



## ISSUES PAPER

# Reducing Unnecessary Regulatory Burdens on Business:

## TRANSPORT SERVICES

### *IN TOURISM INDUSTRY*

25 July 2018

## The Transport Services Issues Paper

MPC is releasing this issues paper to assist individuals and organizations to prepare and participate in the review. It contains and outlines:

- the scope of the review.
- matters in which the MPC is seeking comment and information.
- information about how you can get involved in the review.

Participants may add any comment which they consider relevant to the review.

### Key inquiry dates

Due date for submissions: **3 October 2018**

Release of draft report: November 2018

### Submissions can be made by email or fax to:

Email : [alamin@mpc.gov.my](mailto:alamin@mpc.gov.my) and [mohdzulkify@mpc.gov.my](mailto:mohdzulkify@mpc.gov.my)

Fax : 03-7960 0206

Website : [www.mpc.gov.my](http://www.mpc.gov.my)

### Contacts:

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### Malaysia Productivity Corporation Act (Incorporated) 1966

The Malaysia Productivity Corporation (MPC) is a statutory body under the Ministry of International Trade and Industry (MITI). Its mission is to deliver high impact services towards achieving performance excellence through innovation for the betterment of the community as a whole. In accordance with the provisions under Section 7 of the Act, MPC's shall, *inter-alia*:

- *advise on and coordinate the implementation of programmes and activities related to productivity and quality;*
- *report annually to the Minister on the progress and problems of raising productivity in commerce and industry and to make recommendations on the manner in which such problems may be dealt with.*

## CONTENTS

### Contents

TERMS OF REFERENCE.....	4
ABOUT THIS ISSUES PAPER.....	6
CONTEXT .....	8
What regulation will be covered in this review? .....	8
What are regulatory burdens?.....	8
What are unnecessary regulatory burdens? .....	8
Regulation and Policy.....	9
SOME ISSUES OF CURRENT INTEREST .....	10
AN INVITATION TO COMMENT .....	12
ANNEX 2 - EXPRESSION OF INTEREST.....	13

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## TERMS OF REFERENCE

### What the MPC has been asked to do

In the **Eleventh Malaysia Plan, 2016-2020**, the focus is to accelerate economic growth and promote an economy that will be driven by high-value and knowledge-intensive activities, sectoral governance reforms, and enhancing internationalisation of products and services.

The **Services Sector Blueprint (2015-2020)** mandated Malaysia Productivity Corporation (MPC) to undertake initiative on sectoral governance reform to remove structural barriers and outdated regulations through:

- i. Accelerating and increasing the efficiency of sectoral governance reform;
- ii. Ensuring that the best regulatory development practices are in place for new regulations by expanding and accelerating the adoption of the National Policy for the Development and Implementation of Regulations (NPDIR).

### In undertaking the review, MPC will:

1. identify
  - a. regulations that are unnecessarily burdensome, complex or redundant;
  - b. duplication in regulations or the role of regulatory bodies, including across jurisdictions; and/or
  - c. regulations which unnecessarily restrict competition.
2. develop a short list of priority areas for removing or reducing regulatory burdens which impact mainly on the transport services sector and have the potential to deliver the greatest productivity gains to the economy
3. identify regulatory and non-regulatory options, for this short list, which might alleviate the regulatory burdens - including those which will enhance regulatory consistency across jurisdictions or reduce duplication and overlap in regulation or in the role of regulatory bodies - and, where appropriate, recommend which option/s are the most suitable.

### Making a submission

Anyone is invited to make a submission (written or electronic) on the issues relating to the **Transport Services in Tourism Industry**. A submission can range from a short letter on a single issue to a more substantial document covering a range of issues. Your submission may respond to any or all of the issues outlined. You are also welcome to raise other issues and provide other information that you think might be relevant to this study. Where possible any views outlined in the submission should be supported by evidence, such as references to independent research, facts and figures, or examples. While every submission is welcome, multiple, identical submissions do not carry any more weight than the merits of an argument in a single submission. Please also include your name, or the name of your organisation, and contact details. Should you wish to remain anonymous, please indicate this and the MPC will keep your name confidential.

