

Draft law regulating the provision of vehicle roadworthiness testing services (ITV) in Catalonia.

Explanatory memorandum

I

Vehicle roadworthiness testing (ITV) is part of a system that ensures that vehicles travelling on public roads remain in good condition from a safety and environmental perspective for the time that these vehicles are in use. With this objective, the European Parliament and the Council of the European Union adopted in 2014 Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic roadworthiness tests for motor vehicles and their trailers.

Moreover, at national level, ITV is regulated by Royal Decree 920/2017 of 23 October 2017 regulating vehicle roadworthiness testing, which lays down the minimum requirements for the vehicle roadworthiness testing regime applicable to vehicles used on public roads and also establishes the minimum requirements and obligations to be met by ITV stations.

Therefore, the purpose of vehicle roadworthiness testing is to identify technical deficiencies in vehicles that might compromise road safety or affect the environment and verify that the conditions required by the legislation applicable at the time of their type-approval or adaptation continue to be met. This activity is carried out through two types of action: periodic vehicle roadworthiness tests and the processing of various types of ITV administrative procedures, such as changes in the service or use of vehicles, procedures arising from vehicle modifications, or procedures required as a prerequisite for registration in certain circumstances.

In general, periodic vehicle roadworthiness testing as well as ITV administrative procedures are mandatory for vehicle owners. This mandatory nature places responsibility on the competent public authorities for ensuring that the service is provided properly and that the services offered are of an appropriate quality.

The existence of a vehicle roadworthiness testing infrastructure capable of providing a service that adequately meets the needs of different types of users, both private individuals and professional users, is essential in order to avoid any adverse impact on the economy of the productive sector. For that reason, this law provides for measures aimed specifically at improving the conditions of service in professional areas that use vehicles to carry out their economic activity. Measures are also planned to increase, improve and expand the provision of this service to private users, who account for by far the largest share of demand.

The system for providing this public service has been evolving in order to adapt to the changing needs of the service and the existing vehicle fleet. Thus, in 1982, the Generalitat of Catalonia opted to outsource the vehicle testing service to private entities, and, in an initial phase, chose the legal regime of administrative concession.

With Law 12/2008 of 31 July 2008 on industrial safety, the concession concept was replaced by the administrative authorisation of external operating entities. This authorisation regime, which was further developed by Decree 30/2010 of 2 March 2010 approving the Regulation implementing Law 12/2008 of 31 July 2008 on industrial safety, was established within a framework of territorial planning and a series of restrictions and limitations, with the aim of ensuring sufficient coverage by the ITV testing network throughout the territory and promoting competition.

Decree 45/2010 of 30 March 2010 approved the Territorial Plan for New ITV Stations in Catalonia for the period 2010–2014, and Order IUE/279/2010 of 7 May 2010 launched the call for applications and approved the rules governing the public tender for authorisation to operate the new ITV stations provided for in the Territorial Plan approved by Decree 45/2010 of 30 March 2010.

In 2016, the Supreme Court annulled two of the requirements set out in Decree 30/2010 of 2 March 2010 for obtaining the relevant authorisation: specifically Article 74, which established a maximum market share limit of 50 %; and Article 75, which stipulated a minimum distance between stations operated by the same operator, on the grounds that both requirements were contrary to the freedom of establishment enshrined in Article 49 of the Treaty on the Functioning of the European Union (TFEU), given that neither the necessity nor the proportionality of those measures had been demonstrated.

In addition, the Supreme Court also declared the invalidity of Order IUE/279/2010 of 7 May 2010 to the extent that this order implemented the requirements provided for in Decree 30/2010 of 2 March 2010, which had been annulled.

In addition, Supreme Court Judgement 870/2016 of 29 March 2016 annulled the second additional provision of Decree 30/2010 of 2 March 2010, which allocated public assets to the former concessionaires by allowing them to retain the right to use the assets and rights arising from the previous concessions. Since the operating entities originating from the former concessions were required to pay the Generalitat of Catalonia financial consideration for the use of the assets and rights of the former concessions, the Supreme Court also annulled, by Judgement 983/2016 of 4 May 2016, the Order IUE/468/2010 of 27 September 2010 that regulated the financial consideration payable for the use, by operating entities holding authorisations for vehicle roadworthiness testing stations, of the assets and rights reverting from the former administrative concessions.

Finally, the Territorial Plan for New Stations, on the basis of which tender procedures are launched for new ITV stations, is no longer in force, since Decree 45/2010 of 30 March 2010 approving the plan provided that it would remain in force only for the period 2010–2014.

Accordingly, the regulatory framework arising from Law 12/2008 of 31 July 2008 on industrial safety was never fully implemented in Catalonia, and the model defined by that legislation has reached an impasse, given that the continued provision of the ITV service in Catalonia has been called into question. This is because, on the one hand, the authorised operating agents selected under the tender procedure launched by Order IUE/279/2010 of 7 May 2010 have had their authorisation revoked and, on the other hand, the former operating agents authorised under the

new regime are no longer permitted to use the assets and rights of the previous concessions to carry out inspection tasks. Consequently, at present, their operations are based on the ninth additional provision of Law 2/2021 of 29 December 2021 on fiscal, financial, administrative and public sector measures, which authorised, on an exceptional and transitional basis, the operating agents currently providing the vehicle roadworthiness testing service and who were authorised in accordance with the provisions of Decree 30/2010 of 2 March 2010 to continue providing the service under the same conditions for as long as is strictly necessary to complete the reversion procedures set out in that provision itself, and until the new authorisation system for ITV stations resulting from the adoption by Parliament of legislation generally regulating vehicle roadworthiness testing services enters into force.

For the reasons set out above, the opening of new ITV stations has been frozen for more than ten years and this, together with the ageing vehicle fleet, has led to an increase in the number of vehicles required to undergo ITV testing. A regulatory change is therefore necessary to provide stability to the regulatory framework governing the ITV service provision while, at the same time, allowing the supply of those services to be increased. In this regard, the objective of the law is to introduce new rules establishing a new regulatory framework of the ITV service delivery model in Catalonia and that gives legal certainty to operating agents who act or wish to act in this sector, that establishes a coherent model and that adapts to the European regulatory framework.

In this regard, Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic vehicle roadworthiness tests for motor vehicles and their trailers provides that vehicle roadworthiness testing is a sovereign activity and must therefore be carried out by the Member States or by public or private bodies under their supervision. Accordingly, vehicle roadworthiness testing is defined as a service of general interest related to transport, the objectives of which are to ensure that vehicles remain in good condition from a safety and environmental perspective throughout their service life and, at the same time, prevent the risks associated with vehicle safety defects that adversely affect road safety and that may contribute to road traffic accidents resulting in injuries and fatalities.

The public-service nature of vehicle roadworthiness testing means that it cannot be left entirely to market forces. It is essential to take account of the characteristics of the market and of the roadworthiness testing services. Firstly, as a general rule, these services are not requested voluntarily, but only because they are imposed by the legal provisions in force in the field of industrial safety. The consequences of an accident may exceed the capacity of those responsible for the sources of risk, affect third parties who played no part in the decision on preventive measures and, in certain circumstances, affect a very large number of people; this justifies the compulsory nature of these services. Secondly, the persons requesting these services often do not have the capacity to assess their quality. All of this requires the administration responsible for ensuring industrial safety to intervene very actively, so that competition between operators does not affect the quality of inspections.

This has been taken into account when regulating the legal regime of these activities in this law, since it is absolutely necessary to guarantee the universality of the provision of the service, precisely because of its nature as a public service, which must cover the entire territory of Catalonia and all existing types of vehicles. Consequently, the system governing the provision of vehicle

roadworthiness testing services at fixed stations is based on administrative authorisation, within the framework of a market with free access, and the requirements for obtaining such authorisation have been defined; these are considered essential to ensure the public interest in safety and the proper provision of the service. One of the requirements is compliance with a series of territorial weighting conditions set out in Annex 1, specifically to ensure that the provision of this ITV service is distributed proportionally across the whole of Catalonia, preventing it from being concentrated specifically in the more densely populated metropolitan zone and leaving zones further from the centre without coverage, which would place the population of the territory at a clear disadvantage.

The coverage of ITV services for vehicles that, because of their special characteristics, cannot normally access fixed ITV stations, is ensured through the provision of vehicle roadworthiness testing services at mobile units. This service must be provided within the framework of the service contract to be put out to tender for this purpose and will be carried out by the operating agents who are appointed as contractors for that service.

Furthermore, the climate emergency situation makes it necessary to promote on-site energy generation for own consumption, which is not possible at existing ITV stations, so it is also necessary to adopt legislation governing the ITV service provision in Catalonia and making this a requirement.

In short, the aim is to establish a model that gives users freedom of choice, meets the needs of the economic sectors that use vehicles in their productive activities, ensures that the service is provided adequately throughout Catalonia, minimises the environmental impact through the implementation of environmental sustainability measures at stations, allows for flexible adaptation to the sector's circumstances in order to minimise the burden on users, and renders the service as efficient as possible.

II

This law is structured into four titles, five additional provisions, two transitional provisions, a repealing provision, four final provisions and three annexes.

