

## Client Alert

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## Anti-Fake News Bill 2018

The new Anti-Fake News Bill 2018 ("**Bill**") was tabled before the Lower House of Parliament on 26 March 2018. The Bill provides for extra-territorial application and is intended to apply to an act committed in a place outside of Malaysia, as long as the fake news concerns Malaysia or affects a Malaysian citizen.

### Overview of the Key Provisions

It is an offence under section 4 of the Bill to create, publish or disseminate any fake news or publication containing fake news. "Fake news" is broadly defined as any news or information, data and reports which is or are wholly or partly false, whether in the form of features, visuals or audio recordings or in any other form capable of suggesting words or ideas ("**Section 4 Offence**"). It is advisable to note that the definition of "fake news" is not limited to news in the traditional sense and also includes any information that is partially untrue. A person found guilty of a Section 4 Offence is liable to a fine of up to RM500,000 and/or imprisonment for a term of up to 10 years and in the case of a continuing offence, to a further fine of up to RM3,000 for each day the offence continues after conviction.

It is also an offence under the Bill:

- to provide financial assistance for purposes of committing or facilitating the commission of a Section 4 Offence. A person found guilty of providing financial assistance is liable to a fine similar to a Section 4 Offence.
- if a person who has within his possession, custody or control of any publication containing fake news fails to immediately remove such publication after knowing or having reasonable grounds to believe that such publication contains fake news. A person who is found guilty of this offence will be liable to a fine of up to RM100,000, and a further RM3,000 for every day the offence continues after conviction.

The Bill also affords any person affected by a publication containing fake news the right to apply to court for an *ex parte* order to compel the removal of the offending publication. A person who fails to comply with any court order to remove the offending publication will be liable to a fine of up to RM100,000.

### Comments

It is likely that the Bill, which was expediently drafted and tabled will be debated and passed as an Act in short order. However, it is not clear whether any significant amendments will be made prior. If the Bill is passed as-is, social media platforms may be required to comply with Malaysian court orders and reactively remove publications and posts containing "fake news".