



NEWSLETTER 9/2017

Changes to the Czech Trade Licence Act
2017

Novelization of the Czech Trade law 2017

- **The novelization of the Czech Trade Licence Act**, i.e. the Act No. 289/2017 Coll., by which the Act No. 455/1991 Coll., (the “Act“ or the “TLA”) and the Act No. 634/2004 Coll., on administrative fees, are amended, **became effective as of 30th September 2017.**

- **The aim of the new legislation** is to:
 - (i) improve the business environment in the Czech Republic, particularly by:
 - a) the reduction of the administrative burden of the entrepreneurs;
 - b) the creation of an equal status of various business groups in terms of regulations relating to trade bans;

 - (ii) ensure better data accessibility for the general public concerning entrepreneurs registered in the Trade Register (data issue);

 - (iii) improve the existing legislation with respect to the application process (e.g. more detailed regulation for the issue of rules relating to local markets, increased responsibility of so-called central register points, introduction of a clear definition of the term “address”).

I. IMPROVEMENT OF THE BUSINESS ENVIRONMENT IN THE CZECH REPUBLIC

A. Reduction of the administrative burden of the entrepreneurs

- The new legislation **abandons**:
 - (i) the existing **obligation of the entrepreneurs to provide** to the trade authority **identification data** relating to **its statutory body** or its members, when applying for a new trade licence; these entrepreneurs shall not be furthermore obliged to fulfil the obligation to provide the date of the establishment of the function of the statutory body or its members;
 - (ii) the existing **obligation of entrepreneurs to provide** to the trade authority the **identification data** relating to the **heads of its branches**, when applying for a new trade licence.
- **Trade authorities** will be now obliged to obtain the above stated identification data **directly** (either by viewing in the respective Public Register or from the information sent to a trade office by the Register Court).
- New legislation should contribute not only to the reduction of the administrative burden of the entrepreneurs, but also to the **unification** of the scope of the registered data in the Trade Register and other Public Registers.

B. Trade licence bans

- The new legislation addresses particularly the regulations of the **trade bans** (*překážky provozování živnosti*) based on the **decision of the trade authority, by which the trade licence had been cancelled pursuant to Sec. 58 (2) or (3) TLA**, i.e. due to gross violation of the TLA, other legislation or the conditions of the trade licence.
- The new legislation redefines **the scope of the limitations to operate a trade licence activity** and unifies **the time duration of the limitations** for all affected business groups.
 - (i) **Scope of the limitations:**
 - a) Pursuant to existing legislation an **entrepreneur** whose trade licence **had been cancelled** by the decision of the trade authority **pursuant to Sec. 58 (2) or (3) TLA**, was not only obliged to cease the operation of the cancelled trade licence activity for the statutory prescribed period, but also unauthorised to operate any other **related** trade licence activity. Moreover, certain groups of entrepreneurs were able to apply for a new trade licence (concession) concerning a completely different trade licence activity after 1 year from the cancellation.
 - b) The new legislation **banishes** the existing limitations for the related trade licence activity and sets out that the licence ban will now apply **only to operation of the same trade!**

(ii) **Length of the limitation:**

- a) According to the new legislation all entrepreneurs will be **banned to carry out the same trade licence activity** for the period of **3 years** from the day the cancellation of the licence by the trade authority.
 - b) The new legislation thus removes the existing differences in the duration of the ban set out for particular business groups.
- The rule of the ban of the **same** trade licence activity (opposed to the ban of all related trade activities) will also apply to entrepreneurs whose licence had been cancelled by a decision of **a court or other administrative body**.

II. DATA ISSUE

- The new legislation embodies the possibility to **issue data files** from the Trade Register with the aim of enabling sufficient access of the general public to basic data of entrepreneurs.
- The trade authority will issue the data file from the public section of the Trade Register **on the basis of an application** (whoever the applicant!) and the file may be issued either in hard copy or electronic format. These data will always be current (and no historical).

- **The data excerpt** shall comprise only basic identification data of the entrepreneur (i.e. name, surname, or business firm, registered address and identification number) and if requested, also the **scope of trade licences issued** and **location of branches**.
- The applicant is allowed to use the data **only for his own purposes**, (e.g. in order to obtain a contact to an appropriate business partner), **but is not allowed to republish the data or to pass onto third parties!**
- The data excerpt related to one entrepreneur will be subject to **CZK 5 administrative fee** (regardless of the size or format of the file).

We hope the above summary will ease your orientation in the new legislation. We are available for any of your additional requests or information or legal assistance in the area.

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