Title I contains the general provisions governing vehicle roadworthiness testing services and regulates their purpose and scope, the definitions of specific terminology used in this law, the regime governing the ITV service provision, the functions of ITV operating entities, the incompatibility rules applicable to ITV services, the conditions and characteristics of the fees applicable to activities relating to the ITV service provision, the technical conditions governing the ITV service provision, the requirements and obligations to be met by ITV service operating agents, and the conditions governing universality of service.

Title II establishes the regulatory framework for the vehicle roadworthiness testing at fixed stations and sets out the procedure for authorising ITV stations and any modifications thereto, the conditions for fixed ITV stations to commence operations, the procedure for rectifying non-compliance with the requirements and obligations, the procedure for the precautionary suspension of operations, the procedure for the voluntary cessation of the provision of the vehicle

roadworthiness testing service, and the circumstances under which authorisations to provide roadworthiness testing service at fixed ITV stations may be revoked, together with the consequences arising from such revocation.

Title III sets out the regulatory framework for vehicle roadworthiness testing at mobile units and establishes the conditions for the provision of the ITV service through the relevant administrative contract.

Title IV governs the monitoring and supervision of ITV services by the Administration of the Generalitat of Catalonia. Its first chapter concerns regulatory inspection powers and sets out the scope of this administrative monitoring and supervision, the power to conduct inspections and the powers of the inspection personnel. The second chapter of this Title IV concerns the power to impose penalties and regulates the competent bodies, the parties liable, the classification of offences, the applicable penalties, the coercive fines, the limitation periods for offences and penalties, and the enforcement of these penalties, as well as a final provision concerning the closure of fixed stations or the withdrawal from service of mobile units in an illegal situation.

The five additional provisions list the ITV stations in operation on the date the law comes into force and set out a specific procedure for adapting to the new framework for the provision of the ITV services, which may be followed by operating agents applying for authorisation to provide the ITV test service at those existing fixed centres. In addition, provision is made for exempting operating agents providing ITV services at fixed stations when this law enters into force from compliance with the territorial weighting requirements laid down in Annex 1; a right of first refusal is established in procedures for the onerous alienation of public assets subject to reversion, in accordance with the legislation governing public-authority assets; and the procedures governed by this law that are conducted before the Administration of the Generalitat of Catalonia must be carried out using the administrative process provided for that purpose on Canal Empresa, the single portal for economic activities.

The transitional provisions require operating agents providing ITV services at fixed stations in operation when this law enters into force to continue providing those services for two (2) years, until the authorisations for fixed stations take effect. In the case of mobile units, this requirement shall apply for eighteen (18) months or until four (4) months after the contract for the ITV service provision at mobile units has been awarded, whichever is earlier.

The four final provisions amend the consolidated text of the Law on Fees and Public Prices of the Generalitat of Catalonia, approved by Legislative Decree 3/2008 of 25 June 2008, to adapt the structure of the fees applicable to ITV services to the new service provision regime; amend Article 31 of Law 9/2014 of 31 July 2014 on the industrial safety of establishments, facilities and products, concerning the exercise of the power to impose penalties; authorise the Minister responsible for industrial safety, in accordance with that established in Article 39 of Law 13/2008 of 5 November 2008 of the Presidency of the Generalitat of Catalonia and the Generalitat,, to implement certain provisions of this law by order; and determine when this law enters into force.

The various annexes to the main body of the law specify the conditions for the establishment of fixed ITV stations, the zones in which the ITV service is provided at mobile units and the amounts and conditions for updating the guarantees relating to the liabilities arising from the revocation of authorisations to provide the ITV service at fixed stations or from non-compliance with the conditions laid down in the contract for the provision of the ITV service at mobile units.

This law is based on the exclusive competence of the Generalitat of Catalonia in matters of industry under Article 139(1) of the Statute of Autonomy of Catalonia, which includes the safety of vehicles as industrial products capable of affecting people's safety or health, which vehicle roadworthiness testing is intended to safeguard. At the same time, this law respects the State's competence in matters of traffic and motor-vehicle circulation under Article 149(1)(21) of the Constitution. Furthermore, it also invokes Article 144 of the Statute, which relates to the environment and the power to lay down additional protective measures.

This provision has been subject to the information procedure in the field of technical regulations and rules on information society services, provided for in Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015.

Title I. General provisions

Article 1

Purpose

The purpose of this law is to regulate, within the scope of the powers of the Generalitat of Catalonia, the legal regime governing the provision of the vehicle roadworthiness testing service.

Article 2

Scope of application

This law is applicable to natural or legal persons who provide the service of vehicle roadworthiness testing in Catalonia.

Article 3

Definitions

For the purposes of this law and the regulations implementing it, the following definitions apply:

- a) 'ITV operator' means an industrial-safety operator authorised to provide ITV services.
- b) 'Inspection bay for motorcycles and mopeds' means a physically demarcated area within a fixed ITV station, containing all the necessary facilities and equipment to carry out all the procedures and tests required to provide the ITV service for any vehicle in the categories that include motorcycles and mopeds.
- c) 'Specific conditions governing the provision of the ITV service' means the conditions with which operating agents of the ITV service must comply when providing that service.
- d) 'Fixed ITV station' means the facilities and equipment required to provide ITV services, located at a permanent establishment.
- e) 'Vehicle roadworthiness test' means a series of documentary, visual and technical checks designed to verify that the vehicle is fit for use on public roads, as it complies with the mandatory safety and environmental protection standards.

- f) 'Technical instructions' means the specifications drawn up for the purpose of clarifying or facilitating the application of industrial safety regulations and published in the DOGC (Official Gazette of the Generalitat of Catalonia). They shall be adopted by resolution of the person in charge of the directorate-general responsible for industrial safety and updated in the same manner. When those instructions are being drafted or amended, they must be made public so that the sectors concerned can submit proposals for improvement.
- g) 'ITV' is the abbreviation of the Spanish term *inspección técnica de vehículos* (vehicle roadworthiness testing).
- h) 'Inspection lane' means the set of minimum facilities and equipment specified in the technical regulations in force, identified by an inspection pit and a brake tester. Authorised inspection lanes can be universal or light-vehicle.
- i) 'Light-vehicle lane' means an inspection lane equipped to carry out roadworthiness tests on vehicles with a maximum authorised mass of up to 3 500 kg.
- j) 'Universal lane' means an inspection lane equipped to carry out roadworthiness tests on all types of vehicles, except those that cannot access the interior of the establishment due to their dimensions.
- k) 'Technical regulations' means a set of rules governing industrial safety, contained in regulatory legislation of any level and in any provision or administrative act, including technical instructions and resolutions issued by the competent bodies responsible for industrial safety.
- l) 'ITV service' means a service of general interest consisting of vehicle roadworthiness testing and the processing of ITV administrative procedures, with the aim of ensuring safety and environmental protection in accordance with the applicable legislation and specific technical regulations.
- m) 'ITV service fee' means the amount charged by the ITV operator for providing ITV services.
- n) 'ITV service fixed fee' means the amount that the ITV operator must charge for ITV services where this is laid down by a technical instruction issued by the person in charge of the directorate-general responsible for industrial safety.
- o) 'ITV service maximum fee' means the maximum amount that the ITV operator may charge for providing ITV services.
- p) 'ITV administrative procedure' means the set of administrative or technical actions carried out at ITV stations related to entries in the vehicle roadworthiness testing card (ITV card), as a result of changes in vehicle classification or technical modifications, as well as by the issuance of new vehicle ITV cards, in the cases provided for in the regulations in force.
- q) 'Mobile ITV unit' means the equipment intended to operate the ITV service on a mobile basis and linked to a fixed ITV station.
- r) 'Taximeter verification' means a series of administrative, visual and technical examinations intended to confirm that taximeters continue to meet the applicable metrological specifications and maximum permissible error limits and operate in accordance with their design and the specific regulations governing them.

Article 4

Regime governing the provision of the ITV service

1. ITV services at fixed stations shall be provided under an administrative authorisation regime within an open-access market.

2. Obtaining authorisation does not exempt operating agents from the obligation to obtain from other public authorities any permits and licences required to construct or bring the ITV station into operation. Authorisation is granted without prejudice to compliance with other legislation, particularly that governing occupational safety, consumer protection, spatial planning and the environment.
3. ITV services may be provided at mobile units by operating agents that enter into the service contract to be put out to tender for that purpose.
4. Fixed stations may be authorised to provide ITV services for vehicles belonging to the vehicle fleet of the Generalitat of Catalonia.
5. Fixed stations established specifically for this purpose may be authorised to carry out periodic roadworthiness tests on vehicles in the fleets of publicly owned passenger transport companies.
6. Fixed stations may be authorised for the provision of the ITV service for the purpose of carrying out roadworthiness tests exclusively for vehicles with a maximum authorised mass exceeding 3 500 kg.
7. Fixed stations may be authorised to provide ITV services for the purpose of handling administrative procedures relating to the ITV for any type of vehicle, as well as carrying out roadworthiness tests and taximeter checks exclusively on vehicles used as taxis.
8. By resolution of the person in charge of the directorate-general responsible for industrial safety, arrangements may be made for all or part of the service to be provided on a fallback basis under any form of direct or indirect management permitted by the applicable legislation, in order to guarantee universality of service.

