> Article 194/2 of the Brussels Zoning Law Code ("COBAT/BWRO") <b>W:</b> Article 134 of the Walloon Zoning Law Code ("CWATUPE")
	Environmental report	<b>F and B:</b> no retention obligation as such but obligation to notify an environmental report on a yearly basis for certain activities <b>W:</b> retention obligation for 5 years and obligation to notify an environmental report on a yearly basis for certain activities <b>W:</b> Maximum 5 years	<b>F and B:</b> - <b>W:</b> not expressly specified but it is recommended to keep the environmental report for 5 years as of the last (yearly) environmental report	<b>F:</b> Article 3.5.1 of the Flemish decree of 5 April 1995 on environmental policy ("DABM Decree") <b>B:</b> Article 63 of the Brussels Ordinance of 5 June 1997 regarding environmental permit <b>W:</b> Article 76ter of the Walloon Decree of 11 March 1999 regarding environmental permit

<sup>1</sup> Remark: although quite different in their operational modalities, the three regional permitting schemes are similar in their approaches and principles. These schemes provide for a single permit, encompassing all environmental aspects (with a few exceptions) of the operation of activities potentially harmful to the environment (i.e. the discharge of wastewater, the management of waste, the storage of hazardous substances, air and noise emissions). The greenhouse gas emission permit regime is also integrated in the environmental permitting scheme.

<sup>2</sup> Remarks for the 3 Regions: an environmental permit is a document that the authorities have to disclose to any person requesting it pursuant to the legislation regarding disclosure of public documents (hence also to the permit holder). However, it is advisable to keep a copy of the permit (and permit request file) on the site for at least the duration of the permit, and several years after its termination.

<sup>3</sup> Remark: the competent authorities can impose operation conditions in the permit, i.e. regarding the monitoring of certain data (e.g. noise). A minimum retention period could thus be imposed by such conditions.

<sup>4</sup> Remarks for the 3 Regions: a building permit is a document that the authorities have to disclose to any person requesting it pursuant to the legislation regarding disclosure of public documents (hence also to the owner/holder of rights in rem). However, it is advisable to keep a copy of the permit (and permit request file) on the site as long as one is owner of holder of a right in rem on the building and preferably for several years thereafter.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
46	<p>Registered data concerning the recycling or disposal of waste materials (waste bookkeeping) - Register of (hazardous) waste</p> <hr/> <p>Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal</p> <hr/> <p>Documents on results of inspections on the discharge of domestic waste water</p> <hr/> <p>Soil and groundwater pollution</p> <hr/> <p>Documents containing audits on radioactivity and all results of measurements taken</p>	<p><b>F:</b> Minimum 5 years <b>B:</b> Minimum 3 years, except for hazardous waste for which the retention period is at least 5 years <b>W:</b> Minimum 5 years</p> <hr/> <p>The competent authorities can impose operation conditions in the environmental permit, i.e. regarding the monitoring of certain data (e.g. waste water discharge). A minimum retention period could thus be imposed by such conditions</p> <hr/> <p>No retention obligation but it is advisable to keep the soil investigations at least for as long as one is operator, owner or holder of right in rem on the site, and preferably for several years thereafter</p> <hr/> <p>Minimum 30 years</p>	<p>Not specified</p> <hr/> <p>See comments under section 45 (environmental permit)</p> <hr/> <p>Date of soil investigation</p> <hr/> <p>Not specified</p>	<p>F: Article 7.2.3.1 of the act of the Flemish Government of 17 February 2012 on sustainable management of waste ("VLAREMA") B: Article 45 of the Brussels Ordinance of 14 June 2012 on waste and Article 4 of the Act of the Brussels Government of 30 January 1997 on the waste register W: Article 59 of the Act of the Walloon Government of 9 April 1992 on hazardous waste and Art. 14 of the Act of the Walloon Government of 13 November 2003 regarding registration of collectors and transporters of waste other than hazardous</p> <hr/> <p>See comments under section 45 (environmental permit)</p> <hr/> <p>F: Flemish Decree of 20 October 2006 on soil clean-up and protection B: Brussels Ordinance of 5 March 2009 regarding management and sanitation of polluted soils W: Walloon Decree of 5 December 2008 regarding soil management</p> <hr/> <p>Federal legislation. See inter alia Art. 23.2 of the Royal Decree of 20 July 2001 on the protection of the population, workers and the environment against ionizing radiations</p>
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Given that this Retention Guide aims to provide general guidance only, the legislation on product regulations (which is a Belgian Federal legislation and is not specifically an environmental legislation) is not detailed here		
48	Technical documentation and declaration of performance on construction products	Given that this Retention Guide aims to provide general guidance only, this specific legislation is not detailed here		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies. - Environmental subsidies	The recipient of subsidies must retain administration regarding its rights and obligations, receipts and payments, related to those subsidies	Date of subsidy grant	Various regional and federal legislations
50	Accident reports	<b>F and B:</b> no retention obligation but the legislation requires that any accident that could harm the environment or people's safety or health be notified to the authorities. It is thus advisable to keep the documents for several years <b>W:</b> there is a retention obligation but its duration is not specified. It is advisable to keep the documents for several years	Not specified but it is advisable to keep the data as of the day of the accident	<b>F:</b> Article 3.7.1 of the Flemish decree of 5 April 1995 on environmental policy ("DABM Decree") <b>B:</b> Article 63 of the Brussels Ordinance of 5 June 1997 regarding environmental permit <b>W:</b> Article 59 of the Walloon Decree of 11 March 1999 regarding environmental permit
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Given that this Retention Guide aims to provide general guidance only, this specific legislation is not detailed here, especially because the transfer of waste from one Region to another Region in Belgium is a complex issue. For other topics regarding waste, see section 46 (waste).		
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	<sup>1</sup>		Art. 24 of the Royal Decree of 28 June 2009 on transport of hazardous goods by road or rail, which implements Directive 2008/68 of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	The competent authorities can impose operation conditions in the environmental permit, i.e. regarding the monitoring of certain data (e.g. waste water discharge). A minimum retention period could thus be imposed by such conditions. See comments regarding section 45 (environmental permit)		

<sup>1</sup> The Royal Decree of 28 June 2009 does not specify that the inspections have to be registered in a particular document or during a specific period. The Royal Decree does not provide for a retention obligation and refers to the RID (Regulations concerning the International carriage of Dangerous goods by rail).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	See section 53		
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	See section 46 (waste)		
56	Transmission systems operators need to retain all records of quality indicators	Given that this Retention Guide aims to provide general guidance only, the applicable legislations are not detailed here, especially because energy is a complex regional matter in Belgium (specific legislations for gas and electricity are applicable in each of the three Regions)		
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Date of last manufacture of the equipment	Articles 8 and N7.5 of the Royal Decree of 6 March 2002 relating to the noise emission in the environment by equipment for use outdoors

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies			Insurance policies should be kept for as long as they are valid and in force. They should be thereafter kept for a period sufficient to ensure/evidence the company's legitimate interests and rights in case of potential liability claims or litigation.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	Customers' data to which direct marketing activities are directed. Customers database for (direct) marketing purposes (e.g. name, email and/or postal address)			There are no specific provisions of law in this respect as such. Customer's personal data should be kept for as long as the customers remain customers of the company, provided that, pursuant to the DPA, the customers have the right to withdraw their consent to the processing of their personal data for (direct) marketing purposes. In the latter case, the customer's personal data must be suppressed
	Promotional and adverting material			There are no specific provisions of law in this respect as such. Considering the activities of the company or the products commercialised by it, it is advisable to keep the relevant documents until the statute of limitations for claims based on the liability of the producer (broadly defined and including, among others, any person that present itself as a producer or manufacturer by affixing to the product its name, its trademark or any other distinguishing feature) has expired. According to Article 12 of the Law of 25 February 1991 relating to the liability for defective products, the statute of limitations of the right of the victim to obtain compensation for the prejudice caused by the producer's defective product is ten years after the product was put into circulation. Given that under Article 5, a) of the Law of 25 February 1991, a product is deemed defective if it does not provide the safety to which one can reasonably expect taking into account, among others, the presentation of the product, it is recommended to keep the product brochures for a period of ten years after the product to which they relate was removed from circulation.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS</b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	See section 9		
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	See section 1		
62	Procurement records	See section 1		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	There are no specific provisions of law in this respect as such. These documents should be kept for as long as they are active and thereafter, given the personal data involved, no longer than the period reasonably necessary to ensure/evidence the company's legitimate interests and rights in case of potential litigation		
64	Customers and suppliers records	See sections 59 and 64		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
65	Intellectual property records			There are no specific provisions of law in this respect as such. The documents should be kept at least for as long as the intellectual property rights to which they relate are valid.
66	Contracts, agreements and other arrangements			Belgian law does not contain any general obligation regarding retention of contracts. However, to be able to prove one's own rights in case of a claim based on any such contract, it is advisable to keep all documents, including without limitation relevant contracts, which might constitute evidence in the framework of a legal proceeding until the statute of limitations applicable to the obligations deriving from such contract has expired. Under Article 2262 of the Civil Code, in rem claims ("action réelle"/ "zakelijke vordering", which relates to claims of ownership on an object) are time barred after thirty years. It is therefore advisable to keep documents that could give rise to possible claims in rem for thirty years. Regarding personal claims based on contract, Article 2262bis of the Civil Code provides that these are time barred after ten years. It is thus advisable to keep contractual documents during a ten-year period starting from the moment when all obligations have been fully performed or from the contract expiry/termination date. <sup>1</sup>
67	Permits, licences, certificates			Subject to the possible specific provisions applicable to certain business areas, permits, licences and certificates should be kept as long as they are valid and thereafter, for a period sufficient to ensure/evidence the company's legitimate interests and rights in case of potential liability claims or litigation
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)			See sections 20 and 68
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc).			These documents should be kept as long as necessary to ensure/evidence the company's legitimate interests and rights in case of potential liability claims or litigation. Such period should be assessed in view of the legal statutes of limitations with respect to the relevant services as follows (this is not an exhaustive list): <ul style="list-style-type: none"> <li>• With respect to services provided by lawyers, the documents should be kept for at least a period of five years from the end of the services (Article 2276bis of the Civil Code).</li> <li>• With respect to services provided by notaries, see section 68 (Article 2276quinquies of the Civil Code).</li> <li>• With respect to construction agreements with architects and entrepreneurs, the agreements and related documents should be kept at least until the end of the period of ten years starting on the date of the final approval of the building and corresponding to the duration of the ten year guaranty of architects and entrepreneurs provided by the law (Articles 1792 and 2270 of the Civil Code);</li> <li>• With respect to the services provided by health care providers for medical goods and services, the documents should be kept at least for a period of two years from the end of the services (Article 2277bis of the Civil Code).</li> </ul>

<sup>1</sup> It should be noted that certain legal areas are covered by shorter statutes of limitations and therefore a decision about the duration of the archiving of a document should be taken on a case by case basis after review of the type of obligations (and possible claims) deriving from such contract or document (e.g. the statute of limitations for commercial agency contracts is one year from the termination of such contracts under Article 26 of the Law of 13 April 1995 relating to commercial agency agreements).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>OTHER RECORDS</b>			
70	Correspondence Registers of transfers into other EU countries	As documents related to contracts, see section 68 See section 1		
71	The processing of personal data, if this differs from the process as notified to the DPA	1		
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	Pursuant to the Collective Bargaining Agreement No. 81, entered into within the National Work Council on 26 April 2002, relating to the protection of privacy of workers regarding the control of electronic network communication data (being defined as electronic communications passing through the network, broadly understood, regardless of the medium through which they are transmitted or received by a worker, in the framework of the work relationship), the employer may control such data provided that it complies with the principles of the DPA. Therefore, the electronic communication data cannot, among other conditions, be kept for longer than the period necessary for the control.		
73	Login and logout data of visitors	No specific maximum retention period, general rules apply (login and logout data of visitors are subject to the DPA and should not be kept longer than the period necessary for the purposes for which the data were collected or for which they are further processed)		
74	Camera recordings:  General          At the workplace	Maximum 1 month (if the images cannot (i) contribute to the evidence of an offense, damage or nuisance, or (ii) identify an offender, disturber of public order, witness or victim)	Not specified in the law. However, it can be reasonably assumed that the retention period starts on the date and time of the relevant sequence.	Articles 5, 6, 7 and 7/2 of the Law of 21 March 2007 regulating the placement and use of surveillance cameras  The Law of 21 March 2007 does not apply to camera recordings at the workplace
		The Collective Bargaining Agreement No. 68, entered into within the National Work Council on 16 June 1998, relating to the protection of privacy of workers regarding camera surveillance at the workplace determines the conditions under which camera surveillance can be installed. Pursuant to Article 4, camera surveillance at the workplace is authorized for limited purposes (workers' security and safety, protection of company's properties, control of production process and control of the workers' work). The permanent surveillance is permissible solely for the workers' security and safety, protection of company's properties, control of production process exclusively related to the machines (Article 6). No retention period is provided for in the Collective Bargaining Agreement No. 68. However, since the principles of the DPA apply to the camera recordings at the workplace, images and videos recorded cannot be kept for longer than the period necessary for the purposes for which the cameras were installed.		

<sup>1</sup> Under the Belgian Data Protection Act, personal data processing must be, in principle, notified to the Belgian Data Protection Authority ("DPA") prior to the beginning of the processing activities. Certain personal data processing activities benefit from an exemption to such notification obligation. In case a personal data processing must be notified to the DPA, the Belgian Data Protection Act does not permit processing of the personal data different than the notified processing. There is thus no minimum retention period in relation to such prohibited processing.

### Verhaegen Walravens

Verhaegen Walravens is an independent Brussels-based business law firm.

Verhaegen Walravens' specialised TMT team (headed by Emmanuel Szafran) combines in-depth knowledge of the TMT sector and related technologies with a thorough understanding of the relevant legal environment. The TMT team advises on a wide range of compliance, transactional and procedural TMT matters at both the local and international levels, through our network of specialised best friend firms.

With a strong focus on technology contracts and IT outsourcing issues, we have also developed extensive experience in personal data protection, including compliance audit and strategies for the international transfer of data. Our TMT practice further provides a broad range of advices relating to e- and m-commerce, including on-line contracting, the use, import and export of cryptography, e-signatures and Public Key Infrastructures, e-payment, e-invoicing as well as records management and e-archiving. We advise on network security and cyber criminality issues and have developed a sound knowledge of telecommunications and electronic communications regulations and contracts, with a focus on all aspects of convergence with the media and broadcasting industries.

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# RETENTION GUIDE BY COUNTRY: DENMARK





## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contracts be set out in writing or on a durable medium (varigt medium)

Whether legal obligation exists to retain certain records in paper format

Legal requirements in respect of the conversion of written records which belong to a company's administration into electronic format

Related issues are:

The evidentiary value of electronic records

International technical norms and standards for the conversion to, retention, and accessibility of electronic records

The minimum and maximum retention periods applying to the records

## REQUIREMENTS TO SET OUT IN WRITING

Under Danish law, certain agreements or instructions have to be set out in writing or on a durable medium (varigt medium). General examples include:

A non-compete agreement or probationary period agreed between an employer and employee

The purchase of a house by a private individual

The right to make changes unilaterally to an employment agreement

The right of inspection of a commercial agent's terms and conditions (handelsagent)

A deed of pledge (skøde)

The agreement on the management of assets of an investment institution (Investeringsaftale)

The requirement to set certain matters out in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

The requirement that certain notices are made in writing

Though certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record to an electronic record that replaces that paper record. In some cases, however, the paper version has more evidentiary value in court.



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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original

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Ensure the authenticity and integrity of the electronic record during its retention period

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Ensure the electronic record's accessibility and legibility during its retention period

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.



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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Minimum retention obligation

Under Danish law, companies have a retention obligation for certain types of records.

In principle, the company books and records may be created and retained in electronic format. The requirement that the company's rights and obligations must be able to be presented at any time entails that:

**The authenticity and integrity of the electronic records should be adequately ensured**

**Electronic records should be accessible during their retention period**

**The electronic records should be made legibility within a reasonable time frame**

Whether certain documents such as employment contracts need to be retained for a minimum period of five years, has to be evaluated based on their content. If such documents contain rights and obligations not covered by any other documentation, they should be kept for at least seven years as well.

### Maximum retention periods

To the extent records contain personal data as defined by the Danish Act on Processing of Personal Data (Persondataloven), these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is "necessary" and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be either (i) disposed of, (ii) de-identified (i.e. all references to data subjects should be rendered unreadable), or (iii) stored in a closed archive. An exception can be created by means of a so-called "legal" or "tax hold notice", issued by an authorised officer or department within the company. A legal or tax hold notice instructs relevant staff to suspend disposal, de-identifying or archiving of certain documents in the event of reasonable anticipation of litigation, tax audits or investigations. In such case, the retention period may be prolonged until the ultimate limitation period, or in the event of pending litigation proceedings, until execution has ended of a court judgment given in last instance.

This guide provides an overview of minimum as well as maximum data retention periods.

### Retention of certain records in paper format

Certain types of records must be retained in paper format (e.g. a company's profit and loss accounts and annual financial statements). Please note that these paper records need not be original records. A print-out based on an electronic bookkeeping system will suffice.

### Conversion requirements

The above retention obligations do not preclude existing paper records (with the exception of the profit and loss account and the annual financial statements) being converted into electronic records. However, guiding here are the principles and recommendations set out by the Danish Council for IT Security under the Danish Ministry of Science, Innovation and Higher Education described below.



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## REPORT ON ELECTRONIC DOCUMENTS' VALUE AS EVIDENCE

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In 1999 the Danish Council for IT Security under the Danish Ministry of Science, Innovation and Higher Education, published a report on electronic documents' value as evidence. The report recommends that organisations should follow a certain procedure to secure the document after the original hardcopy has been destroyed. Unfortunately this report is only available in Danish. The report can be downloaded in Danish by following this link:

[www.nemid.nu/dk-da/digital\\_signatur/juraen\\_bag\\_digital\\_signatur/Digitale\\_dokumenters\\_bevisvaerdi.pdf](http://www.nemid.nu/dk-da/digital_signatur/juraen_bag_digital_signatur/Digitale_dokumenters_bevisvaerdi.pdf)

The Council proposed that a structure be put in place to secure the integrity of the scanned documents. The procedure consists of processes and an organisational structure securing the quality and authenticity of the documents, in cooperation with the business' IT services.

In the report it is also suggested that an organisation should still keep certain documents as hardcopies. Among these are documents that should be returned to the owner, e.g. a title deed. Also documents which could not be scanned or could not be scanned without loss of quality, or if the documents were of a certain technical nature, e.g. made to scale. An example of this is any document in a format that cannot practically be scanned by the organisation. "Made to scale" can be defined as e.g. accurately dimensioned technical drawings (blueprints), which when scanned might be distorted, so the scales can no longer be assessed from the original document.

The Danish courts accept photocopies of original documents and scanned documents. Also, there is no legal requirement in Danish law to present original documents to the Danish courts. However, the courts may at their equity decide which evidential value the relevant document has for the case at hand. The above mentioned procedure to secure the document after the original hardcopy has been destroyed should provide the courts with the necessary certainty that the documents are indeed a photocopy or scanned version of the original documents and have not been tampered with.



## RETENTION GUIDE

The following is a quick reference guide for document retention periods under Danish law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records <sup>1</sup>	Minimum 5 years	The end of the financial year to which the information relates	Section 10 of the Danish Act on Bookkeeping
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards' and shareholders' meetings minutes (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)			
3	Financial statements, audit reports, etc  The material that must be kept in view of the audit reports is described in section 3 of the Danish Act on Bookkeeping. These includes registrations among other things relating to the audit trail, descriptions of the bookkeeping, descriptions of the systems for storing and retrieving accounting materials, exhibits, other information necessary for the audit trail, required financial records under statutory law, auditors reports and annual reports relating to the financial records. The term "accounting records with exhibits" does not include documents of an explanatory or advisory character (e.g. opinions from lawyers and accountants) neither does the term comprise environmental financial reports or holistic, (general) social and ethical reports. Thus there are no retention rules for such documents under the Danish Act on Bookkeeping.	Minimum 5 years	The end of the financial year to which the information relates  In particular for audit reports: 5 years subsequent to the accounting year to which the material is relevant cf. Section 10 in the Danish Act on Bookkeeping	Section 10 of the Danish Act on Bookkeeping  Section 3 of the Danish Act on Bookkeeping

<sup>1</sup> The law requires that these records as a general rule are kept in Denmark. Accounting material for the current and previous months may be kept abroad if the subject who is under the duty to keep records, ensures that the stored material is kept in accordance with this Act, and can at any time obtain the material, and keep descriptions of the systems used, and any required passwords, etc. in Denmark, so that public authorities are always able to obtain access to the material. Internal and external documents regarding activities abroad in relation to the subject who is under the duty to keep record, can be stored in the relevant country throughout the storage period in accordance with Section 10. Regardless of the above, the Danish Commerce and Companies Agency can set rules that accounting records may be kept abroad without prior application. Please also refer to Section 12 (1) of the Danish Act on Bookkeeping.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
4	Profit and loss accounts	Minimum 5 years	The end of the financial year to which the information relates	Section 10 of the Danish Act on Bookkeeping
5	Records and documents of the dissolved legal entity	Minimum 5 years	The end of the financial year to which the information relates	Section 13 and 10 of the Danish Act on Bookkeeping
6	Membership records in a cooperative association (original)	Minimum 5 years	The end of the relevant financial year or tax year to which the information relates  In general, the Danish tax year is from 1. January to 31. December, but the financial year can be different <sup>1</sup>	Section 3A of the Danish Tax Control Act
7	Subsidy records and documents, to the extent that the provision of such records and documents is required under law	Minimum 5 years	The end of the financial year to which the information relates	Section 10 of the Danish Act on Bookkeeping

<sup>1</sup> In the Danish jurisdiction, regulatory laws regarding accounting and taxation require reports once per twelve months, but do not require that the period reported on follows the calendar year (1 January to 31 December). A rear offset income year can begin at the earliest on 2nd April in the calendar year preceding the calendar year in which the rear staggered taxation replaces. A forward shift of taxation may at the latest begin on 1 April in the calendar year in which the forward offset income year replaces.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	TAX AND ACCOUNTING RECORDS			
	GENERAL TAXES			
8	General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to its tax position, including all books, records and other data carriers	Minimum 5 years. The ordinary period of limitation is 3 years and 4 months from the end of the income year. However, because in case of fraud or gross negligence the period of limitation is prolonged to 10 years, we recommend a minimum retention period of 10 years.	The end of the financial year to which the information relates	Section 6A of the Danish Tax Control Act. Section 3 of the Danish Limitations Act
	Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show its rights and obligations in the interest of levying taxes	Minimum 5 years. We recommend a minimum retention period of 10 years.		
	Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties	No specific minimum retention period. We recommend a minimum retention period of 10 years.		
	In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT)	5 years subsequent to the income year		
	These organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties			



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>VAT</b>			
9	A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes  General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU	Minimum 5 years	The end of the relevant financial year <sup>1</sup>	Section 55 of the Danish Value Added Tax Act and section 50 of the Danish VAT Ministerial Order
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	Minimum 10 years	The acquisition of the real estate	Section 66(3) of the Danish VAT Ministerial Order
	<b>CORPORATE INCOME</b>			
11	Danish taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Danish Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	Minimum 5 years	The end of the relevant financial year <sup>2</sup>	Section 3B of the Danish Tax Control Act
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes	See section 8, part 1		
	<b>CUSTOMS</b>			
13	Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers.	No specific retention period		Regulation (EC) No. 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code, article 9
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes			

<sup>1</sup> In the Danish jurisdiction, regulatory laws regarding accounting and taxation require reports once per twelve months, but do not require that the period reported on follows the calendar year (1 January to 31 December). A rear offset income year can begin at the earliest on 2nd April in the calendar year preceding the calendar year in which the rear staggered taxation replaces. A forward shift of taxation may at the latest begin on 1 April in the calendar year in which the forward offset income year replaces.

<sup>2</sup> In the Danish jurisdiction, regulatory laws regarding accounting and taxation require reports once per twelve months, but do not require that the period reported on follows the calendar year (1 January to 31 December). A rear offset income year can begin at the earliest on 2nd April in the calendar year preceding the calendar year in which the rear staggered taxation replaces. A forward shift of taxation may at the latest begin on 1 April in the calendar year in which the forward offset income year replaces.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PAYROLL AND SALARY RECORDS</b>			
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.			
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.			
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind) Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	Payroll records: Minimum 5 years	The retention period is from the end of the financial year to which the information relates	Section 10 of the Danish Act on Bookkeeping



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
18	Employment contract	The data collected may not be retained for a longer period than necessary to fulfil the purposes for which the data are processed, for example when the employment ends		
19	Identification documents of foreign nationals (copy)	No specific maximum retention period, general rules apply		Section 5(5) and 6(1)(1) of the Danish Act on Processing of Personal Data
20	Business data and documents concerning pension schemes and related subjects <hr/> Administration regarding pension schemes (by pension administrator and pension association)	Pension plans: 5 years minimum <hr/> Bookkeeping materials: see section 1		
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	Pension plans: 5 years minimum. No specific maximum retention period, general rules apply.		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	No specific maximum retention period, general rules apply		
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply		
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	No specific maximum retention period, general rules apply		
25	Employee stock purchase and options records	No specific maximum retention period, general rules apply		
26	Copy of identification document	No specific maximum retention period, general rules apply		N/A. However, retention is under certain circumstances required under section 1 of the Danish Act on Employment Certificates.
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	No specific maximum retention period, general rules apply		
28	Data concerning pension and early retirement	Minimum 5 years, see also section 20. No specific maximum retention period, general rules apply.		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical files, medical documents in cases of a medical treatment contract	Minimum 10 years. Patient records relevant to a complaint, monitoring or damages must be kept so long as he case is pending.	The last registration in the medical record	Section 25 of the Act on Authorisation Healthcare Professionals and Healthcare  The Danish Health and Medicines Authority lay down rules regarding who can be imposed to uphold rules of retention, and may set a shorter retention period for some groups of authorised healthcare professionals and for parts of the records
30	Floor plans and directions  The employer must ensure that a written report of workplace safety and health conditions are at the workplace, taking into account the nature of work, the working methods and processes used, as well as the size of the organisation. The risk assessment must be available in the company and be available to the company's management, employees and the Working Environment Authority, which oversees workplace assessment.  The assessment should be revised when there are changes in the work, working methods and processes, etc. and these changes have an impact on safety and health at work, but no later than every three years.	No specific requirements  Permanently		Section 15a(1) Danish Act on Work Environment
31	Work-related medical examinations related to hazardous substances	Minimum 40 years	The end of the exposure	Section 10 of the Act on the use of health information etc. in relation to the labour market (Act no. 289 of April 24 1996)
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat <sup>1</sup>			

<sup>1</sup> Section 15a(1). The employer must ensure that a written report of workplace safety and health conditions are at the workplace, taking into account the nature of work, the working methods and processes used, as well as the size of the organization. The risk assessment must be available in the company and be available to the company's management, employees and the Working Environment Authority, which oversees workplace assessment. The assessment should be revised when there are changes in the work, working methods and processes, etc. and these changes have an impact on safety and health at work, but no later than every three years.  
Section 22 - The employer must notify the Working Environment Authority and keep records in accordance with rules laid down by the Minister of Employment.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
33	Register of employees who work with 3rd and 4th category biological agents	Minimum 10 years	The end of exposure	Section 11(2) of Council Directive 90/679/EEC of 26 November 1990 on the protection of workers from risks related to exposure to biological agents at work Implemented by: Regulation no. 1165 of 16/12/1992, no. 236 of 02/05/1973 no. 1126 of 15/12/1992 no. 746 of 28/08/1992, no. 290 of 05/05/1993, no. 693 of 14/10/1991, no. 1163 of 16/12/1992, no. 540 of 02/09/1982, no. 1182 of 18/12/1992, no. 775 of 17/12/1992, no. 1181 of 18/12/1992, consolidated Act no. 646 of 18/12/1985 and Regulation no. 864 of 10/11/1993
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	From the date of the employees' last exposure to asbestos	Article 19 of Directive 2009/148/EC Section 33 of the Ministerial Order on Asbestos
35	Administration concerning measurements of radioactive substances			
36	Records of radiation			
37	Medical records of employees who have possibly been exposed to ionizing radiation	Minimum 30 years	From the date of the employees' last exposure to ionizing radiation	Section 7(4) of Executive Order on medical control of work with ionizing radiation
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
38	Registration of work and rest periods (in appropriate format)	Minimum 1 year. No specific maximum retention period, general rules apply.	From the time of registration	Section 7(8) of the Danish regulation on certain social legislation relating to road transport
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	Minimum: See section 29. No specific maximum retention period, general rules apply.		Section 26 of The Danish Act on Chemicals Section 35 of the Executive Order No. 1075 of 24/11/2011 on Classification, packaging, labelling, sale and storage of substances and mixtures



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control			
41	Loading or unloading plans (by captain or terminal representatives)			
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board)	The harbour manager, minimum 2 years for operational waste and cargo residues. The captain of the ship, until the ship enters the next port.		Section 11 and 12 of the Executive Order on facilities for receipt of waste from ships, on waste from ships and harbour waste plans Art 7 of Directive 2000/59/EC on port reception facilities for ship generated waste and cargo residues



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years		<p>Executive Order No. 1075 of 24/11/2011 on classification, packaging, labelling, sale and storage of substances and mixtures</p> <p>Article 36 of the Regulation 1907/2006/EC (REACH)</p> <p>Section 49 Regulation 1272/2008/EC</p> <p>Directive 96/82/EC on the control of major accident hazards involving dangerous substances (as amended) ("the Seveso II Directive")</p> <p>Executive Order No. 815 of 26 August 2009 on Notice of allocation to the Environmental Protection Agency, Working Environment, Energy Agency and the Danish Maritime Authority of tasks and monitoring of the European Parliament and Council Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)</p> <p>Executive Order no 1666 of 14 December 2006 Order on the control of major-accident hazards involving dangerous substances</p>
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	No specific retention period. Requisition of substances: in general minimum 5 years.		<p>Section 26 of The Danish Act on Chemicals</p> <p>Section 35 of the Executive Order No. 1075 of 24/11/2011 on Classification, packaging, labelling, sale and storage of substances and mixtures</p>
45	Documents related to an environmental permit			



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)  Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal Documents on results of inspections on the discharge of domestic waste water Documents containing audits on radioactivity and all results of measurements taken	Minimum 5 years for registered data concerning recycling materials. Only in connection with deposit and return schemes, as mentioned in the statute.		The Danish Act on Environmental Protection, section 9a (1)(5)
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product			The Directive 2009/125/EC of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products Executive Order no 1274 of 19 November 2010 on eco-design of energy-related products
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	After the construction product has been placed on the market	Art. 11 of Regulation (EU) 305/2011, on harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC. There has been introduced a bill to implement the Regulation, but it has at the time of writing not been passed
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies			
50	Accident reports			
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years (follows from the EU Regulation, not the Danish Executive Order)	From the day the transfer of waste materials begins	Article 20 of the Regulation (EC) No 1013/2006 on Shipments of Waste Executive Order no 421 of 08 May 2012 on Shipments of Waste



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 months		Section 5.4.4.1 European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), implemented under the Danish Executive Order no.818 of 28 June 2011 on Carriage of Dangerous Goods by Road Section 5.4.4.1 Regulation concerning the International Carriage of Dangerous Goods by Rail (RID), implemented under the Danish Act on Carriage of Goods by Rail
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	N/A - it is recommended to store the data for at least 3 years which is the general statute of limitation		Section 3 (1) of the Statute of limitations
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	N/A - it is recommended to store the data for at least 3 years which is the general statute of limitation		Section 3 (1) of the Statute of limitations
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	N/A - it is recommended to store the data for at least 3 years which is the general statute of limitation		Section 3 (1) of the Statute of limitations
56	Transmission systems operators need to retain all records of quality indicators			
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Manufacturer, minimum 10 years	When the machine was produced	Section 7 (4) of Executive Order no 1040 of 11 December 2001 on noise (Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement)



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	3 years or depending on the policy	Receipt	Section 3 (1) of the Statute of limitations

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber			



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS</b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	See section 9		
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	See section 3		
62	Procurement records	Minimum 3 years	The creation of the records	Section 3 (1) of the Statute of limitations
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	Minimum 5 years. Maximum 5 years. Unless of vital importance for the assessment of their financial standing and creditworthiness.	Receipt	
64	Customers and suppliers records	See section 3		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
65	Intellectual property records	N/A, unless the documents contain material relevant for bookkeeping purposes - please see our answer to section 3 above. However, it is recommended to store the data for a minimum of 3 years which is the general statute of limitation.	The retention begins when record is no longer active, e.g. when the contract is terminated	Section 3 (1) of the Statute of limitations
66	Contracts, agreements and other arrangements	Minimum 5 years. See section 3.	The retention begins when record is no longer active, e.g. when the contract is terminated	
67	Permits, licences, certificates	N/A - unless the documents contain material relevant for bookkeeping purposes - please see our answer to section 3 above. However it is recommended to store the data for a minimum of 3 years which is the general statute of limitation.	The retention begins when record is no longer active, e.g. when the contract is terminated	Section 3 (1) of the Statute of limitations
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	No specific minimum retention period. We recommend 3 years because of the general statute of limitation.		Section 3 (1) of the Statute of limitations
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)	No specific minimum retention period. We recommend to follow the statute of limitations, which is in general 3 years, and for some claims 5 years (for example for claims based on contracts for the performance of work under an employment relationship).	The retention begins when record is no longer active, e.g. when the contract is terminated	Section 3 (1) and Section 4 (1) of the Statute of limitations



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries	Minimum 3 years	Receipt	Section 3 (1) of Statute of limitations
71	The processing of personal data, if this differs from the process as notified to the Danish DPA			Section 3 (1) of Statute of limitations
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	A specific assessment	Receipt	Section (5) note 50 of the Danish Act on Processing of Personal Data
73	Login and logout data of visitors	No specific maximum retention period, general rules apply		
74	Camera recordings	Minimum: A specific assessment. No specific maximum retention period, general rules apply.	Receipt	Section 1 (8) and 5(5) of Section 5(5) of the Danish Act on Processing of Personal Data



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS <sup>1</sup>			
	ENVIRONMENT TAX			
75	Producers and importers of packaged goods must keep records of all information relevant to packaging tax	Minimum 5 years. 1 year for box strips (transcripts from the cash desk) and internal annexes (vouchers or records).		

<sup>1</sup>Please note that these records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.



### Gorrissen Federspiel

For many years, Gorrissen Federspiel has been positioned as one of the leading corporate law firms in Denmark with strong and long standing international relations. Over the years, we have acted on behalf of our clients in many of Denmark's largest and most complex transactions and Gorrissen Federspiel's partners have litigated in some of the recent years' most high profiled and critical lawsuits. Our practice areas cover all branches of Danish and EU commercial law. We maintain close relations with leading lawyers worldwide and, at short notice, are able to provide our clients with the professional assistance where ever they need it. We are a fully integrated law firm that works internationally. More than half of our 420 employees are lawyers who possess both broad educations and exactly the competencies relevant to our clients.

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# RETENTION GUIDE BY COUNTRY: FINLAND





## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contract be set out in writing

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Whether legal obligation exists to retain certain records in paper format

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Legal requirements in respect of the conversion of written records which belong to a company's administration into electronic format

Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the conversion to, retention, and accessibility of electronic records

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The minimum and maximum retention periods applying to the records

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## REQUIREMENTS TO SET OUT IN WRITING

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Under Finnish law, certain agreements or instructions have to be set out in writing. General examples include:

The purchase of a real estate

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The agreement on a lease of land

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Pledge of trademark rights

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Arbitration agreement

The requirement to set certain matters out in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

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The requirement that certain notices are made in writing

Though certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record in an electronic record that replaces that paper record. In some cases, however, the paper version has more evidentiary value in court.



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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

**Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original**

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**Ensure the authenticity and integrity of the electronic record during its retention period**

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**Ensure the electronic record's accessibility and legibility during its retention period**

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.



## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

### Minimum retention obligation

Under Finnish law, companies have a retention obligation for certain types of records. The most relevant rules are contained in the Finnish Accounting Act (1336/1997). The rules prescribe that accounts, records and other accounting data be retained for a period of six years from the end of the calendar year during which the financial year has ended, with a prolonged retention obligation of ten years for certain principal records. Finnish tax laws contain additional and similar rules, although the Accounting Act is often referred to in the tax laws. The rules contained in the Accounting Act are supplemented with lower level legislative decisions and guidelines of the Finnish Accounting Board.

In principle, the company books and records may be created and retained in electronic format, with the exception of the balance sheet book (containing the financial statement, annual report, and a list of accounting books, receipts as well as information on their retention formats). The main rules regarding the electronic creation and retention of records are the following:

### Two separate copies of records must be kept (whether for ongoing accounting purposes or for permanent retention)

Permanent retention in electronic format requires e.g. that

- contents of the media are verified before erasing previous records;
- the media must be such that the contents cannot be amended;
- the media should be checked periodically;
- the media be safely stored;
- the records are directly transferable to legible / original form

Separate guidelines exist, for example, for the retention of records outside Finland (whether in physical or electronic format). The retention of accounting material outside Finland is generally permissible only temporarily in order to prepare the financial accounts and annual reports. Permanent retention outside Finland is only allowed under specific circumstances.

Whether certain documents need to be retained for the applicable minimum period has to be evaluated based on their content. If such documents are deemed to contain e.g. accounting records, they should be kept for at least six years, depending on the type of document.

### Maximum retention periods

To the extent records contain personal data as defined by the Finnish Personal Data Act (FI: henkilötietolaki) (523/1999), these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is "necessary" and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed and unless otherwise stated in an applicable act or lower-level regulation, the documents should be either (i) disposed, (ii) de-identified (i.e. all references to data subjects should be rendered illegible) or (iii) stored in a closed archive in accordance with the Archives Act (FI: arkistolaki) (831/1994).

This guide provides a non-exhaustive overview of minimum as well as maximum data retention periods.

### Retention of certain records in paper format

Certain types of records must be retained in paper format (e.g. a company's balance sheet book, see above).

### Conversion requirements

The above retention obligations do not preclude existing paper records (with the exception of the balance sheet book, see above) from being converted into electronic records.



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## ISO 15489

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In the context of a record's evidentiary value, as well as the requirements under Finnish law for the conversion of paper to electronic records, the SFS-ISO 15489-1 standard is leading. This Finnish adaptation of the ISO 15489-1 international standard for records management provides guidelines on the maintenance of an archive system, regardless of its form or medium. The main points contained in the ISO standard regarding the retention of records in an archive are:

Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities

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Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another

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Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes

The Finnish Standards Association (SFS) maintains this ISO standard.

In conclusion, if the ISO standard is followed, the evidentiary value of an electronic record will be very high. Providing proof to the contrary will be almost impossible. In legal proceedings, this means that a court considers the prints of these electronic documents to be initial proof. In practice, the evidentiary value of prints of electronic documents is hardly ever disputed.

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## ADMINISTRATIVE GUIDELINES

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The Finnish Accounting Board has issued guidelines on the retention of accounting records based on the relevant legislation.



## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Finnish law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and accounting related information, including all books, records, documents, receipts and official correspondence based on such material, such as tax returns	6 years	End of calendar year during which the relevant financial year has ended	Chapter 2, Section 10 of the Accounting Act (1336/1997)
	A prolonged obligation concerning ledgers and the chart of accounts with an indication of the period of its validity, including accounting books, specification of accounts, balance sheet books with specifications and notes	10 years	End of relevant financial year	Chapter 2, Section 10 of the Accounting Act (1336/1997)
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards' and shareholders' meetings minutes (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	The minutes of the shareholder's meeting must be stored as long as the company exists and after termination of the business at least as long as the bookkeeping material must be stored. Further, there are some non-binding recommendations <sup>1</sup>	Shareholders' resolution: at the latest 2 weeks from making the decision; shareholders' meeting minutes: at the latest 2 weeks from the meeting	Chapter 2, Section 10 of the Accounting Act (1336/1997); Chapter 5, Section 23 and Chapter 6, Section 6 of the Limited Liabilities Companies Act
3	Financial statements, audit reports, etc	10 years	Following the fiscal year in question	Chapter 2, Section 10 of the Accounting Act (1336/1997)
4	Profit and loss accounts	10 years	Following the fiscal year in question	Chapter 2, Section 10 of the Accounting Act (1336/1997)
5	Records and documents of the dissolved legal entity	10 years	From the final settlement	Chapter 19, Section 2 of the Bankruptcy Act (120/2004), Section 6 of the Regulation of the Ministry of Justice on matters Regarding Bankruptcy (502/2004)
6	Membership records in a cooperative association (original)	However, there are some non-binding recommendations <sup>2</sup>		
7	Subsidy records and documents	The diverse legislation on subsidies often refers to the Accounting Act (see below). The details should be verified depending on the law applicable to the type of subsidy.		

<sup>1</sup> E.g. the Finnish Business Archive Association recommends that most of these kinds of documents are stored permanently. As to minutes of the meeting of the management group the Finnish Business Archive Association recommends the minimum retention period of 10 years.

