

# Records Retention: Austria

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A Q&A guide providing a high-level overview of key records retention requirements relating to personal data in Austria. It addresses governing laws, authority guidance, and sector-specific requirements. This Q&A does not address every records retention obligation under Austrian laws.

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## Data Protection Law and Authority Guidance

1. Does the data protection law address retention of records that contain personal data? If so, what does the law require?

The [EU General Data Protection Regulation \(Regulation \(EU\) 2016/679\)](#) (GDPR), which applies directly in Austria, requires companies to keep [personal data](#) in a form permitting identification of [data subjects](#) for no longer than necessary to fulfil the [processing](#) purposes (Article 5(1)(e), GDPR).

The Austrian [Data Protection Act \(2018\)](#) (DSG) does not impose any additional records retention requirements.

For more on Austrian data protection law, see [Country Q&A, Data Protection in Austria: Overview and Practice Note, Austrian Implementation of the GDPR](#).

2. Does the data protection law require disclosure of the records retention periods or any other information related to records retention in a privacy notice directed to data subjects?

The [EU General Data Protection Regulation \(Regulation \(EU\) 2016/679\)](#) (GDPR), which applies directly in Austria, requires [controllers](#) to include in a privacy notice the storage period for personal data, or if this is not possible, the criteria used to determine retention periods (Articles 13(2)(a) and 14(2)(a), GDPR).

The Austrian [Data Protection Act \(2018\)](#) does not impose any additional privacy notice requirements related to records retention.

3. Has the data protection authority issued any binding or non-binding guidance on personal data retention?

The [Austrian Data Protection Authority](#) has not issued any guidance on personal data retention.

4. What key laws (other than the data protection law) regulate retention of employee personnel records or records containing employee personal data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The following Austrian laws regulate retention of employee personnel records or records containing employee personal data:

- To comply with the [Administrative Penal Act](#), employers should maintain immigration checks, visas, work permits, and other similar documents issued under the [Employment of Foreign Workers Act](#) (in German) for three years after termination of employment, which corresponds with the applicable statute of limitations for penal liability for administrative offenses (Section 31(2), Administrative Penal Act).
- To comply with the [General Social Security Act](#) (in German), employers should retain social security documents for at least five years after they have paid the applicable social security contributions, which corresponds with the applicable statute of limitations to claim established contribution debts (Section 68, General Social Security Act).
- To comply with the [Equal Treatment Act](#) (in German), employers should retain documents related to the rejection of an employee's application or promotion for six months, which corresponds with the six-month statute of limitations for claims alleging a violation of the Equal Treatment Act's equal treatment requirements (Sections 12(1), (5) and 15(1), Equal Treatment Act). It is recommended that employers retain these documents for at least seven months to ensure receipt of any claims.
- To comply with the [General Civil Code](#) (in German), employers should retain employment-related documentation, such as employment agreements, bonus arrangements, and pay slips, for three years after an employee's termination unless a longer retention period applies, which corresponds with the three-year

statute of limitations for employment-related claims such as remuneration or compensation claims (Sections 1478 and 1486, General Civil Code).

- The General Civil Code and [Act on White Collar Workers](#) (in German), which require employers to provide employees with a written reference on request for 30 years after employment is terminated (Section 1478, General Civil Code). Unless otherwise agreed, the employee is only entitled to receive a basic job certificate containing:
  - the employee's name, birthdate, and address;
  - the employer's company name and address;
  - the duration of employment; and
  - a job description.

Only the above-referenced data must be kept for the 30-year period (Section 1163, General Civil Code; Section 39, Act on White Collar Workers).

- The [Act on Working Hours](#), which requires employers to retain drivers' working time records for at least 24 months from the date they were recorded (Section 17b, Act on Working Hours).
- The [Act on Employee Leasing](#) (in German), which requires lessors to retain the following data for five years:
  - the employee's name, social insurance number, birthdate, gender, nationality, and job position;
  - the lessee's name, address, VAT number, and legal representative; and
  - the lease's duration.

(Section 13, Act on Employee Leasing.)

5. What key laws (other than the data protection law) regulate retention of customer records or records containing customer personal data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The following Austrian laws regulate retention of customer records or records containing customer personal data:

- The [Commercial Code](#) and [Federal Fiscal Code](#) (both in German), which require businesses to retain documents related to bookkeeping and fiscal purposes and business letters for seven years after the end of each calendar year (Sections 190 and 212, Commercial Code; Section 132, Federal Fiscal Code).
- To comply with the [Product Liability Act](#), a party putting products into circulation should retain customer-related information for ten years, which corresponds with the ten-year statute of limitations for retailers' product defect claims (Section 13, Product Liability Act).

## Retention of Personal Data Under Corporate Law

6. What key corporate laws regulate retention of records containing personal data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The [Commercial Code](#) and [Federal Fiscal Code](#) (both in German) require businesses to retain documents related to bookkeeping and fiscal purposes and business letters for seven years after the end of each calendar year (Sections 190 and 212, Commercial Code; Section 132, Federal Fiscal Code).