Article 5

Functions of the ITV operating agents

The ITV service operating agents have the following functions:

- a) Carry out the roadworthiness tests of vehicles requested by their owners or required by the public authorities, and to issue the relevant certificates, in accordance with the technical instructions issued by the person in charge of the directorate-general responsible for industrial safety.
- b) Determine applications for ITV administrative procedures submitted by users in accordance with the applicable regulations and the technical instructions issued by the person in charge of the directorate-general responsible for industrial safety.

Article 6

Rules on conflicts of interest of the ITV service

Individual operators, the partners of the legal entity acting as operator, as well as the management and other personnel of the operator providing the ITV service, must comply with the rules on conflicts of interest set out in the basic regulations governing the ITV service.

Nor may they have any direct or indirect involvement in the following activities:

- a) Transport by road.
- b) Trade in motor vehicles.
- c) The design, construction, modification, repair and maintenance of motor vehicles.
- d) Administrative agencies related to the automotive industry.
- e) Companies, mutual insurance societies and professionals working in the field of motor insurance.

Article 7

ITV service fees

1. The person in charge of the directorate-general responsible for industrial safety must establish, by means of a technical instruction, the structure of ITV service activities and, where appropriate, update the structure.
2. The person in charge of the directorate-general responsible for industrial safety may, by means of a technical instruction, set the rates applicable to the various types of services provided by the ITV, in accordance with the defined structure and, where applicable, any subsequent updates thereto.
3. Where applicable, the fee amounts shall be determined on the basis of, among other factors, the costs of providing the service and changes in those costs over time. Sustainability and environmental criteria must be taken into account in order to promote the objectives set in response to the climate and environmental emergency declared by the Generalitat of Catalonia.
4. Operating agents of the ITV service must publish the applicable fees at each fixed ITV station or mobile ITV unit through the channels set out in a technical instruction issued by the person in charge of the directorate-general responsible for industrial safety, in order to facilitate users' freedom of choice.

Article 8

Specific conditions for providing the ITV service

1. The specific conditions governing the provision of the ITV service are set out in a technical instruction.
2. These conditions must cover the following matters:
 - a) The conditions governing vehicle access to fixed ITV stations and mobile ITV units.
 - b) The requirements to be met by persons driving vehicles at fixed ITV stations and mobile ITV units.
 - c) The conditions governing the advance appointment booking system.
 - d) The minimum range of ITV services to be offered.
 - e) The conditions to be met when processing and determining ITV administrative procedures.
 - f) The customer-service conditions to be observed by ITV operating agents, including respect for the language rights of users when assisting them.
 - g) The conditions governing the provision of information to users regarding the services provided by ITV operating agents, with regard to language use and respect for linguistic rights.
 - h) The terms and conditions governing the system for submitting and handling enquiries, complaints and suggestions relating to the services provided by ITV operating agents.
 - i) The scope of the activity carried out.
 - j) The use of fixed ITV stations and mobile ITV units, as well as the performance of activities other than those authorised.
 - k) The structure of the service charter of fixed stations and mobile ITV units available to users.
 - l) The structure of the ITV service activities.
 - m) The technical personnel infrastructure related to the inspection activities of the ITV service.
 - n) Any other aspect that the competent body deems necessary for providing the service.

Article 9

Requirements that operating agents must meet for the provision of the ITV service.

1. The general requirements that operating agents must meet in order to provide the ITV service are as follows:

- a) Have accreditation in accordance with standard UNE-EN-ISO 17020, as a third-party body in the ITV, issued by the National Accreditation Body (ENAC), in line with the requirements and obligations for the provision of the ITV service at fixed stations specified in this law. The scope of this accreditation must encompass all types of roadworthiness test and ITV administrative procedure provided for in the specific regulations governing ITV.
- b) Comply with the incompatibilities regime provided for in Article 6 of this law.
- c) Authorise and justify appropriate access to stations taking into account the types of vehicles that can be inspected in accordance with the scope of ENAC accreditation.
- d) Be up to date with compliance with the obligations arising from the termination of the current vehicle inspection service regime prior to the entry into force of this law, including those involving the reversion of assets previously owned by the service concessionaires, which must be registered in the name of the Generalitat of Catalonia, as well as financial compensation payable to the Generalitat of Catalonia arising from the reversion of assets that were not owned by the concessionaires.
- e) Comply with the other requirements, obligations and conditions for the activity of the ITV service established by the applicable regulations.

2. In addition, and as specific requirements, operating agents wishing to obtain the authorisation to provide the ITV service at fixed stations must comply with the following requirements:

- a) Provide evidence of the availability of the land or premises on which the activity is to be carried out.
- b) Comply with the territorial weighting conditions for the provision of the ITV service at fixed stations, as set out in paragraph 1 of Annex 1 to this law, with the exception of the fixed stations referred to in paragraphs 4, 5, 6 and 7 of Article 4, which do not require prior compliance with the territorial weighting conditions in order to be authorised.

3. In addition, and as a further specific requirement, operating agents wishing to provide ITV services at mobile units must have, as a minimum, one authorised fixed ITV testing centre in Catalonia equipped with universal inspection lanes.

Article 10

Obligations of operating agents providing ITV services

1. The obligations to be met by operating agents responsible for providing ITV services are as follows:

- a) Ensure continued compliance with the requirements imposed on ITV service operating agents by this law and by all other applicable sector-specific regulations.
- b) Carry out the various types of technical vehicle inspections and other procedures provided for in the applicable regulations and in the technical instructions approved by resolution of the person in charge of the directorate-general responsible for industrial safety, using the forms and documents laid down by resolution of the person in charge.
- c) Establish and keep up to date, prior to the commencement of the ITV service, the necessary financial guarantees to cover any potential liabilities arising from the temporary suspension or revocation of the authorisations to provide the ITV service, as set out in Annex 3.

- d) Provide the civil liability policy, guarantee or other equivalent guarantee covering the risks of its liability for material and personal damage to third parties for the minimum amount established in the applicable technical regulations and, where appropriate, in the contract for the provision of the ITV service at mobile units, before the start of the activity.
- e) Comply with the technical conditions for the provision of the ITV service provided for in Article 8.
- f) Adjust to the image and conditions of the ITV-service identity to be established by resolution of the person in charge of the directorate-general responsible for industrial safety.
- g) Comply with the campaigns for the dissemination and promotion of industrial safety established by resolution of the person in charge of the directorate-general responsible for industrial safety.
- h) Comply with the environmental sustainability conditions in accordance with paragraph 2 of Annex 1 to this law.
- i) Display the applicable fees to users at all times.
- j) Pay the applicable fees to the Generalitat of Catalonia by the means established by resolution of the person in charge of the directorate-general responsible for industrial safety.
- k) Adhere to the consumer arbitration system of Catalonia.

Article 11

Universality of the ITV service

1. The ITV service is intended to be universal and should provide coverage:

- a) To the entire territory.
- b) To all types of vehicles.
- c) All types of ITV inspections and administrative procedures, in accordance with the specific terms and conditions for the provision of the service set out in Article 8.

2. In order to facilitate and ensure the provision of the ITV service and its accessibility throughout the region, the districts of Catalonia are allocated to three possible service zones for fixed stations and two possible service zones at mobile units, based on objective criteria relating to the existing vehicle fleet and geographical distribution.

Title II. ITV service at fixed stations

Article 12

Authorisation procedure for fixed ITV stations

1. Natural or legal persons wishing to provide vehicle inspection services at fixed stations and who meet the relevant requirements must apply to the directorate-general responsible for industrial safety within the Generalitat of Catalonia for administrative authorisation for each of the fixed stations at which they wish to operate, by means of the administrative procedure established for this purpose.

2. The competent body for deciding on applications for authorisation is the person in charge of the directorate-general responsible for industrial safety.

The resolution authorising fixed ITV stations must contain:

- a) The identification details of the ITV operator providing the service.
- b) The location of the station.
- c) The number and typology of the inspection lanes installed.

3. This resolution must be issued within a maximum period of six (6) months from the submission of the application. Once this period has expired without a resolution having been issued, the application shall be deemed to have been accepted.

An appeal may be lodged against that resolution with the hierarchical superior body.

4. Once the resolution granting an operator authorisation to provide ITV services at a fixed station has become final, its operative part must be published on the website of the department responsible for industrial safety.

5. The authorisation resolution shall take effect only once the service responsible for motor-vehicle safety has issued a favourable commissioning certificate.

Article 13

Start of activity at fixed ITV stations

1. Once authorised to provide the ITV service at a fixed station by means of a final resolution, the operator must notify the competent authority responsible for vehicle safety, at least thirty (30) calendar days in advance, of the date on which the service will commence at the authorised fixed ITV station. During this period, the relevant body must verify that the applicable requirements and obligations are being met and issue a certificate of commissioning for the fixed ITV station. Once this period has elapsed without the commissioning certificate having been issued, the operating agent may commence operations at the station in question.

2. Provided that all the requirements and obligations are met, the competent authority responsible for vehicle safety must issue a commissioning certificate for the fixed ITV station, with a favourable outcome. Otherwise, the result will be unfavourable.

3. Once the favourable commissioning certificate has been issued, the operative part of the resolution granting authorisation to the operator must be published in the DOGC (Official Gazette of the Generalitat of Catalonia).

4. Natural or legal persons granted authorisation to operate at fixed ITV stations shall be registered ex officio in the Register of Industrial Safety Agents of Catalonia (RASIC), together with a record of the fixed stations at which they operate.

