



**THE NEW LAW ON ARCHIVAL MATERIAL –
INCREASED FINES**

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INTRODUCTION

The new Law on Archival Material and Archival Activities (“Official Gazette of the Republic of Serbia”, No. 6/2020), in application as of 2 February 2021, does not stipulate the reporting requirement of the Archive Book for the first time (the same obligation existed in previous law), however it does regulate in more detailed manner the system of protection of archival material and documentary material, conditions, their use, organization and impose additional obligations and conditions for obligors.

The fines for non-compliance with the obligations in this new Law have been increased in comparison to the previous law and hence the failure to comply with obligations prescribed by the new Law represent misdemeanour, per breach, to be fined in amount from RSD 50,000 to RSD 2,000,000 for legal entities, and from RSD 5,000 to RSD 150,000 for responsible person in a legal entity.

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The deadline for submission to the competent public archive of the transcript of the Archive Book for previous 2020 year is 30 April 2021 (for those who have regularly complied with this obligation), while others should comply and submit the Archive Book as of incorporation, together with the other documentation on establishment and contact data on appointed person responsible for archive.

The obligors of the Law are creators and holders of archival material and documentary material, and they have to:

1. Adopt general act on the manner of recording, classification, archiving and storage of archival material and documentary material,
2. Adopt List of categories of archival material and documentary material, with storage deadlines and obtain approval of the competent public archive on this document,
3. Adopt general act on the method of recording, protection and use of electronic documents.

OBLIGATIONS

Also, there is obligation to duly keep the material in safe and adequate state in the form in which it originated as well as:

1. to secure adequate space and equipment for storage and protection of archival material and documentary material;
2. to appoint responsible expert for the protection and handling of archival material and documentary material;
3. to evidence, mark, classify, date and archive the archival material and documentary material;
4. to submit the archival material to the competent Archive under terms and in deadlines as prescribed by the law;
5. to secure for permanent storing of archival material in electronic form, its maintenance, migrating, and transfer to new media in prescribed formats until its submitting to the competent public archive;
6. to keep Archive Book on prescribed form;
7. to submit the transcript of the Archive Book at latest until 30 April of the current year, for documentary material created in previous year,
8. to obtain the opinion of the competent archive, before taking any measures regarding archival material and documentary material, such as status changes, relocation, adaptation of space, initiation of bankruptcy procedure, liquidation procedure, digitalization, microfilming etc.
9. 9) to select the archival material and separate for destruction of worthless whose storage period has been expired, one year as of the date of expiry of determined deadline;
10. 10) to enable the authorized person of the public archive the supervision of evidencing, classification and protection of archive material and to comply with the measures and deadlines established by the decree of the public archive;
11. 11) to report to the competent public archive on all changes that are of importance for the archival material within 30 days.



The companies are also obliged to provide professional training and development, as well as verification of professional competence of employees who manage documents.

Creator of material in electronic form is obliged to undertake procedures for management of data and documents and to use information system which guarantee the protection, authenticity, integrity and usability of electronic documents.

It shall also adopt a plan of measures for protection of archival material and documentary material in case of risk of disasters and emergency situations in accordance with the Law and shall be obliged to implement all protection measures determined by the Plan of measures.

If an emergency situation occurs, the creator is obliged to state the minutes the day, hour and circumstances that have arisen and to inform the competent archive in writing without delay.

Creators and holders of the archival material and documentary material are obliged to inform the competent archive about its incorporation, as well as about all changes of their status and organization, i.e. change of status/name, organization, address, cessation of activities, no later than 30 days as of the day of such occurrence.