Businesses must specifically retain:

- Books.
- Inventories.
- Opening balance sheets.
- Annual financial statements, including management reports.
- Consolidated financial statements, including management reports.
- Business correspondence received, including emails.
- Copies of business correspondence sent.
- Accounting receipts for entries in the books.

(Section 212, Commercial Code.)

## Retention of Financial Information

7. What key laws (other than the data protection law) regulate retention of personal financial information? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The following Austrian laws regulate retention of personal financial information:

- The Financial Market Money Laundering Act (in [German](#) and [English](#) for information purposes only), which requires credit and financial institutions to retain copies of transaction documents, related records, and documents and information received relating to the identification of customers, including electronic means for identification purposes and relevant trust services under [Regulation \(EU\) 910/2014 on electronic identification and trust services for electronic transactions in the internal market](#), for ten years after termination of the business relationship with the client, or after the time of an occasional transaction (Section 21, Financial Market Money Laundering Act).
- The Beneficial Owners Register Act (in [German](#) and [English](#) for information purposes), which requires legal entities to retain copies of documents related to their due diligence of beneficial owners for at least five years after ownership ends. Legal entities may fulfill this obligation by submitting a complete compliance package to the register. (Sections 3 and 5a, Beneficial Owners Register Act.)
- The Payment Services Act 2018 (in [German](#) and [English](#) for information purposes), which requires payment services providers to retain all relevant records and receipts for at least five years (Section 24, Payment Services Act 2018).
- The Securities Supervision Act 2018 (in [German](#) and [English](#) for information purposes), which requires legal entities to retain recordings of telephone calls and electronic communications related to receiving, transmitting and executing client orders for production on a client's request for at least five years. The Financial Market Authority may require a longer retention period of up to seven years. (Section 33, Securities Supervision Act 2018.)
- The [Mortgage and Real Estate Credit Act](#) (in German), which requires lenders to define, document, and retain information used to assess a consumer's creditworthiness. However, a required retention period is not specified. (Section 9, Mortgage and Real Estate Credit Act.)
- The [Account Register and Account Inspection Act](#) (in German), which requires credit institutions to automatically keep a register of accounts available for electronic inspection by specified legal and tax authorities. Each search and transmission of the register of accounts must be recorded and retained for ten years from the end of the year in which the related account is closed, then deleted. (Section 5, Account Register and Account Inspection Act.)

Only German versions of the above-referenced laws are binding and up to date.

## Retention of Personal Data Under Healthcare Law

8. What key healthcare laws regulate retention of records containing personal health data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The following Austrian healthcare laws regulate retention of records containing personal health data:

- The [Medicinal Products Act](#) (in German), which requires medical researchers to retain all data related to clinical trials for 15 years (Section 46, Medicinal Products Act).
- The [Medicinal Product Manufacturer Operational Regulations 2009](#) (in German), which require medical product manufacturers to retain all records, reports, and documents for five years (Section 15(1), Medicinal Product Manufacturer Operational Regulations).
- The [Human Tissue Safety Act](#) (in German), which requires tissue collection facilities to retain documents:
  - related to the removal of human tissue for at least ten years; and
  - necessary for complete traceability for 30 years.

(Sections 5 and 16(5), Human Tissue Safety Act.)

- The Human Tissue Safety Act also requires users responsible for the use of human cells or tissues on humans, including hospitals, doctors, and dentists, to retain documents related to such use in a data archive for at least 30 years (Section 32, Human Tissue Safety Act).
- The [Insurance Contract Act](#) (in German), which requires insurance providers to immediately delete any personal health data collected if they cannot legally store it for a longer period (Section 11d, Insurance Contract Act).

## Retention of Personal Data Under Insurance Law

9. What key insurance laws regulate retention of records containing personal data? Under each law:

- What records are subject to regulation?
- What is the required retention period?

The [Insurance Contract Act](#) (in German) sets out the following statutes of limitations for claims arising under an insurance contract:

- A three-year statute of limitations for third-party claims when the third party is aware of its rights to a benefit from the insurer.
- A ten-year statute of limitations for third-party claims when the third party is not aware of its rights to a benefit from the insurer.

(Section 12, Insurance Contract Act.)

However, the Insurance Contract Act does not specify a required retention period for claim-related documents.

## Other Applicable Laws

10. What other key laws not specified above regulate retention of records containing personal data?

Under each law:

- What records are subject to regulation?
- What is the required retention period?

There are no other key Austrian laws that regulate retention of records containing personal data.

## Key Exceptions

11. Are there any key exceptions to the required retention periods provided above (for example, exceptions that permit a longer retention period when necessary to establish, exercise, or defend legal claims)?

Based on the statutes of limitations set out in the [General Civil Code](#) (in German), organization may retain personal data for longer than legally required:

- To exercise or defend legal claims if:
  - there are concrete indications that an exercise or defense will be necessary, such as an imminent lawsuit; and
  - the data is required for proof.
- For the duration of an ongoing judicial or extrajudicial process.

Statutes of limitations in Austria are generally between 3 and 30 years depending on the underlying claim. Organizations can store personal data that may be necessary as evidence to exercise or defend legal claims for the applicable statute of limitations.

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