

99050012163000

Trade prohibition

Heruntergeladen am 26.06.2025

<https://fimportal.de/xzufi-services/6000672/L100009>

Modul	Sachverhalt
Leistungsschlüssel	99050012163000
Leistungsbezeichnung I	Trade prohibition
Leistungsbezeichnung II	Trade prohibition
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Sachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	

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Fachlich freigegeben durch

Handlungsgrundlage

Teaser

If the trader is unreliable with regard to a trade being practised, the competent authority is obliged to prohibit the trade in whole or in part if this is necessary to protect the public or those employed in the business.

Volltext

Trade prohibition due to unreliability in accordance with Section 35 of the Trade Regulation Act (GewO)

If the trader is unreliable with regard to a trade being practised, the competent authority is obliged to prohibit the trade in whole or in part if this is necessary to protect the public or those employed in the business.

In particular, persistent arrears or late payments to the tax office or health insurance companies can lead to the competent authority initiating proceedings to prohibit the business in question from trading. Delinquent entrepreneurs are unreliable under trade law if they violate public obligations as traders.

The trade can be prohibited:

- the trader,
- their authorised representatives and
- Persons authorised to manage the business.

Depending on the activities to which the unreliability relates, individual or all trades may be affected by the prohibition.

Revocation of the trade licence

The trade prohibition under Section 35 GewO applies to trade activities that do not require a licence. If a licence is required to carry out the trade (examples: Security companies, insurance brokers, auctioneers, estate agents), the competent authority can revoke the licence if the trader is unreliable.

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Insolvency

If a company is insolvent, the authority may not initiate or pursue trade prohibition proceedings or licence revocation proceedings in relation to the trade that was being exercised at the time of the insolvency application. This applies during:

- the insolvency proceedings
- the opening of insolvency proceedings (insofar as protective measures have been ordered)
- the implementation of an insolvency plan

Trade law regulations that would otherwise lead to the prohibition of a trade in the event of disorderly financial circumstances are suspended during this period.

Erforderliche Unterlagen
Voraussetzungen

According to established case law, anyone who cannot guarantee that they will carry out their trade properly in the future is unreliable.

A person who is unwilling or unable to guarantee the proper conduct of their trade in the public interest is not deemed to be carrying out their trade properly.

Reasons for prohibition (examples):

- Violation and/or disregard of tax and social security obligations
- lack of economic will to perform and lack of a sense of professional responsibility
- Inability to ensure proper business operations; lack of economic capacity (lack of financial resources)
- disorganised financial circumstances
- Submission of an affidavit of assets / arrest warrant to enforce an affidavit of assets
- Criminal or misdemeanour proceedings

Kosten

- EUR 202.00 to EUR 1,951.00
- Fees and costs in connection with required cancellations

Verfahrensablauf

The competent authority informs the persons

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concerned in writing that proceedings have been initiated to prohibit the trade.

- The supervisory authorities and chambers will be consulted prior to the prohibition.
- The parties concerned are informed in detail of the facts ascertained. They are given the opportunity to comment on the facts of the case (in writing or for the record at the authority).
- If the facts prove to be correct, the authority issues an order prohibiting the exercise of the trade.
- Those affected will receive a written notification of the order. This will expressly refer to the possibility of lodging an objection ("information on legal remedies").

Note: If there is imminent danger, the hearing may be omitted; in any case, the named authorities will be informed.

Ordering immediate execution

- If the competent authority orders immediate enforcement, the suspensive effect of an objection is cancelled - the commercial activities concerned must be stopped immediately and the business must be deregistered.
- At your request, the competent administrative court may restore the suspensive effect of the objection.

Suspension of enforcement

- You can apply to the competent authority or the appeal authority (Saxony State Directorate, offices in Chemnitz, Dresden and Leipzig) to suspend enforcement.

Substitute continuation

- Upon application, the competent authority may authorise the continuation of the business by a deputy who ensures the proper management of the business.

Applying for re-authorisation

- If the facts that led to the trade being prohibited no

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	longer apply, the competent authority may, at the request of the person concerned, authorise the prohibited trade to be exercised again at a later date.
Bearbeitungsdauer	
Frist	<ul style="list-style-type: none"> • Comments on the facts of the case: within 14 days of notification • Objection to the prohibition order: within one month of notification (in writing or for the record at the competent authority) • Application for re-authorisation to exercise the trade: after one year at the earliest (in exceptional cases earlier)
weiterführende Informationen	
Hinweise	<p>Legal consequences of a trade licence</p> <p>The trade ban applies throughout Germany. As of the date of legal force ("notice of legal force" on the prohibition order), the business operation must be discontinued and duly deregistered. Other laws (e.g. the GmbH Act) may impose further reporting obligations.</p> <ul style="list-style-type: none"> • Intentional or negligent violations of a prohibition order can be penalised with a fine of up to EUR 5,000. • Anyone who persistently, wilfully or negligently violates a prohibition order is liable to imprisonment or a fine. • A legally binding prohibition order is entered in the central trade register at the Federal Office of Justice.
Rechtsbehelf	no information
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	