5. Once the operator has received a commissioning certificate for a fixed vehicle inspection centre with a favourable outcome, they must commence operations.

Article 14

Modification of the registration details of ITV operating agents in the Register of Industrial Safety Agents of Catalonia

1. Any modification of the registration details of ITV operating agents in the Register of Industrial Safety Agents of Catalonia must be notified to the body responsible for industrial safety using the administrative procedure provided for that purpose.

2. If this modification entails non-compliance with the requirements or obligations set out in this law, the appropriate administrative procedures shall be initiated.

Article 15

Modification of the authorisations for fixed ITV stations

1. The authorisation for fixed ITV stations must be modified whenever there is a change in the number or type of inspection lanes installed.

2. An operator of a fixed station who wishes to modify the authorisation for that station must first apply for approval of the relevant amendments through the administrative procedure established for that purpose.
 3. The body responsible for deciding whether to approve or reject the requested modification of the authorisation of a fixed station for the provision of the ITV service is the person in charge of the directorate-general responsible for industrial safety.
 4. This resolution must be issued within a maximum period of six months from the submission of the application. If the deadline has passed without a resolution having been issued, the application is deemed to have been granted.
- An appeal may be lodged against that resolution with the hierarchical superior body.
5. The operative part of the resolution approving the modification of the authorisation, once it has become final, must be published on the website of the department responsible for industrial safety.
 6. The effectiveness of the resolution approving the modification is subject to the issuance of a favourable certificate of compliance by the competent authority responsible for motor vehicle safety.
 7. Once the modification has been approved, the operator must notify the competent authority responsible for motor vehicle safety of the modifications made, giving at least thirty (30) calendar days' notice. During this period, the competent authority must verify that the applicable requirements and obligations are being met and issue a commissioning certificate for the modifications of the authorisation of the fixed ITV station.
- Once this period has elapsed without the commissioning certificate having been issued, the operator may commission the approved modifications.
8. If all applicable requirements and obligations have been met, the service responsible for motor-vehicle safety must issue a favourable commissioning certificate for the modifications of the fixed ITV station. Otherwise, the result will be unfavourable.
 9. The operative part of the resolution approving the amendment to the authorisation, once it has become final, must be published in the DOGC (Official Gazette of the Generalitat of Catalonia).
 10. Modifications of authorisations to operate at fixed vehicle inspection stations are automatically entered in the Register of Industrial Safety Agents of Catalonia (RASIC).

Article 16

Procedure for rectifying non-compliance with the requirements and obligations of operating agents of fixed ITV stations

1. The person in charge of the service responsible for motor-vehicle safety must order the initiation of the remedial procedure where a failure to comply with any requirement or obligation is identified at a fixed ITV station.
 2. Once the station's principal operating agent has been notified of the resolution to initiate proceedings, they have a maximum of one (1) month to rectify the non-compliance identified.
 3. The body responsible for issuing the resolution in the remedial procedure is the person in charge of the department responsible for industrial safety.
- This resolution, which must be issued within three (3) months of the commencement of the proceedings, must determine:
- a) If all the non-compliances identified have been rectified, in which case it shall order the case to be closed, as well as the resumption of the activity if it had been suspended as a precautionary measure, in accordance with the provisions of Article 17.

b) If not all the identified non-compliances have been rectified, in which case the operator's authorisation to provide the ITV service at the fixed station is revoked.

An appeal may be lodged against that resolution with the hierarchical superior body.

Once final, if the resolution orders the revocation of the ITV operator's authorisation, its operative part must be published in the DOGC (Official Gazette of the Generalitat of Catalonia).

4. This procedure is separate from, and compatible with, any disciplinary proceedings that may arise as a result of the breaches identified.

Article 17

Provisional suspension of vehicle inspection services at fixed ITV stations

1. The initiation of the remediation procedure regulated in the previous article may entail the immediate precautionary suspension of the provision of the activity if there is a risk to persons, property or the environment, if the activity is prohibited by the legal system or if the requirements of the regulations cannot be met. The body responsible for ordering the provisional suspension of the ITV service provision at a fixed station is the person in charge of the sub-directorate-general responsible for industrial safety.

2. However, where an accident has occurred or there is a serious risk to the safety of persons, the acting inspector may suspend the provision of the ITV service in accordance with the provisions of Article 23(h). In this case, the person in charge of the relevant sub-directorate-general responsible for industrial safety must amend, confirm or overturn the inspector's decision by means of the relevant agreement, within a maximum of seven (7) working days, and the service responsible for motor vehicle safety must authorise the commencement of the rectification procedure. Otherwise, the agreed suspension shall cease to have effect.

Article 18

Voluntary cessation of the ITV service provision at fixed stations

1. The principal operator of a fixed ITV station who wishes to cease providing the service must give prior notice to the competent body for industrial safety at least three (3) months in advance, using the administrative procedure established for that purpose, and must demonstrate that the network of stations operated by that operator, following the cessation of activity, complies with the territorial weighting conditions laid down in this law.

2. Where appropriate, the adaptation of the operator's station network to the territorial weighting conditions set out in Annex I must precede the cessation of activity at the fixed ITV stations concerned. Otherwise, appropriate administrative procedures may be initiated.

3. The voluntary cessation of the activity of providing ITV services at fixed stations entails the ex officio revocation of the authorisation resolution by resolution of the person in charge of the directorate-general responsible for industrial safety, as well as the ex officio registration of the corresponding deregistration in the Register of Industrial Safety Agents of Catalonia.

Article 19

Revocation of authorisations to provide ITV services at fixed stations

1. The body responsible for deciding on the revocation of authorisations to provide vehicle roadworthiness services at fixed stations is the person in charge of the directorate-general responsible for industrial safety.

2. This revocation may be agreed as follows:

- In the resolution terminating the remediation procedure provided for in Article 16.
 - In the resolution bringing disciplinary proceedings for a very serious offence to a close.
 - In the resolution issued as a result of the voluntary cessation of the activity by the operator.
3. The revocation ordered in the resolution concluding a remedial or penalty procedure shall entail the loss of the right to recover the guarantees lodged.
4. The territorial weighting conditions set out in paragraph 1 of Annex 1 to this law, and that were laid down in the resolution authorising the provision of the ITV service that is the subject of the revocation, shall continue to apply in the event of revocation.

Title III. ITV services at mobile units

Article 20

ITV service coverage at mobile units

1. The ITV service at mobile units is intended to cover vehicles which, due to their special characteristics, are unable to access fixed ITV stations on a normal basis.
2. The ITV services provided at mobile units are intended for the following vehicles:
 - a) Agricultural vehicles.
 - b) Mopeds.
 - c) Special vehicles.
 - d) Other types of vehicles previously authorised by resolution of the person in charge of the directorate-general responsible for industrial safety.
3. Annex 2 defines the two zones in which ITV services are to be provided at mobile units.

Article 21

Procurement of ITV services at mobile units

1. The provision of the ITV service at mobile units is carried out by the operator that concludes the corresponding service contract.
2. The tender specifications for this contract must include the specific conditions for providing the ITV service at mobile units.
3. The formalisation of the contract for the provision of the ITV service at mobile units implies authorisation to carry out the activity of providing the ITV service in the zone defined in the specifications.
4. The mobile units must be registered with the Register of Industrial Safety Agents of Catalonia (RASIC), specifying the fixed stations to which they are linked, as well as the operating agent who is their owner.

Title IV. Monitoring and supervision of the ITV service by the Administration of the Generalitat of Catalonia

Chapter I. Inspection powers

Article 22

Scope of monitoring and supervision of the Administration

1. The monitoring and supervision of the ITV service are carried out in accordance with the General Inspection Plan, which has been approved and published by resolution of the person in charge of the directorate-general responsible for industrial safety.
2. The bodies responsible for industrial safety must ensure that the following principles are complied with in providing the ITV service:
 - a) Universality in the provision of the service.
 - b) Continuity and exclusivity in the provision of the service.
 - c) Independence, objectivity, impartiality and integrity in the conduct of business.
 - d) Transparency and providing information to the public.
 - e) Effectiveness in environmental protection.
 - f) The contribution to the reduction of the risks of the facilities.
3. Compliance with the technical regulations in force in the field of industrial safety is subject to the monitoring and supervision of the competent bodies in the field of industrial safety.

Article 23

Inspection authority of the bodies responsible for industrial safety

1. The bodies of the Generalitat of Catalonia responsible for industrial safety shall be responsible for monitoring and supervising ITV services.
2. The monitoring and supervision of the Administration in the field of industrial safety shall be carried out by official personnel assigned to the bodies responsible for industrial safety, who shall have the status of public authority in their actions.
3. The powers of the inspection personnel of the bodies responsible for industrial safety are as follows:
 - a) Freely access the establishments and facilities of fixed and mobile ITV stations to perform the inspection function and, where appropriate, carry out inspections without prior notice.
 - b) Require the attendance of the owners of the establishments and facilities subject to inspection or their representatives, if deemed necessary, setting the day and time sufficiently in advance.
 - c) Carry out the necessary steps to verify compliance with the provisions of the technical regulations in the field of industrial safety.
 - d) Be accompanied, during inspection visits, by such personnel as they deem necessary to carry out their inspection duties properly.
 - e) Request from the owners or persons in charge of establishments, facilities and products subject to inspection to provide information regarding compliance with the applicable technical regulations on industrial safety, or the performance of specific operational procedures necessary to carry out the inspection, as well as arrange and conduct any interviews deemed relevant with the owners or persons in charge, or with the personnel of the relevant stations and units.