<sup>2</sup> E.g. the Finnish Business Archive Association recommends that these kinds of documents are stored permanently.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to retain and provide (periodically and upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>General obligation to periodically provide information on the tax position of third parties, mostly related to payments made to or by such third parties</p>	Minimum: Generally 6 or 10 years depending on the type of the documentation	End of relevant financial year or end of calendar year during which the relevant financial year has ended, depending on the type of the documentation	Chapter 2, Sections 7-11, sections 15-18 and sections 19-20 of the Act on Assessment Procedure (1558/1995); Tax Administration decision on general obligation to provide information 18.12.2012/839; Chapter 2, Section 10 of the Accounting Act (1336/1997)
	An obligation concerning entities not required to keep accounting records (according to Accounting Act (1336/1997)) to keep and retain records, receipts and notes	Minimum 5 years	Beginning of calendar year following the assessment year of a given tax year	Chapter 2, Sections 11a-12 of the Act on Assessment Procedure (1558/1995)
	An obligation for an authorised stock keeper and certain other entities to keep books on transactions concerning the inventory	Minimum 4 years	Date of relevant transaction	Chapter 11, Sections 92-95 of the Excise Duty Act (182/2010)
	<b>VALUE ADDED TAX</b>			
9	A company is obliged to keep copies of records and invoices of all delivery of goods or services, all intra-European Community acquisitions, all imports, exports and other information on which VAT liability or right to deduction is assessed	Minimum 6 years	End of calendar year during which the relevant financial year has ended	Chapter 22, Sections 209b, 209n and 221 of the Value Added Tax Act (1501/1993); generally Chapter 22 of the Value Added Tax Act (1501/1993); chapter 1 Sections 1-2 of the Value Added Tax Ordinance 50/1994
10	An obligation to keep records concerning certain real estate investments	Minimum 13 years	End of calendar year during which the construction service was completed or the building commissioned	Chapter 11, Section 121a and Chapter 22, Section 209q of the Value Added Tax Act (1501/1993)
	<b>CORPORATE INCOME TAX</b>			
11	Obligation to produce transfer pricing documentation (with given criteria)	Generally 6 or 10 years depending on the type of the documentation	End of relevant financial year or end of calendar year during which the relevant financial year has ended, depending on the type of the documentation	Chapter 2, Sections 14a-14c of the Act on Assessment Procedure (1558/1995); Chapter 2, Section 10 of the Accounting Act (1336/1997)



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>(DIVIDEND) WITHHOLDING TAX</b>			
12	Finnish law does not provide for a specific dividend withholding tax, only for a general withholding tax act including provisions for dividends. Withholding agents are required to keep accounts and records on payments to non-residents taxed according to Withholding Tax Act (627/1978) (e.g. qualifying payments to non-residents)	Minimum 10 years	End of financial year	Chapter 4, Section 24 of the Withholding Tax Act (627/1978); Section 2 of the Withholding Tax Ordinance 1228/2005
	Receipts and notes regarding payments taxed according to Withholding Tax Act, including dividend payments	Minimum 6 years	End of calendar year during which the payment was made	Chapter 4, Section 24 of the Withholding Tax Act (627/1978); Section 2 of the Withholding Tax Ordinance 1228/2005.
	<b>CUSTOMS</b>			
13	Keep an administration as per the requirements set out in the Community Customs Code, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers.	Minimum 3 years	Date of relevant transaction. (Start of the retention period can vary; see Article 29 of the Community Customs Code)	Chapter 2, Section 8, Article 29 of the Regulation (EC) No. 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes	Not relevant for data retention purposes since there are no separate provisions in this respect that concern local taxes. The collection of local taxes (municipality tax and church tax) is done in connection with the collection of state tax and the same rules apply to these.		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	<p>The withholding agent (generally the employer), if required to keep accounting records (according to Accounting Act), must keep books on payments subject to the Prepayment Act (incl. social security payments)</p> <p>All entities are required to retain receipts related to payments subject to the Prepayment Act.</p> <p>Entities not required to keep books must keep notes</p> <p>Withholding agents must keep payslips and detailed records on each employee evidencing payments (e.g. wages, benefits, other compensations) made, information on employees (e.g. name, social security number and address) and certain related calculations periodically, even if no taxes have been withheld</p> <p>The withholding agent is required to submit annual reports to the tax authorities on payments made</p> <p>The withholding agent is required to provide the payee with a receipt of payments made</p>	<p>Minimum 10 years</p> <p>Minimum 6 years</p> <p>Minimum 6 years</p> <p>Minimum: To be retained in line with the obligations set out above (10 or 6 years, as the case may be). The obligations under Accounting Act above are also to be adhered to, if and where relevant (see above for details).</p> <p>Minimum: To be retained in line with the obligations set out above (10 or 6 years, as the case may be)</p> <p>Minimum: To be retained in line with the obligations set out above (10 or 6 years, as the case may be)</p>	<p>End of financial year</p> <p>End of calendar year when relevant payment is made</p> <p>End of calendar year when relevant payment is made</p> <p>In line with the obligations set out above</p> <p>In line with the obligations set out above</p> <p>In line with the obligations set out above</p>	<p>Chapter 3, Section 36 of the Prepayment Act (1118/1996)</p> <p>Chapter 3, Section 36 of the Prepayment act (1118/1996)</p> <p>Chapter 3, Section 36 of the Prepayment act (1118/1996)</p> <p>Chapter 5, Section 24 and 25 of the Prepayment Ordinance 1124/1996</p> <p>Chapter 3, Section 32 of the Prepayment act (1118/1996)</p> <p>Chapter 3, Section 35 of the Prepayment act (1118/1996)</p>
16	<p>A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.</p>	<p>See section 15</p>		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	<p>Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)</p> <p>Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)</p>	<p>Minimum retention period: 6 years.</p> <p>See section 15. No specific maximum retention period, general rules apply.</p>	<p>End of calendar year during which the relevant financial year has ended.</p>	<p>Chapter 2, Section 10 of the Accounting Act (1336/1997).</p>



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
18	Employment contract	No specific retention period. However, there are some non-binding recommendations <sup>1</sup>		
19	Identification documents of foreign nationals (copy)	Minimum 4 years	When employment ends	Section 73, Subsection 4 of the Aliens Act (301/2004)
20	Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	Minimum (employer): To the extent that this is accounting material, in accordance with the Accounting Act. See especially sections 15-17. Other than that, there are some non-binding recommendations. <sup>2</sup>		
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook)	Minimum: Pension plans: see section 20. Further, there are some non-binding recommendations. <sup>3</sup>		

<sup>1</sup> E.g. the Finnish Business Archive Association recommends that these kinds of documents are stored at least 10 years after the end of employment.

<sup>2</sup> E.g. the Finnish Business Archive Association recommends that pension applications and decisions as well as pension insurance company's statement are stored for 5 years.

<sup>3</sup> E.g. the Finnish Business Archive Association recommends that diversity programmes and other HR policies are stored at least 10 years and career and talent development programmes permanently.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	HR/EMPLOYMENT/PENSION RECORDS			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	No specific minimum retention period. However, there are some non-binding recommendations. <sup>1</sup> No specific maximum retention period, general rules apply.	As a rule, when the rejecting decision was made.	
23	Data concerning a temporary worker	No specific minimum retention period. However, please note that the temporary employees' employer is subject to all retention periods regarding "regular" employees. No specific maximum retention period, general rules apply.		
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references, and sick leave records)	No specific minimum retention period. However, there are some non-binding recommendations. <sup>2</sup> No specific maximum retention period, general rules apply.		

<sup>1</sup> E.g. the Finnish Business Archive Association recommends that the documents listed as example are stored, as a rule, for two years. However, memoranda and summaries drafted of the employee candidates are recommended to be stored permanently and aptitude test reports for 10 years.

<sup>2</sup> E.g. the Finnish Business Archive Association recommends that the documents listed as examples are stored, as a rule, between 2 years and permanently, depending on the document.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	HR/EMPLOYMENT/PENSION RECORDS			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
25	Employee stock purchase and options records	No specific minimum retention period. However, there are some non-binding recommendations. <sup>1</sup> No specific maximum retention period, general rules apply.		
26	Copy of identification documents	No specific minimum retention period, but see also section 19. No specific maximum retention period, general rules apply.		
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	Minimum retention period: 4 years. No specific maximum retention period, general rules apply.	When employment ends	Section 73, Subsection 4 of the Aliens Act (301/2004)
28	Data concerning pension and early retirement	No specific minimum retention period. However, there are some non-binding recommendations. <sup>2</sup> No specific maximum retention period, general rules apply.		

<sup>1</sup> E.g. the Finnish Business Archive Association recommends that option certificates and option entitlements are stored permanently.

<sup>2</sup> E.g. the Finnish Business Archive Association recommends that pension applications and decisions are stored 5 years and termination decisions 10 years. See also section 20.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical (occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	Various minimum retention periods. <sup>1</sup> Healthcare professionals and healthcare units may keep patient documents, samples and models after the period prescribed by a Decree of the Ministry of Social Affairs and Health on Patient Records (298/2009), if that is necessary for arranging or providing care for a patient. No specific maximum retention period apply to employers. <sup>2</sup>	Various depending on the type of patient documents.	Section 12 of the Act on the Status and Rights of Patients (785/1992) and Sections 22-23 and Appendix of the Decree of the Ministry of Social Affairs and Health on Patient Records (298/2009)  Sections 3 and 5 of the Act on the Protection of Privacy in Working Life (759/2004); Section 11, Paragraph 4 and Section 12, Subsection 3 of the Personal Data Act (523/1999)
30	Floor plans and directions	As long as necessary for safety purposes		Section 45 of the Occupational Safety and Health Act (738/2002)
31	Work-related medical examinations related to hazardous substances			
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat			
33	Register of employees who work with 3rd and 4th category biological agents	Minimum 40 years	From the date of the employees' last exposure to the biological agents	Section 15 of the Council of State Decision on the Protection of Employees from Work-related Hazards Caused by Biological Agents (1155/1993)
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 80 years	From the date of last data entry	Section 5 of the Act on Respecting a Registry of Employees Exposed in Their work to Carcinogenic Agents and Substances (717/2001). Please note that the minimum retention period of 80 years applies to the controller of the ASA-register, i.e. the Finnish Institute of Occupational Health. An employer has no explicit obligation to retain the documents after these have been registered to the ASA-register
35	Administration concerning measurements of radioactive substances			

<sup>1</sup> Depending on the type of patient documents apply to healthcare professionals and health care units as set forth in the Decree of the Ministry of Social Affairs and Health on Patient Records (298/2009). For example, basic information on a patient and essential information on his/her treatments must be retained for 12 years after the patient's death or, if no such information is available, for 120 years after the patient's birth.

<sup>2</sup> However, the Finnish Data Protection Ombudsman has recommended that an employer would store documents containing information on an employee's health two years at most.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
36	Records of radiation	Minimum: Working environment: 5 years; individual exposure: duration of the employment - or both as long as necessary	From when the control took place	Section 70, Subsection 2 of the Radiation Act (592/1991); Regulatory Guide 7.1 of the Radiation and Nuclear Safety Authority Finland (STUK)
37	Medical records of employees who have possibly been exposed to ionizing radiation	Until the former employee reaches 75 years of age, but for at least 30 years after they ceased the activities in question		Section 34 b of the Radiation Act (592/1991)
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
38	Registration of work and rest periods (in appropriate format)	Minimum: 2 years. No specific maximum retention period, general rules apply.	From the end of the year to which the data relates	Sections 37 and 38 of the Working Hours Act (605/1996)
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	No specific maximum retention period, general rules apply		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	Dispatcher and transporter (waybill): minimum 3 months. Fuel distributor (stock control): minimum 4 years.	From date of drafting	Section 26, Subsection 7 of the Government Decree on the Transport of Dangerous Goods by Road (194/2002)  Section 95, Subsection 2 of the Excise Act (182/2010).
41	Loading or unloading plan (by captain or terminal representative)	Minimum 6 months	After approval of the plan	Section 8, Paragraph 4 of the Decree of Ministry of Transport and Communications on Safe Loading and Unloading of Certain Bulk Carriers (1411/2004)
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board)	Captain: Until the next port of call outside Finland Harbour manager: Not regulated		Chapter 10, Section 3, Subsection 1 of the Act on Environmental Protection in Maritime Transport (1672/2009)



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	After having obtained the data	Article 36 of Regulation (EC) No 1907/2006 (REACH) and Article 49 of Regulation (EC) No 1272/2008. These provisions are not separately implemented in Finland.
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Regulation (EC) No 1272/2008	If and as prescribed in Regulation (EC) No 1272/2008	Article 49 of Regulation 1272/2008/EC applies and no separate national implementation has taken place
45	Documents related to an environmental permit	Depends on the environmental permit. Generally not regulated.		
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	Certain operations: minimum 6 years	From date of drafting	Section 119, Subsection 2 of the Waste Act (646/2011)
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal	Shipping documents of certain waste: minimum 3 years		Section 121, Subsection 2 of the Waste Act (646/2011)
	Documents on results of inspections on the discharge of domestic waste water	Until the permit has expired		Chapter 4 of the Radiation Act (592/1991)
47	Documents containing audits on radioactivity and all results of measurements taken			
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	After manufacture of the last energy-consuming product	Section 13, Subsection 1 of the Act on the Requirements for the Eco-Design of Products and Energy Labelling (1005/2008)
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	After placing on the market	Article 11 of Regulation (EU) No 305/2011
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies			
50	Accident reports			



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years	From the date the shipment starts	Section 108 of the Waste Act (646/2011) and Article 20 of Regulation (EC) No 1013/2006 on Shipments of Waste
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 months	From the start of the shipment	Section 24 of the Government Decree on the Transport of Dangerous Goods by Rail (195/2002) and Section 26 of the Government Decree on the Transport of Dangerous Goods by Road (194/2002); Section 5.4.0 of the Annex to the Decree of the Ministry of Transport and Communications on the Transport of Dangerous Goods by Rail (195/2002)
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	Minimum 3 years	Following the receipt of the waste materials	Annex II paragraph 2.1 of the Government Decision on Landfill Sites (861/1997)
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	Minimum 1 month	Following the taking of samples of the received waste materials	Section 7, Subsection 1, Paragraph 2 of the Government Decision on Landfill Sites (861/1997)
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material			
56	Transmission systems operators need to retain all records of quality indicators			
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Following termination of production of products	Section 6, Subsection 6 of the Government Decree on Noise Emissions Levels from Equipment for Outdoor Use (621/2001)



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	No specific retention period. However, there are some non-binding recommendations. <sup>1</sup>		

<sup>1</sup> E.g. the Finnish Business Archive Association recommends that these kinds of documents are stored permanently.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber	Maximum: Must be destroyed when not necessary anymore and in case the data has not been transferred to be archived	After obtaining the data	Section 34 of the Personal Data Act (523/1999)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PURCHASING RECORDS</b>			
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for accounting and VAT purposes	See sections 1 and 9		
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	See sections 1 and 9		
62	Procurement records			
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
63	Debtors and creditors records	Minimum retention period: see sections 1 and 9. No specific maximum retention period, general rules apply.		
64	Customers and suppliers records	No specific maximum retention period, general rules apply		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
65	Intellectual property records			
66	Contracts, agreements and other arrangements	No specific minimum retention period. However, there are some non-binding recommendations. <sup>1</sup>		
67	Permits, licences, certificates	No specific minimum retention period. However, there are some non-binding recommendations. <sup>2</sup>		
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	No specific minimum retention period. However, there are some non-binding recommendations. <sup>1</sup>		
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc).	No specific minimum retention period. However, there are some non-binding recommendations. <sup>1</sup>		

<sup>1</sup> E.g. the Finnish Business Archive Association recommends that important contracts are retained permanently and other contracts 10 years after the period of validity.

<sup>2</sup> E.g. the Finnish Business Archive Association recommends that official permits, licenses and certificates are retained 2 years after the period of validity.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries			
71	The processing of personal data, if this differs from the process as notified to the Finnish Data Protection Ombudsman			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	Maximum: Must be destroyed when not necessary anymore and in case the data has not been transferred to be archived	After obtaining the data	Section 34 of the Personal Data Act (523/1999)
73	Login and logout data of visitors	Maximum: Must be destroyed when not necessary anymore and in case the data has not been transferred to be archived	After obtaining the data	Section 34 of the Personal Data Act (523/1999)
74	Camera recordings	Maximum: As a starting point and subject to certain exceptions, recordings must be destroyed as soon as they are no longer necessary for achieving the purpose of the camera surveillance, and no later than one year after the end of the recording	After obtaining the data	Sections 16 and 17 of the Act on the Protection of Privacy in Working Life (759/2004)



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# RETENTION GUIDE BY COUNTRY: FRANCE



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contract be set out in writing

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Whether legal obligation exists to retain certain records in paper format

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Legal requirements in respect of the conversion of written records which belong to a company's administration into electronic format

Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the conversion to, retention, and accessibility of electronic records

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The minimum and maximum retention periods applying to the records

## REQUIREMENTS TO SET OUT IN WRITING

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Under French law, certain agreements or instructions have to be set out in writing.

It can be required for evidentiary purposes (ad probationem) but also as a condition for validity of the agreement (ad validitatem).

General examples of writing required for validity include:

A donation

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A mortgage deed

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A patent assignment contract

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A fixed-term employment contract

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A contract settled between a temporary employment agency and the user of the workforce

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A service contract with a real estate agent

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A selling of real estate to build

The requirement to set certain matters out in writing can also be prescribed by an agreement.

Examples include:

The requirement that changes to an agreement are explicitly made in writing

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The requirement that certain notices are made in writing

Though certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record in an electronic record that replaces that paper record. In some cases, however, the paper version has more evidentiary value in court.

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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. In principle, an electronic record has equal evidentiary value than a paper record, subject to the possibility of duly identifying the person from whom it emanates and that the document be drafted and recorded in conditions that guarantee its integrity. Similarly and under the same conditions of identification and integrity, when a written document is required for validity, the French Civil Code expressly offers the possibility to create and retain this document in electronic format.

However, in practice, electronic versions of paper records do not comply with the two requirements above mentioned and their evidentiary value may be more easily challenged before a court than it would be for the original. This is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

**Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original**

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**Ensure the authenticity and integrity of the electronic record during its retention period**

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**Ensure the electronic record's accessibility and legibility during its retention period**

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore have an equal evidentiary value as the paper document.

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Minimum retention obligation

Under French law, companies have a retention obligation for certain types of records. Article L123-22 French Commercial Code prescribes that accounts, records and other data that provide information on the rights and obligations of a company be retained for a period of ten years. The records falling within the scope of these provisions need to be retained in such a manner that the rights and obligations of the company can be shown at any time.

In principle, the company books and records may be created and retained in electronic format. The requirement that the company's rights and obligations must be able to be presented at any time entails that:

**The authenticity and integrity of the electronic records should be adequately ensured**

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**Electronic records should be accessible during their retention period**

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**The electronic records should be made legible within a reasonable time frame**

Subject to exceptions, French law does not require retention obligations for contracts as such. However, a company has to take into consideration the rules of extinctive prescription. Thus, prudence and caution involve retaining contracts until the end of the limitation period which may differ from one contract to another one. Contractual limitation period under the ordinary law is of 5 years. There are numerous exceptions to this general rule.

As an example, an exception applies for electronic consumer contracts for a sum equalling or exceeding 120 €. Article L134-2 of the French Consumer Code requires that companies retain such contracts for a period of 10 years.

Similarly, with regard to tax documents, retention obligations are rarely stated as such but as a precautionary measure, companies must retain the relevant documents until the end of the tax authorities' possible intervention period.

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Maximum retention periods

To the extent records contain personal data as defined by the French Data Protection Act (“Loi n°78-17 relative à l’Informatique, aux Fichiers et aux Libertés”, dated 6 January 1978), these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is “necessary” and therefore what maximum retention period applies differs per category of record and is left at the discretion of the French Data Protection Authority (“Commission Nationale de l’Informatique et des Libertés”, or “CNIL”). The CNIL can use its monitoring power and sanction any companies that would have retained the data for an inadequate period of time in respect of the purpose of the processing. But the CNIL can also draft general recommendations for determining appropriate maximum retention period per category of record. As recommendations, they are not binding but constitute best practices guidelines. The maximum retention period shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be archived, and usually isolated on a distinct media and managed by a specific service. Data must no longer be processed.

This guide provides an overview of minimum as well as maximum data retention periods.

### Retention of certain records in paper format

Subject to exceptions relating to (i) family and inheritance documents and (ii) security on property and personal guarantees subscribed by a non-professional, French law does not require retaining records in paper format.

### Conversion requirements

The above retention obligations do not preclude existing paper records from being converted into electronic records provided the conversion respects the conditions of identification of the person from whom it emanates and the records’ integrity.

Besides, the French General Tax Code and Tax Procedure Handbook explicitly offer the possibility to draw up or receive electronic invoices provided the recipient has given its consent and that a method has been used to guarantee their integrity. Three methods can be used:

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#### **Business controls which create a reliable audit trail between an invoice and a supply of goods or services**

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#### **An advanced electronic signature based on a qualified certificate and created by a secure signature creation device**

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#### **A well-structured message following the standards agreed among the parties**

Sometimes, the retention in electronic format can be legally required. For instance, tax law provides that books, records and accounts that are drawn up or received in electronic format must be retained under this format.

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## ISO 15489

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In the context of a record's evidentiary value, as well as the requirements under French law for the retention of electronic records, the NF Z 42-013 standard is leading. This is a French adaptation of the ISO 15489 international standard for records management. It provides guidelines on the maintenance of an archive system, regardless of its form or medium. The main points contained in the ISO standard regarding the retention of records in an archive are:

**Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities**

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**Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another**

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**Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes**

The French Standardisation Association ("Association Française de Normalisation", or "AFNOR") formulated guidelines for the implementation of this ISO standard, and also offers practical advice on record retention in relation to its evidentiary value.

In conclusion, if the ISO standard is followed, the evidentiary value of an electronic record will be very high. Providing proof to the contrary will be almost impossible. In legal proceedings, this means that a court considers the prints of these electronic documents to be initial proof. In practice, the evidentiary value of prints of electronic documents is hardly ever disputed.

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under German law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records, including supporting documents	Minimum 10 years	Following the closure of the accounts and records	Article L123-22 paragraph 2 French Commercial Code
2	Shareholders' resolution (copy), Board resolutions (copy), Boards' and shareholders' meetings minutes (copy) Articles of incorporation (copy). Shareholders' register (original), Standing orders (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	Minimum 5 years	Following the last resolution or minutes From the loss of the legal personality	Article 2224 French Civil Code. No legal obligation but rule of prevention in regard of prescription period
3	Financial statements, audit reports, etc	Minimum 10 years	Following the 1st day of the tax year to which the information relates	Article L123-22 paragraph 2 French Commercial Code
4	Profit and loss accounts	Minimum 10 years	Following the 1st day of the tax year to which the information relates	Article L123-22 paragraph 2 French Commercial Code
5	Records and documents of the dissolved legal entity	Minimum 5 years	Upon dissolution of the entity	Article 2224 French Civil Code. No legal obligation but rule of prevention in regard of prescription period
6	Membership records in a cooperative association (original)			
7	Subsidy records and documents (in France, there are no specific subsidy records; the subsidies are mentioned in the accounts of the company and official documents by which the subsidy is granted are retained as supporting documents)	Minimum 10 years	Following the 1st day of the tax year to which the information relates	Article L123-22 paragraph 2 French Commercial Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to its tax position, including all books, records and other data carriers</p> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT)</p> <p>These organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p>	Minimum 6 years	From the date of the last operation	Article L102 B LPF (French Tax Procedure Handbook)
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes</p> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU</p>	Minimum 3 years	Following the 1st day of the tax year to which the information relates	Article L176 LPF (French Tax Procedure Handbook). No legal obligation but rule of prevention in regard of the tax authorities' possible intervention period
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	Minimum 6 years	From the date of the last operation	Article L102 B LPF (French Tax Procedure Handbook)
	<b>CORPORATE INCOME TAX</b>			
11	French taxpayers are obliged to have available all information that deals with intra-group price setting, so that the French Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	Minimum 3 years	Following the 1st day of the tax year to which the information relates	Article L169 LPF (French Tax Procedure Handbook). No legal obligation but rule of prevention in regard of the tax authorities' possible intervention period

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>DIVIDEND (WITHHOLDING) TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes	Minimum 3 years	Following the 1st day of the tax year to which the information relates	Article L169 LPF (French Tax Procedure Handbook) No legal obligation but rule of prevention in regard of the tax authorities' possible intervention period
	<b>CUSTOMS</b>			
13	Keep an administration as per the requirements, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers	Minimum 3 years	Following the dispatching of packages (for the sender), and following the receipt of goods (for the recipient)	Article 65-3° French Customs Code
	General Tax on Polluting Activities ("TGAP")	Minimum 3 years	From date of causal event	Articles 266 duodecies and 354 French Customs Code No legal obligation but rule of prevention in regard of the tax authorities' possible intervention period
	<b>LOCAL TAXES</b>			
14	Local direct taxes (real property tax and other taxes)	Minimum 1 year. Declarations in case of new buildings or revaluation must be retained for an unlimited period of time.	Following the 1st day of the tax year to which the information relates	Articles L173 and L175 LPF (French Tax Procedure Handbook) No legal obligation but rule of prevention in regard of the tax authorities' possible intervention period
	Territorial Economic Contribution ("CET"), Corporate Real Property Contribution ("CFE") & Corporate Added Value Contribution ("CVAE")	Minimum 3 years	Following the 1st day of the tax year to which the information relates	Article L174 LPF (French Tax Procedure Handbook) No legal obligation but rule of prevention in regard of the tax authorities' possible intervention period

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.	Minimum 3 years. 5 years in case of illegal employment.	Following the 1st day of the tax year to which the information relates	Article L244-3 French Social Security Code and Article L169A 6° LPF (French Tax Procedure Handbook). No legal obligation but rule of prevention in regard of the tax authorities' possible intervention period.
	Payslips	Minimum 5 years	From date of drafting	Article L3243-4 French Labour Code
16	A company needs to include information about employees in its administration, including name, date of birth, and address	Minimum 5 years	From date of departure	Article R1221-26 French Labour Code
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)	Minimum retention period: see section 15. Maximum 5 years.	From date of drafting	CNIL Deliberation n°2004-097 [Exoneration n°2]
	Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	Maximum: No specific maximum retention period, general rules apply		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract	Minimum 5 years	Following the termination of the contract	Article 2224 French Civil Code. No legal obligation but rule of prevention in regard of prescription period
	Data on working hours accounting	Minimum 1 year	From date of drafting	Article D3171-16 French Labour Code
	Data on call-duties hours	Minimum 1 year		
	Data on working days in case of flat-rate pay agreement (“convention de forfait”)	Minimum 3 years		
19	Identification documents of foreign nationals (copy)			
	Title and number of foreign nationals' work permits	Minimum 5 years	From date of departure	Article R1221-26 French Labour Code
20	Business data and documents concerning pension schemes and related subjects	Minimum 5 years	From date of drafting	Article 2224 French Civil Code No legal obligation but rule of prevention in regard of prescription period
	Administration regarding pension scheme (by pension administrator and pension association)			
	Proof of pension affiliation and contributions (“ARRCO” and “AGIRC”)			
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	Minimum 5 last years	From date of drafting	Article 2224 French Civil Code No legal obligation but rule of prevention in regard of prescription period
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	Maximum 2 years	From the last contact with the person involved	CNIL recommendation n° 02-017
23	All data relating to any employee or temporary worker in regard to identification, administration, organisation, social activities and staff representation	Maximum: For the duration of employment	From date of collection	CNIL recommendation n°2005-002 (Simplified Norm n°46)
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	Maximum: For the duration of employment	From date of collection	CNIL recommendation n°2005-002 (Simplified Norm n°46)
25	Employee stock purchase and options records			
26	Data relating to identification of the employees	Minimum retention period: see section 16 and 19. Maximum 5 years.	From date of departure	CNIL recommendation n°2005-002 (Simplified Norm n°46)
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	Maximum 5 years	From date of departure	CNIL recommendation n°2005-002 (Simplified Norm n°46)
28	Data concerning pension and early retirement	Minimum retention period: see section 20. Maximum: No limitation.	From date of collection	CNIL recommendation n°2004-097
	Social and cultural benefits	Maximum: 2 years	Following the provision of the benefit	CNIL recommendation n°2006-230 (Exoneration n°10)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/HEALTH RECORDS</b>			
29	Medical files <sup>1</sup>	Minimum 10 years	From consolidation of the damage	Article D4624-46 et seq. French Labour Code No specific retention period but rule of prevention in regard of prescription period: Article L1142-28 French Public Health Code
30	Floor plans and directions - "plan particulier de sécurité et de protection de la santé" Data concerning the Labour Inspectorate, the Health Safety and Working Conditions Committee ("CHSCT"), data concerning industrial accident declarations	Minimum 5 years	From date of work receipt From date of drafting	Article R4532-74 French Labour Code Article D4711-3 French Labour Code
31	Work-related medical examinations related to: Hazardous chemical agents Pathogen biological agents	Minimum 50 years Minimum 10 years	From the date of the employees' last exposure	Article R4412-54 et seq. French Labour Code Article R4426-8 et seq. French Labour Code
32	Individual exposure sheet for employees who have worked under dangerous conditions or whose health has otherwise been under threat	Minimum 2 years <sup>2</sup>	From the date of which the occupational disease was first medically diagnosed or the date of the employees' last exposure to those hazardous conditions or other threats	Articles L4121-3-1 French Labour Code No specific retention period but rule of prevention in regard of prescription period: articles L431-2, L461-1 et seq. French Social Security Code
33	Register of employees who work with 3rd and 4th category biological agents	Minimum 10 years	From the date of the employees' last exposure to the biological agents	Article R4426-1 to R4426-4 French Labour Code
34	Individual exposure sheet for employees who have been exposed to asbestos dust or working in a hyperbaric environment	Minimum 2 years <sup>2</sup>	From the date of which the occupational disease was first medically diagnosed or the date of the employees' last exposure	Article D4121-9 French Labour Law No specific retention period but rule of prevention in regard of prescription period: articles L431-2, L461-1 et seq. French Social Security Code
35	Administration concerning measurements of radioactive substances	Minimum 2 years <sup>3</sup>	From the date of which the occupational disease was first medically diagnosed or the date of the employees' last exposure	No specific retention period but rule of prevention in regard of prescription period: articles L431-2, L461-1 et seq. French Social Security Code

<sup>1</sup> The employer cannot collect medical data. Thus, the retention period relating to medical files applies to occupational medicine professionals.

<sup>2</sup> Due to the fact that the start of the retention period cannot be known in advance, it is therefore highly recommended to retain this document for an unlimited period of time.

<sup>3</sup> Due to the fact that the start of the retention period cannot be known in advance, it is therefore highly recommended to retain the records for an unlimited period of time. It must be noted that the French Institute for Radiological Protection and Reactor Safety retains the records for 50 years (article R4451-125 French Labour Code).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/HEALTH RECORDS</b>				
36	Records of radiation	Minimum 2 years <sup>1</sup>	From the date of which the occupational disease was first medically diagnosed or the date of the employees' last exposure	No specific retention period but rule of prevention in regard of prescription period: articles L431-2, L461-1 et seq. French Social Security Code
	Records of noise levels and mechanical vibration levels	Minimum 10 years	From date of evaluation	Articles R4433-3 and R4444-3 French Labour Code
37	List of employees and individual exposure sheet for those who have possibly been exposed to: <sup>2</sup> Ionizing radiation Artificial optical radiation	Minimum 2 years <sup>3</sup>	From the date of which the occupational disease was first medically diagnosed or the date of the employees' last exposure	Articles R4451-57 to R4451-60 French Labour Code  Articles R4452-22 to R4452-26 French Labour Code No specific retention period but rule of prevention in regard of prescription period: articles L431-2, L461-1 et seq. French Social Security Code
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	Maximum: For the duration of employment	From date of collection	CNIL recommendation n°2005-002 (Simplified Norm n°46)
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	Maximum: For the duration of employment	From date of collection	CNIL recommendation n°2005-002 (Simplified Norm n°46)

<sup>1</sup> Due to the fact that the start of the retention period cannot be known in advance, it is therefore highly recommended to retain the records for an unlimited period of time. It must be noted that the French Institute for Radiological Protection and Reactor Safety retains the records for 50 years (article R4451-125 French Labour Code).

<sup>2</sup> NB: Employer cannot collect and retain medical data.

<sup>3</sup> Due to the fact that the start of the retention period cannot be known in advance, it is therefore highly recommended to retain the documents for an unlimited period of time. It must be noted that the French Institute for Radiological Protection and Reactor Safety retains the records for 50 years (article R4451-125 French Labour Code).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	Minimum 30 years	From date of causal event	Article L152-1 French Environmental Code No legal obligation but rule of prevention in regard of prescription period
41	Loading or unloading plan (by captain or terminal representative)	Minimum 5 years	From date of drafting	Article 2224 French Civil Code or L110-4 French Commercial Code No legal obligation but rule of prevention in regard of prescription period
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board)	Captain: Until the next port of call outside France Harbour manager: minimum 3 years after receiving the data		Article R*325-3 French Maritime Port Code Articles R101-12, R*111-15, R*121-2 French Maritime Port Code
	Forwarding agents and charterers must retain: <ul style="list-style-type: none"> <li>• Consignment letters</li> <li>• Load delivery notes</li> <li>• [only charterers] A chronological record of the chartering operations</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum 3 years</li> <li>• Minimum 3 years</li> <li>• Minimum 2 years, 3 years for road charterers</li> </ul>	From date of drafting	Ministerial Order 11/02/1991 [Ref. NOR: EQU9100263A] Decree n°90-200 05/03/1990 [Ref. NOR: EQU9000023D]
	Road haulage companies must retain consignment letters and load delivery notes. Industrial vehicles rental companies must retain rental notes.	Minimum 2 years	From date of drafting	Ministerial Order 09/11/1999 [Ref. NOR : EQU9901586A]

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	After having manufactured, imported, supplied or used the substance	Section 36 Regulation 1907/2006/EC (REACH). Section 49 Regulation 1272/2008/EC
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 10 years	After having manufactured, imported, supplied or used the substance	Section 49 Regulation 1272/2008/EC
45	Documents related to an environmental permit			
46	Registered data and Conformity Statement concerning the recycling of waste materials	Minimum 3 years (registered data) 5 years (Conformity Statement)	From date of drafting	Article R541-46 French Environmental Code and Article 7 Ministerial Order 29/02/2012 [Ref. NOR: DEVP1205955A] Article D541-12-13 French Environmental Code
	Registered data concerning waste materials	Minimum 3 years	From date of drafting	Article R541-43 French Environmental Code
	Registered data concerning hazardous waste	Minimum 5 years, 3 years for hauliers and collection operators	From date of drafting, obtaining or completing	Article R541-45 French Environmental Code
	Documents on results of inspections on the discharge of domestic waste water	Minimum 30 years	From date of drafting or updating	Article 35 Ministerial Order 30/12/2002 [Ref. NOR: DEVPO320005A]
	Documents containing audits on radioactivity and all results of measurements taken	Minimum 10 years	From date of receipt from the auditor	Article R1333-96 French Public Health Code
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	After manufacture of the product has ceased	Article R224-66 French Environmental Code
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	After the construction product has been placed on the market	Article 11 Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	No specific retention periods. See section 1.		
50	Accident reports	Minimum 5 years	From date of drafting	Article 6 paragraph 4.3 Ministerial Order 29/05/2009 [Ref. NOR: DEVPO911622A]
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years	From the date the shipment starts	Article 20 Regulation (EC) No 1013/2006 on Shipments of Waste
52	(Transport) Document containing namely the UN number, the proper shipping name, names of consignors and consignees	Minimum 3 months	From date of drafting	Section 5.4.4.1 European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) Section 5.4.4.1 Regulation concerning the International Carriage of Dangerous Goods by Rail (RID)
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	No specific retention periods. See section 46.		
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	No specific retention periods. See section 46.		
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	No specific retention periods. See section 46.		
56	Transmission systems operators need to retain all records of quality indicators			
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Following termination of production of product	Article 7 Ministerial Order 03/05/2002 [Ref. NOR: ATEPO210055A]

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	Minimum 2 years	Following the termination of the policy	Article L114-1 French Insurance Code No legal obligation but rule of prevention in regard of prescription period

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber: evidence of consent	Minimum 3 years. Maximum: Duration of the processing if this takes longer than 3 years.	From date of collection	Article L34-5 and R10-1 French Post and Electronic Communications Code Article 226-18 and 226-18-1 French Criminal Code. Article 47 French DPA
	Data relating to the recipient of the unrequested communication	Maximum 3 years	From the last contact or from the moment of collection	CNIL recommendation n°2012-209 (Simplified Norm n°48)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS</b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	Minimum 3 years	Following the 1st day of the tax year to which the information relates	Article L176 LPF (French Tax Procedure Handbook)
61	General ledger, accounts receivable department, accounts payable department procurement and sales administration, inventory records	Minimum 10 years	Following the closure of the accounts and records	Article L123-22 paragraph 2 French Commercial Code
62	Procurement records	No specific retention periods. See section 61.		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	Until payment or termination of the contractual relationship	From date of collection	Article 6 French DPA
64	Customers' records Suppliers' records	Maximum 3 years Maximum: For the commercial relationship	Following the end of the commercial relationship From date of collection	CNIL recommendation n°2012-209 (Simplified Norm n°48) Article 6 French DPA

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>				
65	Intellectual property records	Minimum 5 years	Following the termination of the agreement	Article 2224 French Civil Code or article L110-4 French Commercial Code No legal obligation but rule of prevention in regard of prescription period
66	Contracts, agreements and other arrangements	Minimum 5 years	Following the termination of the contract, agreement or arrangement	Article 2224 French Civil Code or article L110-4 French Commercial Code No legal obligation but rule of prevention in regard of prescription period
	Contracts for real property acquisition or assignment	Minimum 30 years	Following the termination of the contract	Article 2227 French Civil Code No legal obligation but rule of prevention in regard of prescription period
	Electronic consumer contracts for a sum equalling or exceeding €120	Minimum 10 years	From date of contracting. From date of the latest delivery or performance in case of contracts involving sequential performance.	Article L134-2 French Consumer Code Articles 1 and 2 Decree n°2005-137
67	Permits, licences, certificates	Minimum 5 years	Depends on the permit, licence or certificate	Article 2224 French Civil Code No legal obligation but rule of prevention in regard of general prescription period. It may be longer or shorter depending on the kind of permit, licence or certificate.
68	Confidentiality and non-competition agreements	Minimum 5 years	Following the termination of the agreement	Article 2224 French Civil Code or article L110-4 French Commercial Code No legal obligation but rule of prevention in regard of general prescription period
69	Legal files concerning lawyers' representation and assistance before a court	Minimum 5 years	From the end of mandate	Article 2225 French Civil Code No legal obligation but rule of prevention in regard of prescription period
	Legal files concerning provision of services (e.g. accountants, notaries, architects, brokers, veterinary surgeons, etc.)			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence  Registers of transfers into other EU countries	Minimum 5 years. (However, it is highly recommended to retain the correspondence for as long as possible as it might be used as evidence before a Court.)	From date of drafting	Article 2224 French Civil Code No legal obligation but rule of prevention in regard of general prescription period. It may be longer or shorter depending on the nature of the content, the sender and the recipient.
71	The processing of personal data, if this differs from the process as notified to the DPA			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees and other internal management/administration  Specific retention periods for: Data relating to use of phone services Geo-location data  Biometric data  On-line traffic data and identification data of a specific website's users	Maximum: Duration of the employment contract  Maximum 1 year  Maximum: Depending on the purpose of the processing  Maximum: Duration of the employment contract  Minimum 1 year. Maximum 1 year.	From date of collection  From date on which payment is due  From date of collection  From date of collection  From date of collection	CNIL recommendation n°2005-002 (Simplified Norm n°46)  CNIL recommendation n°2005-019 (Simplified Norm 47)  CNIL recommendation n°2006-066  CNIL unique authorisations n°AU-007, AU-008, AU-019  Article L34-1 French Post and Electronic Communications Code Article 6 II LCEN (Act for confidence in the digital economy n°2004-575 21/06/2004)
73	Login and logout data of visitors	Maximum: Duration of the visit	From date of collection	Article 6 French DPA
74	Camera recordings	Maximum: 1 month (for data processing). The recordings can be archived for an unlimited period of time in the eventual event of a criminal prosecution	From date of access or transfer of the recordings	Article L252-3 French Internal Security Code CNIL guidelines

### Aramis

Aramis is an independent law firm of 20 lawyers based in Paris covering most fields of business law. The teams are headed by partners who have previously worked for prominent international law firms in Paris, London and New York. Aramis advises large corporations, both French and international, and regularly acts on a cross-border basis. The firm has a reputation for providing business-oriented and practical added-value services. The IT practice group is composed of 4 lawyers all experienced and fluent in English.

The group is mainly dedicated to complex IT-related transactions, copyright work, litigation and regulatory matters including data privacy, e-payments and compliance. According to Legal 500 for 2013, "Aramis has 'excellent industry knowledge', 'high negotiation capabilities', and gives 'constructive advice'. It advises large end-users on IT and outsourcing projects. The firm also has a cutting-edge practice in e-payment issues. Benjamin May is building a good reputation".

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# RETENTION GUIDE BY COUNTRY: GERMANY





## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contracts be set out in writing

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Whether a legal obligation exists to retain certain records in paper format

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Legal requirements in respect of the conversion of written records which belong to a company's administration into electronic format

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Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the conversion to, retention and accessibility of electronic records

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The minimum and maximum retention periods applying to the records

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## REQUIREMENTS TO SET OUT IN WRITING

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Under German law, certain agreements or instructions have to be set out in writing (Schriftformerfordernis). This means that the document has to be signed by the issuer with his/her name by his/her own hand, or with his/her notarially certified initials and, in the case of a contract, the signatures of the parties in general must be made on the same document, Sec. 126 Civil Code (Bürgerliches Gesetzbuch, BGB).

General examples include without limitation:

Upon request, the obligee (Gläubiger) must issue a written receipt (Quittung)

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The notice of termination of a lease

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The declaration of guarantee (Bürgschaft), acknowledgement of debt (Schuldversprechen) or abstract promise to fulfil an obligation (Schuldanerkenntnis) of a private individual

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The report on the establishment of a limited liability company (GmbH)

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Records on financial services

The requirement to set certain matters out in writing can also be established by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

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The requirement that certain notices are made in writing

Though certain agreements or notices have to be set out in writing, this does not always bar the possibility of converting the original paper record into an electronic record which replaces the paper record. In general, documents in written form may be replaced by an electronic document pursuant to Sec. 126a BGB. In this case, the issuer of the declaration must add his/her name to it and provide the electronic document with a qualified electronic signature in accordance with the Electronic Signature Act (Signaturgesetz, SigG).

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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

Under Sec. 371a Code of Civil Procedure (Zivilprozessordnung, ZPO), electronic documents pursuant to Sec. 126a BGB generally have an equal value as written documents.

For other documents, the general rules of evidence apply. In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted into a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

### Minimum retention obligation

Under German law, companies have a retention obligation for certain types of records. The key provisions for the retention of documents are Sec. 257 German Commercial Code (Handelsgesetzbuch, HGB) and Sec. 147 Fiscal Code (Abgabenordnung, AO).

Sec. 257 HGB provides that companies have to retain, inter alia, financial statements, audit reports, records, profit and loss accounts as well as commercial books for a period of ten years. Several other documents, such as correspondence which relates to a business transaction, must be retained for a minimum period of six years. These obligations largely correspond to the obligation pursuant to Sec. 147 AO.<sup>1</sup>

Sec. 147 (1) AO stipulates, inter alia, an additional retention obligation regarding all documents which might be relevant for a tax assessment. Furthermore, the retention period under AO does not expire as long as the tax authorities may carry out a tax assessment pursuant to Sec. 169 AO. Although the time periods under Sec. 169 AO are relatively short, the beginning of the retention period may be different from the start of the time period pursuant to Sec. 147 (3) AO (Sec. 170 AO), and there are several exceptions concerning the expiration of the retention period (Sec. 171 AO).

<sup>1</sup> According to a proposed amendment, the 10 years retention period under Sec. 147 AO will be reduced to 8 years for documents for which the minimum retention period has not yet expired and from 1 January 2015 to 7 years for documents for which the minimum retention period of then 8 years has not yet expired as of 1 January 2015. The same applies to the retention period under Sec. 257 HGB for accounting documents. See BT-Drucksache 17/13082.

### Maximum retention periods

Mostly, maximum retention periods derive from data protection law. To the extent records contain personal data as defined by the German Data Protection Act (Bundesdatenschutzgesetz, BDSG), these records may not be kept for a longer period than is necessary for achieving the purposes for which the personal data have been collected or are subsequently processed unless the individual consents (Sec. 35 (2) No 3 BDSG).

### Legal requirements regarding the retention of certain records in paper format

In general, the relevant provisions for the retention of documents also determine in which circumstances the specific documents may be replaced by electronic records.

Sec. 257 (3) HGB provides that the opening balance sheet and the financial statements may not be kept in electronic form. Other records may be replaced by electronic records if (1) the generally accepted accounting principles (Grundsätze ordnungsgemäßer Buchführung, GAAP) are respected, (2) the electronic documents correspond to the original documents and (3) full access to the data is guaranteed and the data can be made available without undue delay.

The GAAP (Sec. 238, Sec. 239 HGB) require that records are maintained in such a way that an outside expert can derive from it an overview of the business operations and position of the company within a reasonable amount of time.

Under Sec. 147 AO, paper documents may be replaced by electronic records with the exception of the annual financial statements, opening balance sheets and certain customs documents. However, Sec. 147 (4) AO stipulates obligations of the tax payer with regard to the access of the tax authorities to such electronic records. The tax payer is obliged to make the data available at his own expense and, upon request by the tax authority, has to print all or part of the documents or furnish reproductions which are legible without auxiliary tools without undue delay.



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## ISO 15489

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ISO 15489 was adopted in Germany without amendments and is applied as DIN ISO 15489.

Compliance with ISO 15489 might be used as an argument in a situation where, e.g., a company is accused of having wilfully destroyed or deleted documents which appear to be relevant in a criminal or regulatory investigation.

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## GUIDELINES TAX AND CUSTOMS ADMINISTRATION

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Pursuant to Sec. 147 AO, most paper records can be replaced by electronic documents. On 7 November 1995, the Ministry of Finance published guidelines on the conversion of tax-related documents to electronic documents.