Submissions may be sent through the Corporation's website <http://www.mpc.gov.my/> or email or post. Electronic submissions should be in Adobe Acrobat or Microsoft Word or compatible format. In

addition, an electronic submission form is available at MPC website. Please do not send us material for which you are not the copyright owner, such as newspaper articles.

### Requesting a meeting

We shall be organising focus group meetings relevant stakeholders starting from August 2018 until end of September 2018 to discuss and gather issues. Invitations to these meetings are extended to your company / community / associations. Should you wish to have a one-to-one meeting on this review, please contact us to fix a date and time. We would be pleased to meet you at your convenience.

### Use of information

The information provided in submissions will be used to inform our analysis and the advice given to government on unnecessary regulatory burdens on the transport services sector, to gauge the position and preference of stakeholders and more generally to increase MPC's knowledge of the transport services sector. We may contact submitters directly if we require clarification of any matters in submissions.

We intend to post written submissions received on the issues paper on MPC's website at <http://www.mpc.gov.my/>. Therefore, please read the advice below regarding confidential or private information.

### Confidential information

The information from you may need to be passed to our colleagues within MPC, published in a summary of responses received and referred to in independent report. However, individual names will be kept confidential and will not be published in the report. We will acknowledge your organisation with your consent.

## ABOUT THIS ISSUES PAPER

### *Who is this Issues Paper aimed at?*

This Issues Paper is aimed at stakeholders who have information and experience in regulatory affairs relating to transport services related activities in tourism industry. This review will cover any issue related to the existing regulations, the regulatory regimes and compliance with the requirements.

We are interested in everyone's views, so please provide as much information as you can on the questions asked in this review. We know that people and businesses will have different experiences in regulatory compliance at this stage, so do not feel you have to answer the questions that are not relevant to you, for example where you do not have personal experience. We would welcome any other views not raised in the questions.

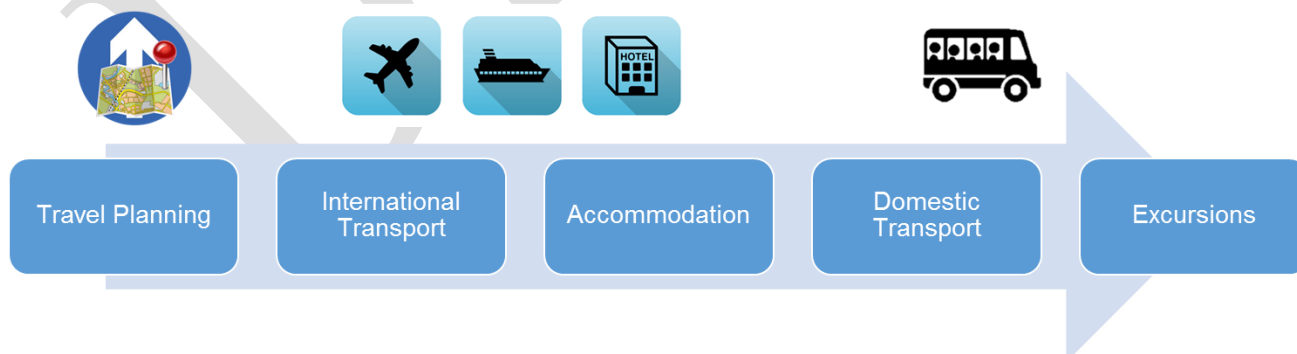
We have sent this Issues Paper document to many people and organisations but may not have reached everyone who may be interested in this area. Please share this document with, or tell us about anyone you think will want to be involved in this review.

### *The Transportation in Tourism Sector*

Transport Services in Malaysia can be divided into four sectors including air, maritime, land and railways as well as others including other services auxiliary to the abovementioned modes of transport. The services performed under each sector involve the carriage of passengers, the movement of goods (freight), and related supporting and auxiliary services that supports the best performance of each sector.

This review applies to businesses engaged in the activities relating to transportation activities in tourism sector (Figure 2) in all states of Malaysia.