- f) Inspect the documents, files and records that are directly relevant to the matters under investigation or that may have a decisive influence on them, and that it considers necessary in order to carry out its investigative function.
 - g) Carry out the evaluations, take the samples and record the images that it deems necessary, taking into account what is established by the industrial property regulations.
 - h) Suspend the provision of the ITV service where an accident has occurred or there is a risk to the safety of persons. This measure must be confirmed, amended or revoked by agreement of the person in charge of the sub-directorate-general responsible for industrial safety, in accordance with the provisions of Article 17.2.
 - i) Interrupt the provision of the ITV service where the inspecting officer ascertains that the operator does not hold the required authorisation to operate at that fixed station or is not the contractor designated to provide the ITV service from a mobile unit within the zone specified in the contract. In this case, the person in charge of the directorate-general responsible for industrial safety must order the closure of the fixed station or the decommissioning of the mobile unit in accordance with the provisions of Article 32.
4. Administrative acts issued by personnel assigned to the bodies responsible for industrial safety as a result of industrial safety monitoring and supervision shall be presumed accurate unless proved otherwise.

Chapter II. Powers to impose penalties

Article 24

Competent bodies

1. The body competent to decide on the initiation of penalty proceedings for offences under this law is the person in charge of the department responsible for motor vehicle safety.
2. The authorities responsible for imposing the relevant penalties for the offences set out in this law are as follows:
 - a) The person in charge of the service responsible for motor vehicle safety department for penalties for minor offences.
 - b) The person in charge of the subdirector-general responsible for industrial safety for penalties for serious offences.
 - c) The person in charge of the directorate-general responsible for industrial safety for penalties for very serious offences.

Article 25

Responsible parties

1. Natural or legal persons who, by act or omission, have been involved in the commission of the offences defined in this law shall be responsible for such offences.
2. Where more than one person is responsible for the offence, or if the offence results from the accumulation of activities carried out by several persons, the resulting penalties are independent of each other.
3. If two or more persons are responsible for an offence and their degree of participation cannot be determined, these persons are jointly and severally liable for the purposes of the resulting penalties.

4. If an offence is attributed to a legal person, the members of its governing or management bodies may also be held liable. For the purposes of this law, the governing or management bodies shall comprise those persons who are listed as such in public registers, those who have publicly claimed such status, or those who have acted as if they held such status.

5. In the case of offences committed by legal persons that are wound up before penalties are imposed, administrative liability must be imposed on the natural persons who, as members of the governing or management bodies, caused the offence to be committed through wilful misconduct or negligence.

6. Any penalties imposed prior to the dissolution of the company, if not settled during the liquidation process, are passed on to the members or shareholders, who are jointly and severally liable up to the value of the liquidation share allocated to them.

Article 26

Classification of offences

1. Administrative offences in relation to the provision of the ITV service are classified as minor, serious and very serious.

The following constitute minor offences:

- a) The failure by industrial safety officers to whom this law applies to comply with the general conditions, requirements or obligations laid down in this law, where such acts or conduct do not constitute a serious or very serious offence.
- b) The failure to comply with, or negligence in relation to, the conservation or maintenance obligations laid down in the applicable industrial safety regulations on the part of the owners of establishments, facilities or products, where such acts or conduct do not constitute a serious or very serious offence.
- c) The failure to cooperate with the Administration of the Generalitat in matters of industrial safety, where such acts or conduct do not constitute a serious or very serious offence.
- d) The failure to comply with the conditions governing the transmission of data to which industrial safety officers are bound under industrial safety regulations, where such acts or conduct do not constitute a serious or very serious offence.
- e) The failure to notify changes to the registration details of ITV operating agents in the Register of Industrial Safety Agents of Catalonia, where the acts or conduct concerned do not constitute a serious or very serious offence.
- f) The failure to comply with the conditions for liquidation of economic obligations arising from inspection activities in the field of industrial safety, where such acts or conduct do not constitute a serious or very serious offence.
- g) The application of rates higher than those established by the regulations on industrial safety, when these facts or conduct do not constitute a serious or very serious offence.
- h) The submission of documentation or the provision of incorrect information to the Administration of the Generalitat in relation to industrial safety, where such acts or conduct occur on a repeated basis.
- i) The carrying out, as well as the commissioning to third parties, erroneous or negligent inspection activities in relation to the provisions of the applicable industrial safety regulations, where such acts or conduct relate to defects classified as minor or have caused, or are likely to cause, minor damage to persons, property or the environment, in accordance with the relevant technical regulations.

j) The issuance, as well as the commissioning to third parties, of projects or technical reports that fail to comply with the provisions of the applicable industrial safety regulations, where such acts or conduct relate to defects classified as minor or have caused, or are likely to cause, minor damage to persons, property or the environment, in accordance with the relevant technical regulations.

2. The following constitute serious offences:

- a) The failure by industrial safety officers to whom this law applies to comply with the general conditions, requirements or obligations set out in this law, where such acts or conduct are committed repeatedly, continuously or on a permanent basis, or have caused or are likely to cause serious or very serious harm to persons, property or the environment.
- b) The failure to comply with, or negligence in relation to, the conservation or maintenance obligations laid down in the applicable industrial safety regulations by the owners of establishments, facilities or products, where such acts or conduct are committed repeatedly, continuously or on a permanent basis, or have caused or are likely to cause serious or very serious harm to persons, property or the environment.
- c) The failure to cooperate with the Administration of the Generalitat of Catalonia in matters of industrial safety, where such acts or conduct are committed repeatedly, continuously or on a permanent basis.
- d) The failure to comply with the conditions governing the transmission of data to which industrial safety officers are bound under industrial safety regulations, where such acts or conduct are committed repeatedly, continuously or on a permanent basis.
- e) The failure to report changes to the registration details of ITV operating agents in the Register of Industrial Safety Agents of Catalonia, where such acts or conduct are committed repeatedly, continuously or on a permanent basis.
- f) The failure to comply with the conditions for settling financial obligations arising from industrial safety inspection activities, where such acts or conduct are committed repeatedly, continuously or on a permanent basis.
- g) The imposition of fines in excess of those laid down by industrial safety regulations, where such acts or conduct are committed repeatedly, continuously or on a permanent basis.
- h) The submission of documentation or the provision of incorrect information to the Administration of the Generalitat in relation to industrial safety, where such acts or conduct are committed on a continuous or permanent basis.
- i) The carrying out, or the commissioning of third parties to carry out, erroneous or negligent inspection activities in relation to the provisions of the applicable industrial safety regulations, where such acts or conduct relate to defects classified as serious or very serious, or have been committed repeatedly, continuously or on a permanent basis, or have caused or may cause serious or very serious harm to persons, property or the environment, in accordance with the relevant technical regulations.
- j) The submission, or the commissioning from third parties, of projects or technical reports that fail to comply with the provisions of the applicable industrial safety regulations, where such acts or conduct relate to defects classified as serious or very serious, or have been committed repeatedly, continuously or on a permanent basis, or have caused or are likely to cause serious or very serious harm to persons, property or the environment, in accordance with the relevant technical regulations.

- k) The carrying out of the activity of providing ITV services at fixed stations without holding a valid administrative authorisation from the competent body responsible for industrial safety, where such acts or conduct do not constitute a very serious offence.
- l) The carrying out of the activity of providing ITV services at mobile units without having formalised the contract for the ITV service provision at mobile units, where such acts or conduct do not constitute a very serious offence.
- m) The issuing of certificates, declarations, reports or minutes that do not reflect the facts or that are issued negligently or fraudulently, where such acts or conduct do not constitute a very serious offence.
- n) The submission of false documentation or the provision of false information to the Administration of the Generalitat in relation to industrial safety, where such acts or conduct do not constitute a very serious offence.
- o) The failure to comply with the requirements and precautionary measures laid down by the competent industrial safety authorities, where such acts or conduct do not constitute a very serious offence.

3. The following constitute very serious offences.

Offences classified as serious in paragraph 2, where such acts or conduct are committed deliberately or repeatedly.

4. A repeated offence is deemed to have been committed when two or more industrial safety offences have been committed in the two years prior to the commission of the new offence.

5. An offence is committed on a continuous basis when two or more offences of the same nature are committed as part of a premeditated plan or by taking advantage of an identical opportunity.

6. An offence is deemed to be of a continuing nature when its unlawful effects are long-lasting and persist over time until the alleged offender decides to cease the conduct in question.

7. An offence is considered to be committed deliberately when the concurrence of any of the following circumstances is established:

- a) That the alleged offender has continued to act in breach of the regulations after having been warned by the Administration responsible for industrial safety.
- b) The alleged infringer has previously been sanctioned for the same offence.
- c) Any other circumstance in which it is established that the person had prior knowledge that the act or conduct in question constituted an offence.

8. An offence shall be regarded as a repeat offence where the industrial safety operator has, during the year preceding the new offence, already been penalised by a final administrative resolution for another offence of the same nature.

9. Regulations may lay down specifications or classifications that help to identify offences more accurately, provided that this does not alter the nature or scope of the offences set out in this law.