In general, an entity needs to respect the following conditions:

The records must be converted in a way that their content remains intact

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The records remain accessible for their entire retention period

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The records can be produced and made legible within a reasonable time frame

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The entity has to respect the GAAP (which also applies to paper records)

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under German law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records, including accounting documents, as well as operating instructions and other organisational documents necessary for interpreting these documents	Minimum 10 years	Close of calendar year in which the document was created	Sec. 257 (1) No 1 and 4, (4) Commercial Code (Handelsgesetzbuch, HGB)
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Standing orders (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy) Board resolutions (copy), Boards' and shareholders' meetings minutes (copy)	No fixed period/ during the lifetime of the corporation		General considerations
		Minimum 10 years (only if these documents are necessary to interpret documents listed in Sec. 257 (1) No 1 and 4 HGB)	Close of calendar year in which the document was created	Sec. 257 (1) No 1 and 4, (4) HGB
	Business correspondence (received correspondence and copies of sent correspondence)	Minimum 6 years	Close of calendar year in which the document was created	Sec. 257 (1) No 2 and 3, (4) HGB
3	Financial statements, audit reports, commercial books and records, inventories, opening balance sheets, annual financial statements, management reports, consolidated financial statements, consolidated management reports, profit-and-loss accounts etc	Minimum 10 years	Close of calendar year in which the document was created	Sec. 257 (1) No 1, (4) HGB
4	Profit and loss accounts	Minimum 10 years	Close of calendar year in which the document was created	Sec. 257 (1) No 1, (4) HGB
5	Records and documents of the dissolved legal entity	Minimum 10 years	Conclusion of the liquidation proceedings	Stock Companies (AG): Sec. 273 (2) Stock Corporation Act (Aktengesetz, AktG) Limited Liability Companies (GmbH): Sec. 74 (2) Limited Liability Companies Act (GmbH-Gesetz, GmbHG) Limited partnerships (KG) and general partnerships (OHG): Sec. 157 (2) HGB
6	Membership records in a cooperative association (original)	Minimum 3 years	Close of calendar year in which the member left the cooperative association	Sec. 30 Act on Cooperative Associations (Genossenschaftsgesetz, GenG)
7	Subsidy records and documents			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers, inventories, financial statements, management reports, opening balance sheets and related information, business correspondence, accounting records, certain customs documents as well as any other document relevant for the taxation</p> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p>	<p>Minimum 6 resp. 10 years - depending on the document (10 years for books, records and other data carriers, inventories, financial statements, management reports, opening balance sheets and related information, accounting records and certain customs documents; 6 years for all other documents relevant for the taxation)</p>	<p>Close of calendar year in which the document was created or last amended</p>	<p>Article 8 Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code</p> <p>Sec. 147 (1), (4) Fiscal Code (Abgabenordnung, AO)</p>
	<b>VAT</b>			
9	Information relevant for VAT purposes, specifically invoices for any delivery of goods or services sent and received	Minimum 10 years <sup>1</sup>	Close of calendar year in which the invoice was issued	Sec. 14b Act on Value Added Tax (Umsatzsteuergesetz, UStG)
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto			
	<b>CORPORATE INCOME TAX</b>			
11	Taxpayers' obligation to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions			

<sup>1</sup> According to a proposed amendment to Sec. 14b UStG, the minimum retention period will be reduced to 8 years for all documents for which the minimum retention period of 10 years has not yet expired and from 1 January 2015 to 7 years for all documents for which the minimum retention period of then 8 years has not yet expired on 1 January 2015. See BT-Drucksache 17/13082.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes			
	<b>GENERAL CUSTOMS TAX</b>			
13	Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers			
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes	Local taxes and related obligations vary from Federal State to Federal State and from municipality to municipality		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements as well as social security records, pay slips, overtime compensation, bonuses, expenses, benefits in kind and severance pay records	Minimum 10 years	Close of calendar year in which the document was created	Sec. 147 (1) No 1, (3) AO, Sec. 257 (1) No 1, (4) HGB
	Salary account (Lohnkonto) including employee data relevant for the salary payment	Minimum 6 years	Last entry of salary payment	Sec. 41 (1) Income Tax Act (Einkommenssteuergesetz, EStG)
	Record of daily working hours of seconded/borrowed workers who benefit from minimum wages (Mindestlöhne)	Minimum 2 years	Creation of the records	Sec. 19 (1) Seconded Workers Act (Arbeitnehmer-Entsendegesetz, AEntG), Sec. 17c (1) Borrowed Workforce Act (Arbeitnehmerüberlassungsgesetz, AÜG)
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration			
	A company needs to have included copies of valid IDs of employees in its administration before the employees start working for the employer			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)	No specific maximum retention period, general rules apply		
	Severance pay records	Minimum retention period: see section 15		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract Various information on employees relevant for payment of social security contributions	Minimum 1 year	Close of calendar year of audit by social security administration	Sec. 28f Social Security Code IV (Sozialgesetzbuch IV, SGB IV) Sec. 8 Regulation on Contribution Proceedings (Beitragsverfahrensverordnung, BVV)
19	Identification documents of foreign nationals (copy)	Minimum 1 year	Close of calendar year of audit by social security administration	Sec. 28f Social Security Code IV (Sozialgesetzbuch IV, SGB IV) Sec. 8 Regulation on Contribution Proceedings (Beitragsverfahrensverordnung, BVV)
20	Business data and documents concerning pension schemes and related subjects (data on the employer's business pension obligations relevant for the insolvency insurance)	Minimum 6 years		Sec. 11 Act on Business Pensions (Gesetz über die betriebliche Altersversorgung, BetrAVG)
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	No specific maximum retention period, general rules apply		
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply. Minimum retention period: see section 15.		
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	No specific maximum retention period, general rules apply		
25	Employee stock purchase and options records	No specific maximum retention period, general rules apply		
26	Copy of identification documents	No specific maximum retention period, general rules apply. No specific minimum retention period. See section 19.		
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	No specific maximum retention period, general rules apply		
28	Data concerning pension and early retirement	No specific maximum retention period, general rules apply. Minimum retention period: see section 20.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
29	Medical files, medical documents in cases of a medical treatment contract Records on X-ray treatments X-rays	Minimum 10 years Minimum 30 years Minimum 10 years	After termination of the treatment The date of the last treatment	Various professional codes of conduct Sec. 28 (1), (3) Regulation on X-ray (Röntgenverordnung, RöV)
30	Floor plans and directions			
31	Work-related to hazardous substances	Minimum 40 years	End of exposure	Sec. 14 (3) No 3 and 4 Ordinance on Hazardous Substances (Gefahrstoffverordnung, GefStoffV)
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat			
33	Register of employees who work with 3rd and 4th category biological agents	Minimum: at least until termination of employment. Maximum: after termination only a copy of the relevant excerpt be handed to the employee.	Creation of the records	Sec. 13 (4) Regulation on Biological Agents (Biostoffverordnung, BioStoffV)
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	End of exposure	Sec. 14 (3) No 3 and 4 Ordinance on Hazardous Substances (Gefahrstoffverordnung, GefStoffV)
35	Administration concerning measurements of radioactive substances			
36	Records of radiation	Minimum 30 years. Maximum 100 years.	Termination of the employment. Birth.	Sec. 42 Radiological Protection Ordinance (Strahlenschutzverordnung StrlSchV)
37	Medical records of employees who have possibly been exposed to ionizing radiation	Minimum 30 years. Maximum 100 years.	Termination of the relevant activity. Birth.	Secs. 64 (3), 103 (aircrews) StrlSchV
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format) for professional drivers	No specific maximum retention period, general rules apply. Minimum retention period: 2 years.	Creation of the records	Sec. 21a (7) Working Hours Act (Arbeitszeitgesetz, ArbZG)
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	No specific maximum retention period, general rules apply		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control			
41	Loading or unloading plan (by captain or terminal representative)	Minimum 6 months	Creation of the records/date of loading or unloading	See the relevant provisions of the Federal States (Länder) Acts, such as Sec. 24 (4) Harbour Act of Lower Saxony (Niedersächsische Hafenordnung, NHafenO)
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity waste and other materials on board)		Creation of the records	See e.g. the Act on the Prevention of Pollution from Ships of Hamburg (Hamburgisches Gesetz über Schiffsabfälle und Ladungsrückstände, HmbSchEG)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	Last date of manufacture, import, supply or use of the substance or preparation	Art. 36 paragraph 1 of Regulation 1907/2006/EC (REACH) Article 49 Regulation 1272/2008/EC on classification, labelling and packaging of substances and mixtures
	Updated list of dangerous substances	No specific minimum retention period applies	Creation of the records	Sec. 9 (2), Annex II of 12th Regulation on Emission Control (12. Bundesimmissionsschutzverordnung, BImSchV)
	Data on transactions of energy suppliers on the purchase of energy	Minimum 5 years	Creation of the records / date of transaction	Sec. 5a (1) EnWG
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 10 years	Last date of supply of the substance or mixture	Article 49 of the Regulation No 1272/2008 on classification, labelling and packaging of substances and mixtures
45	Documents related to an environmental permit	The permit may contain an obligation to retain the permit and the corresponding documents. However, a permit should be kept in order to preserve evidence of the rights granted under the permit.		
	Data regarding emissions, monitoring and repairs and documents necessary for interpreting the documents if the permit holder is operator of a plant which needs a permit according to the Federal Emission Control Act (Bundesimmissionsschutzgesetz, BImSchG)	Minimum 5 years Minimum 4 years Minimum 5 years	Once the data is obtained Once the data is obtained Once the data is obtained	Sec. 31 BImSchG (measurements on authority's request) Sec. 5 (2) 11th Regulation on Emission Control (11. Bundesimmissionsschutzverordnung, BImSchV) (emission declarations for certain categories of emissions) Sec. 12 (2) 12th BImSchV (documents on prevention of emergencies in highly dangerous facilities)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	Minimum 3 years	Once the waste materials are registered pursuant to Sec. 49 Closed Substance Cycle Act (Kreislaufwirtschaftsgesetz, KrWG)	Sec. 49 (1),(3),(5) KrWG
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal	Minimum 12 months		Sec. 49 (1),(3),(5) KrWG
	Documents on results of inspections on the discharge of domestic waste water	Depending on the Federal State: 3 years in North Rhine-Westphalia; 10 years in Brandenburg	Once the data is obtained	Since the Federal States have the legislative power on issue, see the Water Acts of the Federal States, e.g. Sec. 60 (4) Water Act of North Rhine-Westphalia (Landeswassergesetz, LWG); Sec. 75 Water Act of Brandenburg (Wassergesetz, BdbWG)
	Documents containing audits on radioactivity and all results of measurements taken			
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	Termination of production of product	Sec. 4 (6) Act on energy related products (Energieverbrauchsrelevante-Produkte-Gesetz, EVPG)
	Manufacturers of electronic products need to keep information regarding the recycling of their products (materials) for recycling facilities. This obligation only exists if this information is necessary for the compliance with the provisions of the Electrical and Electronic Equipment Act	Minimum 1 year	Once the product is placed on the market	Sec. 13 (6) Electrical and Electronic Equipment Act (Elektro- und Elektronikgerätegesetz, ElektroG)
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	Once the product is placed on the market	Article 11 paragraph 2 Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (applicable from 1 July 2013)
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies			
	Records on soil and water investigations by the owner on an authority's request if the site is potentially hazardous or contaminated	Minimum 5 years; longer if required in individual cases	Creation of the records	Sec. 15 (3) Federal Soil Protection Act (Bundesbodenschutzgesetz, BBodSchG)
	Copies of applications, notifications, examinations and testing pursuant to the provisions of the Act on Chemicals	Minimum 5 years	Following the last time the substance is produced or placed on the market	Sec. 20 (5) Act on Chemicals (Chemikaliengesetz, ChemG)
50	Accident reports			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years	Once shipment starts	Article 20 of the Regulation (EC) No 1013/2006 on Shipments of Waste
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 months	Once transport is accomplished	Section 5.4.4.1 European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) Section 5.4.4.1 Regulation concerning the International Carriage of Dangerous Goods by Rail (RID)
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	Until the end of the maintenance period	Creation of the records	Sec. 13 (3) Dumpsite Regulation (Deponieverordnung, DepV)
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	Until the end of the maintenance period	Creation of the records	Sec. 13 (3) DepV
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	Minimum 3 years	Once the waste materials are registered pursuant to Sec. 49 (1) KrWG	Sec. 49 (1), (3), (5) KrWG
56	Transmission systems operators need to retain all records of quality indicators			
57	Technical documentation based on Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Date of manufacturing the last machine of one type	Sec. 5 of 32th BImSchV (Geräte- und Maschinenlärmschutzverordnung, 32. BImSchV)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PURCHASING RECORDS</b>			
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	See General Company Records and Tax and Accounting Records above		
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	See General Company Records and Tax and Accounting Records above		
62	Procurement records	See General Company Records and Tax and Accounting Records above		
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
63	Debtors and creditors records	No specific maximum retention period, general rules apply. Minimum retention period: see General Company Records and Tax and Accounting Records above.		
64	Customers and suppliers records	No specific maximum retention period, general rules apply. Minimum retention period: see General Company Records and Tax and Accounting Records above.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
65	Intellectual property records			
66	Contracts, agreements and other arrangements			
	Records on trade with insider securities (Insiderpapiere)	Minimum 6 years	From the moment the document is created	Sec. 16 Securities Trading Act (Wertpapierhandelsgesetz, WpHG)
	Insider lists, i.e. lists of persons who have access to insider information (Insiderverzeichnisse)	Minimum and maximum 6 years	Close of calendar year in which the last entry was made	Sec. 15b WpHG, Sec. 16 Insider Lists Regulation (Wertpapierhandelsanzeige- und Insiderverzeichnisverordnung, WpAIV)
	Records on services related to securities	Minimum 5 years; for records regarding the rights and obligations of the investment services enterprise and its clients: at least for the duration of the business relationship with the client	Close of calendar year in which the last entry was made	Sec. 34 (3) WpHG
	Information on, inter alia, the identity of a contracting party if the Anti-Money Laundering Act (Geldwäschegesetz, GwG) is applicable	5 years	Close of calendar year in which the contractual relationship has ended or close of calendar year in which the information was obtained, depending on the scenario	Sec. 8 GwG
67	Permits, licences, certificates			
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)			
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)	Minimum 5 years (lawyers, patent attorneys). Minimum 10 years (tax advisers, auditors, doctors).	End of services/assignment	Lawyers: Sec. 50 (2) BRAO; Patent attorneys: Sec. 44 (2) PAO, Tax advisers: Sec. 66 (1) StBerG; Auditors: Sec. 51b (2) WiPrO; Doctors: Sec. 10 MBO-Ä

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
OTHER RECORDS				
70	Correspondence Registers of transfers into other EU countries Business correspondence (received correspondence and copies of sent correspondence)	See General Company Records and Tax and Accounting Records above		
71	The processing of personal data, if this differs from the process as notified to the DPA			
TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	No specific maximum retention period, general rules apply		
73	Login and logout data of visitors	No specific maximum retention period, general rules apply		
74	Camera recordings	Must be deleted without undue delay if no longer needed or individuals have interest in deletion		Sec. 6b (5) BDSG

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS <sup>1</sup>				
GENETIC ENGINEERING				
75	Records of genetic engineering	Minimum 10 (security level 1) to 30 years (security levels 2-4 and in case of release)		Secs. 2, 4 Regulation regarding Records of Genetic Engineering (Gentechnik-Aufzeichnungsverordnung, GenTAufzV)

<sup>1</sup> These records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.

### Hengeler Mueller

Hengeler Mueller is a partnership of lawyers with offices in Berlin, Düsseldorf, Frankfurt, Munich, Brussels and London. The firm currently has more than 250 lawyers (incl. 90 partners). The firm specialises in high-end legal advice to companies in complex business transactions. Our lawyers advise leading German and international industrial and commercial companies, private equity companies, banks, insurances and other financial service providers. A dedicated TMT team with many years of in depth industry expertise from advisory mandates, litigation and transactional practice has been providing counsel to domestic and foreign companies operating in the telecommunications, media and technology sectors.

The advice provided focusses on copyright and media law, IT and data protection, general contract law as well as telecommunications and antitrust. In recent years, Hengeler Mueller has advised extensively on the contracts and court proceedings which subsequently have formed the industry's legal framework. The firm represents content users in relation to complex and strategically significant copyright issues and in court proceedings. Furthermore, the team is present in prominent proceedings before the arbitration board of the German Patent and Trade Mark Office as well as in the copyright divisions and senates of the courts. The antitrust team supports clients in difficult merger control procedures in the telecommunications and media sectors as well as in antitrust proceedings before the German Federal Cartel Office and the European Commission.

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# RETENTION GUIDE BY COUNTRY: HUNGARY



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contract be set out in writing

Whether legal obligation exists to retain certain records in paper format

Legal requirements in respect of the conversion of written records which belong to a company's administration into electronic format

Related issues are:

The evidentiary value of electronic records

International technical norms and standards for the conversion to, retention, and accessibility of electronic records

The minimum and maximum retention periods applying to the records

## REQUIREMENTS TO SET OUT IN WRITING

Under Hungarian law, certain agreements or instructions have to be set out in writing. General examples include:

An employment agreement between an employer and employee

The purchase of a real estate property

The obligation by the employer to inform the employee of certain aspects of employment

A quota (i.e. ownership interest held in a limited liability company) purchase agreement

Agreement on independent commercial agency services

A mortgage or pledge agreement

The requirement to set certain matters out in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

The requirement that certain notices are made in writing

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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil procedures, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original

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Ensure the authenticity and integrity of the electronic record during its retention period

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Ensure the electronic record's accessibility and legibility during its retention period

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a born-digital agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.

## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

### Minimum retention obligation

Under Hungarian law, companies have a retention obligation for certain types of records. Section 169 of the Hungarian Accounting Act prescribes that the original accounts and records of a company (the “company books and records”) be retained for a period of eight years. The records falling within the scope of this provision need to be retained in such a legible manner that the company can present them at any time, on request.

In connection with accounting documents originally made out in a format other than electronic, the obligation of retaining documents may be satisfied, in due observation of the legislation laying down provisions on making copies of paper-based documents by way of electronic means, if the applied method of reproduction contains facilities to permit the swift retrieval of all information contained in the original document in a perfectly legible form and safeguards to prevent the stored contents from being manipulated or corrupted.

Accounting documents made out in electronic format shall be retained in electronic format, in due observation of the legislation on digital archiving, with sufficient facilities to permit the swift retrieval of all information contained in the original document in a perfectly legible form and to contain safeguards to prevent the stored contents from being manipulated or corrupted.

### Maximum retention periods

To the extent records contain personal data as defined by the Hungarian Data Protection Act (Act no CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information), these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is “necessary” and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be either (i) disposed of, (ii) de-identified (i.e. all references to data subjects should be rendered unreadable), or (iii) stored in a closed archive. An exception can be created by means of a so-called “legal” or “tax hold notice”, issued by an authorised officer or department within the company. A legal or tax hold notice instructs relevant staff to suspend disposal, de-identifying or archiving of certain documents in the event of reasonable anticipation of litigation, tax audits or investigations. In such a case, the retention period may be prolonged until the ultimate limitation period, or in the event of pending litigation procedures, until execution has ended of a court judgment given in last instance.

This guide provides an overview of minimum as well as maximum data retention periods.

### Conversion requirements

The 13/2005 (X.27.) IHM Decree contains the rules applicable to making electronic copies of paper-based documents. Under the Decree, there are certain requirements to be fulfilled when making such copies, e.g. it must be ensured that imaging consistency is kept and an enhanced electronic signature must be attached to the electronic copy. The 114/2007 (XII.29.) GKM Decree on the Rules on Digital Archiving explicitly offers the possibility to transfer records to another type of data carrier when it comes to fulfilling the retaining obligation, provided this is done in a manner which precludes subsequent tampering with the document and protects the document from deletion, destruction, accidental destruction, damages and unauthorised access. The company required to comply with retaining obligations must ensure that the electronic documents remain legible during the prescribed retention period. When it comes to digitally archiving documents, certain conditions must be complied with.



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## ISO-STANDARDS

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In Hungary, no specific national standards concerning Information and Documentation in relation to records management apply. However, in practice ISO 15489 and the Model Requirements for the Management of Electronic Records (“MoReg”) are applied in the context of records management.

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Hungarian law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Minimum 8 years	Once the document has been created	Section 169 of the Accounting Act
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards' and shareholders' meetings minutes (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	At least during the existence of the legal entity (also subject to section 169 of the Accounting Act. See section 1).	Once the document has been created	The law provides for no specific retention period in this regard, however, such documents are so essential that it is advisable to keep them during the existence of the company (see also clause 1 above)
3	Financial statements, audit reports, etc	Minimum 8 years	Once the document has been created	Section 169 of the Accounting Act
4	Profit and loss accounts	Minimum 8 years	Once the document has been created	Section 169 of the Accounting Act
5	Records and documents of the dissolved legal entity	Minimum 8 years	From the date of deletion of the company	Section 169 of the Accounting Act
6	Membership records in a cooperative association (original)	At least during the existence of the legal entity (also subject to section 169 of the Accounting Act. See section 1).	Once the document has been created	The law provides for no specific retention period in this regard, however, such documents are so essential that it is advisable to keep them during the existence of the company (see also clause 1 above)
7	Subsidy records and documents	At least during the existence of the legal entity (also subject to section 169 of the Accounting Act. See section 1).	Once the document has been created	The law provides for no specific retention period in this regard, however, such documents are so essential that it is advisable to keep them during the existence of the company (see also clause 1 above)
	Documents concerning agricultural subsidies	Minimum 8 years (except if a directly applicable EU rule provides otherwise)	From the last calendar year of the year, in which the subsidy was due	Act XVII of 2007 on the procedural rules concerning agricultural and piscatorial subsidies

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT)</p> <p>These organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p>	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes</p> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU</p>	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 179 of the VAT ACT 2007
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto			
	<b>CORPORATE INCOME TAX</b>			
11	Hungarian taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Hungarian Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes			
	<b>GENERAL CUSTOMS TAX</b>			
13	Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes (e.g. taxes levied under the Municipalities Act). Tax rates may differ per region.	At least until the claims by the Tax Authority (i.e. Municipality) have elapsed	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act and Section 10 of the Personal Income Tax Act 1995
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act and Section 10 of the Personal Income Tax Act
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind) Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	No specific maximum retention period, general rules apply. Minimum retention period: see section 15.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
18	Employment contract	There is no specific provision on this. Claims arising out of employment elapse in three years, whereas claims arising out of criminal offenses elapse in five years and the maximum possible time of punishment, whichever is longer. With respect to any taxation issues, which may arise from the employment relationship, reference is also made to the General Tax Act as mentioned above (which stipulate that tax claims by the Tax Authority elapse in five years).	When employment ends	Section 286 of the Labour Code, Section 47 of the General Tax Act
19	Identification documents of foreign nationals (copy)			
20	Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	As for pension schemes, see clause 20 above		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	Must be deleted without any delay (once it has turned out that the applicant has been rejected)	From the date the hiring procedure has ended	Section 4 of the Data Protection Act
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply. Minimum retention period: at least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	No specific maximum retention period, general rules apply. Minimum retention periods: claims arising out of employment elapse in three years, whereas claims arising out of criminal offenses elapse in five years and the maximum possible time of punishment, whichever is longer.	When employment ends	Section 286 of the Labour Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	HR/EMPLOYMENT/PENSION RECORDS			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
25	Employee stock purchase and options records	No specific maximum retention period, general rules apply		
26	Copy of identification documents	No copy may be kept of ID cards under the opinion issued by the former Data Commissioner, which is likely to have been taken over by the Data Protection Authority.		
27	Expats records and other records relating to foreign employees (e.g. visa, work permit, residence permit of third-country nationals)	No specific maximum retention period, general rules apply. Minimum retention period: at least for the entire duration of the employment.	From the commencement of the employment	Section 71 of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals
28	Data concerning pension and early retirement	No specific maximum retention period, general rules apply. Minimum retention period: see section 20.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical (or occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	Medical documents must be retained for at least 30 years; final medical report must be kept for at least 50 years; records gained through imaging diagnostics must be kept for at least 10 years and the diagnosis made of the record must be kept for at least 30 years	From obtaining the data, making the record	Section 30 of the Act no XLVII of 1997 on the Management and Protection of Medical data and Related Personal Data
30	Floor plans and directions	There is no specific provision on this. Recommended is to keep as long as necessary for safety purposes.		
31	Work-related medical examinations related to hazardous substances	Medical documents must be retained for at least 30 years; final medical report must be kept for at least 50 years; records gained through imaging diagnostics must be kept for at least 10 years and the diagnosis made of the record must be kept for at least 30 years	From obtaining the data, making the record	Section 30 of the Act no XLVII of 1997 on the Management and Protection of Medical data and Related Personal Data
	Minutes of the periodical safety inspections of dangerous technological processes, the work equipment defined by the respective laws (Section 21 (2) Act XCIII of 1993 on Labour Safety) and work equipment that is subject to periodic safety inspections by virtue of a statutory provision, a standard or some other document concerning the safe operation and use of the equipment in question	Until, at least, the next periodical safety inspection. The periodical safety inspection is due once every 5 years, unless the relevant standard(s) or the operating manual prescribes more frequent inspections.	From the date the periodical safety inspection procedure has ended	Section 3 (2) of Decree No. 5/1993 (XII. 26.) MÜM of the Ministry of Labour on the implementation of Act XCIII of 1993 on Labour Safety
	Risk assessment documentation (report)	Minimum 5 years	From the date the risk assessment procedure has ended	Section 54 (5) of Act XCIII of 1993 on Labour Safety

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	Minimum 10 years in general and minimum 40 years for cancer-causing substances. Nevertheless, it is recommended to keep such data for 50 years, in view of the retention period listed under section 43 (the two decrees maintain a different retention period).	From the end of employment	Section 7 of the EüM-SzCsM Decree no 25/2000 on the Chemical Safety of Workplaces
33	Register of employees who work with 3rd and 4th category biological agents			
34	Register of employees who work with cancer-causing substances	Minimum 50 years	From the last day of exposure	Section 17 of the EüM-SzCsM Decree no 26/2000 on the Protection against Cancer-Causing Substances and Prevention of Diseases Caused by such Substances. As for cancer-causing substances, the relationship between Section 7 of the EüM-SzCsM Decree no 25/2000 on the Chemical Safety of Workplaces and Section 17 of the EüM-SzCsM Decree no 26/2000 on the Protection against Cancer-Causing Substances and Prevention of Diseases Caused by such Substances is not clear, thus, it is advisable to keep such data for 50 years.
35	Administration concerning measurements of radioactive substances	The user of atomic radioactive energy is required to keep data for a minimum of 5 years	From the end of the data providing obligation	Section 16 of the Act no CXVI of 1996 on the Atomic Energy
36	Records of radiation	The user of atomic radioactive energy is required to keep data for a minimum of 5 years	From the end of the data providing obligation	Section 16 of the Act no CXVI of 1996 on the Atomic Energy
37	Medical records of employees who have possibly been exposed to ionizing radiation	Minimum 50 years	From the last day of exposure	Appendix 2 of Annex 2 of the EüM Decree no 16/2000 (VI.8.) on the Enforcement of Certain Provisions of the Act no CXVI of 1996 on the Atomic Energy

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
38	Registration of work and rest periods (in appropriate format)	No specific maximum retention period, general rules apply		
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	No specific maximum retention period, general rules apply		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in 5 years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 47 of the General Taxes Act
41	Loading or unloading plan (by captain or terminal representative)	Minimum 6 months	From the acceptance of the loading plan	Section 13 c) of the GKM Decree no. 1/2004 (I.5.) on the Safe Loading of Sea-Going Vessels Carrying Mass Products
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board)			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 5 years	From the date the risk assessment procedure has ended	Section 54 (6) of the Act no XCIII of 1993 on Labour Safety
44	The names and addresses of the clients/buyers of the chemicals or environmentally dangerous substances and preparations			
45	Documents related to an environmental permit	No specific provision on this. The permit and the related documentation should be kept as long as the permit is effective and for at least 5 years thereafter, taking into account that civil claims elapse in 5 years.		Section 324 (1) of the Civil Code
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	Minimum 5 years, in case of hazardous waste for minimum 10 years		Section 65 of Act CLXXXV of 2012 on waste, Government Decree no. 440/2012. (XII. 29.) on the obligations concerning keeping registers and supplying data in connection with waste management.
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal			
	Documents on results of inspections on the discharge of domestic waste water			
	Documents containing audits on radioactivity and all results of measurements taken	See section 35	See section 35	See section 35
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product			
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	After the construction product has been placed on the market	Article 11 of Regulation (EU) No 305/2011
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies			
	Documentation on activities of the (private) land user or the investor relating to soil protection	Minimum 5 years	Production of document	Section 47 of Act CXXIX of 2007 on Protection of Arable Lands

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
50	Accident reports	Minimum 5 years	From the date of accident	Annex 3 of the MüM Decree no 5/1993 (XII.26.) on the Enforcement of Certain Provisions of the Act no XCIII of 1993 on Labour Safety
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 5 years	From the date of starting the transfer	Section 6 of Governmental Decree no 440/2012 on registration and data supply obligations in connection with waste materials
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken			
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	The register concerning the dumping activity cannot be destroyed or eliminated; it must be kept for unlimited period of time (may not be sorted out)		Section 65 of Act CLXXXV of 2012 on waste
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials			
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material			
56	Transmission systems operators need to retain all records of quality indicators			
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	There is no specific provision on this	Civil claims elapse in five years from due date. Thus, the policy should be kept as long as it is effective and for 5 years from expiry.	Section 324 (1) of the Civil Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber	Such data may be kept as long as it is justified and necessary for reaching a lawful aim		Section 4 of the Data Protection Act

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS</b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 179 of the VAT Act
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	Minimum 8 years	Once the document has been created	Section 169 of the Accounting Act
62	Procurement records	Minimum 5 years	Contracting entities shall retain all documents connected to the preparation and conduct of public procurement procedures for 5 years following the conclusion of the procedure, and all documents related to the performance of public contracts for five years following fulfillment of the contract. Where a review procedure has been opened in respect of a public procurement procedure, the related documents shall be retained until the definitive conclusion of such procedure, or the conclusion of the judicial review where applicable, in any case for at least 5 years.	Section 34 (2) of the Act no CVIII of 2011 on Public Procurements
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	No specific maximum retention period, general rules apply		
64	Customers and suppliers records	Customers and suppliers records		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>				
65	Intellectual property records	At least until the claims by the Tax Authority have elapsed. Tax claims by the Tax Authority elapse in five years.	The last day of the calendar year in which the taxes should have been declared or reported, or paid in the absence of a tax return or declaration	Section 179 of the VAT Act
66	Contracts, agreements and other arrangements	There is no specific provision on this	Civil claims elapse in five years from due date. Thus, agreements should be kept as long as they are effective and for five years from expiry.	Section 324 (1) of the Civil Code governs the lapse period
	Data and documents gained in connection with the prevention of money laundering	Minimum 8 years	From the date of gaining knowledge of the information or, in certain cases, from the end of the service provider-client relationship	Section 28 of the Act no CXXXVI of 2007 on the Prevention of Money Laundering and Financing of Terrorism
67	Permits, licences, certificates	There is no specific provision on this. Permits should be retained until expiry		
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	No specific provision on this. In general, civil claims elapse in five years, thus, the documents should be kept accordingly		Section 324 (1) of the Civil Code governs the lapse period
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)			
	Data gained during identity check by the attorneys at law	Minimum 5 years	From the date of gaining knowledge of the data, i.e. date of carrying out the identity check	Section 27/C (2) of the Act no XI of 1998 on Attorneys at Law
	Original documents on company foundation	Must be kept unlimited. Copies of the original documents are kept by the attorney at law in charge.	From the date of converting the documents into electronic format (the registration proceeding is an electronic proceeding) In case the attorney at law ceases his/her activities, the documents must be placed at the archives kept by the bar	Section 27/A (2) of the Act no XI of 1998 on Attorneys at Law

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries			
71	The processing of personal data, if this differs from the process as notified to the DPA			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration, registers on data transfers	As long as the employment relationship exists if the employer has prohibited private use of the computer, official email address and communication equipment	Please refer to the retention period	Section 4 of the Data Protection Act
73	Login and logout data of visitors	Such data may be kept as long as it is justified and necessary for reaching a lawful aim	From the date such data are obtained	Section 4 of the Data Protection Act
74	Camera recordings	In general, maximum 3 working days	From the date of the record	Section 31 of the Personal and Asset Protection Act

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS <sup>1</sup></b>				
<b>PRODUCTS AND PRODUCTION RECORDS</b>				
75	Technical documentation of a product and documents proving technical compliance	Minimum 5 years	From the release of the product	Sections 7 (4), 10 (3) and 12 (3) of Act LXXXVIII of 2012 on the Market Supervision of Products
<b>PHARMACEUTICAL RECORDS</b>				
76	Registries to be kept by pharmacies	Minimum 5 years	From the last data entry	Section 20 of the EüM Decree (IX.19.) no 41/2007
77	The names and addresses of the clients/buyers of drugs and psychotropic substances and preparations	Minimum 5 years	From the date of issuance of the document	Section 29 (2) of the Governmental Decree no 66/2012 on Activities with Drugs and Psychotropic Substances

<sup>1</sup>Please note that these records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.

### Szecskey

Szecskey Attorneys at Law is considered one of the premier independent firms in Hungary with international practice. In addition to having the capabilities to provide services throughout Hungary, we also have access to cross-border legal services in Europe and worldwide through international networking channels in cooperation with highly reputed correspondent firms, such as the Best Friends network, and other legal networks (World Services Group (WSG), Eurojuris, Legalink, Lexicom, Biolegis, Legus, IBLC, INBLF, Libralex, State Capital Group) comprising firms from almost all over the world. Being able to draw on its close connections, the Firm is able to seamlessly handle any international transaction on which it is mandated to work.

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In fact, it was named "IFLR 2007 LAW FIRM OF THE YEAR" in recognition of its significant participation in the some of the year's most important transactions. In November 2011 our firm won the award "Law Firm of the Decade" on the basis of the votes that the Hungarian Venture Capital Association received from its venture capital investor, venture capital fund manager and legal and professional consultant members, for the M&A transactional works done over the past two decades and the public advocacy help continuously provided to the Association.

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# RETENTION GUIDE BY COUNTRY: IRELAND



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contract be set out in writing

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Whether legal obligation exists to retain certain records in paper format

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Legal requirements in respect of the conversion of written records which belong to a company's administration into electronic format

Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the conversion to, retention, and accessibility of electronic records

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The minimum and maximum retention periods applying to the records

## REQUIREMENTS TO SET OUT IN WRITING

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Under Irish law, certain agreements or document should be set out in writing. General examples include:

Executed deeds

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Executed Trusts

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Documents of title

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Sworn documents, for example affidavits and sworn declarations

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Stamped documents

The requirement to set certain matters out in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

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The requirement that certain notices are made in writing

Though certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record in an electronic record that replaces that paper record. In some cases, however, the paper version has more evidentiary value in court.

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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil procedures, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

**Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original**

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**Ensure the authenticity and integrity of the electronic record during its retention period**

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**Ensure the electronic record's accessibility and readability during its retention period**

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a born-digital agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Minimum retention obligation

In principle, the company books and records may be created and retained in electronic format. Under Irish law, the minimum retention period is frequently seven years and this is because the Statute of Limitations Act, 1957 - 2010 has set a limitation period of six years on the bringing of legal proceedings in respect of a right of action accruing to a person by virtue of the common law or of Statute and an action may be initiated in the sixth year.

### Maximum retention periods

To the extent records contain personal data as defined by the Irish Data Protection Acts 1988 and 2003, these records may not be kept for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is "necessary" and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable mandatory statutory minimum retention periods.

After these maximum retention periods have lapsed, these documents should be securely and effectively destroyed (e.g. shredded or incinerated). When computer records containing personal data are deleted, it must be ensured that the deleted items are actually removed from the system and any paper copies must also be destroyed.

This guide provides an overview of minimum as well as maximum data retention periods.

### Conversion requirements

The retention obligations do not preclude that existing paper records (with the exception of the profit and loss account and the annual financial statements) be converted into electronic records. The E-Commerce Act, 2000 (the "EC Act") which is designed to facilitate the use of electronic media between consumers and businesses, provides helpful guidance in this regard. The EC Act gives legal recognition to information in electronic form and provides that electronic communications, information, signatures, and contracts cannot be denied legal effect or be discriminated against simply because they are in electronic form. For instance, Section 18(1) provides that if by law or otherwise a person or public body is required (whether the requirement is in the form of an obligation or consequences flow from the information not being retained or produced in its original form) or permitted to retain for a particular period or produce a document that is in the form of paper or other material on which information may be recorded in written form, then, the person or public body may retain throughout the relevant period or, as the case may be, produce, the document in electronic form, whether as an electronic communication or otherwise.

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## ISO 15489

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Certification in ISO 15489, the International Standard for Records Management, is available from the National Standards Authority of Ireland. ISO 15489 aims to ensure that records (both paper and electronic) are properly maintained, easily accessible and correctly documented in a transparent manner throughout the documents' lifecycle. The main points contained in the ISO standard regarding the retention of records in an archive are:

**Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities**

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**Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another**

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**Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes**

Along with the ISO 15489 standard, the ISO committee established a set of guidelines to help companies implement the standard. Proving compliance with these guidelines is part of the certification process.

If the ISO standard is followed, the evidentiary value of an electronic record will be very high. Providing proof to the contrary will be almost impossible. In legal proceedings, this means that a court considers the prints of these electronic documents to be initial proof. In practice, the evidentiary value of prints of electronic documents is hardly ever disputed.

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Irish law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION <sup>3</sup>
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records <sup>1</sup>	Minimum 6 years	Latest date to which the documents relate	Section 202(9) of the Companies Act 1990
2	Shareholders' resolution (copy), Board resolutions (copy), including the Resolutions defined in Section 143 of the Companies Act 1963	<sup>2</sup>	The date of creation of the record	Section 143 of the Companies Act 1963 relates to Resolutions under Section 143 of the Companies Act 1963
	Boards' and shareholders' meetings minutes (copy), including the Minutes of proceedings of meetings of Company, Directors, and Committees of Directors	<sup>2</sup>	The date of creation of the record	Section 145 of the Companies Act 1963 relates to the Minutes of proceedings of meetings of Company, Directors and Committees of Directors
	Shareholders' register (original), specifically the Register of Members and Index of Members	<sup>2</sup>		Section 116 of the Companies Act 1963 relates to the requirement for the Register of Members Section 117 of the Companies Act 1963 relates to the requirements to keep an Index of Members
	Share registration documents <sup>4</sup>			
	Articles of incorporation (copy), including the Dividend and Interest Payment Lists	Minimum of 13 years. Recommendation: 14 years.		The Memorandum and Articles of Association of a company are executed as a contract under seal requiring such records to be held for a minimum of 12 years under Section 11(5) of the Statute of Limitations Act 1957 - 2010 <sup>5</sup>
	Standing orders (copy)			
	Supervisory Board's rules of procedure (copy) and Supervisory Council's Rules of procedure (copy)			
	Register of Directors and Secretary	<sup>2</sup>		Section 51 of the Companies Act 1990 relates to the Register of Directors and Secretary
	Register of interests in shares (public company only)	6 years <sup>2</sup>	The next day following that on which the company ceases to be a public limited company	Section 80(8) of the Companies Act 1990
	Register of Directors' and Secretary's shareholdings	<sup>2</sup>		Section 194(5) of the Companies Act 1963 relates to the Register of Directors' shareholdings <sup>6</sup>
Documents relating to the off-market purchase of own shares	Minimum: 10 years. Recommendation; 11 years.		S222(1) of The Companies Act 1990 outlines a statutory requirement to hold these documents for 10 years after the contract has been fully performed <sup>7</sup>	
Share Certificates in respect of interests held in other organisations	Until disposal of investments			

<sup>1</sup> Including the case books, bank statements, subsidiary case books, cheques issued, cash register tally rolls, receipts issued and received, debtor ledgers, sales books, records of goods purchased and sold (to include sufficient details of the buyers and sellers as well as retention of any invoices), end of year stock inventories and/or a record of services provided. Records of business dealing with goods and/or provision of services must be maintained.

<sup>2</sup> Although not statutorily required, it is our recommendation that these records shall be retained permanently.

<sup>3</sup> With a view to all the documents listed in this section 2, see also section 5.

<sup>4</sup> Including:- Application forms/letters, acceptance forms, allotment letters (renounced), renounced share certificates, allotment letters (lodged for exchange), share and stock transfer forms, letters of indemnity for lost records, latest annual return.

<sup>5</sup> To avoid confusion regarding the safe disposal of documents i.e. start, middle or end of the 12th year, our recommendation is that an extra year be added, and these records be held for 14 years.

<sup>6</sup> This section does not refer to Secretary's shareholdings.

<sup>7</sup> However our recommendation is that they be held for 11 years.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>GENERAL COMPANY RECORDS</b>			
3	Financial statements, audit reports, etc Book or register noting declarations of Directors' interests in contracts made by the company	Although not statutorily required, it is our recommendation that these records be retained permanently		Section 59 of the Companies Act 1990 relates to the Book or register noting declarations of Directors' interests in contracts made by the company. See section 5.
4	Profit and loss accounts Register of debenture holders Record of Instruments creating charges	Although not statutorily required, it is our recommendation that these records be retained permanently		<sup>1</sup> Section 91 of the Companies Act 1963 relates to the Register of debenture holders' Section 109 of the Companies Act 1963 relates to the Record of Instruments creating charges'
5	Records and documents of the dissolved legal entity	Minimum 7 years. It is recommended that the records and documents shall be kept permanently.	The winding up of the Company	Section 305 of the Companies Act 1963 deals with the retention requirements for Books and Papers of the Company in winding up. The liquidator is required to retain documents for a minimum of 3 years. Depending on the manner of winding up, the books and papers of a company and of the liquidator should be disposed of: (i) in the case of a winding up by the court, in such a way as the court directs; (ii) in the case of a member's voluntary winding up, in such a way as the company by special resolution directs; or (iii) in the case of a creditor's winding up, in such a way as the committee of inspection or the creditors of the company may direct. In any case these documents should not be disposed of until the outstanding business of the company has been dealt with. Under the Company Law Enforcement Act 2001, Section 57, the Office of the Director of Corporate Enforcement is empowered to inspect the books of a liquidator for up to 6 years after the winding up of a company. It is recommended that the liquidator retain the records for that period of time. Although not statutorily required, it is our recommendation that these records and a register of transfers and allotments of shares in the company, as evidence of the proceedings, be retained permanently.
6	Membership records in a cooperative association (original)			
7	Subsidy records and documents			

<sup>1</sup> With a view to the documents listed in this section 4, see also section 5

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION <sup>2</sup>
	TAX AND ACCOUNTING RECORDS <sup>1</sup>			
	GENERAL TAXES			
8	<p>General obligation of taxpayers (persons within the charge to tax in Ireland) to keep records to enable true tax returns to be made for the purposes of income tax, corporation tax and capital gains tax</p> <p>Where accounts are made up to show the profits or gains from any trade, profession or activity, or in relation to a source of income from any person, that person is further required to retain "linking documents", being documents drawn up in the making up of accounts detailing calculations linking the records to the accounts</p> <p>Financial institutions and other persons may be obliged to provide the Revenue Commissioners (on request) with such books, records or other documents and information which contain information relevant to the liability of a taxpayer</p> <p>In cases where a person is legally required to withhold tax on payments to certain third parties, such persons may also be required to deliver a return to the Revenue Commissioners with information in respect of such third parties and the relevant payments made</p> <p>A person involved in a transaction which is within the scope of the transfer pricing legislation is obliged to have available such records as may reasonably be required for the purposes of determining whether income of that person has been computed in accordance with the transfer pricing legislation</p>	<p>Minimum 6 years</p> <p>Minimum 6 years</p> <p>Minimum 6 years</p>	<p>From the date of completion of the transaction to which the documents relate</p> <p>From the date of completion of the transaction to which the documents relate</p> <p>From the date of completion of the transaction to which the document relates</p>	<p>Section 886 Taxes Consolidation Act 1997, as amended ("TCA")<sup>2</sup></p> <p>Section 886 TCA</p> <p>Section 906(A) TCA (Financial Institutions); Section 902 TCA (Other Persons); Third Party Returns - Part 38, Chapter 3 of the TCA</p> <p>Various sections of the TCA</p> <p>Section 835F TCA</p>

<sup>1</sup> If the Revenue Commissioners agree, records required for the purposes of certain taxation statutes may be stored, maintained, transmitted, reproduced or communicated by an electronic, photographic or other process which meets the requirements of the Revenue Commissioners. A copy of any document which forms part of records so preserved is, subject to the rules of court, admissible in evidence in any civil or criminal proceedings to the same extent as the records themselves. Documents which are generated, recorded or stored electronically must be maintained in that electronic format for the six year period; paper copies will not suffice. Retention periods for records stored, maintained, transmitted, reproduced or communicated by any electronic, photographic or other process are the same as the periods applying to paper documents relating to the same tax head. Section 887 TCA.