Figure 2: Transport services in tourism sector supply chain



The scope for the review covers businesses and regulators as defined below:

Regulator/Authorities	Key Malaysian Federal Regulations
Air Transport	
<ul style="list-style-type: none"> <li>• Civil Aviation Authority of Malaysia (CAAM) (previously known as Department of Civil Aviation of Malaysian)</li> <li>• The Malaysian Aviation Commission (MAVCOM)</li> </ul>	<ul style="list-style-type: none"> <li>• Airport and Aviation Services (Operating Company) Act 1991 [Act 467]</li> <li>• Aviation Offences Act 1984 [Act 307]</li> <li>• Carriage by Air Act 1974 [Act 148]</li> <li>• Civil Aviation Act 1969 [Act 3]</li> <li>• Civil Aviation Authority of Malaysia Act 2017 [Act 771]</li> <li>• International Interests in Mobile Equipment (Aircraft) Act 2006 [Act 659]</li> <li>• Malaysian Aviation Commission Act 2015 [Act 771]</li> <li>• Immigration Act [Act 155]</li> </ul>
Maritime Transport	
<ul style="list-style-type: none"> <li>• Maritime Institute of Malaysia</li> <li>• Maritime Division of the Ministry of Transport</li> </ul> <p>The relevant Port Authority</p>	<ul style="list-style-type: none"> <li>• Carriage of Goods by Sea Act 1950 (Revised 1994) [Act 527]</li> <li>• Port Authorities Act 1963 (Revised 1992) [Act 488]</li> <li>• Ports (Privatization) Act 1990 (Revised 1992) [Act 422]</li> <li>• Merchant Shipping Ordinance 1952 [Ord 70/1952]</li> <li>• Federation Light Dues Act 1953 (Revised 1981) [Act 250]</li> <li>• Free Zones Act 1990 [Act 438]</li> <li>• Merchant Shipping (Liability and Compensation for Oil and Bunker Oil Pollution) Act 1994 [Act 515]</li> <li>• Petroleum (Safety Measures) Act 1984 [Act 302]</li> <li>• Langkawi International Yacht Registry Act 2013 [Act 630]</li> <li>• Penang Port Commission Act 1955 (Revised 1974) [Act 140]</li> <li>• Bintulu Port Authority Act 1981 [Act 243]</li> </ul>
Road Transport	
<ul style="list-style-type: none"> <li>• Road Transport Department Malaysia</li> <li>• Malaysian Institute of Road Safety Research (MIROS)</li> <li>• Puspakom Sdn. Bhd.</li> <li>• Land Public Transport Commission (SPAD)</li> </ul>	<ul style="list-style-type: none"> <li>• Road Transport Act 1987 [Act 333]</li> <li>• Malaysian Institute of Road Safety Research Act 2012 [Act 748]</li> <li>• Land Public Transport Act 2010 (SPAD) [Act 715]</li> <li>• Commercial Vehicle Licensing Board Act 1987 [Act 334]</li> </ul>
Railway Transport	
<ul style="list-style-type: none"> <li>• Land Public Transport Commission (SPAD)</li> <li>• Rail Asset Corporation</li> </ul>	<ul style="list-style-type: none"> <li>• Railways Act 1991 [Act 463]</li> <li>• Railways (Successor Company) Act 1991 [Act 464]</li> </ul>
Tourism sector	
<ul style="list-style-type: none"> <li>• Royal Malaysian Customs Department</li> </ul>	<ul style="list-style-type: none"> <li>• Malaysia Tourism Promotion Board Act 1992 [Act 481]</li> <li>• Tourism Industry Act 1992 [Act 482]</li> <li>• Immigration Act [Act 155]</li> </ul>

\* Note: The above list is not exhaustive and may be subject to change.

## CONTEXT

*What regulation will be covered in this review?*

MPC is assessing both written regulation and the administration and enforcement of regulations. With regards to written regulation, all types of legislative instruments used by Malaysian Federal and State Governments as well as rules set by Local Governments, such as by-laws, guidelines, circulars, code or policies are potentially under review. The conditions contained in licences, permits, consents, registration requirements and leases are also under review where they impose a compliance burden or restrict completion.

*What are regulatory burdens?*

Regulatory burdens arise from the costs imposed by regulation and its enforcement that would otherwise not arise for businesses. Regulatory requirements create a change in business behaviour and practices and can adversely impact on businesses in various ways.