Article 27

Penalties

1. Minor offences shall be penalised by a fine of up to EUR 60 000.

2. Serious offences are penalised as follows:

- a) With a fine of up to EUR 6 000 000.
- b) Suspension of activity for a maximum of six (6) months.

3. Very serious offences are penalised:

- a) With a fine of up to EUR 100 000 000.

- b) With suspension of the activity for a maximum period of five (5) years.
 - c) With the revocation of the authorisation of a fixed ITV station.
4. The following circumstances must be taken into account when determining the amount of the penalties:
- a) The importance of the risk, damage or injury caused.
 - b) The degree of participation.
 - c) The benefit obtained.
 - d) The financial capacity of the offender or the offending entity, including the business group to which it belongs.
 - e) The scale, impact or economic or social implications of the offence or offences committed.
5. Specifications and graduations can be introduced by regulation to help determine more precisely the penalties established in this law, without altering their nature or limits.
6. When penalties are imposed, it must always be ensured that compliance with the rules infringed would not have been less advantageous to the offenders than the penalty imposed.
7. Very serious penalties, once they have become final, must be published on the website of the department responsible for industrial safety.

Article 28

Coercive fines

1. Irrespective of the penalties laid down in this law, the bodies responsible for imposing penalties may impose coercive fines of up to EUR 25 000 in the following cases:
- a) Failure to meet the deadline for responding to a request made by the competent industrial safety authority, where the deadline for submitting the required information has already been missed.
 - b) Failure to meet the deadline for responding to a formal notice issued by the competent industrial safety authority, where the deadlines and conditions for settling financial obligations arising from industrial safety inspections have not been met.
 - c) Failure to meet the deadline for responding to a request made by the competent industrial safety authority in any other circumstances.
2. The request referred to in paragraph 1 must inform the person concerned of the deadline for compliance and the amount of the fine that may be imposed in case of non-compliance.
3. Failure to comply with the order referred to in paragraph 1 may result in the imposition of further coercive fines for periods of time sufficient to ensure compliance, which, in any event, may not be shorter than the period specified in the first order.
4. Coercive fines are independent of those that may be imposed as a penalty and are compatible.

Article 29

Limitation periods for offences and penalties

1. The limitation period for offences defined in this law is one (1) year for minor offences, three (3) years for serious offences and five (5) years for very serious offences, calculated from the date on which the offence was committed or from the end of the period during which the offence was committed, in the case of continuing or permanent offences.

2. The limitation period for penalties imposed under this law shall be one (1) year for penalties relating to minor offences, three (3) years for penalties relating to serious offences and five (5) years for penalties relating to very serious offences, calculated from the date on which the resolution imposing the penalty becomes final.

Article 30

Penalties procedure

The procedure for imposing the penalties set out in this law must comply with the rules and principles governing administrative penalty proceedings laid down in the legislation on general administrative procedure and in Catalonia's regulations on the penalties procedure.

Article 31

Impact of penalties

The proceeds from penalties and coercive fines imposed by the department responsible for industrial safety are used to finance actions related to the management and improvement of industrial safety and generate appropriations in the corresponding budget items of the directorate-general responsible for industrial safety.

Article 32

Closure of fixed stations or deactivation of mobile units in an illegal situation

1. Where the operator is providing the ITV service at fixed stations without having the required authorisation, or at mobile units without being the successful tenderer for the relevant service contract, the person in charge of the directorate-general responsible for industrial safety, after hearing the agent concerned, must order the closure of the fixed station or the disqualification of the mobile unit, respectively.
2. The person in charge of the relevant sub-directorate-general responsible for industrial safety must order the immediate precautionary suspension of the activity from the moment it is detected that the activity is being carried out without the required authorisation or without a service contract having been formalised, as appropriate, and until a resolution on closure or disqualification is issued.
3. An operator providing ITV services at stations or at mobile units in respect of which a closure or withdrawal-from-service order has been issued must immediately comply with that order. Failing that, the directorate-general responsible for industrial safety, subject in all cases to the principle of proportionality, must take any of the enforcement measures provided for in the legislation in force to ensure the compulsory implementation of the agreement, including the sealing of the fixed station or the relevant mobile unit.

Additional provisions

First additional provision.

List of stations providing ITV services upon the entry into force of this law

1. The fixed stations providing the ITV service at the entry into force of this law are as follows:

Operator	District	Station
TUV SUD	Vallès Oriental	B-26 Sant Celoni
ITEVELESA	Bages	B-25 Sant Fruitós de Bages
TUV SUD	Garrigues	L-11 les Borges Blanques
ITEVELESA	Alta Ribagorça	L-10 el Pont de Suert
ITEVELESA	Baix Penedès	T-07 Bellvei
TUV SUD	Montsià	T-08 Amposta
APPLUS	Barcelonès	B-10 Puig Madrona
APPLUS	Baix Llobregat	B-11 Cornellà de Llobregat
APPLUS	Anoia	B-12 Igualada
APPLUS	Barcelonès	B-14 C. Diputació
APPLUS	Barcelonès	B-15 C. Motors
APPLUS	Garraf	B-17 Vilanova i la Geltrú
APPLUS	Vallès Oriental	B-18 Granollers
APPLUS	Baix Llobregat	B-21 Sant Andreu de la Barca
APPLUS	Vallès Occidental	B-24 Sabadell
TR CERTIO	Berguedà	B-13 Berga
TR CERTIO	Vallès Occidental	B-20 CIM Vallès
TR CERTIO	Vallès Occidental	B-22 Sant Cugat del Vallès
TR CERTIO	Barcelonès	B-23 C. Caracas
TR CERTIO	Solsonès	L-06 Solsona
PREVENCONTROL	Garrotxa	GI-04 Olot
PREVENCONTROL	Selva	GI-07 Blanes
PREVENCONTROL	Ripollès	GI-08 Ripoll
PREVENCONTROL	Gironès	GI-09 Girona
APPLUS	Cerdanya	GI-05 Puigcerdà
APPLUS	Noguera	L-07 Artesa de Segre
APPLUS	Vall d'Aran	L-08 Vielha
APPLUS	Ribera d'Ebre	T-04 Móra la Nova
APPLUS	Barcelonès	B-02 Badalona
APPLUS	Baix Llobregat	B-05 Sant Just Desvern
APPLUS	Baix Llobregat	B-07 Sant Joan Despí / Viladecans
APPLUS	Maresme	B-08 Argentona
APPLUS	Alt Penedès	B-09 Olèrdola
TR CERTIO	Vallès Occidental	B-03 Viladecavalls
TR CERTIO	Bages	B-06 Manresa
TR CERTIO	Barcelonès	B-16 C. Còrsega
TR CERTIO	Barcelonès	B-19 C. Àvila
PREVENCONTROL	Osona	B-04 Vic
PREVENCONTROL	Alt Empordà	GI-03 Vilamallà

PREVENCONTROL	Baix Empordà	GI-06 Palamós
APPLUS	Pallars Jussà	L-03 Tremp
APPLUS	Segarra	L-05 Granyanella
APPLUS	Pallars Sobirà	L-09 Sort
TR CERTIO	Alt Urgell	L-04 Montferrer
APPLUS	Conca de Barberà	T-05 Montblanc
APPLUS	Tarragonès	T-06 Tarragona
APPLUS	Baix Ebre	T-03 Tortosa
PREVENCONTROL	Gironès	GI-02 Celrà
APPLUS	Segrià	L-02 Lleida
APPLUS	Baix Camp	T-02 Reus

2. Mobile units providing ITV services are considered as equipment belonging to the respective fixed ITV station to which they are associated.

Second additional provision.

Specific procedure for the authorisation of fixed stations referred to in the first additional provision

1. Any operator wishing to provide ITV services at a fixed station listed in the first additional provision may avail themselves of a specific procedure for compliance with the requirements and obligations set out in this law, by submitting an application for administrative authorisation to the directorate-general responsible for industrial safety within the Generalitat of Catalonia, via the administrative procedure established for that purpose, within a maximum period of one month from the entry into force of this law.

2. This application must specify which of the following exemptions the operator wishes to claim:

- The requirement to provide separate inspection bays for mopeds and motorcycles where the station did not have them before this law entered into force.
- The requirement to equip the station with universal inspection lanes where it did not have them before this law entered into force.

3. For the application to be accepted for processing, the applicant operator must demonstrate compliance with the requirements laid down in Article 9(1)(a)–(d) and Article 9(2)(a).

4. The person in charge of the directorate-general responsible for industrial safety shall be responsible for determining applications for authorisation under the specific procedure.

The resolution authorising fixed ITV stations must contain:

- a) The data identifying the operator of the ITV providing the service.
- b) The location of the station.
- c) The number and typology of the inspection lanes installed.
- d) The exemptions that are authorised.
- e) The warning that the effectiveness of the resolution is conditional on compliance with the adaptation conditions provided for in paragraph 7 of this additional provision.

5. This resolution must be issued within a maximum of three (3) months from the end of the application submission period. Once that time limit has expired without a resolution having been issued, the application must be deemed to have been rejected.

An appeal may be lodged against that resolution with the hierarchical superior body.