<sup>2</sup> If a taxpayer fails to prepare and deliver a return on or before the specified return date for a year of assessment or accounting period, as the case may be, then the expiry of a period of 6 years begins from the end of the year of assessment or accounting period, as the case may be, in which a return has been delivered showing the profits or gains or chargeable gains derived from those transactions, acts or operations, i.e. a failure to make a return or a full return will result in the document retention period being extended.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	TAX AND ACCOUNTING RECORDS			
	VAT AND STAMP DUTIES			
9	<p>All persons within the charge to VAT in Ireland are obliged to keep full and true records of all transactions which affect, or may affect, liability to VAT in respect of the supply of goods/services in the furtherance of business including all intra-European Community acquisitions and all imports of goods. General obligation to keep at least the following records bank statements, purchasing invoices, employees' expense reports and invoices, sundry billing invoices, inter-company invoices, sales invoices, purchase orders and acknowledgments, credit notes and all supporting documents, import and customs declarations, monthly control statements, documents relating to exercising and terminating a landlord's option to tax, a capital good record and a joint option for taxation</p> <p>Electronic invoicing is permitted where trading partners use an electronic data interchange system or advanced electronic signature and associated system or another means of electronic communication which satisfies certain specified requirements. In circumstances where electronic invoicing and other communications are used and certain conditions satisfied, the retention of electronic records is permitted and the applicable time limit is the same as that applying to all other records</p> <p>Stamp duty is a tax on documents which operate to transfer Irish property or which are executed in Ireland or, wherever executed, relate to any matter or thing done or to be done in Ireland. There is an obligation on the person who is liable to stamp duty in respect of a particular stampable document or instrument to retain instruments stamped by Revenue together with any books, accounts, documents and any other data maintained manually or by any electronic, photographic or other process relating to a liability to stamp duty or a relief or exemption claimed under any provision of the SDCA</p>	Minimum 6 years	<p>The day of the latest transaction to which the documents relate</p> <hr/> <p>The day of the latest transaction to which the documents relate</p> <hr/> <p>From the later of: (a) the date a return in respect of a stampable document is delivered to Revenue; or (b) the date the relevant stamp duty liability is paid to Revenue</p>	<p>Section 84 Value-Added Tax Consolidation Act 2010 (as amended) ("VATCA10")</p> <hr/> <p>Regulation 21 of the Valued-Added Tax Regulations 2010</p> <hr/> <p>Section 128A Stamp Duties Consolidation Act 1999, as amended "SDCA"</p>
10	Obligation on persons who have a VAT-able interest in real estate to keep records relating to the acquisition or development of the property <sup>1</sup>	Minimum: The period of time in which the person has a VAT-able interest in the property plus an additional 6 years	The period of time in which the person has a VAT-able interest in the property plus an additional 6 years	Section 84(4)(a) VATCA10

<sup>1</sup>Electronic invoicing is permitted where trading partners use an electronic data interchange system or advanced electronic signature and associated system or another means of electronic communication which satisfies certain specified requirements.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>CAPITAL ACQUISITIONS TAX</b>			
11	Obligation to have available information that deals with intra-group price setting, so that the Revenue Commissioners can check transfer prices and other conditions agreed upon in intra-group transactions  Obligation on persons receiving gifts or inheritances that are within the charge to capital acquisitions tax to retain all records relating to capital acquisitions tax including books, accounts, documents and any other data maintained manually or by any electronic, photographic or other process	See section 8  Minimum 6 years	  From the valuation date of the gift or inheritance	  Section 45A Capital Acquisitions Tax Consolidation Act 2003, as amended ("CATCA") <sup>1</sup>
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation on Irish resident companies to retain all declarations, certificates and notifications relating to dividend withholding tax	Minimum: The longer of (a) 6 years or (b) 3 years from the date on which the company ceases to make relevant distributions to the person	From the date the declaration or notification was made or given to the company, as applicable	Section 172B(4A) TCA
	<b>CUSTOMS</b>			
13	Obligation on any person directly or indirectly involved in the accomplishment of customs formalities or in customs controls, at the request of the customs authorities and within any time limit specified, provide those authorities with all the requisite documents and information, in an appropriate form, and all the assistance necessary for the completion of those formalities or controls	Minimum: 3 calendar years	In the case of goods released for free circulation in circumstance other than duty free, the three year period shall run from the end of the year in which the customs declarations for release for free circulation or export are accepted. In the case of goods released for free circulation duty free or at a reduced rate of import duty on account of their end-use, that period shall run from the end of the year in which they cease to be subject to customs supervision. In the case of goods placed under another customs procedure, that period shall run from the end of the year in which the customs procedure concerned has ended.	Regulation (EC) No. 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code
	<b>LOCAL TAXES</b>			
14	Local and regional taxes	Ireland does not have a system whereby different tax rates are applicable in certain areas/localities <sup>2</sup>		

<sup>1</sup> Where an accountable person fails to comply with the requirements of the provisions referred to in the normal manner or, where any person is required to deliver a return, additional return or statement other than the normal procedure, the retention period extends to a period of 6 years commencing on the date that the return, additional return or statement is received by the Revenue Commissioners.

<sup>2</sup> The only thing in Ireland similar to a "local tax" are "commercial rates" which are set out by local authorities by reference to the rateable value of the relevant property. Each local authority calculates and applies their own "annual rate on valuation". We do not regard the Local Property Tax and Commercial Rates as local taxes. In the event of uncertainty we recommend the retention of documents for 6 years in line with the standard Statute of Limitations requirements.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	<p>Obligation on Irish-resident employers and those whose employees carry out elements of their employment in Ireland, to retain payroll files, wages sheets, certificates of tax credits and standard rate cut-off point, tax deduction cards and other documents relating to the calculation and payment of emoluments, i.e. all pay-as-you-earn and pay related social insurance documentation. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, tax, and pay related social insurance contributions.</p> <p>Obligation on Irish-resident employers and those whose employees carry out elements of their employment in Ireland under Regulation 15 of SI No. 658/2011 to retain: (a) records of the date of the payment, the amount of the relevant emoluments, the date of payment and the rate at which the Universal Social Charge was deducted; (b) the cumulative relevant emoluments; and (c) the cumulative USC and the amount of USC, if any, deducted or repaid on making the payment of relevant emoluments. There appears to be an error in the legislation which caused the relevant retention period to be deleted. Queries were raised with Revenue who responded that Section 903(6) TCA applies to USC documentation.</p>	Minimum 6 years or such shorter period as the Revenue Commissioners may authorise in writing	From the end of the year to which such records refer	Section 903(6) TCA <sup>1</sup>
16	An employer needs to retain a record of information about employees including name, tax registration number, address, date of commencement of employment and, where relevant, the date of cessation of employment, start and finishing times, hours worked each day and each week and leave granted by the employer. In addition, a record of requests from employees to deduct tax from net emoluments (e.g. local property tax) must be retained by the employer.	3 -7 years (in relation to the working hours - 3 years, in relation to tax records - duration of employment plus 7 years)	From the date of the making of the record	<p>S.I. No. 253/2012 - Income Tax (Employment) Regulations 2012</p> <p>S.I. 473/2001 - Organisation of Working Time (Records) (Prescribed Form and Exemptions) Regulations 2001</p> <p>In relation to working time records, Section 25 of the Organisation of Working Time Act 1997</p> <p>In relation to the tax records, Revenue guidelines state that tax records must be kept for a minimum of 6 years. However, as a breach of contract claim may be brought up to six years after the occurrence of the breach of contract, a period of seven years post termination of employment is recommended.</p> <p>There is no legislative obligation to maintain records under the Statute of Limitations Acts 1957 - 2010 or the Unfair Dismissals Act 1977 - 2007. However, as a breach of contract claim may be brought up to six years after the occurrence of the breach of contract, a period of seven years post termination of employment is recommended.</p>
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	<p>Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)</p> <p>Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)</p>	Minimum retention period: See section 15 and 16. No specific maximum retention period, general rules apply.		

<sup>1</sup>There is an apparent conflict in the legislation as to whether the six year retention period does in fact apply to certificates of tax credits and standard rate cut-off point, temporary tax deduction forms, emergency cards and related documents. This arises by virtue of Regulation 32 of the Income Tax (Employment) (Consolidated) Regulations 2001 and by applying section 986(2) TCA, which states that the Regulations apply notwithstanding anything in the Income Tax Acts. The Revenue Commissioners' PAYE Guide for Employers however advise that these documents must be retained by employers and therefore prudence would dictate that these be retained.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract	Minimum: Duration of employment relationship + 7 years	Date of creation	There is no legislative obligation to maintain records under the Statute of Limitations Acts 1957 - 2010 or the Unfair Dismissals Act 1977 - 2007. However, as a breach of contract claim may be brought up to six years after the occurrence of the breach of contract, this is why the Statute of Limitations Acts 1957 - 2010 are referred to and a period of seven years post termination of employment is recommended.
19	Identification documents of foreign nationals (copy)	Minimum: Duration of employment relationship + 7 years	Date of creation	There is no legislative obligation to maintain records under the Statute of Limitations Acts 1957 - 2010 or the Unfair Dismissals Act 1977 - 2007. However, as a breach of contract claim may be brought up to six years after the occurrence of the breach of contract, this is why the Statute of Limitations Acts 1957 - 2010 are referred to and a period of seven years post termination of employment is recommended. <sup>1</sup>
20	Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	Permanently	Date of creation	Section 59 of the Pensions Acts 1990 - 2012
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	Pension plans and schemes - permanently. HR policies - permanently.	Date of creation	Section 59 of Pensions Acts 1990 - 2012. Best practice.
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	Minimum 18 months. No specific maximum retention period, general rules apply.	Date of interview/application	There is no legal requirement to maintain records however Section 76 of the Employment Equality Acts 1998 - 2012 requires that the Director of Equality Tribunal or employees may seek certain information and the holder of the information is legally obliged to provide it
23	Data concerning a temporary worker	Minimum: Duration of employment relationship + 18 months. No specific maximum retention period, general rules apply.	Date of creation	There is no legal obligation to maintain records however it is best practice to maintain same in order to defend potential claims under the Protection of Employees (Part-Time Work) Act 2001 and the Protection of Employees (Fixed-Term Work) Act 2003 and the Protection of Employees (Temporary Agency Workers) Act 2012

<sup>1</sup>Please note that where identification of documents are employment permits, there is a specific requirement to retain records and this is set out at no. 29.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	Minimum: Duration of employment relationship + 7 years. No specific maximum retention period, general rules apply.	Date of creation	Best practice
25	Employee stock purchase and options records	Permanently	Date of creation	Best practice
26	Copy of identification documents	Minimum: Duration of employment relationship + 7 years. No specific maximum retention period, general rules apply.	Date of creation	Best practice
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	Minimum: In respect of all documents other than employment permits only 7 years. In respect of employment permits only, same must be returned to the Department of Jobs, Enterprise and Innovation if the employee has left work before the expiration of the permit. No specific maximum retention period, general rules apply.	Date of creation	In respect of employment permits, Section 27 of the Employment Permits Acts 2003 - 2006. All other documents - best practice and Statute of Limitations Act 1957 - 2010, as amended from time to time. There is no legislative obligation to maintain records under the Statute of Limitations Acts 1957 - 2010 or the Unfair Dismissals Act 1977 - 2007. However, as a breach of contract claim may be brought up to 6 years after the occurrence of the breach of contract, this is why the Statute of Limitations Acts 1957 - 2010 are referred to and a period of 7 years post termination of employment is recommended.
28	Data concerning pension and early retirement	Minimum retention period: see section 20. No specific maximum retention period, general rules apply.	Date of creation	Section 59 of the Pensions Acts 1990 - 2012

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical (occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	Minimum: Duration of employment relationship plus 7 years. It would be preferable to keep such records permanently in case of latent medical issues which may be discovered by the employee in the future however this must be in line with the requirements of the Data Protection Acts 1988-2003 and therefore recommendation is for 40 years.	Date of creation	There is no legal obligation to maintain such records but it is best practice in order to defend potential claims such as personal injuries, disability discrimination of dismissal on grounds of capacity
30	Floor plans and directions	Permanently	Date of creation	Part 2, Chapter 1 of the Safety, Health and Welfare at Work (General Application) Regulations 2007 to 2012. Any risk issues must also be identified in the Safety Statement as per Section 20 of the Safety, Health and Welfare at Work Act 2005, as amended.
31	Work related medical examinations related to hazardous substances	Minimum: 40 years - permanently	Date of last assessment	Safety, Health and Welfare at Work (General Application) Regulations 2007 to 2012 Section 22 of the Safety, Health and Welfare at Work Act 2005, as amended
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	Varies	Varies	Varies depending on the type of condition under which the employee works under e.g. with biological agents, chemical agents, electrical equipment etc
33	Register of employees who work with 3rd and 4th category biological agents	Minimum: 10 years - 40 years	Date from end of exposure	Regulation 9 of the Safety, Health and Welfare at Work (Biological Agents_ regulations 1994, Section 22 of the Safety, Health and Welfare at Work Act 2005, as amended
34	Lists/register of employees who have been exposed to asbestos dust	Minimum: 40 years - permanently	Date of last assessment recorded	Regulation 25 of the Safety, Health And Welfare At Work (Exposure to Asbestos) Regulations 2006 Statutory Instrument number 589/2010 Safety, Health and Welfare at Work (Exposure to Asbestos) (Amendment) Regulations 2010

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
35	Administration concerning measurements of radioactive substances	Minimum: Category B workers - 5 years from the date on which the measurement was made. Category A workers, (i) that worker has or would have attained 75 years of age, or (ii) the expiry of the period of 50 years from the date on which that worker has ceased to do the work involving exposures, whichever is the later. If a Category A worker ceases employment a copy of the worker's dose records for the previous 12 months is forwarded to the Institute within 3 months of that cessation. Later of the date on which the Category A worker turns 75 years of age or 50 years from date of cessation of exposure.	Category B - date of measurement Category A -date of cessation of exposure	Article 22 of the Radiological Protection Act, 1991 (Ionising Radiation) Order, 2000
36	Records of radiation	Minimum 5 years - permanently	Date of creation	Article 21 of the Radiological Protection Act, 1991 (Ionising Radiation) Order, 2000
37	Medical records of employees who have possibly been exposed to ionizing radiation	The later of the worker's 75th birthday, or the expiry of the period of 50 years from the date on which that worker has ceased to do the work involving exposure	Date of cessation of exposure	Article 25 of the Radiological Protection Act, 1991 (Ionising Radiation) Order, 2000

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
38	Registration of work and rest periods (in appropriate format)	Minimum 3 years. Preference is to maintain for duration of the employment + 7 years in order to defend potential claims. Maximum: No specific maximum retention period, general rules apply.	Date of creation	Section 25 of the Organisation of Working Time Act 1997 - 2011
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	Minimum: Duration of employment relationship plus 7 years. Maximum: It would be preferable to keep such records permanently in case of latent medical issues which may be discovered by the employee in the future however this must be in line with the requirement of the Data Protection Acts 1988-2003 and therefore recommendation is for 40 years.	Date of creation	There is no legal obligation to maintain such records but it is best practice in order to defend potential claims such as personal injuries, disability discrimination of dismissal on grounds of capacity

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control. Each biofuel obligation account holder shall maintain the following records in respect of matters relating to the biofuel levy: (a) copies of any returns made; (b) a copy of each invoice or bill or sale issued with regard to the relevant disposal of biofuel obligation account holder; (c) a copy of each invoice or bill of sale received with regard to the purchase of biofuel obligation account holder and (d) copies of any supporting documentation to any returns made.	Minimum 6 years	End of the period to which they relate	Section 5, National Oil Reserves Agency Act 2007 (Returns and Biofuel Levy) Regulations 2010 (S.I. No. 356/2010)
41	Loading or unloading plan (by captain or terminal representative). Before the loading or unloading of a solid bulk cargo onto or from a bulk carrier is commenced at a terminal, the Terminal Operator concerned must be satisfied that information books are furnished to the master, that is the person who has command of a bulk carrier, or the ship's officer designated by the master to be responsible for loading or unloading the bulk carrier.	Minimum: The legislation does not specify any time period for retention of this information, however as any civil proceedings must be issued within 6 years, and service may not follow for up to 1 further year, retention of records for 7 years is suggested as a possible retention period	Date of creation	Section 6(1), European Communities (Safe Loading and Unloading of Bulk Carriers) Regulations 2003 (S.I. No. 347/2003)
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity waste and other materials on board)	Minimum: 3 years or for such longer period as the Minister may from time to time specify	From the date of receipt of the information	Section 8(5), European Communities (Port Reception Facilities for Ship-Generated Waste and Cargo Residues) Regulations 2003, (SI No. 117 of 2003), as amended, provides that every local competent authority shall keep the information received by it under this Regulation (a) in such format or formats as the Minister may from time to time direct and (b) for at least 3 years or for such longer period as the Minister may from time to time specify

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	ENVIRONMENTAL RECORDS			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum: This data must be retained so long as the company manufactures, imports or supplies these substances		<p>There is an enormous amount of law relating to dangerous substances in Ireland. The summary below merely refers to the more important sources of legislation. No minimum period for document retention is specified in any of the pieces of legislation mentioned below. European law in this area is changing rapidly and the various public authorities charged with administering this legislation should be contacted for recent developments.</p> <p><u>Dangerous Substances</u></p> <p>Directive 96/82/EC on the control of major accident hazards involving dangerous substances (as amended) (“the Seveso II Directive”) was implemented in Ireland by the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 (the “2006 Regulations”). The 2006 Regulations requires Operators to: (i) maintain a register of notifiable incidents; (ii) prepare and implement a major accident prevention policy and safety management system; (iii) keep an up to date inventory of the dangerous substances present in the establishment contained in the safety report; and (iv) prepare and submit a safety report to the HSA every five years after the date on which operations commenced.</p> <p><u>Chemical Substances</u></p> <p>REACH is the Regulation for Registration, Evaluation, Authorisation and Restriction of Chemicals. This was implemented in Ireland in the Chemicals Act 2008 as amended. This requires the registration of certain chemicals with the HSA if one tonne or more is manufactured or imported per year. Authorisation from the HSA is required for the use of certain chemicals, and the use of certain other chemicals is banned.</p> <p><u>Radioactive Substances</u></p> <p>In Ireland, controls over radioactive substances are exercised mainly under the Radiological Protection Acts 1991 (as amended). This act provides for the licensing system for the use, custody and disposal of radioactive substances.</p>

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum: This data must be retained so long as the company manufactures, imports or supplies these substances		See response in relation to section 43.
45	Documents related to an environmental permit	Minimum: To be specified by the Irish Environmental Protection Agency ("EPA") in each individual environmental licence/permit. This may vary depending upon the environmental licence/permit		Section 86 of the Environmental Protection Agency Act 1992 (as amended) (the "EPA Acts") entitles the EPA to attach a condition to licences/permits requiring the keeping of specified records for a specified time. No minimum period for document retention is specified in the EPA Act.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	Minimum: To be specified by the EPA or the relevant local authority in each individual waste licence/permit. This may vary depending upon the waste licence/permit. <sup>1</sup>	From the creation of the documents	Waste Management Act 1996 (as amended) (the "Waste Acts"). The Waste Acts and the Waste Regulations made thereunder) entitle the EPA / relevant local authority to attach a condition to licences/permits requiring the keeping of specified records in relation to the conduct of a waste audit or the implementation and operation of a waste reduction programme, No minimum period for document retention is specified in the Waste Acts.
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal	Minimum 3 years	From the date of creation of the relevant data	Article 10 of the European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011 governs the keeping of documentation
	Documents on results of inspections on the discharge of domestic waste water	Minimum: To be specified by the Environmental Protection Agency	End of the year in which they were drawn up and made available to the Agency, a local authority or, as appropriate, an appropriate agency on request within a specified period or by a specified date	Section 6 of the Water Services Act 2007 (as amended) (the "Water Acts") governs the provision of information. Section 24 governs the keeping of records. See also Section 70(1) of the Water Services Act, 2007, as inserted by Section 4 of the Water Services (Amendment) Act 2012.
	Documents containing audits on radioactivity and all results of measurements taken	Minimum: These may be specified by the Radiological Protection Institute of Ireland in any licence granted for the use, custody and disposal of radioactive substances	The end of each year in which they were drawn up	Radiological Protection Acts 1991 (as amended) and the regulations made thereunder
	Waste- packaging waste records to verify accuracy of information supplied to local authority	Minimum 3 years	From the creation of the document	Where a major producer of packaging waste, article 15(8) of the Waste Management (Packaging) Regulations 2007 (as amended)
	Waste - electrical and electronic equipment records; e.g. the quantities, of weight or, as appropriate, by number of units, and categories of electrical and electronic equipment and in accordance with the detailed rules for monitoring compliance as determined by Article 7.3 of the Directive	Minimum 6 years	From the creation of the document	Where a producer (manufacturer, seller, distributor, importer, exporter) of electrical and electronic records, article 24(2) of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2011 (as amended)
	Waste - end of life vehicle (vehicle which is discarded or is to be discarded by its registered owner as waste) records	Minimum 7 years	The end of each year in which they were drawn up	Where a producer (person involved in placing specified vehicles on the market) - Article 13(3) Waste Management (End-of-Life Vehicles) Regulations 2006 (as amended)
	Environmental Legislation - records relevant to the defence of proceedings for pollution or other breach of any environmental legislation (apart from planning legislation)	Minimum: No required retention period but we would recommend that they be held indefinitely	From the creation of the document	There is no limitation period for enforcement of breach of environmental legislation (apart from planning legislation) Section 11(1)(e) of the Statute of Limitations, 1957 - 2010 places a 6 year limit on the bringing of claims to recover sums recoverable under any piece of legislation <sup>2</sup>

<sup>1</sup> Generally, this information will be retained indefinitely on the relevant EPA / local authority files. No proceedings may be commenced later than 5 years from the date on which an offence under the Waste Management Act 1996 (as amended) was alleged to have been committed, therefore we recommend retention for a minimum period of 5 years, subject to the individual waste licence/permit not requiring a longer retention period.

<sup>2</sup> However, there are many environmental actions that can be taken which do not involve the recovery of a sum of money (e.g. injunctions or criminal proceedings) and the legislation does not prescribe any time limit within which these actions must be brought.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	The moment the last of that product has been manufactured	The Directive 2009/125/EC of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products was implemented into Irish law by the European Union (Ecodesign Requirements for Certain Energy-related Products) Regulations 2011 (the "2011 Regulations"). Article 8 of the 2011 Regulations governs the keeping of documents.
48	Environmental certificates and packing lists regarding building materials containing more than 10 per cent silicon, aluminium or calcium	Minimum 6-12 years	Dependent on contractual arrangement	Statute of Limitations. The contractual arrangements in relation to materials may differ. The general limitation period for an action on foot of a simple contract is 6 years, whereas it is 12 years for a contract under seal - Statute of Limitations, 1957 - 2010 - subject to any express limitation periods contained in the contracts themselves.
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	Minimum: Not applicable as there are no subsidies given in respect of clean-up operations in Ireland <sup>1</sup>	From the date on which the contamination to be cleaned up was first identified	
50	Accident reports	Minimum 10 years. Maximum 10 years.	From the date of creation	Safety, Health and Welfare at Work Act, 2005 (as amended); Safety Health and Welfare at Work (General Application) Regulations, 1993
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	See section 46		See section 46

<sup>1</sup>However, if clean-up operations have been carried out, we would recommend that they be held indefinitely (no required retention period).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum: No required retention period but we would recommend that they be held indefinitely		European Communities (Transport of Dangerous Goods by Rail) Regulations 2010
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	Minimum: To be specified by the EPA or the relevant local authority in each individual waste licence/permit. This may vary depending upon the waste licence/permit.		Section 86 of the EPA Acts and/or Section 41 of the Waste Management Acts, 1996-2012
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	See section 53		See section 53
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	See section 53		See section 53
56	Transmission systems operators need to retain all records of quality indicators			
57	Technical documentation based on Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	From the date on which the equipment was last manufactured	Regulation 8(3) of the European Communities (Noise Emission by Equipment for Use Outdoors) Regulations, 2001, as amended

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies. Including any documents, file or information (whether stored electronically or otherwise) and which is capable of being reproduced in a legible form and would therefore cover the insurance contract, marketing documentation, proposal form etc <sup>1</sup>	Minimum 6 years	The day the relationship with the consumer ends	Insurers selling product to Irish consumers are subject to the provisions of the Irish Consumer Protection Code (the "Code"). Provision 11.5 of the Code includes requirements in relation to the retention of customer records. Aside from Provision 11.5 of the Code, there are no specific requirements relating to document retention in respect of insurance policies per se. It would, however, be advisable that all records relating to an insurance policy to be retained until such time as a claim under the policy is statute-barred. Under the Statute of Limitations, claims for damages in contract and tort (other than personal injury), will be statute-barred after a period of 6 years from the date the cause of action accrues or loss crystallises. Claims in respect of contracts under seal can be brought up to 12 years after the cause of action accrues of the loss crystallises. Insurance policies are either "claims made" or "claims occurring" policies (the policyholder is either (i) insured for claims it brings in the year of cover (claims made) or the loss occurs in the year of cover which subsequently gives rise to a claim (claims occurring)). This means that under a claims occurring policy, it may be a number of years before an Insurer will have a claim brought against it in respect of a relatively old policy. Claims occurring policies are popular in the context of public and professional liability cover. For the foregoing reasons, we would suggest that a prudent approach would be for an insurer to retain the records for 12 years, notwithstanding that the legal obligation to maintain such records expires after 6 years.

<sup>1</sup>Note that a "consumer" includes an incorporated or unincorporated body or association with an annual turnover of €3 million or more.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber	Maximum: Data should be destroyed at the conclusion of the last specified purpose for which the date is processed. Data should only be retained for as long as is necessary.	Date of creation	European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations, S.I. No. 336 of 2011, deals with unsolicited communications. However, this S.I. does not set out any data retention periods. The Data Protection Acts 1988 and 2003 set out more stringent requirements when the data in question is "personal data". Personal data means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession the data controller. Personal data should be securely and effectively destroyed (e.g. shredded or incinerated). When computer records containing personal data are deleted, it must be ensured that the deleted items are actually removed from the system and any paper copies must also be destroyed. Proof of consent should be retained for 2 years following the last marketing communication.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PURCHASING RECORDS</b>			
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes.	Minimum 6 years	The completion of the contract	See section 9
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records			
62	Procurement records			
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
63	Debtors and creditors records	No specific maximum retention period, general rules apply		
64	Customers and suppliers records	No specific maximum retention period, general rules apply		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
65	Intellectual property records	Minimum: Although not statutorily required, it is our recommendation that these records be retained permanently	From the creation of the records	Section 36, Patents Act 1992 (patents), Sections 47 - 48, Trade Marks Act 1996 (trade marks), Section 43 Industrial Designs Act 2001 (industrial designs), Section 24 Copyright and Related Rights Act 2000 (copyright), Section 26 Copyright and Related Rights Act 2000 (sound recordings); Section 27 Copyright and Related Rights Act 2000 (broadcasts), Section 29 Copyright and Related Rights Act 2000 (typographical arrangement of a published edition), Section 30 Copyright and Related Rights Act 2000 (computer-generated works)
66	Contracts, agreements and other arrangements  Limitation period - contracts executed under seal  Contract - records relevant to the defence of any proceedings in contract for pollution or damage to person or property, to include permits, licences and other relevant information	13 years  As the proceedings must be issued within 6 years, and service may not follow for up to 1 further year, retention for seven years suggested or 13 years where contracts are executed under seal <sup>1</sup>	The expiry/termination of the contract  Date of creation	Section 11(5) Statute of Limitations Act 1957 - 2010  Section 11(1) of the Statute of Limitations Act 1957 outlines that no action founded on contract may be commenced after 6 years have expired from the date on which the cause of action accrued. The period is 12 years where contracts are executed under seal. We recommend such documents are retained for 13 years.
67	Permits, licences, certificates  Integrated Pollution Prevention Control (“IPPC”) Licence	Minimum: To be specified by the EPA or the relevant local authority in each individual IPPC licence. This may vary depending upon the IPPC licence		Section 86 of the Protection of the EPA Acts requires the EPA to attach a condition to IPPC licences requiring the keeping of specified records
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	Minimum 7 years following the duration of the non-compete provisions	The termination of the non-compete obligations	
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)	Minimum: See the general obligation for companies under 1 above		

<sup>1</sup> Note that records relevant to such proceedings might also be relevant to the defence of proceedings for breach of environmental legislation, and so, we would recommend that such records be retained indefinitely.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries			
71	The processing of personal data, if this differs from the process as notified to the Irish DPA			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	Data should be destroyed at the conclusion of the last specified purpose for which the data is processed. Data should only be retained for as long as is necessary.		Data Protection Acts 1988 and 2003
73	Login and logout data of visitors	Data should be destroyed at the conclusion of the last specified purpose for which the data is processed. Data should only be retained for as long as is necessary.		Data Protection Acts 1988 and 2003
74	Camera recordings	Data should be destroyed at the conclusion of the last specified purpose for which the data is processed. Data should only be retained for as long as is necessary.		Data Protection Acts 1988 and 2003

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS<sup>1</sup></b>				
<b>ENVIRONMENT TAXES</b>				
75	Retailers responsible for levying a charge on the supply of plastic bags must keep certain records relating to the number of plastic bags acquired and supplied by him/her in an accounting period together with all other books and documents containing particulars on which the records are based	Minimum 6 years	From the relevant accounting period to which the records relate	Waste Management (Environmental Levy) (Plastic Bag) Regulations, 2001 (as amended)
<b>CAPITAL ACQUISITIONS TAX</b>				
76	Obligation on persons receiving gifts or inheritances that are within the charge to capital acquisitions tax to retain all records relating to capital acquisitions tax including books, accounts, documents and any other data maintained manually or by any electronic, photographic or other process	Minimum 6 years	From the valuation date of the gift or inheritance	Section 45A Capital Acquisitions Tax Consolidation Act 2003, as amended ("CATCA"). Where an accountable person fails to comply with the requirements of the provisions referred to in the normal manner or, where any person is required to deliver a return, additional return or statement other than the normal procedure, the retention period extends to a period of 6 years commencing on the date that the return, additional return or statement is received by the Revenue Commissioners.
<b>VARIOUS</b>				
77	Planning - record of compliance with planning legislation, to include grants of planning permission. Until subsequent conveyance of property, these should be retained with title deeds.	Minimum 7 years	From the date of the start of development (where there is no planning permission); or, from the date of the end of the life of the permission (where planning permission obtained, but not complied with)	Planning and Development Acts 2000-2012. On subsequent conveyance of property, these documents should be supplied. Other than in relation to quarries and peat extractions, no enforcement action for breach of planning legislation may be commenced after seven years have expired from the date of the breach (i.e., where there is no planning permission, from the date of the start of development; or where planning permission obtained, but not complied with, from the date of the end of the life of the permission).
78	Building Control - record of compliance with building control legislation, to include building bye-law approval, commencement notice and fire safety certificates. Until subsequent conveyance of property, these should be retained with title deeds.	Minimum: No required retention period but we would recommend that they be held indefinitely		Building Control Acts 1990 and 2007. On subsequent conveyance of property, these documents should be supplied. There is no limitation period for enforcement of breach of building control legislation.

<sup>1</sup>Please note that these records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS <sup>1</sup>			
	VARIOUS			
79	Tort - records relevant to the defence of proceedings in tort (e.g. negligence, nuisance, trespass, Rylands v. Fletcher) for pollution or damage to person or property, to include permits, licences and other relevant information	As the proceedings must only be issued within 6 years, and service may not follow for up to 1 further year, retention of records for 7 years is suggested. For the reasons above, in cases concerning personal injury, retention of records for 4 years suggested. <sup>2</sup>	Date of creation	No action founded on tort may be commenced after 6 years have expired from the date on which the cause of action accrued. Where damages claimed are for personal injuries, the period is 3 years.
80	Limitation period - actions founded on contract	Minimum 6 years from the date on which the cause of action accrued. A plenary summons may be issued 12 months before its date of service on the defendant accordingly.	From the date on which the cause of action accrued	Section 11 Statute of Limitations Act 1957 - 2010. The Statute of Limitations Act 1957 - 2010 Act provides the guidelines as to the retention of documents by dealing with deadlines within which Court claims must be started.
81	Limitation period - debt claims	Minimum 6 years from the date on which the debt was incurred or from part payment or acknowledgement	From the date on which the debt was incurred or from part payment or acknowledgement	Section 11 Statute of Limitations Act 1957 - 2010
82	Limitation period - actions founded on tort: personal injury claims	Minimum 2 years from date of injury or date of knowledge	From the date of injury or date of knowledge	Section 7 Civil Liability and Courts Act 2004
83	Limitation period - slander	Minimum 1 year from the date of the accrual of the cause of action	From the date of the cause of action accruing	Section 11 Statute of Limitations Act 1957 - 2010

<sup>1</sup>Please note that these records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.

<sup>2</sup>Note that records relevant to such proceedings are likely to be relevant to the defence of proceedings for breach of environmental legislation, and so, we would recommend that such records be retained indefinitely.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS <sup>1</sup>			
	VARIOUS			
84	Limitation period - wrongful death	Minimum 3 years from date of death or date of knowledge of the person for whose benefit the action is brought	From the date of death or date of knowledge of the person for whose benefit the action is brought	Section 48 Civil Liability Act 1961
85	Limitation period - fatal injury	Minimum 2 years from the date of death or date of knowledge of the person for whose benefit the action is brought	From the date of death or date of knowledge of the person for whose benefit the action is brought	Section 6 Statute of Limitations Act 1957 - 2010
86	Limitation period - defective products	Minimum 3 years from the date of the accrual of the cause of action	From the date of the cause of action accruing	Section 7 Liability for Defective Products 1991
87	Limitation period - actions relating to land	Minimum 12 years of the cause of action accruing, however, a State Authority has 30 years in which to commence proceedings for the recovery of land	From the date of the cause of action accruing	Section 13 Statute of Limitations Act 1957 - 2010

<sup>1</sup>Please note that these records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.

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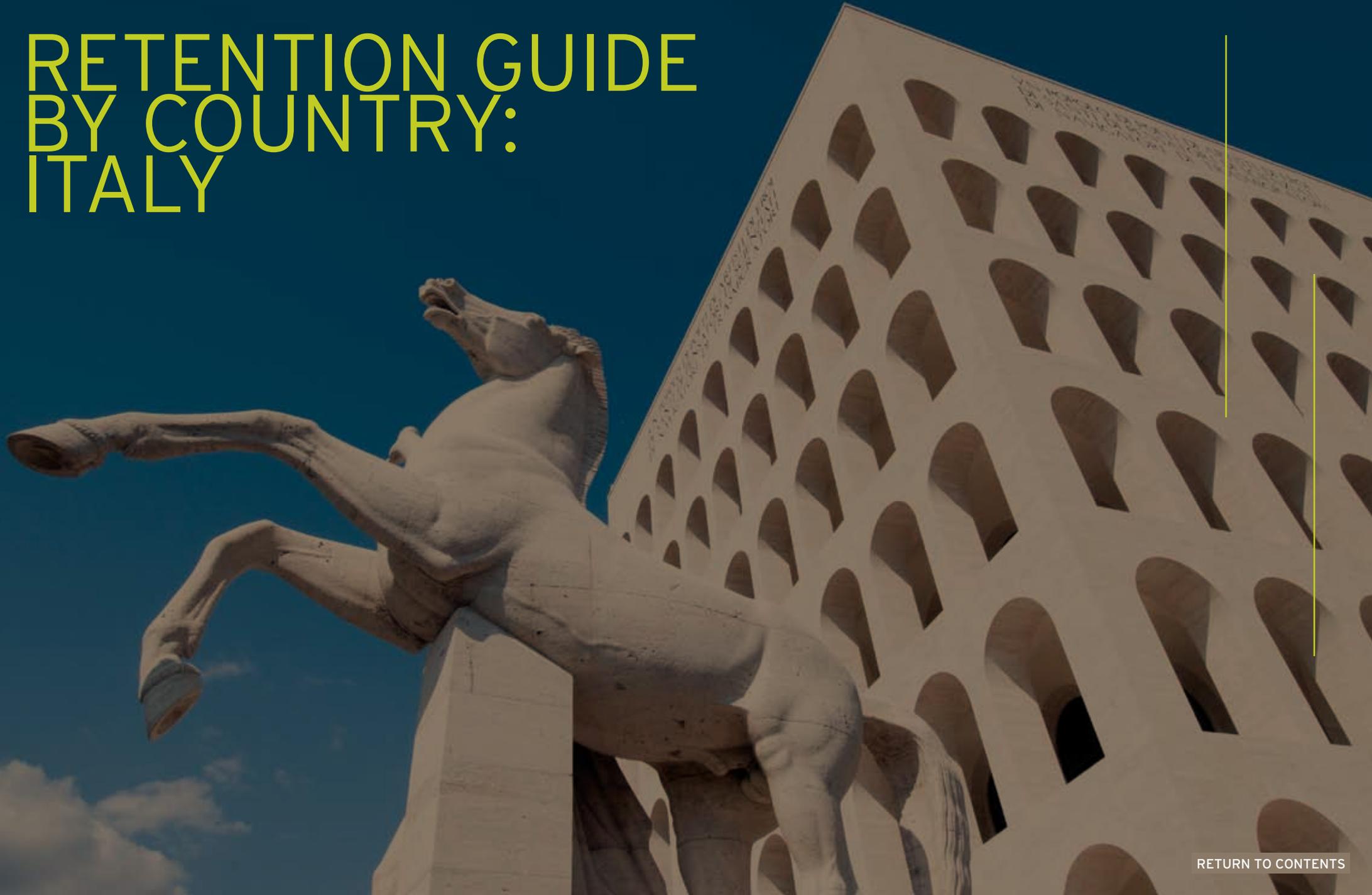
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# RETENTION GUIDE BY COUNTRY: ITALY



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

In Italy, the following main legal issues must be considered when planning a comprehensive records management programme.

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### REQUIREMENTS TO SET OUT IN WRITING

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Article 1350 of the Italian Civil Code provides a general rule according to which any contract for the transfer of property rights on real estate assets and any other deed related thereto be set out in writing. Failure to comply with this requirement implies nullity and, thus, unenforceability and/or inefficacy of the agreement.

Aside of this general provision, there are also other specific provisions which require that certain kind of agreements be set out in writing, subject to the sanction of invalidity and/or inefficacy of the agreement (for instance, non-competition agreement between an employer and its employee and between a principal and its agent).

Furthermore, although they are not subject to the sanction of invalidity, certain kind of agreements must be proven in writing (i.e. their existence cannot be proven by means of witness evidence within litigation).

General examples include:

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#### Commercial Agency agreements

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Agreements on the transfer of economic rights on copyright works

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Agreements for the transfer of businesses and companies' ownership

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Settlement agreements (if unrelated to real estate assets)

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Minimum retention obligation

Italian law sets forth a general principle according to which companies and/or commercial undertakings are required to retain all of the accounting books that are required by the nature and the dimensions of the undertaking.

Out of this general principle, Article 2214 of the Italian Civil Code provides for a minimum requirement to keep at least:

“Libro giornale” - (whereby each commercial operation is entered into by the company and/or undertaking, on a daily basis)

“Libro inventari” - (namely a record of the company's and/or undertaking's yearly financial statements)

Other compulsory accounts registries are required by specific law provisions (i.e., the VAT Book, see Presidential Decree no. 600 of 1973).

The minimum retention period is 10 years after the entry of each new account registration (say, record of a single operation or financial statement must be kept for at least ten years).

Failure to comply with the above shall have the following implications:

From a procedural point of view, accounting books, when kept in compliance with the standards provided for by the law, have a strong evidentiary value in controversies between commercial undertakings. Failure to keep tidy and thorough accounting books implies that said evidentiary means would not be available

From a criminal law perspective, when criminal charges are raised against the company's administrators pursuant to Articles 215 and 216 of the Bankruptcy Law, administrators shall be charged with “wilful bankruptcy” other than “non-wilfull bankruptcy” where accounting books are incomplete or have been kept in such a way that the company's assets cannot be thoroughly identified

Accounting books may be kept by means of electronic records.

In addition to the above, Italian law sets forth retention periods for other types of documents as well.

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Maximum retention periods

To the extent records contain personal data as defined by the Italian Data Protection Code, these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is "necessary" and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be either (i) disposed of, (ii) de-identified (i.e. all references to data subjects should be rendered unreadable), or (iii) stored in a closed archive. An exception can be created by means of a so-called "legal" or "tax hold notice", issued by an authorized officer or department within the company. A legal or tax hold notice instructs relevant staff to suspend disposal, de-identifying or archiving of certain documents in the event of reasonable anticipation of litigation, tax audits or investigations. In such a case, the retention period may be prolonged until the ultimate limitation period, or in the event of pending litigation procedures, until litigation has ended with a judgment not subject to appeal.

This guide provides an overview of minimum as well as maximum data retention periods.

