



*Securing electronic
records for the
Evidence Act*

1. Why is it important?

Many business and financial records are now electronic or are being converted from hardcopies to digital records. Organisations may need to consider if such electronic records can be used in Singapore courts.

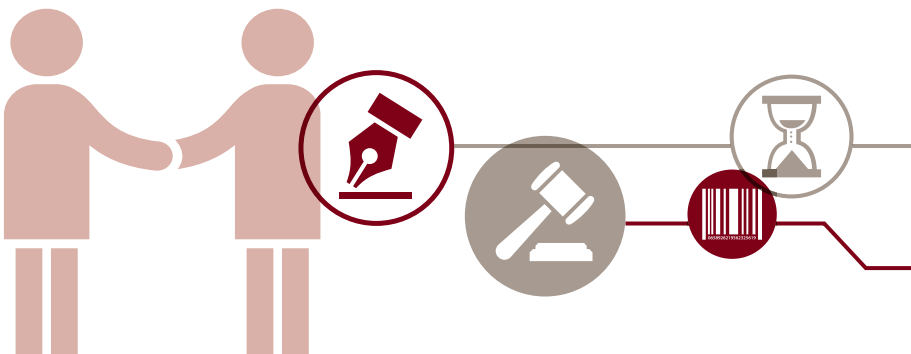
How can electronic records be used as evidence in courts?

The admissibility of electronic records as evidence in Singapore courts is governed by the Evidence Act (Cap 97) ('the Act'). Section 116A of the Act contains certain presumptions, which a party seeking to use electronic records as evidence in court may rely on. In particular, the court will presume the authenticity of electronic records if certain conditions are met and there is no conflicting evidence to the contrary. Generally, given the nature of electronic records, it would likely be challenging to prove the authenticity of the electronic records without relying on the presumptions in the Act.

One of the conditions for relying on the presumptions mentioned above is as follows:

- ✓ Using a certified imaging system (known as an “approved process” under the Act) which has been certified by an independent body appointed by the Ministry of Law (known as a Certifying Authority under the Act) as reasonably ensuring the accurate conversion of physical documents to electronic images.

If your organisation faces higher litigation risks, you may want your electronic record-keeping systems to be certified as an “approved process” for the purposes of relying on the presumption in Section 116A(6) of the Act.



2. What is on your mind

Q Is it mandatory?

A No, it is not a mandatory requirement for electronic record-keeping systems to be certified as an “approved process” by a Certifying Authority (commonly known as Evidence Act certificates). However, such certificates may be helpful and relevant if your organisation intends to use electronic records as evidence in Singapore courts by relying on the presumptions in Section 116A(6) of the Act.

Q I want to save storage space. Can I keep only digital copies eligible for use in courts?

A You would need to ensure that your electronic records and record-keeping systems meet the conditions for relying on the presumptions set out in section 116A of the Act. Please do seek advice from your legal advisers on this issue.

Q What is the frequency of certification?

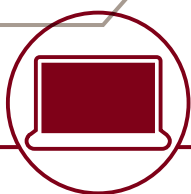
A You will need to be initially certified once annually for the first three years and once every two years thereafter.

Q If my documents are scanned by an imaging system which is certified by a Certifying Authority, can I rely on the presumption in Section 116A(6) of the Act?

A Yes, under the Act, the Singapore courts will presume that electronic records recorded or stored on documents imaged using an “approved process” are authentic, as long as there is no conflicting evidence indicating otherwise.

Q After obtaining “approved process” certification, do I need to re-certify my electronic record-keeping system if my office is to relocate?

A Yes, the certification is tied to the physical site where the image system is located, and re-certification would be necessary if the location changes.





3. When to act?

- ✓ Are you looking for ways to reduce the cost of keeping and maintaining physical records?
- ✓ Do you foresee needing your electronic documents as evidence in courts?
- ✓ Would you need your electronic documents to be part of your business continuity plan?

4. How we can help

PwC is a Certifying Authority appointed by the Ministry of Law. As a Certifying Authority, PwC can certify that an electronic record-keeping system is an “approved process” for the purposes of the presumption in Section 116A(6) of the Act.

We have extensive experience in helping organisations from various industries to prepare for and obtain Evidence Act certifications. We are well-equipped to guide you through this journey and share with you the common pitfalls to avoid.

Contact us



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