6. Once the resolution granting an operator authorisation to provide ITV services at a fixed station has become final, its operative part must be published on the website of the department responsible for industrial safety.
7. The authorisation resolution shall take effect only once the service responsible for motor-vehicle safety has issued a favourable commissioning certificate.
8. Once authorised to provide the ITV service at a fixed station by a final resolution terminating the specific procedure, the operator has a period of twelve (12) months from the date of the authorisation to adapt to the rest of the requirements and obligations provided for in Articles 9 and 10, except for those that have been the subject of exemption from those listed in paragraph 2 of this additional provision.
9. Before the deadline set out in the previous paragraph expires, the competent authority responsible for motor vehicle safety must verify compliance with the applicable requirements and obligations and record this in the relevant report.
10. Provided that all the requirements and obligations are met, the competent authority for motor vehicle safety must issue a commissioning certificate for a fixed ITV station with a favourable outcome. Otherwise, the result will be unfavourable.
11. Once the favourable commissioning certificate has been issued, the operative part of the resolution granting authorisation to the operating agent must be published in the DOGC (Official Gazette of the Generalitat of Catalonia).
12. Any operating agent who obtains authorisation is automatically entered into the Register of Industrial Safety Agents of Catalonia (RASIC), with a record of the fixed stations at which they operate.
13. Once the operator has received a commissioning certificate for a fixed vehicle inspection centre with a favourable outcome, they must commence operations.

Third additional provision

Compliance with the territorial weighting conditions set out in Annex 1

Operators who provided the ITV service at a fixed station as referred to in the first additional provision before the date of entry into force of this law are exempted from compliance with the territorial weighting conditions set out in Annex 1 for a period of two (2) years.

Fourth additional provision

Right of first refusal in the procedure for the onerous alienation of assets that have reverted

1. Existing concessionaires operating at the stations listed in the first additional provision of this law have a right of first refusal in respect of the onerous alienation of assets allocated to the service that form part of the stations at which they are operating, in accordance with the regulations in force governing public administration assets.
2. Once the relevant documents have been published and within 30 days of the publication, in which the starting price and the other essential conditions of the transfer must appear, the holders of the concessions concerned may communicate their decision to exercise the right of preferential purchase and their commitment to continue providing the service in accordance with the provisions of this law and in accordance with the corresponding specifications. The procedures shall be conducted in accordance with the principles of publicity, transparency, competition and objectivity,

and the holders of the concessions concerned shall have priority over the other bidders, provided that they match the price and terms of the best financial offer submitted.

3. Any revenue received by the Generalitat of Catalonia from the financial consideration paid by the holders of former ITV concessions in respect of stations not owned by ITV operating agents, together with the proceeds from the disposal of assets arising from former administrative concessions for ITV services following completion of the asset-reversion procedure, and any amounts arising from differences in the value of assets from those former concessions, must be used to fund measures supporting industry.

Fifth additional provision

Processing of the procedures provided for in this law

Applications for authorisation of fixed ITV stations, applications to amend authorisation, notifications of commencement of activity, notifications of changes to details, notifications of voluntary cessation, and all other procedures governed by this law that are to be carried out with the Administration of the Generalitat of Catalonia must be submitted using the administrative process provided for this purpose on the single portal for economic activities, Canal Empresa, in accordance with the procedure information published in the catalogue of procedures maintained by the Business One-Stop Shop, as set out in Law 18/2020 of 28 December 2020 on the facilitation of economic activity, and Decree 131/2022 of 5 July 2022 containing the Regulations implementing the Law on the facilitation of economic activity.

Transitional provisions

First transitional provision

Continuity of the provision of the ITV service at the fixed stations referred to in the first additional provision of this law

1. Any operator providing the ITV service at a fixed station listed in the first additional provision prior to the entry into force of this law must continue to provide that ITV service on the basis of the authorisation derived from the ninth additional provision of Law 2/2021 of 29 December 2021 on fiscal, financial, administrative and public sector measures, under the same conditions as those in force up to the date of entry into force of this law, until the operator in question or another operator obtains authorisation to provide the service at the station in question through any of the procedures provided for in this law.
2. In any event, any operator providing the ITV service prior to the entry into force of this law must, if it does not obtain the administrative authorisation to provide the service regulated by this law, cease to provide the service within a maximum period of two (2) years from the entry into force of this law.
3. Once the period of two (2) years from the entry into force of this law has elapsed without any operator having obtained authorisation to provide the ITV service at that station, the operation of the service must be suspended, in accordance with the provisions of Article 32 of this law.

Second transitional provision

Continued ITV service provision at mobile units

Any operator providing ITV services at a mobile unit prior to the entry into force of this law must continue to provide the service under the same conditions that were in force prior to the entry into force of this law for a period of eighteen (18) months, or until four (4) months after the conclusion of the contract for the provision of services at mobile units, if the latter date is earlier than the aforementioned eighteen months.

Repealing provision

The following provisions are repealed:

- a) Law 12/2008 of 31 July 2008 on industrial safety.
- b) The regulations implementing Law 12/2008 of 31 July 2008 on Industrial Safety, approved by Decree 30/2010 of 2 March 2010.
- c) Decree 45/2010 of 30 March 2010 approving the Territorial Plan for New Vehicle Roadworthiness Testing Stations in Catalonia for the period 2010-2014.
- d) The ninth additional provision of Law 2/2021 of 29 December 2021 on fiscal, financial, administrative and public-sector measures.
- e) Any other provisions that conflict with or contradict the provisions of this law.

Final provisions

First final provision

Modification of the consolidated text of the Law on Fees and Public Prices of the Generalitat of Catalonia, adopted by Legislative Decree 3/2008 of 25 June 2008

1. Chapter III of Title XIV of the consolidated text of the Law on Fees and Public Prices of the Generalitat of Catalonia, approved by Legislative Decree 3/2008 of 25 June 2008, is amended as follows:

‘Chapter III. Fee for applying for authorisation and for applying to amend the authorisation to provide a vehicle roadworthiness testing service at a fixed station

’14.3.1. Chargeable event

‘The fee for applying for authorisation and for applying to amend authorisation to provide the vehicle roadworthiness testing service at a fixed ITV station is payable by all operating agents wishing to carry out this activity within the territory of Catalonia.’

‘The chargeable event for this fee is the administrative activity involved in processing applications for authorisation, and applications to amend administrative authorisations, to provide vehicle roadworthiness testing services at fixed ITV stations.

’14.3.2. Person liable to pay the fee

‘The person liable to pay this fee is the operator applying for administrative authorisation, or for an amendment to an administrative authorisation, to provide ITV services at a fixed station.

’14.3.3. Accrual

‘The fee is payable by the resolution finalising the file for the application for administrative authorisation, or amendment of the existing authorisation, of a fixed ITV station. The fee is payable at the time the application is submitted.

'14.3.4. Amount

'The amount of this fee, to be settled for each of the authorisation or amendment files of the existing authorisation, is EUR 3 727.70.

'These amounts may be reviewed annually, in accordance with the criteria established by the Budget Law.

'14.3.5. Parties affected

'Revenue from the fee for the authorisation or amendment of the authorisation of a fixed vehicle inspection centre must be used to finance measures relating to the management and improvement of industrial safety, and shall be credited to the relevant budget headings of the directorate-general responsible for industrial safety.'

2. Chapter V of Title XIV of the consolidated text of the Law on Fees and Public Prices of the Generalitat of Catalonia, approved by Legislative Decree 3/2008 of 25 June 2008, is amended as follows:

'Chapter V. Fee for the monitoring and supervision of the provision of the vehicle roadworthiness testing service

'14.5.1. Chargeable event

'This fee is payable by all operating agents providing vehicle inspection services at fixed stations and mobile units within the territory of Catalonia, for the purpose of carrying out the inspection procedures laid down by the applicable regulations and by the instructions and protocols approved by the competent body of the Generalitat responsible for industrial safety.

'The chargeable event for this fee is the administrative activity generated by the monitoring and supervision of the vehicle roadworthiness testing service by the Administration of the Generalitat responsible for industrial safety.

'14.5.2. Person liable to pay the fee

'The persons liable to pay this fee are operating agents providing vehicle roadworthiness testing services at fixed ITV stations or at mobile ITV units in Catalonia. The amount of this fee cannot be passed onto users and end-users.

'14.5.3. Accrual

'The fee becomes chargeable upon the issue of the supervision certificates and reports resulting from the monitoring carried out by the body of the Administration of the Generalitat of Catalonia responsible for industrial safety. The fee shall be payable monthly when the person liable to pay it submits to the body of the Administration of the Generalitat of Catalonia responsible for industrial safety the list of activities giving rise to the monitoring and supervision activities.

'14.5.4. Amount

'The amount of this fee, which shall be assessed for each roadworthiness test and each ITV administrative procedure requested, shall be the sum of the applicable components for each activity, calculated at the following rates:

- '- Procedure for amending the ITV card due to change of classification of the vehicle: EUR 4.55 per procedure.
- '- Procedure for amending the ITV card due to modification of the vehicle: EUR 7.70 per procedure.
- '- Procedure for issuing a new ITV card for the registration of vehicles in Spain: EUR 6.75 per procedure.
- '- Procedure for issuing an ITV card for vehicles registered in Spain: EUR 6.35 per procedure.
- '- Complete technical inspection of the vehicle: EUR 0.95 per inspection.

'- Partial technical inspection of the vehicle: EUR 0.85 per inspection.

'These amounts may be reviewed annually, in accordance with the criteria established by the Budget Law.