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## ISO 15489

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The ISO 15489 has been adopted by the Italian Standardization Body (UNI) with the publication of:

**The UNI ISO 15489-1 2006 standard regulation**

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**The UNI ISO 15489-2 2007 guidelines**

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Italian law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Minimum 10 years	Following the last book entry	Article 2220 (1) of the Italian Civil Code
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards' and shareholders' meetings minutes (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	Minimum 10 years	Following the last book entry	Article 2220 (1) of the Italian Civil Code
3	Financial statements, audit reports, etc	Minimum 10 years	Following the last book entry	Article 2220 (1) of the Italian Civil Code
4	Profit and loss accounts	Minimum 10 years	Following the last book entry	Article 2220 (1) of the Italian Civil Code
5	Records and documents of the dissolved legal entity	Minimum 10 years	Following the end of the liquidation procedure (to be filed with the competent Company Registry Office)	Article 2496 of the Italian Civil Code
6	Membership records in a cooperative association (original)			
7	Subsidy records and documents	Minimum 10 years	Following the last book entry	Article 2220 (1) of the Italian Civil Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <hr/> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p> <hr/> <p>Organisations are obliged to prove the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <hr/> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT)</p> <hr/> <p>These organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p>	<p>Minimum 4 years in case fiscal income statement has been issued. Minimum 5 years in case of omission to issue a fiscal income declaration.</p> <hr/> <p>Minimum 10 years</p> <hr/> <p>Minimum 10 years</p> <hr/> <p>Minimum 4 years in case fiscal income statement has been issued. Minimum 5 years in case of omission to issue a fiscal income declaration.</p>	<p>The year following the one in which a fiscal income statement was/should have been issued</p> <hr/> <p>Following the last book entry</p> <hr/> <p>The year following the one in which an income statement was/should have been issued</p> <hr/> <p>The year following the one in which an income statement was/should have been issued</p>	<p>Presidential Decree no. 600/1973 - Article 22</p> <hr/> <p>Article 2220 (1) of the Italian Civil Code</p> <hr/> <p>Article 39 VAT Act (Presidential decree no. 633/1972)</p> <hr/> <p>Presidential Decree no. 600/1973 - Article 43</p>
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes</p> <hr/> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU</p>	<p>Minimum 10 years. In case a fiscal inspection is started, retention period extends until the end of the fiscal inspection.</p>	<p>Following the last book entry</p>	<p>Article 39 VAT Act (Presidential decree no. 633/1972)</p>
10	<p>Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto</p>	<p>Minimum 10 years. In case a fiscal inspection is started, retention period extends until the end of the fiscal inspection.</p>	<p>Following the last book entry</p>	<p>Article 39 VAT Act (Presidential decree no. 633/1972)</p>

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>CORPORATE INCOME TAX</b>			
11	Taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	Minimum 4 years in case fiscal income statement has been issued. 5 years in case of omission to issue a fiscal income declaration.	The year following the one in which an income statement was/should have been issued	Presidential Decree no. 600/1973 - Article 43
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes	Minimum 10 years	Following the last book entry	Article 2220 (1) of the Italian Civil Code
	<b>CUSTOMS</b>			
13	General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers	Minimum 3 years. Maximum 6 years in case of irregularities arisen from a customs inspection.	The end of the year in which the customs declarations for release for free circulation or export are accepted or, in case of duty free or reduced rate of import goods, the end of the year in which customs supervisions cease	EC Regulation no. 450/2008 - Article 29
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes	The general period within which tax authorities may initialise fiscal inspections (4 years following the year in which income statement was issued or 5 years following the year in which income statement should have been issued) should apply. However, we cannot exclude that local laws and regulations might provide for a longer retention period.		Presidential Decree no. 600/1973 article 43

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld	Minimum 4 years in case fiscal income statement has been issued. 5 years in case of omission to issue a fiscal income declaration.	The year following the one in which an income statement was/should have been issued	Presidential Decree no. 600/1973 - Article 43
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.	Minimum 4 years in case fiscal income statement has been issued. 5 years in case of omission to issue a fiscal income declaration.	The year following the one in which an income statement was/should have been issued	Presidential Decree no. 600/1973 - Article 43
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind) Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	Minimum retention period: see section 15. No specific maximum retention period, general rules apply.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
18	Employment contract	Minimum: No specific retention applicable. <sup>1</sup> Maximum: To be retained for a period no longer than needed in order to achieve the purposes for which personal data were retained.	Creation of the document/file	Article 2934 of the Italian Civil Code
19	Identification documents of foreign nationals (copy)	Minimum: No specific retention applicable. <sup>1</sup> Maximum: To be retained for a period no longer than needed in order to achieve the purposes for which personal data were retained.	Creation of the document/file	Article 2934 of the Italian Civil Code
20	Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	Minimum: No specific retention applicable. <sup>1</sup> Maximum: To be retained for a period no longer than needed in order to achieve the purposes for which personal data were retained.	Creation of the document/file	Article 2934 of the Italian Civil Code
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	Minimum: No specific retention applicable. <sup>1</sup> Maximum: To be retained for a period no longer than needed in order to achieve the purposes for which personal data were retained.	Creation of the document/file	Article 2934 of the Italian Civil Code

<sup>1</sup>However, since these are documents that may become relevant while enforcing and/or opposing a claim from third parties (either on a contractual or a tort basis), it is safe to retain documents for a period equal to the general statute of limitation period of 10 years

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	No specific maximum retention period, general rules apply		
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply		
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	No specific maximum retention period, general rules apply		
25	Employee stock purchase and options records	No specific maximum retention period, general rules apply		
26	Copy of identification documents	No specific maximum retention period, general rules apply. No specific minimum retention period, but see also section 19.		
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	No specific maximum retention period, general rules apply		
28	Data concerning pension and early retirement	No specific maximum retention period, general rules apply. Minimum retention period: see section 20.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical (occupational health & safety company doctor) files; medical documents in cases of a medical treatment contract	Minimum: General obligation to guarantee unlimited retention of medical files	Creation of the file	Official letter no. 61/1986 of the ministry of Public Health Presidential Decree no. 1409 of 1963
30	Floor plans and directions	There appears to be no specific retention period. As the obligation to set forth these indications has to do with the employer's compliance with safety requirements, it is advisable to retain the documents pertaining thereto for 10 years, i.e. the general statute of limitation period in order to ensure that evidence of the employer's compliance can be provided in case of tort claims.		
31	Work-related medical examinations related to hazardous substances	Minimum: Until termination of working relationship <sup>1</sup>	Creation of the file	Article 243 of Legislative decree no. 81 of 2008 - (ISPSEL will retain data for at least 40 years from cessation of dangerous activity)
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	Minimum: Until termination of working relationship <sup>1</sup>	Creation of the file/relevant document	Article 243 of Legislative decree no. 81 of 2008 - (ISPSEL will retain data for at least 40 years from cessation of dangerous activity)
33	Register of employees who work with 3rd and 4th category biological agents	Minimum: Until termination of working relationship <sup>1</sup>	Creation of the file/relevant document	Article 243 of Legislative decree no. 81 of 2008 - (ISPSEL will retain data for at least 40 years from cessation of dangerous activity)
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	Following cessation of exposure	Article 19 of Directive 2009/148/EC
35	Administration concerning measurements of radioactive substances	Minimum: Until termination of working relationship <sup>1</sup>	Creation of the file	Article 243 of Legislative decree no. 81 of 2008 - (ISPSEL will retain data for at least 40 years from cessation of dangerous activity)

<sup>1</sup> However, as this has to do with compliance to general safety obligations towards workers, it is advisable that pertinent documents be retained for at least 10 years i.e. the general statute of limitation period (in order to ensure that evidence of the employer's compliance can be provided in case of tort claims).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
36	Records of radiation	Minimum: There appears to be no specific retention period applicable <sup>1</sup>	Creation of the file	
37	Medical records of employees who have possibly been exposed to ionizing radiation	Minimum 30 years	Termination of working relationship	Article 90 of Legislative Decree no. 230 of 1995
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	No specific maximum retention period, general rules apply		
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	No specific maximum retention period, general rules apply. Minimum retention period: see section 29.		

<sup>1</sup> However, as this has to do with compliance to general safety obligations towards workers, it is advisable that pertinent documents be retained for at least 10 years i.e. the general statute of limitation period (in order to ensure that evidence of the employer's compliance can be provided in case of tort claims).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>TRANSPORT RECORDS</b>				
40	Administration regarding transport of biofuels and biofuels stock control			
41	Loading or unloading plan (by captain or terminal representative)			
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity waste and other materials on board)	At least until next call		Article 6 of EC Directive 2000/59

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	Following last time in which the substance has been manufactured, imported, supplied or used	Article 36 of EC Regulation 1907/2006 (REACH Regulation)
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 10 years	Following last time in which the substance has been supplied	Article 49 of EC Regulation 1272/2008 (CLP Regulation)
45	Documents related to an environmental permit	No specific retention period applicable		
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping) Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal Documents on results of inspections on the discharge of domestic waste water Documents containing audits on radioactivity and all results of measurements taken	Minimum 5 years	Following last book entry	Article 190 of Legislative decree no. 152 of 2006
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	Following manufacture of the last product	Article 11 of Legislative Decree no. 15 of 2011
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	After the construction product has been placed on the market	Art. 11 of Regulation (EU) 305/2011, on harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	There appears to be no specific retention period. Application of the general period of 10 years would ensure compliance with both civil and tax law requirements.		Article 2220 of the Civil Code Article 39 Presidential Decree no. 600 /1973
50	Accident reports	Minimum 5 years	Following the accident	Article 11 of Legislative Decree no. 35 of 2010 Article 2947 of the Italian Civil Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years	Date of waste shipment	Article 20 of EC Regulation no. 1013/2006
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 months		Section 5.4.4.1 Regulation concerning the International Carriage of Dangerous Goods
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	Minimum 30 years	The closure of the dumpsite	Article 188 - bis of Legislative decree no. 152 of 2006
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	Minimum 30 years	The closure of the dumpsite	Article 188 - bis of Legislative decree no. 152 of 2006
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	Minimum 30 years		Article 188 - bis of Legislative decree no. 152 of 2006
56	Transmission systems operators need to retain all records of quality indicators	No specific retention period applicable. It is advisable to retain the documents pertaining thereto for 10 years - i.e. the general statute of limitation period.	Creation of the file	Article 2946 of the Italian Civil Code
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Following manufacture of the last product	Article 8 of Legislative Decree 262/2002

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	Minimum 10 years	Creation of the file/relevant document	Article 2220 of the Italian Civil Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber	No specific retention period applicable. Sender may be required to provide evidence of the subscriber's consent at any time.		Article 23 of the DPA Code and DPA Order no. 16 of 2011

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PURCHASING RECORDS</b>			
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	Minimum 10 years. In case a fiscal inspection is started, retention period extends until the end of the fiscal inspection.	Creation of the file/relevant document.	Article 22 of Presidential Decree no. 600/1973
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	Minimum 10 years	Following last book entry	Article 220 of the Italian Civil Code
62	Procurement records	Minimum 10 years	Following last book entry	Article 220 of the Italian Civil Code
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
63	Debtors and creditors records	No specific maximum retention period, general rules apply		
64	Customers and suppliers records	No specific maximum retention period, general rules apply		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>				
65	Intellectual property records	No specific retention period applicable		
66	Contracts, agreements and other arrangements	Minimum 10 years	Following the year in which document lost its value	There is no specific provision - safe to apply general provision of Article 2220 of Italian Civil Code
67	Permits, licences, certificates	Minimum 10 years	Following the year in which document lost its value	There is no specific provision - safe to apply general provision of Article 2220 of Italian Civil Code
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	Minimum 10 years	Following the year in which document lost its value	There is no specific provision - safe to apply general provision of Article 2220 of Italian Civil Code
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc).	Minimum 10 years	Following the year in which document lost its value	There is no specific provision - safe to apply general provision of Article 2220 of Italian Civil Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries	Minimum 10 years	Following last book entry	Article 2220 of the Italian Civil Code
71	The processing of personal data, if this differs from the process as notified to the DPA			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	No specific maximum retention period, general rules apply		
73	Login and logout data of visitors	No specific maximum retention period, general rules apply		
74	Camera recordings	No specific maximum retention period, general rules apply		

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# RETENTION GUIDE BY COUNTRY: THE NETHERLANDS





## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contracts be set out in writing (schriftelijkheidsvereisten) or require a handwritten signature (handtekeningvereisten)

Whether legal obligations exist to retain certain records in paper format

Legal requirements in respect of the conversion of paper records which belong to a company's administration (boeken en bescheiden van de vennootschap) into electronic format

Related issues are:

The evidentiary value of electronic records

International technical norms and standards for the conversion to, retention, and accessibility of electronic records

The minimum and maximum retention periods applying to records

## REQUIREMENTS TO SET OUT IN WRITING

Under Dutch law, certain agreements or deeds have to be set out in writing (schriftelijkheidsvereiste). General examples include:

A non-compete agreement or probationary period agreed between an employer and employee

The purchase of a house by a private individual

The right to make changes unilaterally to an employment agreement

The conclusion of a hire-purchase agreement

The right of inspection of a commercial agent (handelsagent)

A deed of pledge (pandakte)

The management agreement regarding assets of an investment institution (beheersovereenkomst)

In addition, Dutch law requires that written copies of certain agreements be given to the other party. For example, an instrument drawn up between the parties for the sale of an immovable object has to be provided on demand to the buyer. Further, an insurer has to provide the insured party with the insurance policy.

The requirement to set out certain matters in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

The requirement that certain notices are made in writing

Though certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record to an electronic record that replaces the paper version. In some cases, however, the paper version has more evidentiary value in court.



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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original

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Ensure the authenticity and integrity of the electronic record during its retention period

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Ensure the electronic record's accessibility and legibility during its retention period

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Minimum retention obligation

Under Dutch law, companies have a retention obligation for certain types of records. Article 2:10 and 3:15i of the Dutch Civil Code (Burgerlijk Wetboek) and article 52 of the State Taxes Act (Algemene Wet inzake Rijksbelastingen) prescribe that accounts, records and other data that provide information on the rights and obligations of a company (the “company books and records”) be retained for a period of seven years. The records falling within the scope of these provisions need to be retained in such a manner that the rights and obligations of the company can be shown at any time.

In principle, the company books and records may be created and retained in electronic format. The requirement that the company’s rights and obligations must be able to be presented at any time entails that:

**The authenticity and integrity of the electronic records should be adequately ensured**

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**Electronic records should be accessible during their retention period**

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**The electronic records should be made legible within a reasonable time frame**

Whether certain documents such as employment contracts need to be retained for a minimum period of seven years has to be evaluated based on their content. If such documents contain rights and obligations not covered by any other documentation, they should be kept for at least seven years as well.

### Maximum retention periods

To the extent records contain personal data as defined by the Dutch Data Protection Act (Wet bescherming persoonsgegevens), these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is “necessary” and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be (i) disposed of, (ii) de-identified (i.e. all references to data subjects should be rendered illegible), or (iii) stored in a closed archive. An exception can be created by means of a so-called “legal” or “tax hold notice”, issued by an authorised officer or department within the company. A legal or tax hold notice instructs relevant staff to suspend disposal, de-identifying or archiving of certain documents in the event of reasonable anticipation of litigation, tax audits or investigations. The retention period may be prolonged until the legal or tax hold is no longer valid, or in the event of pending litigation proceedings, until the execution of a court judgment given in last instance.

This guide provides an overview of minimum as well as maximum data retention periods.

### Retention of certain records in paper format

Certain types of records must be retained in paper format (e.g. a company’s profit and loss accounts and annual financial statements). Please note that these paper records need not be original records. A print-out based on an electronic bookkeeping system will suffice.

### Conversion requirements

The above retention obligations do not preclude existing paper records (with the exception of the profit and loss account and the annual financial statements) from being converted to electronic records. The Dutch Civil Code and State Taxes Act explicitly offer the possibility to transfer records to another type of data carrier, provided this is done “in a manner which ensures an accurate and complete reproduction of the original data, ensures that the data are accessible during their retention period, and allows for the data to be made legible within a reasonable time frame”. Again, guiding here are the requirements set by the Tax and Customs Administration for the conversion to electronic records of tax-related data.



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## RELEVANT (INTERNATIONAL) STANDARDS

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In the context of a record's evidentiary value, as well as the requirements under Dutch law for the conversion of paper to electronic records, the NEN-ISO 15489 standard is leading. This Dutch adaptation of the ISO 15489 international standard for records management provides guidelines on the maintenance of an archive system, regardless of its form or medium. The main points contained in the ISO standard regarding the retention of records in an archive are:

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Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities

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Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another

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Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes

The Dutch Institute for Standardisation (Nederlands Normalisatie-Instituut, or NEN) and the Electronic Commerce Platform of the Netherlands (ECP.NL) have jointly formulated guidelines for the implementation of this ISO standard, and also offer practical advice on record retention in relation to its evidentiary value.

In conclusion, if the ISO standard is followed, the evidentiary value of an electronic record will be very high. Providing proof to the contrary will be almost impossible. In legal proceedings, this means that a court considers the prints of these electronic documents to be initial proof. In practice, the evidentiary value of prints of electronic documents is hardly ever disputed.

### Guidelines Tax and Customs Administration

The ISO standard largely corresponds with the requirements set by the Tax and Customs Administration (Belastingdienst) for the conversion to electronic records of tax-related data. For replacing paper records by electronic records, the Tax and Customs Administration sets the following conditions:

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All records are converted in their entirety

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All records are converted in a way that their contents remain intact

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The electronic records remain accessible for their entire retention period

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The electronic records can be produced and made legible within a reasonable time frame

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Inspection of the electronic records can be performed within a reasonable time frame

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The results of internal inspections are kept on file, including a possible comparative analysis of the original and electronic records

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Dutch law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Minimum 7 years	Upon preparation of the documents	Sections 2:10 Dutch Civil Code (DCC) (Burgerlijk Wetboek) and 3:15i DCC, Section 52 General Tax Act (GTA) (Algemene Wet inzake de Rijksbelastingen)
2	Shareholders' resolution, Articles of incorporation, Shareholders' register, Board resolutions, Standing orders, Boards' and shareholders' meetings minutes, Supervisory Board's rules of procedure, Supervisory Council's Rules of procedure	Minimum duration of the legal entity (+ 7 years, see under 1)	Once the document has lost its actual value	The law offers no other specific retention obligation for the documents of a legal entity besides the general requirements for an undertaking to keep proper books and records. These documents are, however, so essential that it is advisable to retain them at least for the duration of the legal entity (see also 1).
3	Financial statements, audit reports, etc	Minimum 7 years	Once the document has lost its actual value	Section 2:394 para. 6 DCC, Section 2:392 para. 1 DCC
4	Profit and loss accounts	Minimum 7 years	Upon preparation of the documents	Sections 2:10 DCC and 3:15i DCC
5	Records and documents of the dissolved legal entity	Minimum 7 years	Upon dissolution of the entity	Section 2:24 DCC
6	Membership records in a cooperative association (original)	Minimum 10 years	From the date of application	Section 2:61 DCC
7	Subsidy records and documents	Minimum 7 years	Once the document has lost its actual value	Section 4:69 General Administrative Law Act (Algemene Wet Bestuursrecht)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show its rights and obligations in the interest of levying taxes</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT). These organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties.</p>	Minimum 7 years	Following the tax year to which the information relates	<p>Section 47 GTA</p> <hr/> <p>Section 52 GTA</p> <hr/> <p>Section 53(1) GTA</p> <hr/> <p>Section 53(2) GTA</p>
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes</p> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU</p>	Minimum 7 years	Following the tax year to which the information relates	<p>Section 34 VAT Act (VATA) (Wet op de Omzetbelasting 1968) (in conjunction with section 31 of the VAT Implementation Decree 1968) (Uitvoeringsbeschikking omzetbelasting 1968)</p> <hr/> <p>Section 31 Implementation Decree VATA 1968</p>
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	Minimum 9 years	Following the year in which the relevant real estate was used by the business for the first time	Section 34a VATA
	<b>CORPORATE INCOME</b>			
11	Dutch taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Dutch Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	Minimum 7 years	Once the fiscally relevant agreement has ended	Section 8b Corporate Income Tax Act 1969 (CITA) (Wet op de Vennootschapsbelasting)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes	No specific retention period. See section 1.		
	<b>CUSTOMS</b>			
13	Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers.	Minimum 7 years	Following the tax year to which the information relates	Section 1:32 General Customs Act (GCA) (Algemene Douanewet)
	<b>LOCAL TAXES</b>			
14	Taxes levied under the Municipalities Act and/or Provinces Act such as (i) municipal tax, (ii) betterment levy (baatbelasting), (iii) sufferance tax (precariobelasting) and (iv) tourists tax (toeristenbelasting). Administrative requirements may differ regionally. Tax rates also differ per region.	Relevant administration needs to be retained for a set period that may vary between different municipalities and provinces		Municipal or provincial taxes due pursuant to the Municipalities Act (Gemeentewet) and/or Provinces Act (Provinciewet)
	Rates and/or administrative requirements of the district water board (waterschap) tax may differ regionally	Retention period differs from region to region		Water Authorities Act
	Taxes levied under the Environmental Control Act (Wet milieubeheer) including (i) provincial levy on the extraction of groundwater, (ii) waste disposal levy and (iii) any similar taxes levied in the Netherlands or elsewhere. Rates and/or administrative requirements may differ regionally.	Retention period differs from region to region		Environmental Control Act (Wet milieubeheer)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.	Administration needs to be retained for a minimum of 7 years	The 7-year retention period starts in the year following the tax year to which the information relates	Section 6 in conjunction with section 23 and 28 Wage Withholding Tax Act 1964 (WWTA) (Wet op de Loonbelasting 1964)
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount (loonheffingskorting) must be retained in the company's administration.	Minimum 5 years	Following the date that the relevant employment agreement ended	Section 28 WWTA in conjunction with section 7.9 Implementation regulations WWTA 2011
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind) <hr/> Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	Minimum retention period: see section 15. Maximum retention period: 2 years.	Once employment ends. The data may need to be kept longer in cases where the data are necessary to fulfil a legal retention duty.	Section 8 Exemption Decree DPA (Vrijstellingsbesluit Wet Bescherming Persoonsgegevens). See section 1. <hr/> Section 9 Exemption Decree DPA. See section 1.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract	Minimum 7 years	When employment ends	Section 2:10 DCC, Section 3:15i DCC
19	Identification documents of foreign nationals (copy)	Minimum 5 years	When employment ends	Section 15 para. 3 Foreign Nationals (Employment) Act (Wet arbeid vreemdelingen)
20	Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	Minimum 7 years	Following the fiscal year in question	Section 169 Pensions Act (Pensioenwet) Section 164 Occupational Pension Scheme (Obligatory Membership) Act (Wet verplichte beroepspensioensregeling)
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	Policy documents: see section 1		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	Maximum 4 weeks after ending the job application procedure (without applicant's consent); max 1 year after ending the job application procedure (with consent)	From the date the application procedure ended. The data may be kept longer in cases where this would be necessary to fulfil other legal retention duties.	Section 5 Exemption Decree DPA
23	Data concerning a temporary worker	Maximum 2 years, in case of request by the person involved, data have to be destroyed	The day of registration or last day of activity. The data may need to be kept longer in cases where this would be necessary to fulfil other legal retention duties.	Section 6 Exemption Decree DPA

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references; and sick leave records)	Maximum 2 years	Once employment has ended. The data may need to be kept longer in cases where this would be necessary to fulfil other legal retention duties.	Section 7 Exemption Decree DPA. See also under 1.
25	Employee stock purchase and options records	Maximum 2 years	Once employment has ended. The data may need to be kept longer in cases where this would be necessary to fulfil other legal retention duties.	Section 8 Exemption Decree DPA. See also under 1.
26	Copy of identification documents	Minimum: See sections 16 and 19. Maximum 2 years.	Once employment has ended. The data may need to be kept longer in cases where this would be necessary to fulfil other legal retention duties.	Section 7 Exemption Decree DPA. See also under 1.
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	Maximum 2 years	Once employment has ended. The data may need to be kept longer in cases where this would be necessary to fulfil other legal retention duties.	Section 7 Exemption Decree DPA. See also under 1.
28	Data concerning pension and early retirement	Minimum: See section section 20. Maximum 2 years.	At the end of employment. The data may need to be kept longer in cases where required by other legal retention duties.	Section 10 Exemption Decree DPA

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
29	Medical ('Arbo', or occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	15 years, or longer as reasonably expected from a good care provider. In case of request by the patient, the records have to be destroyed within three months.	From date of drafting	Section 7:454 para. 3 DCC in combination with section 7:455 DCC
30	Floor plans and directions	Recommended to keep as long as necessary for safety purposes		
31	Work-related medical examinations related to exposure of employee to hazardous substances	40 years	From the date of the employees' last exposure to those hazardous substances	Section 4.10c Working Conditions Decree
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	40 years	From the date of the employees' last exposure to those hazardous conditions or other threats	Section 4.15 and section 4.10c Working Conditions Decree
33	Register of employees who work with 3rd and 4th category biological agents	At least 10 years	From the date of the employees' last exposure or possible exposure to the biological agents	Section 4.90 Working Conditions Decree
34	Lists/register of employees who have been exposed to asbestos dust	40 years	From the date of the employees' last exposure to asbestos dust	Section 4.53 and section 4.10c Working Conditions Decree
35	Administration concerning measurements of radioactive substances and the results of these measurements	At least 5 years	From the date the check took place	Section 31 para 2 Radiation Protection Decree (Besluit stralingsbescherming)
36	Records of radiation	At least 5 years	From the calendar year to which the data relates	Section 120 Radiation Protection Decree in combination with section 9 para 1 Regulation administrative and organisational measures radiation protection (Regeling administratieve en organisatorische maatregelen stralingsbescherming)
37	Medical records of employees who have possibly been exposed to ionizing radiation, results of medical (individual) examinations, nature of work	Until the former employee reaches 75 years of age, but for at least 30 years after this person ceased the activities in question		Section 100 para 2 Radiation Protection Decree (Section 50 para 3 and Section 91 para 3 Radiation Protection Decree)
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	Minimum: At least 52 weeks. Maximum: 2 years.	From the date to which the data relates	Section 3.2:1 Working Hours Decree (Arbeidstijdenbesluit) and section 7 Exemption Decree DPA
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	If retention is no longer necessary, the file should be destroyed as soon as possible following termination of employment. The reintegration file may be retained for max. 2 years after termination of the employment, unless longer retention is necessary to satisfy a legal obligation.		Art. 7 Exemption Decree DPA. See also under 1 and the Dutch Data Protection Authority Publication "Sick employees and privacy", par. 8.3.3.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	Minimum 7 years		Section 3 paragraph 7 Biofuels (Road Traffic) Decree 2007, derived from GTA (Besluit biobrandstoffen wegverkeer 2007)
41	Loading or unloading plan (by captain or terminal representative)	Minimum 6 months	After agreement on the plan	Section 12 Seagoing Vessels (Loading and Unloading) Act (Wet laden en lossen zeeschepen)
42	The captain of a ship on its way from an EU port, and the manager of the port it has just left, must both retain data passed on to the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board) (Richtlijn havenontvangstvoorzieningen)	<p>Captain: At least until the next port of call outside the Netherlands</p> <hr/> <p>Port manager: 5 years after receiving the data</p>		<p>Section 12a para. 4 Prevention of Pollution from Ships Act (Wet voorkoming verontreiniging door schepen)</p> <hr/> <p>Section 12a para. 5 in combination with section 6 para. 6 Prevention of Pollution from Ships Act</p>

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported in the Netherlands or supplied	Minimum 10 years	Upon the date after having obtained the data	Section 3 para 3 Administration decree environmentally hazardous substances and preparations (Administratiebesluit milieugevaarlijke stoffen en preparaten) (Article 36 Regulation 1907/2006/EC (REACH)) (Verordening (EG) Nr. 1907/2006 van het Europees Parlement en de Raad van 18 december 2006 inzake de registratie en beoordeling van en de autorisatie en beperkingen ten aanzien van chemische stoffen (REACH))
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 1 year	From date of drafting	Section 3 para 4 Administration decree environmentally hazardous substances and preparations
45	Documents related to an environmental permit	Depends on the environmental permit		Section 5.7 para 2 sub c Environmental Law Decree (Besluit omgevingsrecht) (Section 2.1 para 1 Environmental Permitting (General Provisions) Act (Wet algemene bepalingen omgevingsrecht))
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping) Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal Documents containing audits on radioactivity and all results of these audits Documents on results of inspections on the discharge of domestic waste water	Minimum 5 years	From date of drafting	Section 5.8 para 1 Environmental Law Decree Section 2.1 para 1 Environmental Permitting (General Provisions) Act Section 10.38 Environmental Control Act (Wet Milieubeheer) Section 31 para 4 Radiation Protection Decree (Besluit stralingsbescherming)
47	Relevant documents concerning conformity assessment/statement of an energy-related product	Minimum 10 years	After manufacture of the product has ceased	Section 9.4.6. Environmental Control Act
48	Technical documentation and declaration of performance on construction products Environmental certificates and packing lists regarding building materials containing more than 10 percent silicon, aluminium or calcium	Minimum 10 years Minimum 5 years	Following use of the building materials Following use of the building materials	Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC Section 28 para 3 Soil Quality Decree (Besluit bodemkwaliteit)
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	Minimum 7 years	From date of drafting	Section 33 para 2 Financial Provisions Soil Remediation Decree (Besluit financiële bepalingen bodemsanering)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
50	Accident reports	Minimum 5 years	From the date the accident happened	Section 5 Regulation safety adviser for transport of hazardous materials
51	A copy of the documents concerning the transfer of waste materials sent to or by the competent authorities	At least 5 years	From the date the shipment starts	Section 20 Regulation on the EU-regulation on Transfer of Waste Materials (Regeling EG-verordening overbrenging van afvalstoffen)
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	At least 3 months	From date of drafting	Section 1.9.5.1 Regulation Railway Transportation of Hazardous Materials (Regeling vervoer over de spoorweg van gevaarlijke stoffen)
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	Minimum 5 years	During 5 years after the last bunch of the described waste materials has been accepted	Section 11f para 4 Dumpsites and Dumping Ban on Waste Materials Decree (Besluit stortplaatsen en stortverboden afvalstoffen)
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	Minimum 5 years	After the analysis has been conducted	Section 11h para 6 Dumpsites and Dumping Ban on Waste Materials Decree
55	Written and electronic data from which information has been derived to describe the nature, qualities and composition of the waste materials	At least 5 years	After the last delivery of the described waste materials	Section 10 para 5 Report Industrial Waste and Hazardous Waste Decree (Besluit melden bedrijfsafvalstoffen en gevaarlijke afvalstoffen)
56	Transmission systems operators need to retain all records of quality indicators of the transfer of gas (including records related to intermission of gas)	At least 10 years	From date of drafting	Section 35a Gas Act (Gaswet) in combination with section 7 Regulation on quality aspects mains management electricity and gas (Regeling netbeheer elektriciteit en gas)
	Transmission systems operators need to retain all records of quality indicators of the transfer of gas (including records related to breakdown of the electricity, intermission and leak)	At least 10 years		Section 19a Electricity Act 1998 (Elektriciteitswet 1998) in combination with section 7 Regulation on quality aspects mains management electricity and gas
57	Technical documentation based on Directive 2014 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Following termination of production of product	Section 6 paragraph 3 Regulation Sound Emission Outside Equipment; Section 14 paragraph 1 Regulation Sound Emission Outside Equipment



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	Minimum 7 years	Once the document has lost its actual value	Section 2:10 DCC, Section 3:15i DCC, Section 52 GTA (See under 1)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided that the sender can demonstrate that prior consent was given by the subscriber	No particular period		Section 11.7 Telecommunications Act (Telecommunicatiewet). General information: if OPTA opens an investigation into an undertaking on the basis of a complaint received, the undertaking is obligated to provide information in response to all the investigators' questions. It is up to the company how they prepare for such an event. The ban provides that the sender must prove that explicit consent was granted by the recipient of messages of a commercial nature. The manner in which such proof may be presented is not prescribed by regulation, but there can be no question that a client has no objections to receiving spam if the sender of the e-mail saves an e-mail containing consent, or the client's website contains a statement that it has no objections to the spam.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS</b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	Minimum 7 years	Following the tax year to which the information relates	Section 34 VATA (in conjunction with section 31 of the VAT Implementation Decree 1968). See under 9.
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	Minimum 7 years	Following the tax year to which the information relates	Section 52 GTA, Section 1:32 General Customs Act
62	Procurement records	Minimum 7 years	Once the document has lost its actual value	Section 2:10 DCC, Section 3:15i DCC
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	Maximum 2 years	Once the transaction in question is concluded, unless longer retention is necessary to satisfy a legal obligation	Section 12 Exemption Decree DPA
64	Customers and suppliers, clients and guest administration records	Maximum 2 years	Once the claim in question was settled, unless longer retention is necessary to satisfy a legal obligation	Section 13 Exemption Decree DPA

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
65	Intellectual property records	No specific retention periods. See section 1.		If certain intellectual property documents provide information on the rights and obligations of a company, they must be retained for a period of 7 years (section 2:10 DCC). Whether particular documents need to be retained for the minimum 7 year period must be evaluated based on their content.
66	Contracts, agreements and other arrangements	Minimum 7 years	Once the document has lost its actual value	Section 2:10 DCC, Section 3:15i DCC, Section 52 State Taxes Act
67	Permits, licences, certificates	Minimum 7 years	Once the document has lost its actual value	Section 1.9.5.1 Regulation Railway Transportation of Hazardous Materials (Regeling vervoer over de spoorweg van gevaarlijke stoffen)
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	We recommend to retain these records for at least 20 years for evidentiary purposes	From the moment the penalty becomes due	Section 3:310 DCC
69	(Legal) files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)	Minimum 5 years	From the date of the service provider's last involvement with the company	Section 7:412 DCC

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries	Minimum 7 years	Once the document has lost its actual value	Section 2:10 DCC, Section 3:15i DCC, Section 52 State Taxes Act
71	The processing of personal data, if this differs from the process as notified to the Dutch DPA	At least 3 years	Following the processing	Section 28 para. 4 Act on the Protection of Personal Data (Wet bescherming persoonsgegevens)
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	Maximum 6 months	After obtaining the data. The data may be kept longer if necessary to comply with a statutory retention obligation.	Sections 32 - 36 Exemption Decree DPA (Section 10 and 29 Act on the Protection of Personal Data)
73	Login and logout data of visitors	Maximum 6 months	After obtaining the data. The data may be kept longer if necessary to comply with a statutory retention obligation.	Sections 37 Exemption Decree DPA (Section 10 Act on the Protection of Personal Data)
74	Camera recordings	Maximum: 4 weeks or after settlement of (recorded) incidents	From the day, hour and minute of the fragment making	Section 38 Exemption Decree DPA (Section 10 Act on the Protection of Personal Data)



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# RETENTION GUIDE BY COUNTRY: POLAND



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contract be set out in writing (*forma pisemna ad solemnitatem*)

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Whether legal obligation exists to retain certain records in paper format

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Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the conversion to, retention, and accessibility of electronic records

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The minimum and maximum retention periods applying to the records

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## REQUIREMENTS TO SET OUT IN WRITING

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Under Polish law, certain agreements or instructions have to be set out in writing (*forma pisemna ad solemnitatem*). There are also legal transactions, including agreements, statements, wills etc., which may only be concluded in notary form (either the whole document encompassing a given legal transaction must be executed by a notary public or signatures of the parties / the declarer must be certified by a notary).

General examples include:

The purchase of real estate (notarial act)

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A share purchase agreement (written form with signatures certified by a notary)

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A non-compete agreement between an employer and employee (written form)

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A copyright licence agreement (written form)

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Changes to an employment agreement (written form)

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The conclusion of a hire-purchase agreement (written form)

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Though certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record to an electronic record that replaces that paper record. In some cases, however, the paper version has more evidentiary value in court and should be available in addition to the electronic record.

## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

### Electronic records as evidence in legal proceedings

The Polish Civil Procedure Code (PCPC)<sup>1</sup> does not provide for a formal procedure of disclosure under which a party (or a third person) would be required to carry out a search for, and then disclose, all documents that may be useful to decide upon a given case. In particular, there is no general duty to produce documents that are detrimental to a party's case or which support another party's case. A person, including a party to the proceedings as well as a third party, may, however, be compelled to hand over certain documents to courts or other authorities (upon a specific decision of a court). This context should be considered when deciding on the document retention policy.

The PCPC provides a legal definition of documents, both official and private ones.

An official document is a document issued by a proper authority in the scope of its competence and in the form prescribed by law (e.g. notarial deed, land and mortgage register excerpt, certain bank documents). It enjoys the presumption of authenticity and conformity with the truth.

A private document is a signed statement of a person in written form. It is deemed to provide evidence that the signatory gave the statement contained therein (e.g. a letter by a CEO, an agreement).

Taking into account both of these definitions of documents, it can be concluded that electronic media which record information, for example emails, processed Word documents, audio and visual media, and text messages are not documents for the purpose of civil litigation in Poland. Very few legal provisions relate to electronic media as evidence and, furthermore, there are no specific provisions concerning electronic disclosure procedure. An amendment of PCPC, however, in this respect is to be expected in coming years. At present, we should consider that the rules regarding documents are applicable, to the extent possible, to electronic media that record information.

As a rule, documents should be submitted to the court as an original. However, PCPC allows the authentication of documents by e.g. public notary or attorney representing a party in the proceedings, which gives it power equal to the original. Still, a counterparty or a court in certain situations may request a party relying on a document in its submission to present an original, instead of e.g. a copy thereof, before the hearing. This aspect should not be overlooked when deciding upon the form of document storage.

In civil litigation, a party who is questioning the authenticity of a document bears the burden of proof. There is, however, an important exception to this rule in case of a private document whose authenticity is questioned: If a private document was issued by a person other than the party raising the objection, then the burden of proof of its authenticity remains with the party relying on such document.

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts may consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary.

<sup>1</sup>Civil Procedure Code of 17 November 1964 (Journal of Laws of 1964, No. 43, Item 296 as amended).

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Minimum retention obligation

Under Polish law, companies have an obligation to maintain certain types of documents. In the Commercial Companies Code<sup>1</sup> there are provisions regarding the maintenance of company records, such as the share register or minutes from the shareholders' and boards' meeting. None of those regulations, however, relates to specific retention periods, therefore only advisable periods may be set out. In relation to company accounting records, more specific legislation exists, with most of the relevant provisions comprised by the Accounting Act<sup>2</sup>. Approved financial statements must be retained indefinitely, while accounting books and accounting records and other accounting data are to be retained for a period of five years.

In principle, company accounting books may be stored in paper form. They may also be stored in a computerised form on the condition that the entity has appropriate software allowing it to obtain legible information with respect to the records made in accounting books by printing them out or transferring to an IT data carrier.

<sup>1</sup> Commercial Companies Code of 15 September 2000 (Journal of Laws of 2000, No. 94, item 1037) - i.a.: articles 188, 212, 222, 224, 248.

<sup>2</sup> Art. 74 of the Accounting Act of 29 September 1994 (Journal of Laws of 2002, No. 76, item 694).

In principle, the company books and records may be created and retained in electronic format, provided however that among others the following conditions are met:

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**Accounting books must be printed out not later than at the end of a financial year**

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**The transfer of contents of the account books to an IT data carrier ensuring durable recording of such information for the period not shorter than that required for keeping the account books is deemed equivalent to print-outs**

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**When maintaining accounting books in a computerised form, automatic control of the continuity of records, the transfer of sales or balances must be ensured**

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**Print-outs from accounting books must have automatically numbered pages, bear the permanent mark with the entity's name and other obligatory marks, be clearly marked in the scope of the financial year, accounting period and the date of creation, and be diligently retained in established order**

### Maximum retention periods

To the extent records contain personal data as defined by the Polish Personal Data Protection Act<sup>3</sup> (Ustawa o ochronie danych osobowych), these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is "necessary" and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be either (i) disposed of, or (ii) de-identified (i.e. all references to data subjects should be rendered unreadable).

This guide provides an overview of minimum as well as maximum data retention periods.

<sup>3</sup> Act of 29 August 1997 on the Protection of Personal Data (Journal of Laws of 2002, No. 101, Item 926, as amended).

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Retention of certain records in paper format

Certain types of records must be retained in paper format (e.g. a company's profit and loss accounts and annual financial statements) A print-out may suffice (if the financial system allows to prepare statements in the format required under Polish law) signed by a person who prepares them (usually chief accountant) and the management (members of the management board in the case of a company).

### Conversion

The above retention obligations do not preclude existing paper records (with the exception of annual financial statements) being converted into electronic records. However, due to the lack of statutory regulations providing for one universal form of document retention in relation to many types of documents created in companies, it is recommended that, in addition to documents stored in electronic form, there are paper documents always available. Additionally, some documents need to be signed by certain persons, e.g. members of the management board or shareholders, therefore they need to be retained in hard copy. It is not prescribed by law that such documents may not be converted but for evidentiary purposes they should be kept in hard copy.

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## ISO 15489

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In Poland, the PN-ISO 15489-1:2006 standard is leading in the scope of document management. However, universally binding provisions regarding the creation, format and management of electronic documents are specified in statutory acts and regulations (being executory acts for statutes).

The Polish adaptation of the ISO 15489 international standard for records management provides guidelines on the maintenance of records, regardless of their form or medium, created or received by any entity (whether public or private) in the course of its operation, or any individual, obliged to create and archive documents. The in PN-ISO 15489-1:2006 standard includes, among others, guidelines on:

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### The entity's responsibility for documents

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Setting out maintenance rules for documents, as well as procedures, systems and documentation processes

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Document management as quality management support

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Designing and implementing documentation systems

The standard does not include archival document management in archival institutions.

Nevertheless, provisions of the PN-ISO 15489-1:2006 standard are not universally applicable. Although private entities mainly rely on electronic records and communication, they also maintain own archives and often invest in electronic record management systems, including the conversion of paper records into electronic ones. Specific requirements in the scope of creation, format and management of electronic documents, which apply to public institutions (state and local government) have been introduced by way of a few statutes and regulations of the Minister of Internal Affairs and Administration.<sup>1</sup> The introduction and development of e-documents into public administration on the basis of a consistent system of legal acts setting out relevant functional and technical standards constitutes a part of the Ministry's of Internal Affairs and Administration "Development strategy of information society in Poland for the period of 2007-2013."

<sup>1</sup> I.a.: Act of 17 February 2005 on computerising the operation of entities which execute public activities (Journal of Laws No. 64, Item 565), Act of 18 September 2001 on the electronic signature (Journal of Laws No. 130, Item 1450), Regulation of the Prime Minister of 29 September 2005 on the organisational and technical conditions of delivering electronic documents to public entities (Journal of Laws Nr 200, Item 1651), Regulation of the Minister of Internal Affairs and Administration of 30 October 2006 on the necessary structure components of electronic documents (Journal of Laws Nr 206, Item 1517), Regulation of the Minister of Internal Affairs and Administration of 30 October 2006 on the detailed method of conduct with electronic documents (Journal of Laws Nr 206, Item 1518), Regulation of the Minister of Internal Affairs and Administration 27 November 2006 on preparing and delivering notices in the form of electronic documents (Journal of Laws Nr 227, Item 1664).

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Polish law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Minimum 5 years	As of the beginning of the year following the relevant financial year to which the documents pertain	Art. 74 Clause 2 point 1 of the Accounting Act <sup>1</sup>
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards' and shareholders' meetings minutes (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	Duration of the legal entity + minimum 5 years	From the date of drafting	No specific retention obligation provisions are stipulated in the Polish law for the documents of a legal entity, besides the general requirements for an undertaking to keep proper books and records. These documents are, however, so essential that it is advisable to retain them at least for the duration of the legal entity.
3	Financial statements, audit reports, etc.	Indefinite retention <sup>2</sup>		Art. 74 Clause 1 of the Accounting Act
4	Profit and loss accounts	Minimum 5 years	As of the beginning of the year following the relevant financial year to which the documents pertain	Art. 74 Clause 2 point 1 of the Accounting Act
5	Records and documents of the dissolved legal entity	Depending on the type of documents but usually minimum 5 years	As of the beginning of the year following the relevant financial year to which the documents pertain	Art. 74 of the Accounting Act
6	Membership records in a cooperative association (original)	No mandatory retention period		
7	Subsidy records and documents	Minimum of 10 years	Date when the aid was granted	Art. 15 of the Regulation 659/1999/EC, no specific retention period provided but recommended to keep for evidentiary purposes in view of the limitation period of 10 years

<sup>1</sup> Accounting Act of 29 September 1994 (Journal of Laws of 2009, No. 152, Item 1223 - uniform text).

<sup>2</sup> Indefinite retention pertains to approved financial statements which contain audit reports prepared by statutory auditors.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show its rights and obligations in the interest of levying taxes</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p> <p>Sole traders (individuals conducting registered economic activity) are obliged to keep a tax book of revenues and expenditures (or accounting books if their net revenue in the last year reached Euro 1.2 million) in a manner that enables an assessment of the amount of income (or loss), tax base and the tax due for a tax year, and also to include, in the records of tangible assets, and intangible fixed assets, the information necessary for calculating the amount of depreciation write-offs</p> <p>An individual conducting economic activity and performing transactions with related parties or with entities with their place of residence, registered office or management board in a country admitting detrimental tax competition, is obliged to prepare tax documentation of such transaction on meeting a certain threshold</p>	<p>Until the expiry of the statutory limitation period of tax obligations (usually minimum 5 years)</p> <p>Minimum 5 years</p> <p>Minimum 5 years</p>	<p>End of the calendar year in which the payment of the tax was due<sup>1</sup></p> <p>End of the calendar year in which the payment of the tax was due</p> <p>End of the calendar year in which the payment of the tax was due</p>	<p>Art. 70 and Art. 88 of the Tax Ordinance<sup>2</sup></p> <p>Art. 24a of the Personal Income Tax Act</p> <p>Art. 25a of the Personal Income Tax Act</p>
	<b>VAT</b>			
9	<p>VAT taxpayers, except for those carrying out exclusively activities exempt from tax, are obliged to keep records including: the amounts necessary to determine the object and base of taxation, the amount of output tax, amounts of input tax reducing the amount of output tax and the amount of tax payable to or refundable by the revenue office and other particulars useful for the correct drawing up of the tax return</p> <p>VAT taxpayers who sell goods to individuals not conducting economic activity, and to lump-sum tax farmers, are obliged to keep records of their turnover and amounts of output tax using cash registers</p>	<p>Minimum 5 years</p> <p>Minimum 5 years</p>	<p>End of the calendar year in which the payment of the tax was due</p> <p>End of the calendar year in which the payment of the tax was due</p>	<p>Art. 109 of the VAT Act<sup>3</sup></p> <p>Art. 111 of the VAT Act</p>
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto			

<sup>1</sup> (Note: In the event of the liquidation or dissolution of a legal entity, or an organisational unit without legal personality, the person conducting the liquidation or dissolution thereof must inform the relevant tax authority, in writing, not later than on the last day of the existence of that legal entity or organisational unit, about the place where the tax books and documents will be stored.)

