



## Luxembourg Newsflash - 21 July 2023

### Modernisation of law regulating access to professions of craftsman, trader, manufacturer and certain liberal professions

Parliament adopted a set of amendments to the law of 2 September 2011 regulating access to the professions of craftsman, trader, manufacturer, and certain liberal professions, as amended.

On 21 July 2023, Parliament adopted a set of amendments to the law of 2 September 2011 regulating access to the professions of craftsman, trader, manufacturer, and certain liberal professions, as amended (**Law**).

The amendments to the Law reflect the changes in the regulatory, economic, technical, technological, entrepreneurial and craft domains that have taken place in recent years. By stimulating entrepreneurial activity and simultaneously guaranteeing the quality of services, these amendments mark a decisive step towards modernising the right to establish a business.

#### The main changes introduced by the Law are the following:

- 1. Addition of disqualifying criteria to the assessment of the professional integrity condition.** More specifically, the Law introduces limitations to the scope of the behaviour or actions taken into consideration in the assessment and also inserts clarifications with respect to certain existing provisions.
- 2. Introduction of the second chance principle.** In practical terms, the Law introduces the possibility of starting a second undertaking after bankruptcy through the second chance principle. This second chance is granted in the event that the relevant manager proves that the bankruptcy of the former business was directly due to (i) a natural disaster, (ii) the unintentional destruction of the production site or production equipment, (iii) loss of a vital customer, (iv) a major public works project, (v) the manager's medically certified partial or total incapacity to work, (vi) a government-recognised pandemic or (vii) loss of profitability following a major market disruption (applicable only if the bankruptcy was declared by the trader).
- 3. Removal of the obligation for the holder of the business licence to be a partner, shareholder or employee of the business.** If the business is in the name of an individual, the business licence may now be held by the person who is the owner of the business. In the case of a company (*société*), the person in whose name the business licence application is made must be a representative (*mandataire*) of the company and must be indicated as such in the Trade and Companies Register (*Registre de*

Commerce et des Sociétés).

4. **Limit on the number of business licences that can be held by an individual for craft activities.**  
The Law provides rules on the number of business licenses that an individual can hold at the same time for several craft companies, limiting it to two if the companies are not part of the same group, unless the individual holds, directly or indirectly, at least 25% of the shares in each company.
5. **Introduction of an additional list of craft activities not requiring professional qualifications.** A new List C is introduced in the Law, detailing additional craft professions that do not require a specific professional qualification.
6. **New recognition of certain activities by creating stipulations for specific business licences.** Examples are business licences for commercial vehicle sales activities and services, subject to anti-money laundering control, or activities relating to high-value movable property.
7. **New framework for short-term rental activities.** The Law now regulates short-term real estate rental businesses based on a certain threshold of overnight stays, aiming to meet the health and safety requirements already in place in the hotel sector.
8. **Facilitating the transfer of businesses carrying out List A craft activities. In case of death, occupational disability, proven incapacity or retirement of the holder of the business licence,** the Law reduces the eligibility period for a provisional transfer of the business licence to another employee of the relevant business from 10 to 3 years, during which such employee must have worked in the business carrying out the List A craft activities.
9. **Facilitation of administrative procedures.** The Law introduces the automation of inter-administration exchanges, which notably removes the requirement to notify the Minister for Small and Medium-Sized Businesses (*Ministre des Classes Moyennes*) of amendments to any of the information entered in the Trade and Companies Register.
10. **Strengthening consumer protection.** Consumers will have real-time access to information relating to the professional qualifications of the holder of the business licence, as well as to the validity period of the relevant licence.

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