

Grand-ducal Regulation of 25 July 2015 on the dematerialisation and conservation of documents

(Mémorial A – No 150 of 4 August 2015)

Article 1. Copies with probative value

Copies with probative value are copies:

- a. made according to a process which neither alters nor interprets the information included in the original, but only creates an identical image of that original;
- b. made systematically and without flaws;
- c. made in accordance with the working instructions which are maintained as long as the copies; and
- d. stored with care, in systematic order, and protected against any alteration.

Article 2. Dematerialisation

The authenticity of the copy with probative value shall be guaranteed. To that end, the transcript process shall not alter the content and appearance of the original; each probative copy shall systematically include the date and time of its creation, the detailed and up-to-date history of the probative copy shall be available at all times.

Article 3. Electronic conservation

(1) Copies with probative value and digital originals shall be sustainable. The copies with probative value and the digital originals fulfilling this condition are those which:

- a. are stored so as to avoid any modification or alteration; or
- b. are registered as soon as they are created in a computer-based document which is secured or electronically signed within the meaning of Article 1322-1 of the Civil Code.

(2) If, for any reason, the copies with probative value or the digital originals are transferred from one digital medium or format onto another, the holder shall prove their concordance.

(3) The systems used for electronic conservation of copies with probative value and digital originals shall:

- a. include the safety measures necessary to avoid any modification or alteration; and
- b. allow the return, at any time, of the documents in a format which is immediately readable and which guarantees fidelity to the original.

Article 4. Copy with probative value through micrography

The work shall be supervised by the holder or by a person s/he mandates for this purpose. The copies with probative value shall allow the determination of the photographing order.

The different photographing stages shall be carried out strictly according to the process laid down in the work instructions provided for in Article 1.

The indexing and tracking of the copies with probative value shall allow access to the image of an original within a reasonable time frame.

Photographing shall be subject to a report which includes the following information:

- a. nature and subject of the originals;
- b. date of the photograph;
- c. name of the operator in charge; and
- d. statement that the originals were microfilmed in a complete and regular manner without any alteration.

This statement, signed by the operator in charge, shall be maintained unless it is photographed after microfilming the originals.

The copy with probative value shall be perfectly readable. The fidelity of the copy with probative value shall be verified before destroying the original.

The copy with probative value shall involve an irreversible change of the medium.

The copy with probative value shall always be available for viewing by the people who have access to the information it contains.

Article 5. Repealing provision

Grand-ducal Regulation of 22 December 1986 adopted pursuant to Article 1348 of the Civil Code and Article 11 of the Commercial Code is repealed.

The documents and copies made based on the regulatory provisions adopted pursuant to Article 1334 of the Civil Code or Article 16 of the Commercial Code and applicable before the entry into force of this regulation shall keep the probative value they received under these regulatory provisions.

Article 6. Entry into force

This grand-ducal regulation shall enter into force on the first day of the third month following its publication in the Mémorial.

Article 7. Binding provision

Our Minister of Economy shall execute this regulation, which shall be published in the Mémorial.