<sup>2</sup> Personal Income Tax Act of 26 July 1991 (Journal of Laws of 2012, item 361 - uniform text).

<sup>3</sup> VAT Act of 11 March 2004 (Journal of Laws of 2011, No. 177, item 1054 - uniform text).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>CORPORATE INCOME TAX</b>			
11	A company is obliged to keep accounting books in accordance with the Accounting Act in a manner that enables the assessment of the amount of income (or loss), tax base and the tax due for a tax year, and also to include, in the records of tangible assets, and intangible fixed assets, the information necessary for calculating the amount of depreciation write-offs	Minimum 5 years	End of the calendar year in which the payment of the tax was due	Art. 9 of the Corporate Income Tax Act <sup>1</sup>
	A company performing transactions with related parties, or with entities whose place of residence, registered office or management board is in a country admitting detrimental tax competition, is obliged to prepare tax documentation of such transaction on reaching a certain threshold	Minimum 5 years	End of the calendar year in which the payment of the tax was due	Art. 9a of the Corporate Income Tax Act
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes.			
	<b>CUSTOMS</b>			
13	Any person directly or indirectly involved in trade in goods is obliged to provide the customs authorities with all the requisite documents and information, irrespective of the medium used, and all the requisite assistance at their request.	Minimum 5 years	In the case of goods released for free circulation or goods declared for export, from the end of the year in which the declarations for release for free circulation or export are accepted. In the case of goods released for free circulation at a reduced or zero rate of import duty on account of their end-use, from the end of the year in which they cease to be subject to customs supervision	Art. 9 of the Customs Act, <sup>2</sup> Art. 14 and Art. 16 of the Community Customs Code <sup>3</sup>
	<b>LOCAL TAXES</b>			
14	Regulation (EC) No. 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code	Minimum 5 years	End of the calendar year in which the payment of the real estate tax was due	Art. 70 of the Tax Ordinance

<sup>1</sup> Corporate Income Tax Act of 15 February 1992 (Journal of Laws of 2011, No. 74, Item 397 - uniform text).

<sup>2</sup> Customs Act of 19 March 2004 (Journal of Laws of 2004, No. 68, Item 622).

<sup>3</sup> Regulation (EC) No. 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PAYROLL AND SALARY RECORDS</b>			
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.	End of the calendar year in which the payment of the tax was due	Art. 32 in conj. with Art. 70 of the Tax Ordinance
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration	Documents related to the tax withholdings on wages are to be kept by the taxpayer (generally: the employer) for the period of statutory limitation of tax liabilities (usually: minimum 5 years)	End of the calendar year in which the payment of the tax was due	Art. 32 in conj. with Art. 70 of the Tax Ordinance

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PAYROLL AND SALARY RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)	No specific maximum retention period, general rules apply. Minimum retention period: Documents used for calculating the employee's pension payments (such as remuneration charts): 50 years / documents submitted to the Social Security Authority: minimum 5 years. See also section 15.	Date when the employment relationship with the employee terminated / Date when the document was submitted to the Social Security Authority	Art. 125a of the Act on pensions from the Social Securities Fund of 17 December 1998 (Journal of Laws of 2009, No. 153, Item 1227) / Art. 47 of the Act on Social Securities System of 13 October 1998 (Journal of Laws of 2009, No. 205, Item 1585)
	Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	No specific maximum retention period, general rules apply. Minimum retention period: 50 years. See also section 15.	Date when the document was created	Art. 51u of the Act on national archives <sup>1</sup> in conj. with Art. 94 of the Labour Code <sup>2</sup> in conj. with § 6 of the Regulation of the Minister of Labour and Social Policy of 28 May 1996 on the scope of maintaining documentation in matters connected with the employment relationship and the method of managing employee personal files by the employer <sup>3</sup>

<sup>1</sup> Art. 51u of the Act on national archives of 14 July 1983 (Journal of Laws of 2011, No. 123, Item 698 - uniform text).

<sup>2</sup> Labour Code of 26 June 1974 (Journal of Laws of 1998 No. 21, Item 94).

<sup>3</sup> Regulation of the Minister of Labour and Social Policy of 28 May 1996 on the scope of maintaining documentation in matters connected with the employment relationship and the method of managing employee personal files by the employer (Journal of Laws of 1996, No. 62, Item 286; hereinafter referred to as "Regulation on Employee Documentation").

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract	Minimum 50 years	Date of termination of employment relationship	Art. 51u of the Act on national archives in conj. with Art. 94 of the Labour Code in conj. with § 6 of the Regulation on Employee Documentation
19	Identification documents of foreign nationals (copy)	1		
20	Business data and documents concerning pension schemes and related subjects  Administration regarding pension scheme (by pension administrator and pension association)	No mandatory retention period <sup>2</sup>  Minimum 50 years - for payroll lists, remuneration charts and other documents on the basis of which the basis for pension is calculated	Date of termination of employment relationship	Art. 125a of the Act on pensions from the Social Securities Fund of 17 December 1998 (Journal of Laws of 2009, No. 153, Item 1227)
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	No mandatory retention period <sup>3</sup>		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	Only the period necessary to reach the aim of data processing (e.g. personnel recruitment)	Date when the document / information was provided to the employer (e.g. date when a CV was submitted for the recruitment process)	Art. 26 of the PDPA <sup>4</sup>
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply. Minimum retention period: 50 years (retention obligations lie with the temporary employment agency as the primary employer, not with the "employer-user", i.e. the employer who "rents" the temporary workers)	Date of termination of employment relationship (personal files) / date of issuance (payroll records)	Art. 7 of the Act of 9 July 2003 on employing temporary workers (Journal of Laws of 2003, No. 166, Item 1608) in conj. with Art. 94 of the Labour Code in conj. with Art. 51u of the Act on national archives

<sup>1</sup> In Polish law, there is no explicit obligation for the employer to keep a copy of the identification documents of foreign nationals-employees. However, if a foreign employee requires a work permit, then the employer must attach a copy of the identification document to the work permit application form.

<sup>2</sup> In the case that such data and documents do not relate to the pensions of individual employees it is up to the employer's internal policy of how long to keep them.

<sup>3</sup> In the case that such data and documents do not relate to individual employees it is up to the employer's internal policy of how long to keep them.

<sup>4</sup> Personal Data Protection Act of 29 August 1997 (Journal of Laws of 2002, No. 101, Item 926 uniform text).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	No specific maximum retention period, general rules apply. Minimum retention period: 50 years (when such documents pertain to individual employees and therefore form part of personal files).	Date of termination of employment relationship	Art. 51u of the Act on national archives in conj. with Art. 94 of the Labour Code in conj. with § 6 of the Regulation on Employee Documentation
25	Employee stock purchase and options records	Minimum retention period: Generally no mandatory retention period but if such documents are connected with the granting of an award or bonus to the employee, then they must be included in his or hers personal files and retained for minimum 50 years following the termination of the employment relationship		§ 6 Regulation of the Minister of Labour and Social Policy of 28 May 1996 on the scope of maintaining documentation in matters connected with the employment relationship and the method of managing employee personal files by the employer
26	Copy of identification documents	No specific maximum retention period, general rules apply. Minimum retention period: see section 16.		§ 6 Regulation of the Minister of Labour and Social Policy of 28 May 1996 on the scope of maintaining documentation in matters connected with the employment relationship and the method of managing employee personal files by the employer.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	HR/EMPLOYMENT/PENSION RECORDS			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	<p>No specific maximum retention period, general rules apply. Minimum retention period:</p> <p>50 years in case of personal files (if the foreign worker is employed in Poland by a Polish employer and on the basis of an employment contract);</p> <p>5 years in case of social security documents;</p> <p>Usually 5 years in case of tax documents (if the foreign employee is not employed in Poland by a Polish employer and on the basis of an employment contract but e.g. on the basis of a civil-law contract)</p> <p>No retention obligations apply to expats who remain employed by a foreign employer and have no formal relationship with the entity in Poland at which they temporarily work</p>	<p>Minimum 50 years: date of termination of employment relationship;</p> <p>Minimum 5 years (social security): date of submission of social security documents to the Social Security Authority;</p> <p>Usually minimum 5 years: end of the calendar year in which the payment of the tax was due</p>	<p>Art. 51u of the Act on national archives in conj. with Art. 94 of the Labour Code in conj. with § 6 of the Regulation on Employee Documentation;</p> <p>Art. 47 of the Act on Social Securities System of 13 October 1998 (Journal of Laws of 2009, No. 205, Item 1585);</p> <p>Art. 32 in conj. with Art. 70 of the Tax Ordinance</p>
28	Data concerning pension and early retirement	No specific maximum retention period, general rules apply. Minimum retention period; see section 20.	Date of termination of employment relationship	Art. 125a of the Act on pensions from the Social Securities Fund of 17 December 1998 (Journal of Laws of 2009, No. 153, Item 1227)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical (occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	<p>Minimum 20 years - medical documentation collected and maintained by occupational medicine entities</p> <p>Minimum 40 years - medical documentation collected and maintained by occupational medicine entities for employees exposed to carcinogenic, mutagenic and 3rd and 4th category biological factors which may be the cause of occupational diseases</p> <p>Minimum 50 years - e.g. results of periodic and control medical examinations, statements on the degree of disability retained in employee personal files maintained by the employer</p>	<p>Retention period of 20 years: end of the calendar year in which the last entry was made</p> <p>Retention period of 40 years: date when the exposure ceased</p> <p>Retention period of 50 years: date of termination of employment relationship</p>	<p>§ 12 Regulation of the Minister of Health of 29 July 2010 on the types of occupational medicine service medical documentation, the method of maintaining it and the retention and specimens of documents used (Journal of Laws of 2010, No. 149, Item 1002)</p> <p>§ 12 Regulation of the Minister of Health of 29 July 2010 on the types of occupational medicine service medical documentation, the method of maintaining it and the retention and specimens of documents used</p> <p>Art. 51u of the Act on national archives in conj. with Art. 94 of the Labour Code in conj. with § 6 of the Regulation on Employee Documentation</p>
30	Floor plans and directions	Minimum 2 years (they form part of fire safety instructions which are subject to review and update at least every 2 years)	From the date of drafting of fire safety instructions	§ 6 of the Regulation of the Minister of Internal Affairs and Administration of 7 June 2010 on fire safety in buildings, other constructions and areas (Journal of Laws of 2010, No. 109, Item 719)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
31	Work-related medical examinations related to hazardous substances	Minimum 50 years	Date of termination of employment relationship	Art. 51u of the Act on national archives in conj. with Art. 94 of the Labour Code in conj. with § 6 of the Regulation on Employee Documentation
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	Minimum 40 years	From the date when the employees' exposure to those hazardous conditions or other threats ceased	§ 5 of the Regulation of the Minister of Health of 24 July 2012 on chemical substances, their mixtures, factors and technological processes with carcinogenic or mutagenic effect in the working environment (Journal of Laws of 2012, Item 890)
	Register of the employees exposed to chemical substances and their preparations and technological factors or processes with carcinogenic or mutagenic effect in their work environment	Minimum 40 years	After the end of exposure (in the case of the employer's liquidation - it should be transferred to the competent voivodeship sanitary inspector)	Art. 222 of the Polish Labour Code (Journal of Laws of 1998, No. 21, Item 94) and § 5 Regulation of Minister of Health on Chemicals and their Preparations, Technological Factors and/or Processes with Carcinogenic or Mutagenic Effect in Work Environment (Journal of Laws of 2012, Item 890)
33	Register of employees who work with 3rd and 4th category biological agents	Minimum 10 years	From the date of the employees' last exposure to the biological agents	§ 10 of the Regulation of the Minister of Health on health detrimental biological substances in the work place and protection of health of employees exposed such substances of 22 April 2005 (Journal of Laws of 2005, No. 81, Item 716)
	Medical documentation of employees who have been exposed to 3rd and 4th category biological agents	Minimum 40 years - medical documentation collected and maintained by occupational medicine entities for employees exposed to carcinogenic, mutagenic and 3rd and 4th category biological factors which may be the cause of occupational diseases	Retention period of 40 years: date when the exposure ceased	§ 12 Regulation of the Minister of Health of 29 July 2010 on the types of occupational medicine service medical documentation, the method of maintaining it and the retention and specimens of documents used

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	From the date when the employees' exposure to asbestos dust ceased	§ 6 of the Regulation of the Minister of Health on periodic medical examinations of employees employed in plants which used asbestos in production (Journal of Laws of 2004, No. 183, Item 1896)
35	Administration concerning measurements of radioactive substances	Minimum 5 years / 3 years	As of the moment when activity with the source of ionising radiation ceased. / As of the moment when the transport of sources of ionising radiation was completed.	§ 22 of the Regulation of the Council of Ministers of 12 July 2006 on detailed conditions of safe work with sources of ionising radiation (Journal of Laws of 2006, No. 140, Item 994)
36	Records of radiation	Until the employee turns 75 but not less than 30 years	Date of termination of work under exposure	§ 5 of the Regulation of the Council Ministers of 23 March 2007 on the requirements regarding the registration of individual doses (Journal of Laws of 2007, No. 131, Item 913)
37	Medical records of employees who have possibly been exposed to ionising radiation	Until the employee turns 75 but not less than 30 years	Date of termination of work under exposure	Art. 30 of the Nuclear Law of 29 November 2000 (Journal of Laws of 2012, Item 264 - uniform text)
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	No specific maximum retention period, general rules apply. Minimum retention period: 3 years (general period of statutory limitation of claims connected with the employment relationship).	Date when the claim became due	Art. 291 of the Labour Code
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	Minimum retention period: see section 29		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	Minimum 5 years	End of the calendar year in which the relevant documentation was produced	Art. 32 Clause 9 of the Act of 6 December 2008 on the excise tax (uniform text) (Journal of Laws of 2011, No. 108, Item 626) in conj. with § 11 of the Regulation of the Minister of Finance of 23 August 2010 on exemptions from the excise tax (Journal of Laws of 2010, No. 159, Item 1070)
41	Loading or unloading plan (by captain or terminal representative)	Minimum 6 months	After drafting	Ordinance No. 1 of the Chief of the Maritime Authority in Słupsk of 29 April 2004 on additional requirements and procedures regarding the safety of loading and unloading bulk carriers (Pomorskie Voivodeship Official Journal of 2004, No. 62, Item 1187) <sup>1</sup>
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board)	Captain: At least until the next port of call Harbour manager: Minimum 5 years after receiving the data <sup>2</sup>		§ 4 of the Regulation of the Minister of Infrastructure of 12 May 2003 on the method of delivering information on waste located on board (Journal of Laws of 2003, No. 101, Item 936); Regulation of the Minister of Infrastructure of 21 December 2002 on reports regarding the functioning and the level of usage of port reception facilities (Journal of Laws of 2002, No. 236, Item 1988)

<sup>1</sup> Similar ordinances are in force for the maritime authorities in Gdynia and Szczecin.

<sup>2</sup> For the purposes of drafting summary reports to the maritime authority (to be delivered every 5 years).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	<p>Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied (Including (i) an obligation of the registrant to keep its chemical safety assessment and (ii) an obligation of the downstream user to keep its chemical safety report)</p> <p>Obligation of the supplier (or its legal successor) to assemble and keep available all the information used by that supplier for the purposes of classification and labelling (pursuant to EC Regulation 1272/2008) – such information should be kept together with the information required in Article 36 of Regulation (EC) No 1907/2006</p>	<p>Minimum 10 years</p> <hr/> <p>At least 10 years</p>	<p>From the last date of manufacturing, importing or supplying the substances or preparations</p> <hr/> <p>From the date of supplying the substance or mixture by that supplier</p>	<p>Article 36 of the Regulation 1907/2006/EC (REACH). Section 49 Regulation 1272/2008/EC. Directive 96/82/EC on the control of major accident hazards involving dangerous substances (as amended) (“the Seveso II Directive”).</p> <hr/> <p>Art. 49 of Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on Classification, Labelling and Packaging of Substances and Mixtures, Amending and Repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (Text with EEA relevance) (directly applicable under Polish law and subject to penalty for non-compliance under Art. 56 section 2 Act on Chemical Substances and Their Preparations (Journal of Laws of 2011, No. 63, Item 322)]</p>
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations for the purpose of delivering a revision (of the safety data sheet) and/or new information	Minimum 10 years	From the date of delivering the product to the client/buyer	Article 49 of the Regulation No 1272/2008 on classification, labelling and packaging of substances and mixtures
45	Documents related to an environmental permit	At least during the construction process (however, it is recommended to keep them as long as an investment to which they pertain is used)	From the date of drafting (and in respect of the decision(s) – the date of issuance)	There is no statutory act or regulation directly imposing a retention requirement in respect to such documents. However, as they form an integral part of a building permit and they pertain to a particular investment, it is recommended to retain them as long as the investment is being utilised in accordance with Art. 63 in conj. with Art. 60 Act on Construction Law (Journal of Laws of 2010, No. 243, Item 1623).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping);			
	For electronic and electric waste	Minimum 5 years	From the end of the calendar year to which it pertains	Art. 51, 52, 53, 54 and 56 Act on Used Electric and Electronic Equipment (Journal of Laws of 2005, No. 180, Item 1495)
	Registered data concerning the recycling and disposal of electric and electronic waste by an entity launching a product on the market	Minimum 5 years	From the end of a calendar year to which it pertains	Art. 31, 32 Act on Used Electric and Electronic Equipment (Journal of Laws of 2005, No. 180, Item 1495)
	Data regarding the quantity and weight of electronic and electric equipment launch by an entity on the Polish market	Indefinite period	From the date of drafting	Art. 23 of Act on Used Electric and Electronic Equipment (Journal of Laws of 2005, No. 180, Item 1495)
	Evidence and records regarding recycling activity as well as certain data regarding recycled waste to be kept the recycling entrepreneurs and organisations	Minimum 5 years	From the end of the calendar year to which they pertain	Art. 11 Act on Entrepreneurs' Duties to Manage Certain Kinds of Waste and on Product Fee (Journal of Laws of 2007, No. 90, Item 607)
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal	Minimum 5 years	From the date of sending it to relevant authorities	Art. 16 Act on Hazardous Substances Transportation (Journal of Laws of 2011, No. 227, Item 1367)
	Documents on results of inspections on the discharge of domestic waste water			
	Documents containing audits on radioactivity and all results of measurements taken	Minimum 3 years	From the end of the calendar year of their drafting	Art. 12 Regulation of the Council of Ministers on Radioactive Waste and Burnt Nuclear Fuel (Journal of Laws of 2002, No. 230, Item 1925)
	Certificates of disposal of medical or veterinary biohazard waste to be retained by an entity producing or holding in possession medical or veterinary biohazard waste	Minimum 5 years	From the end of the calendar year of their drafting	Art. 72 in conj. with Art. 95 of Act on Waste (Journal of Laws of 2013, Item 21)
	Results of the required researches relating to the municipal sewage sludge which are going to be used on the property - an obligation of the possessor of property on which municipal sewage sludge is going to be used;	Minimum 5 years	From the date of use such municipal sewage sludge	Art. 96 Act on Waste (Journal of Laws of 2013, Item 21)
	Charts evidencing the collection of metal waste from natural persons - to be kept by the waste possessor who runs the metal waste collection point;	Minimum 5 years	From the end of the calendar year of drafting	Art. 102 Act on Waste (Journal of Laws of 2013, Item 21)
	Obligation of the waste possessor to retain the documents based on which waste evidence was prepared	Minimum 5 years	From the end of the calendar year of drafting	Art. 72 in conj. with Art. 67 of Act on Waste (Journal of Laws of 2013, Item 21)
	The recipient of waste shipped within, into and out of the EU is obliged to retain documents pertaining to the notification of waste transit to respective authorities	Minimum 3 years	From the date of first shipment	Art. 33 of Act on International Shipment of Waste (Journal of Laws of 2013, Item 21)
	Documents necessary for the annual report of a producer and importer who purchases packaging materials within the EU or EFTA, and an exporter who ships packaging materials within the EU, on the quantity and material type of packaging produced in, imported to and exported from Poland by the aforementioned entities	Minimum 5 years	From the date of drafting	Art. 7, 9 of the Act on Packaging and Packaging Waste (Journal of Laws of 2001, No. 63, Item 638)
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	After the last energy-consuming product exemplar to which the documents pertain has been manufactured	Art. 5 Act on the Obligation to Provide Information about Energy Usage of Energy-Consuming Products (Journal of Laws of 2012, Item 1203) - enters into force within 2 months

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
48	Technical documentation and declaration of performance on construction products	10 years	From the date of introduction to the market of the building material	Art. 11 of the Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC
	The producer of building material is obliged to keep the national “declaration/certificate” of the conformity and other documents relating to introducing the given building material to the Polish market;	At least for the period of its trading and presence on the market	From the date of introducing to the Polish market	Article 8 Act on Construction Products (Journal of Laws of 2004, No. 92, Item 881);
	The construction manager and/or the investor is obliged to keep all documents constituting the legal basis for conducting the construction works, as well as statements relating to the building materials used during the construction process in the building (and disclose such documents to the authorised bodies if required);	At least during the time of constructing - Article 46 Act on Construction Law		Article 46 Act on Construction Law (Journal of Laws of 2010, No. 243, Item 1623)
	The users of products containing asbestos (as well as owners of installations, structures and/or equipment containing asbestos), as well as removed products containing asbestos must inventory them; the report containing such information must be retained (apart from the obligation to submit it to the relevant authority);	At least 1 year until the new information/report is prepared	From the date of drafting	Art. 10 Regulation of Minister of Economy on the Requirements pertaining to the Scope of Using Products Containing Asbestos, Using and Cleaning Installations or Devices, in which Products Containing Asbestos Are or Were Used (Journal of Laws of 2011, No. 8, Item 31);
	The owner, manager or user of a given building, installation, equipment or other place containing asbestos, shall keep an assessment of the status and safety conditions (following the periodical controls) together with the documentation relating to the place containing asbestos (and building log, if applicable);	At least for the time of using such product/installation/place	From the date of drafting	Art.4 Regulation of Minister of Economy, Labour and Social Policy on Means and Terms of Safe Usage and Disposal of Products Containing Asbestos (Journal of Laws of 2004, No. 71, Item 649);
	The owner, manager or user of a given property, installation, equipment or other place which contained asbestos shall retain a written statement of the contractor who performed the removal works regarding asbestos confirming its proper completion and cleaning the area;	At least 5 years	From the date of drafting	Art. 8 Regulation of Minister of Economy, Labour and Social Policy on Means and Terms of Safe Usage and Disposal of Products Containing Asbestos (Journal of Laws of 2004, No. 71, Item 649)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments related to those subsidies	Minimum 5 years	From the beginning of the year following the trading year to which the documents pertain	Art. 74 Accounting Act (Journal of Laws of 2009, No. 152, Item 1223) in conj. with Art. 2 Regulation of Council of Ministers on Documents, Materials and Information Necessary for Financial Transparency Assessment of Some Entrepreneurs (Journal of Laws of 2007, No. 162, Item 1147), in conj. with Art. 9 of the Act on Financial Transparency between Public Authorities and Public Entrepreneurs and Financial Transparency of Some Entrepreneurs (Journal of Laws of 2006, No. 191, Item 1411), in conj. with § 2 Regulation of the Council of Ministers on Lodging Accounts of Public Subsidies granted and Information on Public Subsidies refused by SHRIMP application (Journal of Laws of 2010, No. 6, Item 32) in conj. with Art. 32 Act on the Rules of Conduct in Matters pertaining to Public Subsidies (Journal of Laws of 2007, No. 59, Item 404)
	The recipient of subsidies for clean-up operations pertaining to nuclear pollution must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies.	Minimum 5 years	From the beginning of the year following the trading year to which the documents pertain	Art. 74 Accounting Act (Journal of Laws of 2009, No. 152, Item 1223) in conj. with Art. 14,15 and 16 Regulation of the Council of Ministers on Subject-oriented and Object-oriented Subsidies, Fees and Business Management of Public Utility Company - 'Zakład Unieszkodliwiania Odpadów Promieniotwórczych' (Journal of Laws of 2007, No. 185, Item 1311) in conj. with Art. 119 and 120 Act on Nuclear Law (Journal of Laws of 2012, Item 264)
50	Accident reports	Minimum 5 years	From the end of the calendar year to which the data pertains	Art. 20 of Act on the Prevention of Pollution and its Redress (Journal of Laws of 2008, No. 25, Item 150)
51	Copy of documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years	From the date when the shipment starts	Article 20 of the Regulation No 1013/2006/EC on Shipments of Waste
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 months	Once transport is accomplished	Section 5.4.4.1 European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) Section 5.4.4.1 Regulation concerning the International Carriage of Dangerous Goods by Rail (RID)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
53	The operator of a landfill must retain the description of the waste materials (together with the tests results) under certain circumstances	At least until the winding-up of the landfill	From the date of their drafting	Art. 116 Act on Waste (Journal of Laws of 2013, Item 21)
54	The operator of a landfill must retain the samples of analysis done on the collected waste materials	Minimum 1 month	From the day of taking a sample	Art. 114 Act on Waste (Journal of Laws of 2013, Item 21)
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material <sup>1</sup>	Minimum 5 years except for: - the landfill manager [or the owner of the site]: until the closing of landfill's operation)	From the end of the calendar year to which they pertain	Art. 78 in conj. with Art. 76, Art. 73 and Art. 75 Act on Waste (Journal of Laws of 2013, Item 21)
56	Transmission systems operators need to retain all records of quality indicators	In accordance with Clause 2.2.3.5.13 of the National Grid Code (IRiESP) of PSE-Operator SA (Polish TSO) TSO's automatic data registration systems must ensure the retention of records of measurement data for at least 45 days. As data pertaining to energy is confidential, PSE-Operator runs two kinds of information exchange systems where it also keeps records of quality indicators, accessible only for authorised users. The first exchange system is called WIRE and it is dedicated to information exchange between TSO and balancing market operators (Clause 6.1.3.2 of the National Grid Code). The second system, SOWE is dedicated to technical information exchange between PSE's services operating transmission and services of power stations responsible for running the transmission system (Clause 6.2.3.2 of the National Grid Code). As PSE's Documents Retention Rules are confidential, we do not have any information on the exact time of mandatory retention of quality indicators records. Currently there is no specific retention period for gas TSO. Poland has not yet implemented Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, and therefore it is plausible that specific document retention period will be established in the Polish regulations implementing this Directive.		
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	After the last product exemplar has been manufactured	Art. 6 and Art. 12 Regulation of the Minister of the Economy on Basic Requirements for Equipment for Use Outdoors Relating to Noise Emission in the Environment (Journal of Laws of 2005, No. 263, Item 2202)

<sup>1</sup> Under the Polish law there is an obligation to keep all documents based on which obliged entities prepare an annual report (and the obliged entities are: the producer, importer, exporter introducing to the market the packing or products in packing, cars, electronic equipment, battery or chargers, the waste producer obliged to carry out the register, entity conducting waste management business, (with the exception for municipal waste collectors) and entity extracting waste from the landfill or from the waste dumping ground..)]

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	Minimum 3 years (general period of statutory limitation of claims under insurance contracts)	Moment when the claim became due	Art. 819 of the Civil Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber	No mandatory retention period		Under Art. 172 in conj. with Art. 209 of the Telecommunications Act and Art. 10 in conj. with Art. 24 Act on the Provision of Services by Electronic Means, the provision of unrequested commercial information constitutes a criminal offence, unless the recipient of messages of a commercial nature granted its explicit consent. Therefore, in the case of legal action, the company will have to prove that it obtained such consent. The manner in which such proof may be presented is not prescribed by regulation, but there can be no question that a client has no objections to receiving spam if the sender of the email saves an email containing consent, or the client's website contains a statement that it has no objections to the spam.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS</b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	Minimum 5 years (general statutory limitation period for tax liabilities)	End of the calendar year in which the payment of the tax was due	Art. 112 of the VAT Act in conj. with Art. 70 of the Tax Ordinance
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	Minimum 5 years	Beginning of the year following the financial year to which the documents relate	Art. 74 of the Accounting Act
62	Procurement records	Minimum 5 years	Beginning of the year following the financial year to which the documents relate	Art. 74 of the Accounting Act
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	No specific maximum retention period, general rules apply. Minimum retention period: 5 years.	Beginning of the year following the financial year in which operations, transactions and proceedings have been finally terminated, repaid, settled or barred by statute	Art. 74 Clause 2 Point 4 of the Accounting Act (relates to accounting records regarding fixed assets under construction, loans, credits and commercial contracts, claims pursued in civil or covered by criminal or tax proceedings).
64	Customers and suppliers records	No specific maximum retention period, general rules apply. Minimum retention period: 5 years.	Beginning of the year following the financial year in which operations, transactions and proceedings have been finally terminated, repaid, settled or barred by statute	Art. 74 Clause 2 Point 4 of the Accounting Act (relates to accounting records regarding fixed assets under construction, loans, credits and commercial contracts, claims pursued in civil or covered by criminal or tax proceedings)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
65	Intellectual property records	No mandatory retention period. Advisably: Minimum 3 years / 10 years, depending on the type of claims connected.	Date when the claim became due	Art. 118 in conj. with Art. 120 of the Civil Code. The suggested 3 years and 10 years are statutory limitation periods stipulated with regard to financial claims. While the period of 3 years pertains to periodical claims and claims connected with conducting business activity, the period of 10 years is of general nature, pertaining to all other claims, including those of moral nature.
66	Contracts, agreements and other arrangements	No mandatory retention period. Advisably: active period + minimum 3/10 years.	From the date of drafting / date when the claim became due (as applicable)	Art. 118 in conj. with Art. 120 of the Civil Code (the suggested 10-year period is the general statutory limitation period stipulated with regard to financial claims. Individual arrangements, as well as limitation periods for claims arising out of specific agreements may differ. In general, a statutory limitation period of 3 years pertains to periodical claims and claims connected with conducting business activity, while the period of 10 years pertains to all other claims, including those of moral nature).
67	Permits, licences, certificates	No mandatory retention period. Advisably: active period + minimum 3/10 years.	Active period / date when the claim became due (as applicable)	Art. 118 in conj. with Art. 120 of the Civil Code (the suggested 10-year period is the general statutory limitation period stipulated with regard to financial claims. Individual arrangements, as well as limitation periods for claims arising out of specific agreements may differ. In general, a statutory limitation period of 3 years pertains to periodical claims and claims connected with conducting business activity, while the period of 10 years pertains to all other claims, including those of moral nature).

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	<p>Non-competition agreements: Minimum 50 years (in case of employment relationship / active period + Minimum 3 years (in case of other contracts))</p> <p>Confidentiality agreements: no mandatory retention period; advisably: effective term of the agreement + minimum 3/10 years (general statutory limitation period)</p>	Date of termination of employment relationship (employment contracts) / date of conclusion of contract (other contracts)	Art. 51u of the Act on national archives in conj. with Art. 94 of the Labour Code in conj. with § 6 of the Regulation on Employee Documentation; Art. 118 in conj. with Art. 120 of the Civil Code
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc).	Minimum 2 years (period of statutory limitation of certain claims under a service agreement) - as regards contracts	Date when the claim became due	Art. 118 in conj. with Art. 120 and Art. 751 of the Civil Code

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence  Registers of transfers into other EU countries	No mandatory retention period. Advisably: only for such a period as may be necessary for reasons of evidence. Minimum 5 years (e.g. invoices and other records created for tax purposes).	From the date of dispatch / receipt of correspondence  End of the calendar year in which the payment of the tax was due	Art. 112 of the VAT Act in conj. with Art. 70 of the Tax Ordinance
71	The processing of personal data, if this differs from the process as notified to the DPA			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	No specific maximum retention period, general rules apply. Minimum retention period: 50 years (if this is such data as must be kept in employee personal records).	Date of termination of employment relationship	Art. 51u of the Act on national archives in conj. with Art. 94 of the Labour Code in conj. with § 6 of the Regulation on Employee Documentation
73	Login and logout data of visitors	No specific maximum retention period, general rules apply. Minimum retention period: N/A.	After obtaining the data	
74	Camera recordings	No specific maximum retention period, general rules apply. Minimum retention period: N/A.	After obtaining the data	

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# RETENTION GUIDE BY COUNTRY: ROMANIA



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contracts be set out in writing (ad validitatem)

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Whether legal obligation exists to retain certain records in paper format

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Legal requirements in respect of the conversion of written records which belong to a company's administration (accounting books, shareholder's ledgers) into electronic format

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Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the conversion to, retention, and accessibility of electronic records

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The minimum and maximum retention periods applying to the records

## REQUIREMENTS TO SET OUT IN WRITING

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Under Romanian law, certain agreements or instructions have to be set out in writing (ad validitatem or ad probationem). General examples include:

An employment agreement

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A non-compete agreement or probationary period agreed between an employer and employee

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The purchase of a building or land

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The right to make changes unilaterally to an employment agreement

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The conclusion of a hire-purchase agreement

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A deed of pledge

The requirement to set certain matters out in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

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The requirement that certain notices are made in writing

Though certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record into an electronic record that replaces that paper record. In most cases, however, the paper version has more evidentiary value in court.

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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil procedures, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

**Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original**

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**Ensure the authenticity and integrity of the electronic record during its retention period**

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**Ensure the electronic record's accessibility and legibility during its retention period**

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the agreement. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Minimum retention obligation

Under Romanian law, companies have a retention obligation for certain types of records.

Article 25 of the Accountancy Law sets forth that the mandatory accounting records and supporting documents underlying financial accounting records should be retained for 10 years, starting from the end of the financial year in which they were made, except for the payrolls that should be retained for 50 years. The same article mentions that by Order of the Ministry of Economy and Finance the retention period may be diminished to 5 years for specific accounting records and supporting documents.

The records falling within the scope of these provisions need to be retained in such a manner that the rights and obligations of the company can be shown at any time.

In principle, the company books and records may be created and retained in electronic format. The requirement that the company's rights and obligations must be available to be presented at any time entails that:

**The authenticity and integrity of the electronic records should be adequately ensured**

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**Electronic records should be accessible during their retention period**

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**The electronic records should be made legible within a reasonable time frame**

Detailed technical conditions for keeping electronic records are provided by the accounting legislation (Order 3512/2008 of the Minister of Economy and Finance).

Whether certain documents such as employment contracts need to be retained for a minimum period of ten years, has to be evaluated based on their content. If such documents contain rights and obligations not covered by any other documentation, they should be kept for at least ten years.

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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Maximum retention periods

To the extent records contain personal data as defined by Law no 677/2001 for the protection of individuals in what concerns the use of personal data and the circulation of such data, these records may not be kept for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is “necessary” and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be either (i) disposed of, (ii) de-identified (i.e. all references to data subjects should be rendered illegible) and archived to be used solely as statistical data, or (iii) transferred to another operator, provided the purpose of collection and processing is similar and the transferring operator guarantees such similitude.

Exception to the above mentioned rules are expressly provided by law and apply whenever: (i) special archiving rules apply (i.e. documents fall into the National Archiving Fund category) and (ii) when penal or public order proceedings apply, only to the extent of achieving the purposes of such proceedings.

This guide provides an overview of minimum as well as maximum data retention periods.

### Conversion requirements

The above retention obligations do not preclude that existing paper records (with the exception of the profit and loss account and the annual financial statements) are to be converted into electronic records.

The Romanian Tax and Accounting Legislation explicitly provides for the possibility to keep records in electronic form, provided that, upon request, the software used to generate the information is presented as well as the electronically archived data (Article 80 of the Code of Fiscal Proceedings; Oder 3512/2008 of the Minister of Economy and Finance). Also, special technical conditions related to the process of electronically creating, editing and archiving of financial and accounting documents apply.

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## ISO 15489

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In the context of a record's evidentiary value, as well as the procedural and technical requirements under Romanian law for the conversion of paper to electronic records, the International Standard for Document Management ISO 15489 is leading.

However, there is no Romanian adaptation to the ISO 15489 international standard.

The standard usually employed to ensure best practices in what concerns document management is ISO 27001 - Security of Information Standard, which has two components:

ISO/IEC 17799 contains best practices for control in the following areas of information security management:

- Security policy
- Organisation of information security
- Management
- Physical security and the environmental security
- The control of access to information
- Purchase, development and maintenance of specialised software
- Management of continual business

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ISO/IEC 27001:2005 (ex BS 7799-2:2002) is a standard establishing the requirements of a Information Management System, aiming at identifying, managing and eliminating threats that usually affect information

## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Romanian law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Minimum 10 years, 5 years if approval has been granted by Order of the Ministry of Economy and Finance	The end of the financial year when the documents have been issued	Article 25 of the Accountancy Law sets forth that the mandatory accounting records and supporting documents underlying financial accounting records should be retained for 10 years, starting from the end of the financial year in which they were made, except for payroll records that should be retained for 50 years (see section 1.5). The same article mentions that by Order of the Ministry of Economy and Finance can be set forth that certain accounting records and supporting documents (e.g. delivery order, inventory list) are to be retained for 5 years only.
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards' and shareholders' meetings minutes (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	Minimum: Duration of the legal entity	As from the date of company's incorporation	Art.180 - Company's Law provides that in case of a traded joint stock company the shareholders register is to be kept by the Central Depository. Companies may choose a Private Register Company "Societate de registru independent privat" for keeping the shareholders register as well as the bonds' register. The rest of the registers are to be kept at the company's headquarters.
3	Financial statements, audit reports, etc.	Minimum: Duration of the legal entity	As from the date of the creation of the document	Art. 177 of the Company's Law

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
4	Profit and loss accounts	Minimum 10 years	The end of the financial year when the documents have been issued	Article 25 of the Accountancy Law. See section 1.
5	Records and documents of the dissolved legal entity	Minimum 10 years	As from the submission date	Art. 261 of the Company's Law sets forth as follows: the registers and documents of a dissolved general partnership, a limited partnership, and limited liability company are to be submitted to one of the company's shareholders. Within the joint stock companies and limited partnerships by shares the registers of the dissolved legal entity are to be submitted at the Trade Registry where the company has been registered. The rest of the documents shall be submitted with the National Archive.
6	Membership records in a cooperative association (original)	Minimum: Duration of the legal entity	As from the date of the creation of the document	Law 1/2005 regarding the organization and functioning of the cooperative
7	Subsidy records and documents	Minimum 10 years	The end of the financial year when the documents have been issued	Article 25 of the Accountancy Law. See section 1.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p>	Minimum 5 years - meaning within the prescription duration of the fiscal obligations <sup>1</sup> for all documents excepting for the accounting registers and the justifying documents for which the minimum retention period is 10 years	For large tax payers <sup>2</sup> - starting the end of the last fiscal inspection; For others the inspection is to be performed over the receivables arising within the last 3 fiscal years, for which the obligation to submit fiscal declarations existed	Article 98 Fiscal Procedure Code
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes</p> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU</p>	Minimum 10 years	Article 25 of the Accountancy Law: see section 1	According to Article 80 paragraph (3) of the Code of Fiscal Proceedings "The legal provisions applicable to keeping, archiving and language of the accounting documents shall also apply to fiscal documents" Article 25 of the Accountancy Law. See section 1.
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	Minimum 10 years	Article 25 of the Accountancy Law: see section 1	Article 80 paragraph (3) of the Code of Fiscal Proceedings. See section 9. Article 25 of the Accountancy Law. See section 1.
	<b>CORPORATE INCOME TAX</b>			
11	Taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	Minimum 5 years - meaning within the prescription duration of the fiscal obligations; 10 years, if related to accounting documents	For large tax payers - starting the end of the last fiscal inspection; For others the inspection is to be performed over the receivables arising within the last 3 fiscal years, for which the obligation to submit fiscal declarations existed	Article 98 Fiscal Procedure Code

<sup>1</sup> In accordance with the Romanian legislation in force, the fiscal obligations are considered prescribed within 5 years.

<sup>2</sup> The list of the large tax payers is published as the Annex 2 to the Order 2730/2010 of the President of the National Fiscal Agency as further amended, such entities being selected based on the following criteria: (i) value criteria, (ii) the performed business criteria; (iii) investment criteria.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>DIVIDEND WITHHOLDING</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes	Minimum 10 years, in what concerns accounting/ fiscal documents; Throughout the duration of the company in what concerns corporate deeds.	The end of the financial year when the documents have been issued	Article 80 paragraph (3) of the Code of Fiscal Proceedings Article 25 of the Accountancy Law. See section 1. Art. 261 of the Company's Law
	<b>CUSTOMS</b>			
13	Keep an administration as per the requirements set out in the Code of Fiscal Proceedings for customs operations, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers	Minimum 10 years	The end of the financial year when the documents have been issued	Article 80 paragraph (3) of the Code of Fiscal Proceedings Article 25 of the Accountancy Law. See section 1.
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes i.e. taxes levied by local public administrations	Minimum 10 years	The end of the financial year when the documents have been issued	Article 80 paragraph (3) of the Code of Fiscal Proceedings Article 25 of the Accountancy Law. See section 1.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on the total amount of wages earned, wage withholding tax, and social security withheld.	Minimum 50 years	The end of the financial year when the documents have been issued	Article 80 paragraph (3) of the Code of Fiscal Proceedings Article 25 of the Accountancy Law. See section 1.
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.	No specific retention period provided		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind) Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	No specific maximum retention period, general rules apply. Minimum: see section 15.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract	Minimum 10 years	The end of the financial year when the documents have been issued	Article 25 of the Accountancy Law. See section 1.
19	Identification documents of foreign nationals (copy)	No specific retention period provided		
20	Business data and documents concerning pension schemes and related subjects Administration regarding pension schemes (by pension administrator and pension association)	Minimum 10 years	The end of the financial year when the documents have been issued	Article 25 of the Accountancy Law. See section 1.
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	No specific retention period provided. General retention term for company books to be applied; see section 1.		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	No specific maximum retention period, general rules apply		
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply		
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	No specific maximum retention period, general rules apply		
25	Employee stock purchase and options records	No specific maximum retention period, general rules apply		
26	Copy of identification documents	No specific maximum retention period, general rules apply		
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	No specific maximum retention period, general rules apply		
28	Data concerning pension and early retirement	No specific maximum retention period, general rules apply. Minimum: see section 20.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
29	Medical (occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	Minimum: Throughout the duration of the employment contract	From the date the file has been created	Article 37, Government Decision 355/2007 on the surveillance of workers health
30	Floor plans and directions	Minimum 50 years	From the date the file has been created	Article 13, The National Archive Law
31	Work-related medical examinations related to hazardous substances	Minimum 40 years	From the date the exposure has ceased	Article 37, Government Decision 355/2007 on the surveillance of workers health
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	Minimum 40 years	From the date the exposure has ceased	Article 37, Government Decision 355/2007 on the surveillance of workers health
33	Register of employees who work with 3rd and 4th category biological agents	Minimum 40 years	From the date the exposure has ceased	Article 37, Government Decision 355/2007 on the surveillance of workers health
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	From the date the exposure has ceased	Article 37, Government Decision 355/2007 on the surveillance of workers health. Article 44 Government Decision no. 1875/2005 Article 19 of Directive 2009/148/EC
35	Administration concerning measurements of radioactive substances	Minimum 10 years	From the date the measurement was taken	Article 42, Methodological Normative of 2003 regarding the operational radioprotection on non destructive control practice with ionized radiation
36	Records of radiation	Minimum 10 years	From the date the measurement was taken	Article 42, Methodological Normative of 2003 regarding the operational radioprotection on non destructive control practice with ionized radiation
37	Medical records of employees who have possibly been exposed to ionizing radiation	Minimum 40 years	From the date the exposure has ceased	Article 37, Government Decision 355/2007 on the surveillance of workers health
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	No specific retention period, general rules apply		
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	No specific retention period, general rules apply		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	5 years 10 years	From the date of drafting	Article 25 of the Accountancy Law. See section 1. Order 3512/2008 of the Minister of Economy and Finance
41	Loading or unloading plan (by captain or terminal representative)	5 years 10 years	From the date of drafting	Article 25 of the Accountancy Law. See section 1. Order 3512/2008 of the Minister of Economy and Finance
42	The captain of a ship must retain within the register of waste and within the register of hydrocarbons all data regarding the types and quantities of waste, and/or residues on board before the ship arrives at the harbour. A special form is to be completed and passed to the Romanian Naval Authority and to the harbour's authorities, and also retained until the next harbour of call. This type of form should be made available to the competent authorities as per their request.	At least until the next harbour of call 5 years 10 years	From the date of drafting	Government Ordinance 20/2012 on port reception facilities for ship generated waste and cargo residues, along with the provisions of the Article 25 of the Accountancy Law, and Order 3512/2008 of the Minister of Economy and Finance generally applicable to transport documents

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	From the date of drafting	Article 25 of the Accountancy Law. See section 1. Order 3512/2008 of the Minister of Economy and Finance Article 36 of the Regulation 1907/2006/EC (REACH) Section 49 Regulation 1272/2008/EC
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 10 years	From the date of drafting	Article 25 of the Accountancy Law. See section 1. Order 3512/2008 of the Minister of Economy and Finance Article 49 of the Regulation No 1272/2008 on classification, labeling and packaging of substances and mixtures
45	Documents related to an environmental permit	No specific retention terms are set forth by the law, beyond the validity of the permit. Term provided by Art 261 of the Company Law may be applicable.		
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	3 years - the producer	From the date of drafting	Article 49 Law 211/2011 on waste management
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal	12 months - the transporter	From the date of drafting	Article 49 Law 211/2011 on waste management
	Documents on results of inspections on the discharge of domestic waste water			
	Documents containing audits on radioactivity and all results of measurements taken			
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum: The law sets forth producers' obligation to keep all documents, reports and the conformity statements without mentioning a specific term	From the date of drafting	Government Decision no. 775/2011 on measures for surveillance of the market for apparatus functioning on gaseous fuel and on establishing the market introduction criteria
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	From the date the construction product has been placed on the market	Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	Minimum: 10 years, if not expressly provided differently by the subsidy granting act	From the date the last payment was effected	Article 25 of the Accountancy Law
50	Accident reports	Depends on type of accident. The law does not provide a specific retention period for all the documentation related to a certain accident. Instead, particular terms of retention may be applicable - i.e. obligation to keep medical reports and files: see sections 33-37.		Government ordinance no 195/2005 on environmental protection Order 1084/2003

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 12 months	From date of drafting	Article 49 Law 211/2011 on waste management
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum: 3 years - the producer 12 months - the transporter	From date of drafting	Article 49 Law 211/2011 on waste management
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	Minimum: 3 years - the producer 12 months - the transporter	From date of drafting	Article 49 Law 211/2011 on waste management
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	Minimum 3 years	From date of sample	Article 49 Law 211/2011 on waste management
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	Minimum 3 years	From date of sample	Article 49 Law 211/2011 on waste management
56	Transmission systems operators need to retain all records of quality indicators	Minimum 12 months	From date of drafting	Article 49 Law 211/2011 on waste management
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Following termination of production of the equipment	Art. 9 Governments Decision no. 1756/2006

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	Minimum 10 years	The expiry date	Article 25 of the Accountancy Law. See section 1.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber.	No retention term provided. If the operator uses personal data, such information should be used only for the duration and within the scope for which such data have been collected/the authorisation has been issued.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PURCHASING RECORDS</b>			
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	Minimum 10 years	The end of the financial year when the documents have been issued	Article 80 paragraph (3) of the Code of Fiscal Proceedings. Article 25 of the Accountancy Law. See section 1.
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	Minimum 10 years	The end of the financial year when the documents have been issued	Article 25 of the Accountancy Law. See section 1.
62	Procurement records	Minimum 10 years	The end of the financial year when the documents have been issued	Article 25 of the Accountancy Law. See section 1.
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
63	Debtors and creditors records	No specific maximum retention period, general rules apply. No specific minimum retention period: the general terms provided for accounting documents shall apply.		
64	Customers and suppliers records	No specific maximum retention period, general rules apply. No specific minimum retention period: the general terms provided for accounting documents shall apply.		

