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Trade - Request temporary continuation without qualified substitution

After the death of a trader, a trade may be carried on for the account of

- of the surviving spouse or civil partner,
- the minor heir during the minor age, or
- the executor, administrator or executrix of the estate for a period of up to 10 years, as a rule, only a qualified representative may continue to operate the business.

However, upon application, the competent authority may temporarily allow the trade to continue to be operated without a qualified representative for a period of one year after the death of the trader.

Special regulations exist for individual trades (for example craft trade or catering trade); they remain unaffected.

Procedure:

1. Immediately after the death of the trader, you apply to the competent authority for the intended continuation of the business without a qualified deputy.
2. The authority examines your application. In case of a positive decision, you will receive a notice that you may continue the business for up to one year without a qualified representative. After the expiry of this period, you must appoint a qualified deputy.

Prerequisites

- **Death of the previous trader**
- **Authorized practice of the deceased's trade**
The deceased's trade must not have been discontinued or prohibited; required permits must be issued and valid.
- **Personal reliability, if applicable, in the case of trades requiring a permit or supervision**
In the case of trades requiring a permit or supervision, the person authorized to continue the business or the deputy must be personally reliable and prove this with appropriate current evidence from the Federal Central Register and the Central Trade Register.

Documents required

- **Request for temporary continuation without qualified substitution**
The application can be made informally in text form. In addition to the personal details of the applicant and if applicable of the representative, details of the deceased trader and the business to be continued are also required.
- **Identity card or other official identification document with photo of the authorized person and, if applicable, of the deputy**
Identity card or other official identification document with photo (not required for electronic application). Residence permit if the applicant is not a national of an EU country

- **Death certificate or declaration of death of the deceased trader**
- **Proof documents of the person submitting the application**
Suitable evidence of the deceased trader's relationship, such as marriage certificate or civil partnership certificate, birth certificate of the minor heir, or certificate of appointment of the appointed executor, guardian or executrix.
- **If applicable, certificate of good conduct for submission to an authority of the authorized person or the representative**
(<https://service.berlin.de/dienstleistung/120926/>)
Only for trades requiring a permit or supervision:
To verify personal reliability, information from the Federal Central Register (certificate of good conduct) is required for submission to an authority (document type O).
The information has to be not older than three months.
- **If applicable, extract from the central commercial register for submission to an authority of the authorized person or the representative**
(<https://service.berlin.de/dienstleistung/327835/>)
Only for trades requiring a permit or supervision:
To verify personal reliability, information from the central business register is required for submission to an authority (document type 9).
The information has to be not older than three months.

Fees

EUR 5.00 to EUR 5,000.00, per effort

Legal basis

- **Trade regulations (Gewerbeordnung or GewO) § 46**
(https://www.gesetze-im-internet.de/gewo/_46.html)
- **Act on Fees and Contributions (Gesetz über Gebühren und Beiträge or GebBtrG BE) § 8**
(<https://gesetze.berlin.de/bsbe/?docId=jlr-GebBtrGBEV10P8&query=JURISLIN K%3A%22GebBtrG+BE+%C2%A7+8%22>)

Average time to process request

approx. 1 to 2 weeks

More information

- **Note on data protection**
(https://www.berlin.de/formularverzeichnis/?formular=/ordnungsamt/stehend-es-gewerbe/_assets/merkblatt-dsgv.pdf)

Notes on responsibility

The application for continuation of the trade must be submitted to the regulatory office responsible for the place of business.