

On 16 February 2015, the Directorate General of Registers and Notaries (DRN) Instruction was published in the Official State Gazette, unifying the criteria applicable to the legalization of ledgers. The new guidelines imply a significant change compared with the procedure previously in place, since, as the Law 14/2013, dated 27 September, to support entrepreneurs and their internationalisation (the Entrepreneurs' Act) established, the mandatory ledgers for companies must be electronically submitted and legalized in the Mercantile Register in the four months following the end of the financial year.

Until the Instruction was published, some Mercantile Registers had accepted presentation in hard copy and the traditional legalization of ledgers that was mandatory for companies. However, henceforth companies must now comply with the Instruction, the goal of which is to unify the interpretation criterion and establish a series of principles according to which the legalization of ledgers must be performed.

The new elements include, most notably, the following:

- The new electronic legalization system is mandatory for all kinds of companies' ledgers (Daily Ledger, Record of Minutes Ledger, Annual Accounts, etc.) with respect to the years open as from 29 September 2013, when the Entrepreneurs' Act entered into force. It is worth highlighting that electronic submission is mandatory, so Mercantile Registers will no longer accept any other method of presentation.
- There is a period of four months from year-end for electronically submitting and certifying the ledgers via the Registradores de Espana [website](#). If documents are submitted outside the deadline, this does not preclude their legalization, but the Mercantile Registrar will make a record of the delay.
- The electronic means mentioned in Article 18 of the Entrepreneurs' Act must meet the technical specifications set forth in the Appendix to the Instruction in respect of the format and contents of the electronic files submitted to the Mercantile Register containing the corresponding ledgers.

- From 2014 onwards, it shall not be possible to certify blank ledgers for later use, or ledgers that have not been bound, are blank, and have movable pages. Nevertheless, the Instruction provides a transitional period in respect of the years starting later than 29 September 2013 and closing up to 31 December 2014, since there is some leeway when, exceptionally, and for a "just cause", it has not been possible for the company to present the ledgers electronically, and they will be allowed to submit hard copy of the ledgers in bound pages. Likewise, if, in the event of technical issues, it is not possible to present the files electronically, it shall also be possible to exceptionally present the ledgers in the Mercantile Register on data storage devices.
- Ledgers bound with blank pages already legalized may only be used for bookkeeping, contracts and minutes for the financial years open before 29 September 2013. Once that financial year has ended, all such ledgers must be signed off using a procedure that provides proof of their closure.
- All minutes of the meetings of the collegiate bodies of mercantile companies, and all decisions adopted by a sole shareholder, in respect of the financial years started from 29 September 2013, must be electronically compiled and submitted for legalization in the four months immediately following the end of the financial year. At any time during the financial year it shall be possible to certify the ledgers containing detailed minutes, including minutes from the current year for evidence or any other purpose, and without prejudice to these minutes being necessarily included in the Record of Minutes Ledger for the entire financial year. Furthermore, the Instruction expressly accepts the electronic legalization of the records of minute's ledger for a specific year, even when those of the previous years have not been electronically legalized.
- Blank stakeholders' ledger or ledger of registered shares may be used for legal transactions on shares conducted prior to 29 September 2013. From that date onwards, a similar procedure as for the record of minute's ledger shall be followed, including the closing inscription, which must be attached to pre-legalized blank ledgers.
- Companies that have not yet legalized their ledgers since their incorporation may now electronically submit all their minutes and any other record as from their incorporation date.

In short, the Instruction provides that it shall be mandatory to electronically legalize companies' ledgers, which should have special consideration in particular in regard to the responsibility of the company's directors, since they are responsible for keeping proper accounts and for correctly adopting company resolutions. Specifically, the obligation to electronically certify ledgers may be significant in respect of insolvency proceedings, since it may have an impact on the insolvency proceedings' classification as tortious pursuant to Article 164.2.1 of Spain's Insolvency Act 22/2003, dated 9 July.