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>				
65	Intellectual property records	Minimum 10 years	The end of the financial year when the documents have been issued or the expiry date	Article 25 of the Accountancy Law. See section 1.
66	Contracts, agreements and other arrangements	Minimum 10 years	The end of the financial year when the documents have been issued or the expiry date	Article 25 of the Accountancy Law. See section 1.
67	Permits, licences, certificates	No specific retention period provided. The general term for company corporate acts to be applied (10 years).		
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	Minimum 10 years	The end of the financial year when the documents have been issue or the expiry date	Article 25 of the Accountancy Law. See section 1.
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc).	Minimum 10 years	The end of the financial year when the documents have been issue or the expiry date	Article 25 of the Accountancy Law. See section 1.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries	Minimum 10 years	The end of the financial year when the documents have been issue or the expiry date	Article 25 of the Accountancy Law. See section 1.
71	The processing of personal data, if this differs from the process as notified to the Romanian DPA			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	Minimum retention period: 2 years. No specific maximum retention period, general rules apply.	From the date the ledger is closed	Article 10, Methodological Normative approved by Government Decision 301/2012
73	Login and logout data of visitors	Minimum retention period: 2 years. No specific maximum retention period, general rules apply.	From the date the ledger is closed	Article 10, Methodological Normative approved by Government Decision 301/2012
74	Camera recordings	Minimum retention period: 2 years. No specific maximum retention period, general rules apply.	From the date the ledger is closed	Article 10, Methodological Normative approved by Government Decision 301/2012

### Popovici Nitu & Asociatii

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# RETENTION GUIDE BY COUNTRY: SPAIN





## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contract are set out in writing

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Whether legal obligation exists to retain certain records

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Legal requirements in respect of the conversion of written records which belong to a company's administration into electronic format

Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the conversion to, retention, and accessibility of electronic records

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The legal retention periods applying to the records

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## REQUIREMENTS TO SET OUT IN WRITING

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In Spain, "in writing" does not exclude electronic format and refers to both paper format and electronic format.

Under Spanish law, the general rule is that the parties may choose how to formalise the contract (principio de libertad de forma). As an exemption, it is required that certain contracts are set out in writing, such as agreements which establish considerations of any of the parties greater than EUR 9 (although the lack of compliance with this obligation will not imply the contract to be null and void, but only the right of the parties to request the formalisation of the contract) and certain employment agreements (e.g., trainee agreements or part-time agreements). In addition, the requirement to set certain matters out in writing can also be prescribed by the parties in any agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

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The requirement that certain notices are made in writing

On the other hand, there are certain transactions and documents that must be set out by means of a public document (i.e., a public deed) that currently only exist in paper format, such as:

Acts and agreements regarding rights in rem on real estate properties

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Certain lease agreements

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Marriage settlements

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Transfer and resignation of inheritance or marriage rights

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Powers of attorney

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Transfer of rights or titles arising from a public deed

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Incorporation of companies, amendments of the bylaws, appointment and dismissal of directors, share capital increase, etc



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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In civil proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court will ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could be tampered with before it is scanned, or changes made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original

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Ensure the authenticity and integrity of the electronic record during its retention period

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Ensure the electronic record's accessibility and legibility during its retention period

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the agreement. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with paper documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.



## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

### Specific legal retention periods

Under Spanish law, companies have retention obligations for certain types of records, including but not limited to:

As a general rule, article 30 of the Spanish Commercial Code (Código de Comercio) sets out that companies must keep all the books, correspondence, documentation and receipts regarding their business (the “company’s books and records”) for a period of six years

The Spanish Data Protection Act imposes to store personal data in a way which permits the right of access to be exercised, unless lawfully erased

To the extent records contain personal data as defined by the Spanish Data Protection Act, these records shall be retained no longer than necessary for achieving the purposes for which the personal data were collected or subsequently processed. In particular, personal data shall be kept for the period during which any kind of liability arising from a legal obligation or from the execution of a contract with the data subject may be claimed against the company. What period is “necessary” and therefore what maximum retention period applies differs depending on the legal duty or liability that could be claimed and its link to the relevant category of record and shall in no case be shorter than applicable statutory minimum retention periods. The retention period may be prolonged until the ultimate limitation period, or in the event of pending litigation procedures, until execution has ended of a court judgment given in last instance. Cancellation shall lead to the personal data being blocked and maintained solely at the disposal of the public administrations, Judges and Courts, for the purpose of determining any liability arising from the processing, and for the duration of such liability (Infringements of data protection rules may be claimed up to 3 years). On expiry of such liability, should be either (i) disposed, or (ii) de-identified (i.e. all references to data subjects should be rendered unreadable).

### Advisable retention periods

Every document that evidences a right or interest of the company as well as the compliance with a legal or contractual duty shall be kept as long as the company may need them (e.g., public deed of incorporation, sale and purchase of shares, IP licenses, governmental permits, data subject’s consents, subsidy records, etc.). Indeed, in general, regulations establish statutory periods for the liability that may arise therefrom. Therefore, in practice, these statutory periods lead to an advisable retention period regarding the documents that may support the evidence of the company’s compliance with the relevant regulations or contractual duties for all the duration of their statutory periods. The existence of these statutory periods does not entail that the destruction of the document in question is prohibited by the law but such destruction will jeopardise the Company’s defence in case of law enforcement actions (e.g., governmental permits, the corporate deed of capital increase, etc.) or contractual actions against the relevant counterparty if any or third parties (e.g., an agreement, documents evidencing the Company’s IP rights, etc.).

Thus, the retention periods that have been included in the retention guide are either a specific legal retention period (where applicable) or the most specific statutory period applicable to each one of the categories of documents according to the relevant regulations. For example, for labour or tax related documents we have included in general 4 and 10 years respectively which are the labour or tax specific statutory periods.

However, some of the specific categories of documents listed in the guide may also be included in other (sometimes broader) categories to which other statutory limitation periods apply and which could be higher (e.g., an employment agreement may be used for enforcing a labour infringement but is still subject to the general statutory period applicable to any agreement irrespective of its labour nature). Indeed, an agreement -irrespective of its nature (employment, confidentiality, non-compete, purchase, etc.)- will always be subject to the general contractual liability statutory period of 15 years established by article 1964 of the Spanish Civil Code and, in addition, could also be subject to other retention duties or other statutory periods linked to potential infringements related thereto.

Therefore, if the document could be included in one or more categories, all involved retention periods should be considered by the company and the highest one applied.

See the table below for an extended, but still non-exhaustive, overview of data retention periods.



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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Retention of certain records in paper format

The retention periods explained above do not refer to a specific format (in particular, they do not refer to the electronic format). Consequently, unless the document was originally created in electronic format, a retention period is identified and the document was created in paper format it should be kept in that format (regardless of the possibility of storing it in electronic format additionally).

As an example, the companies' financial statements (which must be kept by the company for six years) can be filed with the Commercial Registry both electronically and physically but, in any event, the directors must sign a copy of them. If the financial statements are submitted electronically and the directors are able to sign them utilizing an electronic signature, there would not be any restriction for storing them in electronic format. Otherwise, they should (also) be kept in paper format.

### Conversion requirements

Under Spanish law, there are no specific requirements for the conversion of documents in paper format to electronic records, except for certain regulations that only apply for public administrations. In addition, the retention periods neither preclude that existing paper records are converted into electronic records nor establish requirements for such conversion.

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## ISO 15489

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In the context of a record's evidentiary value, the ISO 15489 standard is leading. The ISO 15489 international standard for records management provides guidelines on the maintenance of an archive system, regardless of its form or medium. The main points contained in the ISO standard regarding the retention of records in an archive are:

**Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities**

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**Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another**

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**Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes**



## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Spanish law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Minimum 6 years	Date of creation of the records	Art. 30 of Spanish Commercial Code sets out that companies must keep all the books, correspondence, documentation and receipts regarding their business for a 6-year period.
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards' and shareholders' meetings minutes (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	Minimum: Duration of the company (+ 6 years)	Date of approval	Under Spanish law, there is no specific obligation to keep these documents other than that of art. 30 of the Spanish Commercial Code (see 1 above). However, due to the importance of these documents it is customary and recommended to keep them for all the duration of the company (+ 6 years, see 5 below).
3	Financial statements, audit reports, etc.	Minimum 6 years	Date of approval	Art. 30 of Spanish Commercial Code
4	Profit and loss accounts	Minimum 6 years	Date of approval	Art. 30 of Spanish Commercial Code
5	Records and documents of the dissolved legal entity	Minimum 6 years	Date of the registration of the company's liquidation	Art. 30 of Spanish Commercial Code and art. 247 of the Commercial Registry Regulation
6	Membership records in a cooperative association (original)	Minimum 6 years	Date of the last membership record	Art. 30 of Spanish Commercial Code
7	Subsidy records and documents	Minimum 6 years	Date of the termination of any duty arising from the subsidy	Art. 39 of the General Subsidies Act / art. 30 of Spanish Commercial Code



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	TAX AND ACCOUNTING RECORDS			
	GENERAL TAXES			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to its tax position, including all books, records and other data carriers</p> <hr/> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p> <hr/> <p>Organisations are obliged to provide the tax inspector (only upon request and only in the cases expressly set forth in the Spanish General Tax Law) with information relevant to the tax liabilities of third parties</p> <hr/> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. withholding tax on salaries, return on capital, business income, etc.), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these amounts withheld and the recipient of the income</p>	Minimum 10 years	<p>a) Concerning the right of the tax authorities to audit and assess a tax liability, from the day following the lapse of the deadline to file the relevant tax return or declaration</p> <p>b) Concerning the right of the tax authorities to request the payment of assessed or self-assessed tax liability, from the day following the lapse of the voluntary payment term</p> <p>c) Concerning the taxpayer's right to request a tax refund, refunds of undue tax payments or the reimbursement of the cost of guarantees, from the day following the lapse of the deadline to request such amounts. If no deadline exists, the statute of limitations period will count from the day following: (i) the date on which the amount could have been claimed, (ii) the date on which the undue tax payment was made, (iii) the deadline to submit the relevant tax return if the payment was made within the established deadline, or (iv) the date of a judgment or judicial order declaring that a payment that was (totally or partially) undue becomes final</p> <p>d) Concerning the taxpayer's right to obtain such refunds or reimbursements, from the day following the legal deadline for such payment, or the day following the notification of the resolution acknowledging the right to such refunds or reimbursement</p> <p>If the statute of limitations is interrupted by the Spanish Tax Authorities (e.g. requests of tax information) or by the taxpayer (e.g. filing of amended tax returns), the period would be renewed.</p>	<p>Tax infringements: Art. 66, 67 of the Spanish General Taxation Law (Ley General Tributaria)</p> <hr/> <p>Tax crimes: articles 131, 305 and 305 bis of the Spanish Criminal Code (Código Penal)</p>



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>VAT</b>			
9	A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes  General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU	See section 8		
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	In general 10 years. 13 years (for certain investment assets).	See section 8	See section 8. Capital Goods: articles 107 and 165 of the Spanish VAT Law.
	<b>CORPORATE INCOME TAX</b>			
11	Spanish taxpayers are obliged to have available all information that deals with intra-group price setting so that the Spanish Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions.	In order to take advantage of carry-forward losses and certain tax credits, the retention period of certain documentation may be extended up to 18 years. Regarding intra-group transactions: 8 years for the Advanced Pricing Agreements.	See section 8	See section 8. Articles 25 and 16.7 of the Spanish Corporate Income Tax Law.
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends and withholding taxes on them	See section 8		
	<b>GENERAL CUSTOMS TAX</b>			
13	Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers	Minimum 3 years	See section 8	Article 221 of the Regulation (EEC) No 2454/93 and Regulation No 2919/92.
	<b>LOCAL TAXES</b>			
14	Taxes levied by the Municipalities such as (i) Real State Tax, (ii) Constructions, Installations and Works Tax, (iii) Business Tax, (iv) Tax on the Increase of Value of Urban Land, etc  Local fees imposed by Municipalities. Types and/or rates may differ regionally.	See section 8		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.	See section 8		
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address	See section 8		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind) Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	Minimum 4 years. No specific maximum retention period, general rules apply.	Date of termination of the employment relationship	Art. 4 of the Act on Labour infringements and sanctions



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>HR/EMPLOYMENT/PENSION RECORDS</b>			
18	Employment contract	Minimum 4 years	Date of termination of the employment relationship	Art. 4 of the Act on Labour infringements and sanctions
19	Identification documents of foreign nationals (copy)	See section 18		
20	Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	See section 18		
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	Minimum 4 years	Date of termination of the pension plan	Art. 4 of the Act on Labour infringements and sanctions
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	Minimum 3 years. No specific maximum retention period, general rules apply.	Date of rejection of the job applicant or date of termination of the recruitment process	Art. 4 of the Act on Labour infringements and sanctions
23	Data concerning a temporary worker	Minimum 4 years. Maximum: See section 22.	Date of termination of the employment relationship	See section 22
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records).	Minimum: See section 23. Maximum: See section 22.	See section 23	See section 22
25	Employee stock purchase and options records	Minimum: See section 23. Maximum: See section 22.	See section 23	See section 22
26	Copy of identification documents	Minimum: See section 23. Maximum: See section 22.	See section 23	See section 22
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	Minimum: See section 23. Maximum: See section 22.	See section 23	See section 22
28	Data concerning pension and early retirement	Minimum: See section 23. Maximum: See section 22.	See section 23	See section 22



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical (occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	Minimum 5 years. No specific maximum retention period, general rules apply.	Termination of the company's activity	Art. 4 of the Act on Labour infringements and sanctions in connection with the Prevention of Labour Risks Act
30	Floor plans and directions	Minimum 5 years. Maximum: See section 29.	When they are no longer needed for safety purposes	Art. 4 of the Act on Labour infringements and sanctions in connection with the Prevention of Labour Risks Act
31	Work-related medical examinations related to hazardous substances	See section 29	See section 29	Art. 4 of the Act on Labour infringements and sanctions in connection with the Prevention of Labour Risks Act
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	See section 29	See section 29	Art. 4 of the Act on Labour infringements and sanctions in connection with the Prevention of Labour Risks Act
33	Register of employees who work with 3rd and 4th category biological agents	Minimum 10 years in general, or 40 years under certain circumstances related to the characteristics of the exposure	Date of the employees' last exposure to the biological agents	Art. 4 of the Act on Labour infringements and sanctions in connection with the Prevention of Labour Risks Act. Art. 9.3 of the Royal Decree 664/1997, on the protection of workers from risks of exposure to biological agents at work.
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	Date of the employees' last exposure to the asbestos dust	Art. 4 of the Act on Labour infringements and sanctions in connection with the Prevention of Labour Risks Act. Art. 18.4 of Royal Decree 396/2006, which sets for the minimum safety and health requirements for work with asbestos exposure risk.
35	Administration concerning measurements of radioactive substances	Minimum 20 years	Date of termination of the activities originating the radiation	Art. 67 of the Nuclear Energy Act in connection with Royal Decree on the sanitary protection against ionizing radiation



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
36	Records of radiation	Minimum: Until the former employee reaches 75 years of age but at least 30 years	Date of termination of the activities originating the radiation	Art. 4 of the Act on Labour infringements and sanctions in connection with the Prevention of Labour Risks Act. Art. 44 of Royal Decree 783/2001 on the sanitary protection against ionizing radiation
37	Medical records of employees who have possibly been exposed to ionizing radiation	Minimum: Until the former employee reaches 75 years of age but at least 30 years	Date of termination of the activities originating the radiation	Art. 4 of the Act on Labour infringements and sanctions in connection with the Prevention of Labour Risks Act. Art. 44 of Royal Decree 783/2001 on the sanitary protection against ionizing radiation
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	Minimum 4 years. No specific maximum retention period, general rules apply.	Date of termination of the employment relationship	Art. 4 of the Act on Labour infringements and sanctions
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	See section 38		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	Minimum 1 year (for marine transport) / 15 months (for rail transport) / 2 years (for road and air transport). 15 years (contractual liability statutory period) for purchase, warehouse, etc. agreements.	Date of transportation	Road transport: Regulation No 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Art. 79 (3) of the Treaty establishing the European Economic Community. Rail transport: Art. 48 of the Appendix B of the International Treaty related to the international rail transports (COTIF) dated on 9 May 1980 and article 79 of the Road Transport Contract of Goods Act 15/2009 of 11 November. Air transport: Art. 35 of the International Treaty of Montreal to unify certain rules related to air transport dated on 28 May 1999. Marine transport: Art. 3.6 bis of the Hague-Visby Rules and Art. 22 of the Maritime Transport Act dated on 22 December 1949. contractual liability statutory period: art. 1964 of the Spanish Civil Code.
41	Loading or unloading plan (by captain or terminal representative)	See section 40		
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board)	Minimum: In addition to section 40, 5 years	Date of reception of the waste / other materials	Art. 309 of Royal Decree-Law 2/2011 on the State Ports and the Merchant Navy



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	Date of importation, manufacturing, or supplying of the substance or preparation for the last time	Art. 36.1 of the Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), Directive 96/82/EC on the control of major accident hazards involving dangerous substances (as amended) ("the Seveso II Directive")
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	See section 43		
45	Documents related to an environmental permit	Minimum 3 years/ Depending on the kind of environmental permit 8 years	From the granting of the environmental permit	Art. 25 of the Law 16/2002 IPPC
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	3 years	From the disposal or the recycling of the waste	Art. 40 of the Law 22/2011 on waste and polluted soils
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal	3 years	From the delivery of transfer of the waste	Art. 40 of the Law 22/2011 on waste and polluted soils
	Documents on results of inspections on the discharge of domestic waste water	See section 45	See section 45	See section 45
	Documents containing audits on radioactivity and all results of measurements taken	See section 35	See section 35	See section 35
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	Date of manufacturing/ importation to the EU	Arts. 5.b) and 9.5 of the Royal Decree 187/2011, on the ecodesign requirements for energy-related products
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	Date of placement in the market	Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	Minimum 4 years	Depending: 1. From the time of the deadline for filing the justification 2. From the time where the public aid was granted (in case of public aids without concurrence). 3. From the time of compliance of the conditions imposed, in the event that must be maintained during a certain period of time.	Art. 39 of the Law 38/2003 on General of Public Aids.
50	Accident reports	Minimum 5 years	a) Data of conclusion of the remediation works b) Data of identification of the responsible subject	Art. 48 of the Law 26/2007 on Environmental Liability



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	See section 46		
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	<p>Minimum: Documentation regarding the control of the containers (wagons, tank-wagons and other) used to transport the dangerous goods: Until the expiration date of the relevant documents, if superior to 10 years</p> <p>Transport documents of these dangerous goods: 3 months</p>	Issuance of the relevant document	<p>Art. 13.2 of the Royal Decree 412/2001, which regulates various aspects related to the transport of dangerous goods by railway</p> <hr/> <p>Section 5.4.4.1 European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)</p>
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	See section 46		
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	See section 46		
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	See section 46		
56	Transmission systems operators need to retain all records of quality indicators	Minimum: Depending on the permit	See section 45	See section 45
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Date on which the equipment was last manufactured	Art. 7.3 of the Royal Decree on the noise emission in the environment by equipment for use outdoors



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies	Minimum 6 years (general rule) <sup>1</sup> Minimum 2 years (for casualty insurance) <sup>1</sup> Minimum 5 years (for personal insurance) <sup>1</sup> Minimum 10 years (for life insurance) <sup>1</sup>	Date of termination of the insurance policy	Art. 30 of the Spanish Commercial Code Art. 23 of the Insurance Contracts Act Art. 25 of Anti Money Laundering and Financing of Terrorism Act Contractual and extra contractual liability limitation periods: art. 1964 and 1968 of the Spanish Civil Code

<sup>1</sup> We recommend to retain insurance policies for 15 years because of (extra) contractual liability limitation periods.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior and informed consent was given by the addressee of such communications	Minimum 3 years. No specific maximum retention period, general rules apply.	Date of the automatic call / Date of the sending of the electronic communication	Art. 4 and 47 of Spanish Data protection Act Art. 45 of E-commerce law Art. 57 Spanish Telecommunications Act Art. 35 of the Unfair Competition Act



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS</b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	Minimum 15 years	Date of the relevant act (delivery, acquisition, etc.)	Art. 1964 of the Spanish Civil Code
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	Minimum 6 years	Date of the last record of the company´s book	Art. 30 of the Spanish Commercial Code
62	Procurement records	Minimum 6 years	Date of the procurement record	Art. 30 of the Spanish Commercial Code
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	Minimum 6 years. No specific maximum retention period, general rules apply.	Date of the record	Art. 30 of the Spanish Commercial Code
64	Customers and suppliers records	See section 63		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>			
65	Intellectual property records	Minimum 5 years, but we recommend to keep the records for the duration of the company	Date of expiration of the relevant intellectual property right	Art. 71 of the Patents Act / art. 45 of the Trademarks Act / art. 143 Intellectual Property Act / art. 57 of the Protection of Industrial Designs Act / art. 8 of the Protection of Topographies of Semiconductor Products
66	Contracts, agreements and other arrangements	Minimum 15 years	Date of the termination of the agreement	Art. 1964 of the Spanish Civil Code
67	Permits, licences, certificates	Minimum 6 years	Date of the expiration of the permit / license / certificate	Art. 30 of the Spanish Commercial Code
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	Minimum 15 years	End of the confidentiality / non-competition periods set out in the agreements	Art. 1964 of the Spanish Civil Code
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc).	Minimum 15 years	Date of the termination of the provision of the services	Art. 1964 of the Spanish Civil Code



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries	Minimum 6 years. No specific maximum retention period, general rules apply.  Minimum 3 years. No specific maximum retention period, general rules apply.	Date of the correspondence / date of the registration of the transfer	Art. 30 Spanish Commercial Code
71	The processing of personal data, if this differs from the process as notified to the Spanish DPA	Minimum 3 years. No specific maximum retention period, general rules apply.	Date in which the processing took place	Art. 4 and 47 of Spanish Data protection Act
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	Minimum 5 years. No specific maximum retention period, general rules apply.	Date of the termination of the employment relationship	Art. 4 of the Act on Labour infringements and sanctions
73	Login and logout data of visitors	Minimum 1 month (only for automated environment). No specific maximum retention period, general rules apply.	Date of collection of the visitors' data	Spanish Data Protection Authority guidelines 1/1996 and Arts. 4 and 47 of Spanish Data Protection Act
74	Camera recordings	Minimum 1 month. No specific maximum retention period, general rules apply.	Date of the camera recording	Spanish Data Protection Authority guidelines 1/2006 and Arts. 4 and 47 of Spanish Data Protection Act



### Uría Menéndez

Uría Menéndez is an independent law firm founded in the 1940s which currently has fifteen offices in Spain, Portugal and other EU countries, the Americas and China and specialises in providing legal advice to Spanish, Portuguese and EU-based businesses, covering the full spectrum of sectors. The firm also provides support to its clients through its international network of offices and through its relationships with equally prestigious international law firms. Uría Menéndez has been a pioneer providing legal advice on the areas of data protection, electronic communications and information and communication systems.

The lawyers of this group provide a comprehensive service in all kind of data protection issues to clients of all business sectors (banking and finance, e-communications, health care, insurance, e-commerce, etc.), ranging from advice on compliance and regulatory issues to company transactions and litigation. In particular, the firm has a large experience in the data protection design of commercial and M&A transactions, in the preparation of notices, clauses, contracts, protocols and training programmes, data retention policies, authorisation proceedings for international transfers and administrative and judicial proceedings.

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# RETENTION GUIDE BY COUNTRY: SWEDEN





## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following main legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contracts be set out in writing

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The minimum and maximum retention periods applying to the records

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Whether legal obligation exists to retain records in a certain format

Related issues are:

The evidentiary value of electronic records

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International technical norms and standards for the retention of records

Please note that this document, including the retention guide on page 321, is not an exhaustive document for records management and the guide does not cover records management with respect to, for example, authorities and municipalities, which are governed by specific legislation such as the Archives Act (Sw. arkivlagen (1990:782)), contracting authorities or entities governed by the Public Procurement Act (Sw. lag (2007:1091) om offentlig upphandling) or the Utilities Act (Sw. lag (2007:1092) om upphandling inom områdena vatten, energi, transporter och posttjänster), entities governed by the Banking and Financing Business Act (Sw. lag om bank- och finansieringsrörelse (2004:297)), the Securities Market Act (Sw. lag (2007:528) om värdepappersmarknaden), the Insurance Business Act (Sw. försäkringsrörelselag (2010:2043)), the Investment Funds Act (Sw. lag (2004:46) om investeringsfonder) or public and private pension funds which are governed by specific legislation.

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## REQUIREMENTS TO SET OUT IN WRITING

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Under Swedish law, certain agreements and documents have to be set out in writing. General examples include:

Information from the employer to the employee of all the terms and conditions that are of material relevance to the employment contract or the employment relationship

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The purchase of real estate

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The purchase of a tenant-owner's right (Sw. bostadsrätt)

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The execution of a will (Sw. testamente)

The requirement to set certain matters out in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

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The requirement that certain notices are made in writing



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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic versions of paper originals

In court proceedings, the electronic version (scan) of a paper record, or a print-out of that scan, can later serve as evidence of the contents and existence of the original paper record, when this original has been disposed of. However, a court may ascribe less evidentiary value to such a reproduction than it would to the original.

This lesser evidentiary value is a consequence of the possibility of alterations being made to an electronic record. The original record could have been tampered with before it was scanned, or changes could have been made in the electronic record itself. In both cases, the alterations could be made with relative ease and not be easily detectable. Additional problems can occur when the electronic record is converted to a different file type or transferred to another data carrier. If this renders the record less legible or inaccessible, its evidentiary value will also decrease.

Demonstrable measures may, however, be taken to safeguard the record's authenticity and integrity, preferably by means of a mandatory company policy on scanning and records retention. Measures to increase the evidentiary value of an electronic record entail implementing adequate safeguards to:

**Ensure that the procedures employed to scan the original paper record lead to an electronic record that truly reflects the contents of the original**

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**Ensure the authenticity and integrity of the electronic record during its retention period**

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**Ensure the electronic record's accessibility and readability during its retention period**

### Digitally born documents

A particular problem relates to digitally born documents that are editable. The information contained in such documents is not fixed. As a consequence of this, it may be difficult to prove that an editable document had a certain content at a given time.

If the evidentiary value of such a document is questioned, it is necessary to be able to verify or make plausible that the document presented today had the same content at a given time in the past. Documenting versions, keeping logs of when, how and by whom documents are edited are good ways to secure this.

### Practical relevance

If adequate technical measures are taken to ensure the authenticity and integrity of a digital document (whether digitally born or converted), courts in practice consider the digital version to serve as the initial proof of the existence and contents of the document. It is then up to the other party to prove the contrary. In practical terms, this results in more or less the same evidential position as with written documents (in which case proof to the contrary is also possible).

Moreover, in legal proceedings the authenticity of paper prints of electronic documents are rarely disputed on the basis that the electronic documents could have been tampered with. Provided the right technical measures have been taken, a digitally born agreement, or electronic copy of a paper original, may therefore have a similar evidentiary value as the paper document.



## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

### Minimum retention obligation

According to the Swedish Accounting Act (Sw. bokföringslagen (1999:1078)), a company is required to retain and keep all accounting information for a period of up to seven years following the expiry of the calendar year in which the accounting year was closed.

The term “accounting information” (Sw. räkenskapsinformation) is defined in the Accounting Act and means such compilations of information as referred to in:

Balance sheets

Books of prime entry and general ledgers

Subsidiary ledgers

Vouchers

Documents etc. to which a voucher refers

Systems documentation and description of accounting procedures applied

Annual reports

Annual accounts

Simplified annual accounts

Specification of the balance sheet items

The term “accounting information” also covers any agreements and other documents of special importance in order to elucidate the financial circumstances of the operations and such information which is otherwise significant in order to trace and comprehend the treatment of the individual accounting items in the account.

Accounting information must be preserved in customary readable form (documents), microfiche (legible when using magnifying devices) or in the form of mechanically readable media (e.g. on a server/data tape). Documents, microfiche, and mechanically readable media containing accounting information that the company has received from any other party must be preserved in the condition of the material as received by the company. Documents, microfiche, and mechanically readable media containing accounting information produced by the company itself must be preserved in the condition of the material at the time the accounting information was compiled.

All information must be permanent, easily accessible and as a general rule stored in Sweden, in an orderly, safe and comprehensible manner. Also, machinery and systems required in order to present accounting information in ordinary legible form or in microfiche must be kept available in Sweden during the entire seven-year period. However, if the Swedish Tax Agency (Sw. Skatteverket) or, with respect to companies which are subject to

the supervision of the Swedish Financial Supervisory Authority (Sw. Finansinspektionen), the Swedish Financial Supervisory Authority, is notified, a company may store mechanically readable media and maintain machinery and systems available in another country within the European Union subject to certain requirements in the Accounting Act. Where special cause exists the Swedish Tax Agency / Swedish Financial Supervisory Authority may permit a company to store mechanically readable media, and maintain machinery and systems, in a country outside the European Union. Physical documents must, however, be stored in Sweden during the entire seven-year period. Only where special cause exists and such is compatible with generally accepted accounting principles, a physical document containing accounting information may be stored abroad temporarily.

Documents, microfiche and mechanically readable media containing accounting information may be destroyed provided that the accounting information is securely transferred to other such material. However, if the material is received from any other party or produced by the company itself it may not be destroyed until the fourth year after the expiry of the calendar year in which the accounting year closed.

This guide provides an overview of minimum as well as maximum data retention periods.



## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

### Maximum retention periods

With the exception of personal data, Sweden has no general maximum retention periods during which records may be retained.

However, to the extent records contain personal data, as defined by the Swedish Personal Data Act (Sw. personuppgiftslag (1998:204)) such records may not be kept for a longer period than is necessary having regard to the purpose of the processing of the personal data. Thereafter the personal data must be anonymised or destroyed. Thus, the purposes of the processing are decisive when assessing for how long personal data may be stored. A data subject cannot give his/her consent to personal data being processed in violation of this provision.

What period is “necessary” and therefore what maximum retention period applies differs per category of record. To the extent there is other legislation deviating from the Personal Data Act, it has priority and applies instead of the Personal Data Act. Thus, the maximum retention period shall in no case be shorter than the applicable statutory minimum retention periods (for example customer personal data processed for invoicing and accounting purposes may be stored for seven year according to the requirement in the Accounting Act).

The Data Inspection Board (Sw. Datainspektionen) has provided certain guidelines as to how long personal data may be stored. Please see below for some examples:

**Customers** - Customer personal data should not be kept after the customer relationship has ended, e.g. when the goods or services have been delivered and fully paid. If there is a warranty period, the personal data may be kept until such period expires.

**Direct marketing purposes** - Customer personal data concerning a current customer may be processed for direct marketing purposes, unless the customer has objected to such marketing.

Normally, personal data about a former customer may be used for marketing purposes one year after the end of the customer relationship, e.g. after the delivery of goods/ services, payment and/or expiration of any warranty period.

Personal data collected for marketing purposes concerning individuals who are not yet customers, should be deleted immediately after the marketing has been concluded. Address information is subject to frequent changes and should not be kept for a longer period than three months after the information was collected.

Based on consent, customer data may be processed for a longer period than is set out above. The data must, however, still be deleted when no longer recent and up to date, or if a customer withdraws his or her consent to such processing. Such consent may only encompass personal data that have been collected from the data subject, i.e. not from an external source.

**Credit information** - A creditor often makes credit assessments based on credit information (under the Swedish Credit Information Act (Sw. kreditupplysningslagen (1973:1173)) credit information means information, reviews or advice provided to management for assessing someone's creditworthiness or solvency obtained from credit information companies). Such assessments must be based on information which is as current as possible. Therefore, such information may not be stored in a customer register for the purpose of later being used for additional credit assessments.

Information that a customer has been granted a credit may be registered in the customer register, but must be deleted within three months from the date the credit was granted. Information that a credit has been denied must be deleted already one month after the credit was denied. If the credit information company provides credit information to a creditor enabling the creditor to make the credit assessment in its own systems, the information may not be stored after such assessment has been made.

A creditor may, in certain situations, keep credit information a longer period for other purposes than credit assessments. For example, a creditor may be under an obligation to save the information to comply with requirements under the Swedish Banking and Financing Act. Such information must, however, not be processed for any other purposes than fulfilling the legal obligations.



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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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**Candidate personal data** - Candidate personal data for rejected candidates must be deleted as soon as the recruitment process has been concluded. However, in case of a possible dispute (e.g. on grounds of discrimination) the data may be stored for a minimum period of two years. If the company wishes to keep the data for future recruitment needs, the candidate must be informed and give his or her consent.

**Employee personal data** - Employee personal data must be deleted once the employment relationship has ended. However, the data may be stored for as long as (i) there is a potential for a dispute between the company and the former employee, (ii) there is a need for the data to administer pension payments to the employee, or (iii) the company has been asked to provide references to other employers. In addition, the company may keep factual information a longer period (as long as the information is still relevant) such as “termination due to redundancy” (Sw. uppsägning på grund av arbetsbrist), “dismissal” (Sw. avsked) and “termination for personal reasons” (Sw. uppsägning på grund av personliga skäl), together with copies of letters of recommendation or grades which the company has given to the employee.

**Employees’ use of internet and e-mail** - If the company collects personal data relating to the employees’ use of internet and e-mail for certain surveillance purposes and has specific routines established for such processing, the data must be deleted as soon as it loses its meaning in relation to the established purpose. If the company for this purpose reviews the employees’ internet and e-mail usage for example once a month, the information can be stored for three months. If the review is performed at longer intervals than one month, the information may be stored for a bit longer period than three months. If the company does not monitor the employees’ internet and e-mail usage at all, in general the personal data must be deleted within one month.

**Period of limitation under the Swedish Limitations Act** - Under the Swedish Limitations Act (Sw. preskriptionslagen (1981:130)), the general rule is that no claim may be brought after ten years “from its accrual”, unless the period of limitation is interrupted prior thereto. We therefore recommend - in cases where there may be a possible dispute at hand - that documents that may be of evidential value are stored for at least ten years.



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## ISO 15489

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One of the standards for record management is ISO. The Swedish Standard Institute (SIS) has issued SS-ISO 15489-1 which is an adaptation of the ISO 15489 international standard for records management. It provides guidelines on the maintenance of an archive system, regardless of its form or medium, how to establish the organisation's liability for records and its responsibility for guidelines, routines, systems and processes for records management. In addition, it provides guidance on design and implementation of records management systems. Some of the points contained in the ISO standard regarding the retention of records in an archive are:

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**Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities**

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**Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another**

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**Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes**

The SIS-ISO/TR 15489-2:2001 is an implementation guide to ISO 15489-1 to be used by record management professionals and those charged with managing records in their organisations. It provides a methodology that facilitates the implementation of ISO 15489-1 in organisations that have a need to manage their records. It gives an overview of the processes and factors to consider in organisations wishing to comply with ISO 15489-1.

In addition, SS-ISO 15489-1 and SIS-ISO/TR 15489-2:2001 are often complemented with ISO 30300:2011 (Information and documentation -- Management systems for records -- Fundamentals and vocabulary), ISO 30301:2011 (Information and documentation -- Management systems for records - Requirements) and ISO/TR 26122:2008 and ISO/TR 26122:2008/Cor 1:2009 (Information and documentation - Work process analysis for records).



## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under Swedish law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books of account and records	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Swedish Accounting Act (Sw. bokföringslagen (1999:1087)) Chapter 7, Section 2
2	Articles of incorporation, Standing orders, Supervisory Board's rules of procedure, Supervisory Council's Rules of procedure	No specific retention period <sup>2</sup>	From execution of the minutes	The Swedish Companies Act (Sw. aktiebolagslagen (2005:551)) Chapter 8, Section 26
	Board meetings minutes (including board resolutions) <sup>1</sup>	No specific retention period <sup>4</sup>	From execution of the minutes	The Companies Act Chapter 7, Section 49
	Shareholders' meetings minutes (including shareholders' resolutions) <sup>3</sup>	Minimum 10 years after the company has been dissolved	When the company is incorporated	The Companies Act Chapter 5, Section 3
	Shareholders' register <sup>5</sup>	The register must be stored for a period of not less than 10 years following the expiry of the accounting year to which the schedule relates	From execution of the register	The Companies Act Chapter 21, Section 10

<sup>1</sup> The minutes should be kept in a safe manner. If the minutes are kept electronically, the minutes should be able to be read at the company.

<sup>2</sup> However, it is likely that they must be preserved for as long as they may have any kind of relevance, which in each case may be more than the seven years required for retaining accounting information.

<sup>3</sup> The minutes should be kept in a safe manner.

<sup>4</sup> However, the minutes must be available to the shareholders at the company. Hence, all minutes must be preserved for such time as the company exists, or for as long as they may have any relevance.

<sup>5</sup> If a company changes from a share register in ordinary readable form to a share register kept by electronic data processing, the old share register must be preserved for at least ten years after all the shares have been transferred to the new share register. Where the share register is maintained using electronic data processing, information which has been deleted from the share register must be stored for a period of not less than ten years.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
3	Financial statements, audit reports etc	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Accounting Act Chapter 7, Section 2
4	Profit and loss accounts	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Accounting Act Chapter 7, Section 2
5	Records and documents of the dissolved legal entity	Same retention periods as if the legal entity was going concern, i.e. for example 7 years as regards accounting information	Depending on type of record/document	Depending on type of record/document
6	Membership records in a cooperative association			
7	Subsidy records and documents	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Accounting Act Chapter 7, Section 2



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	TAX AND ACCOUNTING RECORDS			
	GENERAL TAXES			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <hr/> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show its rights and obligations in the interest of levying taxes</p> <hr/> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <hr/> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p> <hr/> <p>Records regarding transactions with affiliated non-Swedish companies for transfer pricing purposes</p>	<p>The retention of documents for tax purposes follows the rules in the Accounting Act under which accounting information must be preserved up to and including the seventh year following the expiry of the calendar year in which the accounting year was closed<sup>1</sup></p> <hr/> <hr/> <hr/> <p>There is an obligation to document transactions with affiliated non-Swedish companies for transfer pricing purposes<sup>2</sup></p>	<p>The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed</p> <hr/> <hr/> <hr/> <p>The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed</p>	<p>Primarily the Accounting Act Chapter 7, Section 2</p> <hr/> <hr/> <hr/> <p>Primarily the Accounting Act Chapter 7, Section 2. See also the Swedish Tax Procedure Act (Sw. skatteförfarandelagen (2011:1244)) Chapter 39, Section 15-16.</p>

<sup>1</sup> The Swedish Tax Agency may generally assess for tax arrears up to and including the sixth year after the relevant income year. Hence, it is from a tax standpoint of particular importance that documents are well preserved during this timeframe.

<sup>2</sup> It should be noted that this information is only to be submitted at the Swedish Tax Agency's request. There are no sanctions against non-compliance as long as the relevant information can be submitted when a request is received. Generally, we recommend that the relevant information is retained for 7 years.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes</p> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU</p>	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	Primarily the Accounting Act Chapter 7, Section 2. See also the Swedish VAT Act (Sw. mervärdesskattelagen (1994:200)) Chapter 11 a, Section 1.
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto			
	<b>CORPORATE INCOME TAX</b>			
11	Obligation to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	Primarily the Accounting Act Chapter 7, Section 2. See also the Tax Procedure Act Chapter 39, Section 15-16.
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes			
	<b>CUSTOMS</b>			
13	Keep an administration as per the requirements set out in the Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers.	Minimum normally 5 years	The 5-year retention period starts when the goods were cleared through the customs	The Swedish Customs Act (Sw. tullagen (2000:1281)) Chapter 3, Section 5
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes			



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the Swedish Tax Agency and the employee/payee on an annual basis of the total amount of wages earned, including salary, benefits and pension, as well as wage withholding tax, and social security withheld	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Accounting Act Chapter 7, Section 2
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.  A company needs to have included copies of valid IDs of employees in its administration before the employee starts working for the employer	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Accounting Act Chapter 7, Section 2
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind) Severance pay records (e.g. notification to the competent authorities regarding redundancy, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	Minimum retention period: see section 15. No specific maximum retention period, general rules apply.		The Swedish Personal Data Act (Sw. personuppgiftslagen (1998:204)) Section 9



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract	Minimum 7 years	When the employment ends	The Accounting Act Chapter 7, Section 2
19	Identification documents of foreign nationals (copy)			
20	Business data and documents concerning pension schemes and related subjects  Administration regarding pension scheme (by pension administrator and pension association)	Minimum 7 years	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed. As regards claims, the 10 year period under the Swedish Limitations Act starts when a claim for pension may be enforced.	The Accounting Act Chapter 7, Section 2 The Swedish Limitations Act (Sw. preskriptionslagen (1981:130)) Section 2
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	Minimum retention period: No minimum period is stated under law. <sup>1</sup> Maximum: Candidate personal data for refused candidates must be deleted as soon as the recruitment process has been concluded. <sup>2</sup>	When the applicant is notified	The Swedish Discrimination Act (Sw. diskrimineringslagen (2008:567)) Chapter 6, Section 4. The Personal Data Act Section 9. Guidelines from the Data Inspection Board.