'14.5.5. Parties affected

'Revenue from the fee for the monitoring and supervision of the provision of the vehicle roadworthiness testing service must be used to finance measures relating to the management and improvement of industrial safety, and shall be credited to the relevant budget headings of the directorate-general responsible for industrial safety.'

3. Chapter VIII of Title XIV of the consolidated text of the Law on Fees and Public Prices of the Generalitat of Catalonia, approved by Legislative Decree 3/2008 of 25 June 2008 is deleted.

Second final provision

Amendment of Law 9/2014 of 31 July 2014 on the industrial safety of establishments, installations and products

1. Article 31 of Law 9/2014 of 31 July 2014 on the industrial safety of establishments, installations and products is amended to read as follows:

'Bodies responsible for imposing penalties

'1.1 The exercise of the power to impose penalties for offences established by this law corresponds to:

'a) The person in charge of the department responsible for penalties for minor offences.

'b) The person in charge of the subdirector-general responsible for industrial safety for penalties for serious offences.

'c) The person in charge of the directorate-general responsible for industrial safety for penalties for very serious offences.

'1.2 The Generalitat may amend by decree the sanctioning bodies for the offences established in Law 9/2014 of 31 July 2014 on the industrial safety of establishments, installations and products.'

Third final provision

Authorisation granted to the person in charge of the department responsible for industrial safety

In accordance with the provisions of Article 39 of Law 13/2008 of 5 November 2008 on the Presidency of the Generalitat of Catalonia and the Generalitat, the person in charge of the department responsible for industrial safety is authorised to issue an order setting out the procedure for authorising, modifying and revoking authorisations for ITV stations and to specify the territorial weighting conditions laid down in paragraph 1 of Annex 1.

Fourth final provision

Entry into force

This law shall come into force twenty (20) days after the day following its publication on the *Diario Oficial de la Generalitat de Catalunya* (Official Gazette of the Generalitat of Catalonia).

Annex 1

Conditions for establishing fixed ITV stations

-1 Territorial weighting conditions for the provision of the ITV service at fixed stations.

1.1 To ensure universality of service, three zones have been identified within the territory of Catalonia:

- a) Zone A consists of the following districts: Alt Urgell, Alta Ribagorça, Baix Ebre, Berguedà, Cerdanya, Conca de Barberà, Garrigues, Lluçanès, Montsià, Noguera, Pallars Jussà, Pallars Sobirà, Pla d'Urgell, Priorat, Ribera d'Ebre, Ripollès, Segarra, Solsonès, Terra Alta, Urgell and Vall d'Aran.
- b) Zone B consists of the following districts: Alt Camp, Alt Empordà, Alt Penedès, Anoia, Bages, Baix Camp, Baix Empordà, Baix Penedès, Garraf, Garrotxa, Gironès, Moianès, Osona, Pla de l'Estany, Segrià, Selva and Tarragonès.
- c) Zone C consists of the following districts: Baix Llobregat, Barcelonès, Maresme, Vallès Occidental and Vallès Oriental.

1.2 The conditions under which the ITV service is provided in each of the three zones outlined above are as follows:

- a) Zone A. In these districts, access to the activity is conditioned on compliance with the following conditions:
 - The fixed stations must be equipped with at least one universal-type lane.
 - The fixed stations must be equipped to perform taximeter checks if any population in the district has more than 10 000 inhabitants or more than three towns in the district each have more than 5 000 inhabitants.
 - The minimum service hours must cover three fixed days a week between 9.00 am and 5.00 pm, although this timeframe may be subject to municipal regulations governing the activity.
- b) Zone B. In these districts, access to the activity is conditioned on compliance with the following conditions:
 - A minimum of four inspection lanes is required across the different fixed stations authorised in the zone.
 - The fixed stations must be equipped with at least one universal-type lane.
 - The fixed stations must be equipped to perform taximeter checks if any population in the district has more than 10 000 inhabitants or more than three towns in the district each have more than 5 000 inhabitants.
 - The minimum service hours must cover four fixed days a week between 9.00 am and 5.00 pm, although this timeframe may be subject to municipal regulations governing the activity.
 - For every four inspection lanes in zone B, the operator must previously have authorised and have in operation the provision of the service at a fixed station in zone A.
 - For the purposes of complying with the weighting requirements, inspection lanes located at fixed stations referred to in paragraphs 4, 5, 6 and 7 of Article 4 of this law shall not be counted as inspection lanes in zone B.
- c) Zone C. In these districts, access to the activity is conditioned on compliance with the following conditions:
 - It is necessary to have a fixed station in zone A that is previously authorised and in operation.
 - A minimum of four inspection lanes is required across the different fixed stations authorised in the zone.
 - Fixed ITV stations must be equipped with at least two inspection lanes, one of which must be a universal lane, and must have a separate inspection bay for mopeds and motorcycles.
 - The fixed stations must be equipped to perform taximeter checks if any population in the region has more than 10 000 inhabitants or more than three towns in the region each have more than 5 000 inhabitants.

- The minimum service hours must cover five fixed days a week between 9.00 am and 5.00 pm, although these hours may be subject to municipal regulations governing the activity.
- For every four inspection lanes in zone C, the operator must have previously authorised and in operation the provision of the service at a fixed station in zone A.
- For the purposes of complying with the weighting requirements, inspection lanes located at fixed stations referred to in paragraphs 4, 5, 6 and 7 of Article 4 of this law shall not be counted as inspection lanes in zone C.

1.3 For the purposes of compliance with the above conditions, the following circumstances are equivalent to having a fixed station in zone A:

- a) The provision of the ITV service at mobile units in one of the service zones set out in Annex 2.
- b) The ITV service provision at a fixed station, carrying out roadworthiness tests exclusively on vehicles with a maximum authorised mass exceeding 3 500 kg.
- c) The ITV service provision at a fixed ITV station to carry out administrative procedures relating to the ITV for any type of vehicle, as well as taximeter checks and roadworthiness tests exclusively for vehicles used as taxis.

-2 Environmental sustainability conditions for the ITV service provision at fixed stations

The environmental sustainability conditions to be met at fixed ITV stations are as follows:

2.1 Have renewable-energy generation facilities, appropriately sized to meet the station's electricity demand, in the areas designated for that purpose at fixed ITV stations.

Where it is not possible to meet the demand for electricity using the organisation's own renewable energy generation facilities, the operating agents responsible for ITV stations must take the necessary measures to ensure that the electricity that they purchase comes from renewable sources.

2.2 Ensure that permanent ITV stations are registered in accordance with European regulations on the voluntary participation of organisations in a Community Eco-Management and Audit Scheme (EMAS).

Annex 2

Terms and conditions for the ITV service provision at mobile units

-1 Zones where the ITV service is provided at mobile units

There are two distinct zones where the ITV service is provided at mobile units:

1.1 The North zone consists of the following districts: Alt Empordà, Alt Urgell, Alta Ribagorça, Bages, Baix Empordà, Berguedà, Cerdanya, Garrotxa, Gironès, Lluçanès, Maresme, Moianès, Noguera, Osona, Pallars Jussà, Pallars Sobirà, Pla de l'Estany, Ripollès, Segarra, Selva, Solsonès, Vall d'Aran, Vallès Occidental and Vallès Oriental.

1.2 The South zone consists of the following districts: Alt Camp, Alt Penedès, Anoia, Baix Camp, Baix Ebre, Baix Llobregat, Baix Penedès, Barcelonès, Conca de Barberà, Garraf, Garrigues, Montsià, Pla d'Urgell, Priorat, Ribera d'Ebre, Segrià, Tarragonès, Terra Alta and Urgell.

-2 Environmental sustainability condition of the provision of the ITV service at mobile units

The mobile ITV units must be registered in accordance with the European regulations on the voluntary participation of organisations in a Community Eco-Management and Audit Scheme (EMAS).

Annex 3

Guarantees to cover possible liability for non-compliance

1. To cover any liabilities arising from the revocation of an authorisation to provide services at a fixed ITV station, a guarantee of EUR 12 000 must be lodged for each inspection lane.
2. To cover any liabilities arising from failure to comply with the conditions laid down in a contract for the ITV service provision at mobile units, a guarantee of EUR 12 000 must be lodged.
3. The amounts of the guarantees for each inspection lane at fixed ITV stations or for each zone served by the ITV service at mobile units, are updated annually taking into account the state consumer price index of the previous calendar year, published by the National Statistics Institute (INE). The updating of the guarantees must be in accordance with the instructions laid down by resolution of the directorate-general responsible for industrial safety.
4. The amount of the guarantee may be modified by resolution of the directorate-general responsible for industrial safety.
5. The values resulting from minimum amounts of the above calculation should be rounded off as follows:
 - a) The number of euro cent units between 1 and 5 is rounded off to 5.
 - b) The digit in the euro cents place value between 6 and 9 is rounded down to 0, and the digit in the tens of euro cents place value is increased by one.
6. The guarantee covering any liabilities arising from the revocation of an authorisation to provide ITV services at fixed stations or from failure to comply with the conditions laid down in a contract for the ITV service provision at mobile units must be lodged by means of a bank deposit with the General Deposit Fund of the Generalitat of Catalonia. The bank guarantee template to be used will be the one determined at any given time by the competent body in matters of industrial safety and published on the website of the competent department in matters of industrial safety of the Generalitat of Catalonia.