

Client Alert

July 2018

For further information, please
contact:

Brian Chia
Partner
+603 2298 7999
Brian.Chia
@WongPartners.com

Sue Wan Wong
Partner
+603 2298 7884
SueWan.Wong
@WongPartners.com

Serene Kan
Senior Associate
+603 2299 6437
Serene.Kan
@WongPartners.com

Pakatan Harapan Acts on Promise 8: Improving the Quality and Coverage of Public Transport

The new Pakatan Harapan government took steps to fulfill an election promise when the Minister of Transport ("**Minister**") announced amendments to the Land Public Transport Act ("**LPT Amendment Act**") and the Commercial Vehicles Licensing Board Act ("**CVLB Amendment Act**").

The LPT Amendment Act and CVLB Amendment Act and other subsidiary legislation passed by the Minister ("**Amending Laws**"):

- i. introduces a new licensing regime affecting companies providing e-hailing services in East and Peninsular Malaysia ("**New Licensing Regime**")
- ii. standardises the qualifications and registrations for all drivers carrying passengers for a fee ("**Standardisation Qualification**")
- iii. brings the previously unregulated e-hailing service industry within the purview of the Malaysian Land Public Transport Commission ("**SPAD**") in Peninsular Malaysia and the Commercial Vehicle Licensing Board in East Malaysia

These amendments come into effect on 12 July 2018.

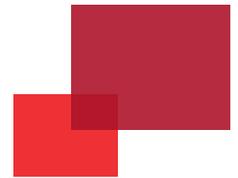
How will the New Licensing Regime and Standardisation of Qualification affect e-hailing companies and its investors?

E-hailing companies that provide services through the use of e-hailing vehicles¹ and charge a fee will need to hold an intermediation business licence ("**Intermediation Licence**"). It must also ensure that each of its drivers holds a permit.

For e-hailing companies, this means taking the following steps before they apply for the Intermediation Licence and by no later than 11 July 2019:

- i. be registered with the Companies Commission of Malaysia or the Malaysian Co-operative Societies Commission
- ii. introduce a code of conduct and complaints guideline for e-hailing drivers

¹ "e-hailing vehicle" is a motor vehicle with a seating capacity of 4 people and not more than 11 people (including the driver) and used for the carriage of persons in consideration for fares and where such an arrangement, booking or transaction (including the fare for such journey), is facilitated through an electronic mobile application provided by an intermediation business.



- iii. equip/install an emergency button/function (for both the e-hailing driver and passenger) on the mobile application
- iv. ensure adequate insurance coverage for the drivers, passengers, the vehicle and third parties
- v. cap the amount of commission rates imposed on its drivers, and cap the fare surcharges imposed on passengers

Drivers of e-hailing vehicles ("**Affected Drivers**") will be subject to the same regulatory regime as taxi drivers. This means having to:

- i. obtain a public service vehicle licence from SPAD
- ii. obtain a drivers' card or an electronic drivers' card which must be displayed within the e-hailing vehicle
- iii. subject its e-hailing vehicle through a yearly inspection with the Computerised Vehicle Inspection Centre after the 3rd anniversary of the vehicle
- iv. ensure that its e-hailing vehicle holds at least a 3 star rating from the ASEAN New Car Assessment Program
- v. undergo a 6 hour training module at various accredited driving schools and companies

Conclusion

The new laws are an effort by the Government to recognise that technology is revolutionising a traditional transportation model and seeks to balance the need to provide room for innovative solutions to prosper whilst protecting the interests of consumers and drivers.

These changes are intended to benefit consumers generally and also afford care and protection for the Affected Drivers.

The licensing regime also creates a higher cost of compliance to e-hailing companies. They will now need to take steps to draft the code of conduct; develop and modify the security features and adjust its systems to prepare for the caps on commissions and surcharges.

It will also need to implement a system to monitor and incentivise the Affected Drivers. Whilst a standardisation of qualification between taxi drivers and drivers of e-hailing vehicles places them on equal footing, it imposes a greater burden on the Affected Drivers; especially part-timers. E-hailing companies will need to plan for this impending change; otherwise it will risk having a shortage of drivers.