<sup>1</sup> However, in case of a possible dispute (e.g. on grounds of discrimination) the data should be stored for a minimum period of 2 years.

<sup>2</sup> If the company wishes to keep the data for future recruitment needs, the candidate must be informed and give his or her consent.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	HR/EMPLOYMENT/PENSION RECORDS			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply		The Personal Data Act Section 9
24	Reports on employee performance review meetings and assessment interviews (competency database)	No specific maximum retention period, general rules apply. In addition, general guidelines have been issued by the Data Inspection Board with respect to competency databases.		Guidelines from the Data Inspection Board The Personal Data Act Section 9
25	Employee stock purchase and options records	Minimum 7 years. Maximum: No specific maximum retention period, general rules apply.	The 7-year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Accounting Act Chapter 7, Section 2 The Personal Data Act Section 9
26	Copy of identification documents	No specific maximum retention period, general rules apply		The Personal Data Act Section 9
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	No specific maximum retention period, general rules apply		The Personal Data Act Section 9
28	Data concerning pension and early retirement	Minimum retention period: see section 20. No specific maximum retention period, general rules apply.		The Accounting Act Chapter 7, Section 2 The Personal Data Act Section 9



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>MEDICAL/SAFETY RECORDS</b>				
29	Medical (occupational health & safety company doctor) files; medical documents in cases of a medical treatment contract			
30	Floor plans and directions			
31	Work-related medical examinations related to hazardous substances	Minimum 10 years	Date of the last entry	The Swedish Work Environment Act (Sw. arbetsmiljölagen (1977:1160)) Chapter 4, Section 7 and Chapter 5, Section 4 The Swedish Work Environment Ordinance (Sw. arbetsmiljöförordningen (1977:1166)) Section 3
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	Minimum 40 years	The day on which the exposure ended	The Work Environment Act Chapter 4, Section 3 The Work Environment Ordinance Section 3. The Swedish Work Environment Authority's (Sw. Arbetsmiljöverket) provision on Chemical Hazards in the Working Environment (2011:19) Section 41
33	Register of employees who work with 3rd and 4th category biological agents			
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	The day on which the exposure ended	The Work Environment Act Chapter 4, Section 3 The Work Environment Ordinance Section 3 Work Environment Authority's provision on Chemical Hazards in the Working Environment (2011:19) Section 41
35	Administration concerning measurements of radioactive substances			
36	Records of radiation	Minimum 10 - over 100 years		The Swedish Radiation Safety Authority (Sw. Strålsäkerhetsmyndigheten) Regulatory Code (2008:38) Appendix 1
	The results from radiation surveillance outside controlled areas	Minimum 1 year	The expiry of the calendar year when the measurements were conducted	The Radiation Safety Authority Regulatory Code (2008:26) Section 40
	Primary data on evaluations of individual doses due to external as well as internal exposure	Minimum 1 year	The expiry of the calendar year when the measurements were conducted	The Radiation Safety Authority Regulatory Code (2008:26) Section 38
37	Medical records of employees who have possibly been exposed to ionizing radiation	Minimum 30 years. Maximum: Until the persons involved are or would have been 75 years of age.	Date of termination of the individual's category A employment	The Radiation Safety Authority Regulatory Code (2008:51), Chapter 6, Section 10
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
38	Registration of work and rest periods (in appropriate format)	Minimum 3 years. No specific maximum retention period, general rules apply.	The notes with respect to the registration of work and rest periods must be kept during the calendar year to which the information relates and for the following two calendar years	The Work Environment Authority's provision on Notes regarding On-Call Hours, Overtime and Additional Hours (1982:17, 2000:9) Section 4
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	No specific maximum retention period, general rules apply		The Personal Data Act Section 9



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control			
41	Loading or unloading plan (by captain or terminal representative)			
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board)	Captain: until the next port of call (minimum). Manager of the harbour: 1 year (minimum).		The Swedish Transport Agency's (Sw. Transportstyrelsen) Regulations and General Advice on Measures Against Pollution from Ships (TSFS 2010:96). Chapter 6, Section 82, Chapter 10, Section 11, Chapter 11, Section 16, Chapter 12, Section 17 and 24. The Swedish Maritime Administration's Code of Statutes (SJÖFS 2001:12) Chapter 7, Section 1.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	After the operator last manufactured, imported, supplied or used the substance or preparation	REACH <sup>1</sup> . Art 36. REACH Art 8, 14, 32, 33, 34 and 37. The Swedish Operator's Self-monitoring Ordinance (Sw. förordning om verksamhetsutövers egenkontroll (1998:901)) Section 7a. The Swedish Chemicals Agency's (Sw. Kemikalieinspektionen) Chemical Products and Biotechnical Organisms Regulations (KIFS 2008:2) Chapter 4 Section 6.
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 3 years		The Swedish Chemicals Agency's Chemical Products and Biotechnical Organisms Regulations (KIFS 2008:2) Chapter 4, Section 3 and 6
45	Documents related to the environmental report	Minimum 5 years		The Swedish Environmental Protection Agency's (Sw. Naturvårdsverket) ("EPA") provisions for environmental report (NFS 2006:9) Section 5. The Swedish Environmental Code (Sw. Miljöbalken (1998:808)) Chapter 26, Section 19 - 20.
	Data to prove the operator is meeting its environmental commitments and obligations	Minimum 5-10 years		It is a general recommendation to retain data for example relating to the production, emissions and safety reports under the Swedish Seveso regulation (1999:381 and 1999:382) during this period as evidence <sup>2</sup>
	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	Minimum retention period not mentioned. (3-5 years recommended due to the inspections set out in EPA's manual concerning contaminated sites)		EPA's manual concerning contaminated sites (edition 4, 2008)
	Operators certified under ISO 14001 (environmental management) are obliged to preserve documentation relating to activities that may have significant environmental impact, how rules and regulations are being met			ISO 14001 Section 4.5.1 - 4.5.2
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	Minimum 3 years		The Swedish Waste Collection and Disposal Ordinance (Sw. avfallsförordning) (2011:927)) Section 54 - 56
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal	Minimum 1 year		The Waste Collection and Disposal Ordinance Section 57
	Documents on results of inspections on the discharge of domestic waste water			
	Documents containing audits on radioactivity and all results of measurements taken			

<sup>1</sup> REGULATION (EC) No 1907/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC.

<sup>2</sup> However, it should be noted that the responsibility for operations causing environmental impairment does not expire.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>ENVIRONMENTAL RECORDS</b>				
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	Date of the last manufactured energy related product	The Swedish Act on Ecodesign (Sw. lag (2008:112) om ekodesign) Section 9
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	From the date the product has been released on the market	Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC Article 11.2
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies			
50	Accident reports			
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years	From the date of shipment	Regulation (EC) No 1013/2006 on Shipments of Waste Article 20
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 months		Swedish Civil Contingencies Agency's (Sw. Myndigheten för samhällsskydd och beredskap) RID Section 5.4.4.1
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances <sup>1</sup>	Minimum 30 years	The commencement of the period of remediation	The Ordinance on Landfill of Waste (Sw. förordningen om deponering av avfall (2001:512)) Section 33
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials <sup>2</sup>	Minimum 30 years		The Ordinance on Landfill of Waste Section 33
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	Minimum 10 years		EPA's regulations on the landfill of waste (NFS 2004:10) Section 5 and 36
56	Transmission systems operators need to retain all records of quality indicators			
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	From the time the equipment was last manufactured	The Ordinance on noise from certain outdoor equipment (Sw. Förordningen (2001:1084) om buller från viss utomhusutrustning) Section 7

<sup>1</sup> During the period of remediation of the landfill, the operator is obliged to take measures for maintenance, supervision and control for at least 30 years. Hence, it is of importance to retain relevant information to meet this obligation.

<sup>2</sup> During the period of remediation of the landfill, the operator is obliged to take measures for maintenance, supervision and control for at least 30 years (section 33, the Swedish ordinance on landfill of waste (2001:512)). Hence, it is of importance to retain relevant information to meet this obligation.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, is allowed, provided the sender can demonstrate that prior consent was given by the subscriber. However, if the company has obtained the details of the person's e-mail address in connection with sales of a product to such person, no consent is required provided that certain criteria are fulfilled.			The Swedish Marketing Act (Sw. Marknadsföringslagen (2008:486)) Section 19



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PURCHASING RECORDS<sup>1</sup></b>				
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes.	Minimum 7 years	The 7 year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	Primarily the Accounting Act Chapter 7, Section 2. See also the Swedish VAT Act Chapter 11 a, Section 1.
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	Minimum 7 years	The 7 year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Accounting Act Chapter 7, Section 2
62	Procurement records	Minimum 7 years	The 7 year retention period starts in the year following the expiry of the calendar year in which the accounting year (to which the information relates) was closed	The Accounting Act Chapter 7, Section 2
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
63	Debtors and creditors records	No specific maximum retention period, general rules apply		The Personal Data Act Section 9
64	Customers records	Customer personal data should not be kept after the customer relationship has ended, e.g. when the goods or services have been delivered and fully paid. If there is a warranty period, the personal data may be kept until such period expires.		Guidelines from the Data Inspection Board The Personal Data Act Section 9

<sup>1</sup> Please note that the categories in this section might be considered accounting information under the Accounting Act, please see page 317 for further information.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS<sup>1</sup></b>			
65	Intellectual property records			
66	Contracts, agreements and other arrangements			
67	Permits, licences, certificates			
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)			
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc).			

<sup>1</sup> Please note that some of the categories in this section might be considered accounting information under the Accounting Act, please see page 317 for further information.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence Registers of transfers into other EU countries			
71	The processing of personal data, if this differs from the process as notified to the DPA			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Employees' use of internet and e-mail	Maximum: The personal data must be deleted within one month. If the company has specific purposes with its surveillance, other time limits may apply, please see comment on page 319, section "Employees' use of internet and e-mail" for further instructions.		Guidelines from the Data Inspection Board The Personal Data Act Section 9
73	Login and logout data of visitors	No specific maximum retention period, general rules apply		The Personal Data Act Section 9
74	Camera recordings	Maximum: Recorded material must be deleted as soon as necessary having regard to the purpose of the recording. In general, the recorded material must not be saved for more than a few weeks. In addition, guidelines are issued by the Data Inspection Board with respect to camera recordings. <sup>1</sup>		Guidelines from the Data Inspection Board The Swedish Public Camera Surveillance Act (Sw. lagen om allmän kameraövervakning (1998:150)) Section 14 The Personal Data Act Section 9

<sup>1</sup> Please also note that for recordings covered by the Public Camera Surveillance Act, the general maximum retention period is 1 month.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS <sup>1</sup>				
SUSTAINABILITY				
75	Documentation relating to declaration of compliance with sustainability requirements for biofuels and bioliquids	Minimum 10 years		The Swedish Energy Agency (Sw. Energimyndigheten) provisions for sustainability criteria for biofuels and bioliquids (STEMFS 2011:2)
SELF-MONITORING <sup>2</sup>				
76	Documentation relating to the self-monitoring	Minimum 5 years		The EPA's manual 2001:3
77	Documentation relating to measurements and samplings when conducting environmentally hazardous activities	Minimum 5 years		The EPA's regulation NFS 2000:15 Section 5
78	Data relating to research and development concerning non-authorized biocidal product			The Swedish Chemicals Agency's Pesticides regulations (KIFS 2008:3) Chapter 4, Section 24

<sup>1</sup> Please note that these records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.

<sup>2</sup> Under Swedish law, certain operations regulated by the Environmental Act must be subject to self-monitoring. This means that the operator must monitor its own operations i.e. through drafting of policies, systematic controls and documentation. The extent and measures required must be determined on a case-by-case basis.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS <sup>1</sup>			
	ANTI MONEY LAUNDERING PURPOSES <sup>2</sup>			
79	Documents and information concerning measures taken to conduct customer due diligence (for anti-money laundering purposes)	Minimum 5 years. No maximum period is stated. However, see section 80.	The period is calculated commencing when such measures were taken or, in cases where a business relationship has been established, the termination of the business relationship	The Swedish Money Laundering and Terrorist Financing (Prevention) Act (Sw. lag (2009:62) om åtgärder mot penningtvätt och finansiering av terrorism) Chapter 2, Section 13
80	Registers of natural or legal persons to avoid participation in transactions that constitute money laundering or terrorist financing	Minimum: To be decided on a case by case basis. Information shall be deleted: (i) where the Swedish National Police Board (Sw. Rikspolisstyrelsen) decides not to launch or to close an investigation into money laundering or terrorist financing; (ii) where an investigation has concluded without an indictment being filed based on the information submitted; (iii) where a court has issued a judgment or a decision has entered into force based on the information provided; or (iv) not later than 3 years after the information submitted to the Swedish National Police Board pursuant to Chapter 3, Section 1.	Not explicitly stated in Money Laundering and Terrorist Financing Prevention Act	The Money Laundering and Terrorist Financing (Prevention) Act Chapter 4, Section 6

<sup>1</sup> Please note that these records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.

<sup>2</sup> Under Swedish law, certain operations regulated by the Environmental Act must be subject to self-monitoring. This means that the operator must monitor its own operations i.e. through drafting of policies, systematic controls and documentation. The extent and measures required must be determined on a case-by-case basis.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
OVERVIEW RETENTION PERIODS ADDITIONAL RECORDS <sup>1</sup>				
ANTI MONEY LAUNDERING PURPOSES <sup>2</sup>				
81	Documentation regarding all circumstances which may indicate money laundering or terrorist financing and any actions and decisions taken in the examination of suspected money laundering or terrorist financing transactions	Minimum 3 years. No maximum period is stated. However, see section 80.	Subject to Chapter 4, Section 6 of the Money Laundering and Terrorist Financing Prevention Act, documentation regarding all circumstances which may indicate money laundering or terrorist financing and any actions and decisions taken in the examination of suspected money laundering or terrorist financing transactions should be kept at least 3 years from the audit action	FFFS 2009:1 Regulation regarding Money Laundering and Terrorist Financing Chapter 5, Section 3
PHARMACEUTICALS - DOCUMENTS RELATING TO CLINICAL TRIALS				
82	All documentation which the investigator and the sponsor is required to have in order to verify the information which has been registered in relation to the clinical trial	Minimum 10 years	When the clinical trial has been concluded and the final report has been drawn up	The Swedish Medical Products Agency's (Sw. Läkemedelsverket) Regulation LVFS 2011:19 Chapter 10, Section 3
PHARMACEUTICALS - DOCUMENTS RELATING TO WHOLESALE DISTRIBUTION				
83	The holder of a wholesale trade licence must document all handling of medicinal products including documentation such as staff records, description of responsibility of the qualified person, internal inspection protocols, deviation reports and distribution records from the manufacturers	Minimum 5 years	The documents must be available for inspection by the Swedish Medical Products Agency during a period of 5 years after establishment	The Medical Products Agency's Regulation LVFS 2009:11 Chapter 3, Section 6-7
PHARMACEUTICALS - DOCUMENTS RELATING TO RETAIL TRADE				
84	The holder of a retail trade licence must document all handling of medicinal products including documentation such as staff records, description of responsibility of the qualified person, internal inspection protocols and deviation reports	Minimum 5 years	The documents must be available for inspection by the Medical Products Agency during a period of 5 years after establishment	The Medical Products Agency's Regulation LVFS 2009:9 Section 29
MEDICAL DEVICES - TECHNICAL DOCUMENTATION				
85	The manufacturer of medical devices must retain technical documentation which verifies that the medical devices meet the requirements set out in the Swedish law on Medical Devices (Sw. lagen om medicintekniska produkter (1993:584))	Minimum 5 years 15 years for implants	After the manufacturing of the last medical device	The Medical Products Agency's Regulation LVFS 2003:11, Appendix 7

<sup>1</sup> Please note that these records are provided in addition to the records listed in the general schedule. This does not imply that the other jurisdictions do not have retention periods for those records.

<sup>2</sup> Under Swedish law, certain operations regulated by the Environmental Act must be subject to self-monitoring. This means that the operator must monitor its own operations i.e. through drafting of policies, systematic controls and documentation. The extent and measures required must be determined on a case-by-case basis.



### Mannheimer Swartling

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RETENTION GUIDE BY COUNTRY:  
UNITED KINGDOM

# RETENTION GUIDE BY COUNTRY: UNITED KINGDOM



[RETURN TO CONTENTS](#)



## LEGAL ISSUES THAT AFFECT YOUR RECORDS MANAGEMENT

The following legal issues must be considered when planning a comprehensive records management programme:

Legal requirements that certain contracts be set out in writing

Whether legal obligations exist to retain certain records in paper format

Legal requirements in respect of the conversion of written records which belong to a company's administration into electronic format

Related issues are:

The evidentiary value of electronic records

International technical norms and standards for the conversion to, retention, and accessibility of electronic records

The minimum and maximum retention periods applying to the records

## REQUIREMENTS TO SET OUT IN WRITING

Under UK law, certain agreements or instructions have to be set out in writing. Examples include:

Consumer Credit and Hire-Purchase Agreements

Employment Contracts

Arbitration Agreements

Wills

Purchase and transfer of stocks and shares

Assignment of Intellectual Property

Contracts for the sale or other disposal of an interest in land

Powers of Attorney

Agreements not to tender, or not to tender at an excessive price

Legal mortgage

The requirement to set certain matters out in writing can also be prescribed by an agreement. Examples include:

The requirement that changes to an agreement are explicitly made in writing

The requirement that certain notices are made in writing

Although certain agreements or notices have to be set out in writing, this does not bar the possibility of converting the original paper record into an electronic record that replaces that paper record. In some cases, however, the paper version has more evidentiary value in court.



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## EVIDENTIARY VALUE OF ELECTRONIC RECORDS

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### Electronic records as evidence in legal proceedings

In general, an organisation needs to be able to prove that the content of a particular electronic document or data file has not changed since the date of storage. If the data file is an electronically stored image of an original paper document, an organisation must be able to prove that the electronic image is a true representation of the original.

A company presenting a document that has been altered since its creation or that has a clear audit trail which shows any and all changes since its creation may find that document holds a greater 'weight' than a document that cannot show these procedures.

In England and Wales the main statute governing the admissibility of documents is the Civil Evidence Act 1995. (The criminal court system involves different requirements; businesses wishing to adhere to these should contact a specialist lawyer).

Section 8 states:

Where a statement contained in a document is admissible as evidence in civil proceedings, it may be proved:

(a) by the production of the original

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(b) whether or not that document is still in existence, by the production of a copy of that document or of the material part of it, authenticated in such a manner as the court may approve

It is immaterial for this purpose how many removes there are between a copy and its original

Section 9 states:

(1) A document which is shown to form part of the records of a business or public authority may be received in evidence in civil proceedings without further proof

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(2) A document shall be taken to form part of the records of a business or public authority if there is produced to the court a certificate to that effect signed by an officer of the business or authority to which the records belong

For further guidance, The British Standards Institute has produced a code of practice for the legal admissibility and evidential weight of information stored electronically. It provides an industry-wide benchmark of best practice on the procedures and documentation required for the audit of systems producing images that may be used in court.



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## LEGAL REQUIREMENTS IN RESPECT OF THE BOOKS AND RECORDS OF COMPANIES

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### Minimum retention obligation

Under UK law "Company Records" are defined as any register, index, accounting records, agreement, memorandum, minutes or other document required by the Companies Act to be kept by a company and any register of its debenture holders (s1134 Companies Act 2006).

Company records may be kept in hard copy or electronic form. If they are in electronic form, they must be capable of being reproduced in hard copy (s1135 Companies Act 2006). The company must take precautions against falsification of the records (s1138 Companies Act 2006).

Whether certain documents such as employment contracts need to be retained for a minimum period of six years, has to be evaluated based on their content. For instance, documents should be retained for at least six years if they contain rights and obligations not covered by any other documentation.

### Maximum retention periods

To the extent records contain personal data as defined by the Data Protection Act 1998, these records may not be kept (at least not in a form that allows data subjects to be identified - see below) for a longer period than is necessary for achieving the purposes for which the personal data were collected or subsequently processed. What period is "necessary" and therefore what maximum retention period applies differs per category of record and shall in no case be shorter than applicable statutory minimum retention periods.

After these maximum retention periods have lapsed, the documents should be either (i) securely disposed of or (ii) de-identified (i.e. all references to data subjects should be rendered unreadable).

This guide provides an overview of minimum as well as maximum data retention periods.

### Retention of certain records in paper format

In general documents need not be retained in paper format unless the appropriate regulatory body has made a specific exception which requires the original to be kept.

### Conversion requirements

Documentary evidence can be stored in an electronic format, as long as an original copy is capable of being produced from the electronic copy. (The term 'original' meaning a copy which is equivalent in every relevant legal respect in its characteristics to the original document no matter how many times removed it is from an original paper document.) This implies a high standard of legibility for electronic images such that no ambiguity of interpretation is introduced that does not derive from the original.



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## ISO 15489

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In the context of a record's evidentiary value, the ISO 15489 is the leading standard providing guidance on the maintenance of an archive system, regardless of its form or medium. The standard has been implemented in the United Kingdom as BS ISO 15489-1:2001 (along with the accompanying technical report, PD ISO/TR 15489-2:2001). The main points contained in the ISO standard regarding the retention of records in an archive are:

Retention conditions and treatment processes should be designed to protect records against unauthorised access, loss or destruction, as well as against theft and calamities

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Organisations should have a policy and guidelines on the conversion or migration of records from one archiving system to another

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Systems for the retention of electronic records should be designed in such a way that the records remain accessible, authentic, reliable and usable during their retention period, regardless of any systems changes

The British Standards Institute has released a series of four accompanying publications for BS ISO 15489-1:2001, entitled 'Effective Records Management'. The series includes a management guide, advice on implementation and performance management, and options for selecting a practical level of compliance to suit a particular organisation.



## DOCUMENT RETENTION PERIODS

The following is a quick reference guide for document retention periods under UK law as applicable and in force on 31 January 2013. Please note that this is not an exhaustive list and that legal document retention requirements may be subject to change. Please also see our general disclaimer on page 361.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>GENERAL COMPANY RECORDS</b>				
1	General obligation for retention of company accounts, books and accounts and records For a private company	3 years	The date on which the records were made	Section 388(4)(a)(b) Companies Act 2006
	For a public company	6 years		
	Obligation on credit institutions; financial institutions; auditors, insolvency practitioners, external accountants and tax advisers; independent legal professionals; trust or company service providers; estate agents; high value dealers; and casinos acting in the course of business to retain records	5 years	The date on which the transaction is completed or the date on which the business relationship ends	Regulation 19 of the Money Laundering Regulations 2007
2	Shareholder's resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Board resolutions (copy), Standing orders (copy), Boards and shareholders' meetings minutes, Supervisory Board's rules of procedure (copy), Supervisory Council's rules of procedure (copy)	Minimum: N/A (except for documents mentioned below)	N/A (except for documents mentioned below)	N/A (except for documents mentioned below)
	Board meetings' minutes and resolutions (copy)	Minimum 10 years	The date of the meeting	Section 248 Companies Act 2006
	Obligation to keep all copies of members' resolutions passed otherwise than at general meetings (which includes all written resolutions), minutes of general meetings, and details of decisions provided by a sole member	Minimum 10 years	The date of the resolution, decision or meeting	Section 355 Companies Act 2006
	Obligation to keep provisions to resolutions and meetings of the holders of a class of shares and, in the case of a company without share capital, to a class of members	Minimum 10 years	The date of the resolution or meeting	Section 359 Companies Act 2006
	Membership records	Minimum: The legislation does not prescribe a time period for which the register must be kept <sup>1</sup>	The date the member joins	Section 113 Companies Act 2006
	Obligation to keep a copy of the contract or a memorandum of the terms of the contract relating to a purchase by the company of its own shares	Minimum 10 years	Either the date on which the purchase of all the shares pursuant to the contract is completed, or the date on which the contract otherwise determines	Section 702 Companies Act 2006
	Obligation to keep a copy of directors' service contracts (or a memorandum of the terms)	Minimum 1 year from the date of expiry or termination of the contract. No specific maximum retention period, general rules on retention of personal data will apply.	The date of termination or expiry	Section 227 Companies Act 2006

<sup>1</sup> The recommended time period is the life of the company plus 20 years.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>GENERAL COMPANY RECORDS</b>			
3	Financial statements, audit reports, etc	See section 1		
4	Profit and loss accounts	See section 1		
5	Records and documents of the dissolved legal entity	It is recommended that membership records be retained for 20 years	The date of the dissolution of the legal entity	
6	Membership records in a cooperative association	Cooperative associations are not common under UK law. The requirements pertaining to such associations are likely to depend on their specific structure, for example if it includes any bodies corporate. Some of these associations may be subject to specific historic statutory regimes. Requirements may also apply depending on the sector in which the association operates, such as financial services.		
7	Subsidy records and documents	This is likely to depend on the nature of the subsidy and/or the sector in which the recipient of it operates		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>GENERAL TAXES</b>			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers</p> <hr/> <p>For persons carrying out a trade, profession or business</p> <hr/> <p>For persons not carrying out a trade, profession or business</p> <hr/> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p> <hr/> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <hr/> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p> <hr/> <p>We would recommend that persons retaining income tax records also retain national insurance records</p>	<p>See specific requirements below</p> <hr/> <p>The latest of: - the fifth anniversary of the 31 January next, following the year of assessment, where the return is for a tax year; - the sixth anniversary of the end of the period, where the return is for a period that is not a tax year; - the completion of an enquiry into the return; or - the day on which the enquiry window for that return closes without an enquiry being opened</p> <hr/> <p>The latest of: - the first anniversary of 31 January next, following the year of assessment; - the completion of any enquiry into the return; or - the end of the day on which the enquiry window closes</p> <hr/> <p>See general obligation above</p> <hr/> <p>3 years (because national insurance is linked to PAYE tax: see item 16)</p>	<p>See specific requirements below</p> <hr/> <p>The date on which the records were made</p> <hr/> <p>The date on which the records were made</p> <hr/> <p>See general obligation above</p> <hr/> <p>The date on which the records were made</p>	<p>See specific requirements below</p> <hr/> <p>Section 12B, Taxes Management Act 1970</p> <hr/> <p>Section 12B, Taxes Management Act 1970</p> <hr/> <p>See general obligation above</p> <hr/> <p>Regulation 97 of The Income Tax (PAYE) Regulations 2003/2682</p>



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>VAT</b>			
9	<p>A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes</p> <p>General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU. More specifically, the following records should be kept: annual accounts (including profit and loss accounts), bank statements and paying-in slips, cash books and other account books, credit or debit notes you issue or receive, documentation relating to dispatches/acquisitions of goods to/from EC Member States, documents or certificates supporting special VAT treatment such as relief on supplies to visiting forces or zero-rating by certificate, import and export documents, orders and delivery notes, purchase and sales books, purchase invoices and copy sales invoices, records of daily takings such as till rolls, relevant business correspondence and VAT accounts.</p>	Minimum 6 years	The date on which the records were made	Paragraph 6, Schedule 11, VAT Act 1994 and HMRC Notice 700/21 (December 2007)
10	<p>Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto</p> <p>Stamp duty land tax: Obligation on a purchaser who is required to deliver a land transaction return to retain records</p>	<p>Records only required insofar as they are required under another tax record-keeping requirement to which the real estate ownership relates</p> <p>The latest of: - the sixth anniversary of the effective date of the transaction; - the date on which an enquiry into the return is completed; or - if there is no enquiry, the date on which HM Revenue &amp; Customs no longer have power to enquire into the return</p>	The date on which the records were made	Paragraph 9, Schedule 10, Finance Act 2003



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TAX AND ACCOUNTING RECORDS</b>			
	<b>CORPORATE INCOME TAX</b>			
11	<p>Taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions</p> <hr/> <p>Obligation for companies and unincorporated associations that may be required to make a company tax return to retain their records and supporting documents</p>	<p>No specific requirement to retain these records, but to the extent they are required to calculate corporation tax liabilities, they should be retained under the general provision (below)</p> <hr/> <p>The latest of: - the sixth anniversary of the end of the accounting period; - the date any enquiry into the return is completed; or - the day on which the enquiry window for the return closes</p>	<p>The date on which the records were made</p>	<p>Paragraph 21, Schedule 18, Finance Act 1998</p>
	<b>DIVIDEND WITHHOLDING TAX</b>			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes			Although no specific retention periods apply, the obligation itself is found in section 1104 of Corporation Tax Act 2010
	<b>GENERAL CUSTOMS TAX</b>			
13	<p>Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers.</p> <hr/> <p>Obligation on a revenue trader to retain records</p>	<p>Minimum 3 years</p> <hr/> <p>Minimum 6 years</p>	<p>In the case of goods released for free circulation or goods declared for export, from the end of the year in which the customs declarations for release for free circulation or export are accepted. Different start dates apply for goods which do not meet these criteria.</p> <hr/> <p>The date on which the records were made</p>	<p>Article 9, Regulation (EC) No. 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code</p> <hr/> <p>Section 118A, Customs and Excise Management Act 1979</p>
	<b>LOCAL TAXES</b>			
14	Regional and municipal taxes			



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>PAYROLL AND SALARY RECORDS</b>				
15	Obligation to retain records for the purposes of tax returns including wage/salary records, records of overtime, bonuses and expenses	Minimum 6 years	The end of the assessment period	Section 12B Taxes Management Act 1970
	Obligation on unincorporated businesses to retain payroll and wage records	Minimum 5 years	After 31 January following the year of assessment	Sections 12 and 15, Taxes Management Act 1970
	Obligation on companies to retain payroll and wage records	Minimum 6 years	The financial year in which payments are made	Schedule 18, paragraph 21, Finance Act 1998
	Obligation to retain maternity pay records	Minimum 3 years	The end of the tax year in which the maternity pay period ends	Regulation 26, Statutory Maternity Pay (General) Regulations 1986 (SI 1986/1960)
	Obligation to retain sickness records required for the purpose of statutory sick pay	Minimum 3 years	The end of the tax year in which payments are made	Regulation 13, Statutory Sick Pay (General) Regulations 1982 (SI 1982/894)
	Obligation to retain Pay As You Earn ("PAYE") records, (the system for collecting income tax and national insurance contributions from employees' salaries). The relevant records include wages sheets, deductions working sheets and calculations of the PAYE income of the employees and relevant payments to the employees.	Minimum 3 years	The end of the financial year to which the records relate	Regulation 97 Income Tax (Pay As You Earn) Regulations 2003 (SI 2003/2682)
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)	Minimum retention period: see section 15. No specific maximum retention period, general rules apply.		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>HR/EMPLOYMENT/PENSION RECORDS</b>				
18	Employment contract, including personnel and training records, written particulars of employment, changes to terms and conditions	Maximum 6 years after employment ceases	The date that the documents are created	Section 5 Limitation Act 1980 and Data Protection Act 1998
19	Identification documents of foreign nationals (ensuing from the obligation to retain copies of documents used to perform immigration checks)	Minimum 2 years	The date of termination of employment	Section 6(b) Immigration (Restrictions on Employment) Order 2007/3290
20	Business data and documents concerning pension schemes and related subjects (ensuing from obligation to retain records relating to an approved pension scheme or a statutory pension scheme, including accounts and actuarial valuation reports relating to the scheme) Administration regarding pension scheme (by pension administrator and pension association)	Minimum 6 years	From the end of the year in which the accounts were signed	Regulation 15 Retirement Benefits Schemes (Information Powers) Regulations 1995 (SI 1995/3103)
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	See section 20		
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
22	Data of rejected job applicants (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	The legislation does not prescribe a time period <sup>1</sup>	The date the document is received or created	Guidance from The Information Commissioner: Employment Practices Code Part 1: recruitment and selection (1.7.5)
23	Data concerning a temporary worker	Maximum 6 years after employment ceases	The date that the documents are created	Section 5 Limitation Act 1980 and Data Protection Act 1998
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	Maximum 6 years after employment ceases	The date that the documents are created	Section 5 Limitation Act 1980 and Data Protection Act 1998

<sup>1</sup> The Information Commissioner recommends a short period of time, perhaps 6 months after notifying unsuccessful candidates. Longer would be possible if there is a clearly communicated policy to keep candidates' CVs for future reference. (Application forms should give applicants the opportunity to object to their details being retained.)



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	HR/EMPLOYMENT/PENSION RECORDS			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
25	Employee stock purchase and option records	Minimum retention periods may apply, depending on the nature of the scheme. Maximum retention periods may apply, depending on the nature of the scheme.		
26	Copy of identification documents	Minimum retention period: see section 19. Maximum 6 years after employment ceases.	The date that the documents are created	Section 5 Limitation Act 1980
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	Minimum retention period in respect of the documents used to perform immigration checks: see section 19. In respect of other records, the regime relating to UK nationals will apply: see sections 22 - 26. Maximum 6 years after employment ceases.	The date that the documents are created	Section 5 Limitation Act 1980
28	Data concerning pension and early retirement	See sections 18, 20 and 21		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
29	Medical (occupational health & safety company doctor) files, medical documents in cases of a medical treatment contract	Specific statutory rules may apply, for example in relation to asbestos exposure at work. General rules in relation to data protection will apply.		
30	Floor plans and directions	Specific statutory rules may apply, depending on the nature of the business		
31	Work-related medical examinations related to hazardous substances (ensuing from the obligation on an employer who is monitoring employees under health surveillance to maintain the health record for each employee)	Minimum 40 years	The date of the last entry made in the record	Regulation 10(5), Control of Substances Hazardous to Health Regulations 2002, SI 2002/2677
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat (ensuing from the obligation on an employer to monitor exposure of employees to substances hazardous to health to maintain a record of the monitoring, or summary thereof)	Minimum 5 years. Unless the record is representative of the personal exposures of identifiable employees, in which case 40 years.	The date of the last entry made in the record	Regulation 10(5), Control of Substances Hazardous to Health Regulations 2002, SI 2002/2677
33	Register of employees who work with 3rd and 4th category biological agents	Minimum 40 years	The date of the last entry made in the record.	Schedule 3, paragraph 4, Control of Substances Hazardous to Health Regulations 2002, SI 2002/2677
34	Lists/register of employees who have been exposed to asbestos dust, including health records of each employee	Minimum 40 years	The date of the last entry made in the record	Regulation 22(1) Control of Asbestos Regulations 2012, SI 2012/632
35	Administration concerning measurements of radioactive substances	Given that this Retention Guide aims to provide general guidance only, we have not addressed these specific requirements. We would advise businesses operating in this sector to seek further advice.		
36	Records of radiation	Given that this Retention Guide aims to provide general guidance only, we have not addressed these specific requirements. We would advise businesses operating in this sector to seek further advice.		
37	Medical records of employees who have possibly been exposed to ionizing radiation	See sections 31 and 32		



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MEDICAL/SAFETY RECORDS</b>			
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
38	Registration of work and rest periods (in appropriate format) Obligation to retain working time opt-out forms	Minimum retention period: 2 years. No specific maximum retention period, general rules apply.	The date that the records are made	Regulations 5 and 9 Working Time Regulations 1998 (SI 1998/1833)
	Obligation to retain records to show compliance with the Working Time Regulations 1998	Minimum retention period: 2 years. No specific maximum retention period, general rules apply.	After the relevant period	Regulations 5, 7 and 9 Working Time Regulations 1998 (SI 1998/1833)
	Obligation to retain records in relation to hours worked and payments made to workers	Minimum retention period: 3 years No specific maximum retention period, general rules apply.	The day upon which the pay reference period immediately following that to which they relate ends	Section 9, National Minimum Wage Act 1998 Regulation 38 National Minimum Wage Regulations 1999
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	Maximum 6 years after employment ceases	The date that the documents are created	Section 5 Limitation Act 1980 and Data Protection Act 1998

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>TRANSPORT RECORDS</b>			
40	Administration regarding transport of biofuels and biofuels stock control	Given that this Retention Guide aims to provide general guidance only, we have not addressed these specific requirements. We would advise businesses operating in this sector to seek further advice.		
41	Loading or unloading plan (by captain or terminal representative)	Given that this Retention Guide aims to provide general guidance only, we have not addressed these specific requirements. We would advise businesses operating in this sector to seek further advice.		
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity waste and other materials on board)	Minimum: Until at least the next port of call is reached		Regulation 11, Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003/1809



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	The date the manufacturer, importer, downstream user and distributor last manufactured, imported, supplied or used the substance or preparation	Section 49 Regulation 1272/2008/EC Article 36 of the Regulation 1907/2006/EC (REACH)
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 10 years	The date the substance or the mixture was last supplied by that supplier	Article 49 of the Regulation No 1272/2008 on classification, labeling and packaging of substances and mixtures
45	Documents related to an environmental permit	Specific provisions may be applicable, depending on the nature of the permit. In any event, permits should be kept for as long as they are valid, and thereafter for a period sufficient to protect the company's legitimate interests in the event of any potential liability claim or litigation.		
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping) Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal Documents on results of inspections on the discharge of domestic waste water Documents containing audits on radioactivity and all results of measurements taken	Given that this Retention Guide aims to provide general guidance only, we have not addressed these specific requirements. We would advise businesses operating in this sector to seek further advice. Please also see sections 51 - 55.		
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	The date the product was last manufactured	Regulation 9, Ecodesign for Energy-Related Products Regulations 2010/2617
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	The date the product was placed on the market	Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	Given that this Retention Guide aims to provide general guidance only, we have not addressed these specific requirements. We would advise businesses operating in this sector to seek further advice.		
50	Accident reports (ensuing from obligation on an employer to retain records of any reportable accident, death or injury in connection with work)	Minimum 3 years. Maximum: General retention restrictions regarding personal data will apply.	The date the report was made	Regulation 7, Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995/3163
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years	The date when the shipment starts	Article 20 of the Regulation (EC) No 1013/2006 on Shipments of Waste
	Obligation on the transferor and transferee of controlled waste to retain a Transfer Note for consignments of controlled waste	Minimum 2 years	The date of the transfer	Regulation 35(6), Waste (England and Wales) Regulations 2011 (SI 2011/988)
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 months	The date of completion of the carriage in question	Regulation 31, Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009/1348
	Obligation on a carrier of hazardous waste to retain carrier's notes	Minimum 12 months	The date of delivery of the waste to its destination	Regulation 50(2) Hazardous Waste (England and Wales) Regulations 2005 (as amended)



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>ENVIRONMENTAL RECORDS</b>			
53	<p>The operator of a dumpsite must retain the description of the waste materials under certain circumstances. This ensues from the obligation on any person who tips hazardous waste (whether by disposal or storage) on any land to record, identify and retain a record in a register<sup>1</sup></p> <hr/> <p>Obligation on any person who disposes of hazardous waste in or on land (other than a disposal covered by the above), recovers hazardous waste in or on land, or receives hazardous waste at a transfer station<sup>1</sup></p>	<p>If the person does not have a waste permit pursuant to which the site is operated: 3 years. If the person has a waste permit pursuant to which the site is operated: i) 5 years; or ii) until that permit is surrendered or revoked.</p> <hr/> <p>If the person does not have a waste permit pursuant to which the site is operated: until the waste leaves the site and then 3 years thereafter. If the person has a waste permit pursuant to which the site is operated: i) 5 years; or ii) until that permit is surrendered or revoked.</p>	The date of deposit of the waste	<p>Regulation 47(5)(c) - 47(5A) and Regulation 48(6) - 48(6A) Hazardous Waste Regulations 2005 (England and Wales) (as amended by Waste (England and Wales) Regulations 2011/988)</p> <hr/> <p>Regulation 50(2) Hazardous Waste (England and Wales) Regulations 2005 (as amended)</p>
54	<p>The operator of a dumpsite must retain the samples of analysis done on the collected waste materials</p> <hr/> <p>Obligation on an establishment which carries on an exempt waste operation to retain records</p>	<p>Minimum 3 years, if the operation involves the treatment of hazardous waste; otherwise: 2 years</p>	The date of the operation	Regulation 14(4)(a) Environmental Permitting Regulations 2010 (SI 2010/675)
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material ensuing from the general obligation on a producer, holder or consignor of hazardous waste to retain records	Minimum: Whilst the holder of the waste and then for a further 3 years	The date on which the waste is transferred to another person	Regulation 49(3) Hazardous Waste (England and Wales) Regulations 2005 (as amended)
56	Transmission systems operators need to retain all records of quality indicators	Given that this Retention Guide aims to provide general guidance only, we have not addressed these specific requirements. We would advise businesses operating in this sector to seek further advice.		
57	Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC-statement	Minimum 10 years	The date on which the type of equipment was last manufactured	Regulation 7, Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001/1701

<sup>1</sup> The specific details which must be included in the record are set out in the relevant provision of the Hazardous Waste (England and Wales) Regulations 2005, as amended.



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>INSURANCE RECORDS</b>			
58	Insurance policies			Specific provisions may be applicable, depending on the nature of the insured risk. In any event, policies should be kept for as long as they are valid, and thereafter for a period sufficient to protect the company's legitimate interests in the event of any potential liability claim or litigation.

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>MARKETING RECORDS</b>			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	<b>PURCHASING RECORDS</b>			
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes.			See sections 8 and 9
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records			See sections 1 and 8
62	Procurement records			
	<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>			
63	Debtors and creditors records			Minimum retention period: these records should be kept for as long as they are relevant to the operations of the business. No specific maximum retention period: general rules apply (in the likely event that they contain personal data, they should not be retained for longer than is necessary for these purposes).
64	Customers and suppliers records			Minimum retention period: these records should be kept for as long as they are relevant to the operations of the business. No specific maximum retention period: general rules apply (in the likely event that they contain personal data, they should not be retained for longer than is necessary for these purposes).



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>LEGAL FILES/CONTRACTS &amp; AGREEMENTS</b>				
65	Intellectual property records	Minimum: Legislation does not prescribe a time period. However, we would recommend retaining documents for the life of the intellectual property right and for 6 years afterwards.	The date of registration of the intellectual property record	Section 5 Limitation Act 1980
66	Contracts, agreements and other arrangements	Minimum: For the length of the contract or agreement and 6 years afterwards.	The date of execution of the service agreement	Section 5 Limitation Act 1980
67	Permits, licences, certificates	Specific provisions will apply, depending on the nature of the permit, licence or certificate. In any event, such documents should be kept for as long as they are valid, and thereafter for a period sufficient to protect the company's legitimate interests in the event of any potential liability claim or litigation.		
68	Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	Minimum: For the length of the contract or agreement and 6 years afterwards.	The date of execution of the service agreement	Section 5 Limitation Act 1980
69	Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)	Minimum: Legislation does not prescribe a time period. However, we would recommend retaining documents for the life of the service provision and for 6 years afterwards.	The date of execution of the service agreement	Section 5 Limitation Act 1980



	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
<b>OTHER RECORDS</b>				
70	Correspondence  Registers of transfers into other EU countries	Maximum: To the extent that the correspondence contains personal data, it should not be kept for longer than is necessary for the lawful purposes for which such personal data was processed		Fifth data protection principle, Data Protection Act 1998
71	The processing of personal data, if this differs from the process as notified to the DPA			
<b>TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES</b>				
72	Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	No specific maximum retention period, general rules apply		Fifth data protection principle, Data Protection Act 1998
73	Login and logout data of visitors	No specific maximum retention period, general rules apply		Fifth data protection principle, Data Protection Act 1998
74	Camera recordings	Maximum: There is no specified period in the legislation, but the guidance of the Information Commissioner's Office confirms that images should not be kept for longer than strictly necessary to meet the organisation's purposes in recording them. On occasion, an organisation may need to retain images for a longer period where a law enforcement body is investigating a crime.		Fifth data protection principle, Data Protection Act 1998



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