These costs or impacts include:

- a. Administrative and operational requirements such as reporting, record keeping, getting legal advice and training
- b. Requirements on the way goods and/or services are managed and handled, such as prescriptions on transportation and handling methods, occupational registration requirements, requiring professionals to use particular techniques
- c. Requirements on the characteristics of what is transported or handled, such as dangerous and restricted goods
- d. Lost opportunities due to prohibitions, such as ban on import/export of certain goods.

*What are unnecessary regulatory burdens?*

Regulations by necessity impose prices on those affected, as well as businesses. Wherever the objectives of regulation are sound, and are effectively designed and enforced, the advantages of regulation would be expected to outweigh the prices for the community. Good regulation additionally achieves its explicit policy objectives at the least cost to the community.

The common types of regulatory burdens<sup>1</sup> experienced by business are as follows:

- a. Excessive coverage by a regulation – that is, the regulation affects more activity that was intended or required to achieve its objective
- b. Subject-specific regulation that covers much the same issues as other generic regulation
- c. Prescriptive regulation that unduly limits flexibility such as preventing businesses from:
  - i. Using the latest technology

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<sup>1</sup> A Guide to Reducing Unnecessary Regulatory Burdens on Business: A Core Concept. [www.mpc.gov.my](http://www.mpc.gov.my)



- ii. Making changes to better meet customer demand
- iii. Meeting the underlying objectives of regulation in different ways
- d. Overly complex regulation
- e. Unwieldy licence application and approval processes, excessive time delays in obtaining responses or duplicative information requests
- f. An overlap or conflict in the activities of different regulators
- g. Inconsistent application or interpretation of regulation by regulators.

It is important to note that the relative burden placed on small businesses may be greater than that imposed on larger businesses as they may have to devote proportionately more effort to achieve equivalent compliance. They may also be disadvantaged where regulations are anti-competitive.

### *Regulation and Policy*

The study will address both written regulation and its implementation by regulators. Written regulations cover primary and secondary legislative instruments (gazetted Acts and Regulations) and quasi regulation such as guidelines, standards, circulars, written instructions, procedures and forms, etc.

The implementation of written regulation is frequently neither effective nor efficient. It will be wrong to assume that once a regulation is approved everyone complies, or that regulators administer and enforce the written regulation.

How regulators implement regulation crucially influences whether it achieves the Government's intended policy objectives and the compliance costs imposed on business.

## **SOME ISSUES OF CURRENT INTEREST**

In general, the country has not made any purposeful effort to review existing regulations over the years. There are existing regulations which may be deemed obsolete as they no longer serve the original purpose. The preliminary research and consultations have found potential examples of transport linkages issues, including:

### **Fragmented regulations to establish and operate as transport operator in tourism sector.**

Some industries are required to comply with multiple layers of Government regulations, which are overseen by more than one regulator. In submissions to the Inquiry, it is noted that the lack of consistency of federal and state leads to confusion about where and how to do the business

Q1. Are there overlapping of regulations?

Q2. Do you think any regulations are not justified at all?

Q3. Which regulations do you think are too onerous given what they are trying to achieve?

### **Dealing with licensing and permit requirement**

One of the fundamental hindrances confronted by businesses in undertaking and implementing development projects is the delay in acquiring license and permit approval from the relevant authorities.

Some issues related to dealing with licensing and permits are:

- Checklist and guidelines on the procedures behind this are presently not publicly published.
- The current renewal duration is too long and every renewal requires licensees to re-submit documents which they had already submitted previously.
  - i. Presently, licensees are required to renew their licenses 90 days before the expiry date.
  - ii. The current processing period for the renewal of licenses is 30 days.Original licenses must be carried and displayed on board of the vehicles. Presently, the original licenses are not allowed to be substituted with certified true copies.

Q1. *What is/are the major issue/s you have in dealing with current licence and permit regime? What has been done to resolve it?*

Q3. *Which current regulations that govern your operations concern you the most?*

Q4. *How long do regulators take to respond to applications, queries, etc.?*

### **Issues for buses/transport operator in adapting to prescriptive regulation that unduly limits flexibility**

1. There is no differentiation between tourism vehicles and public transport, particularly express buses.
2. Public transport express buses have more insurance coverage than tourism buses.
3. The life of tourism vehicles is currently too short at 12 years.
4. Compulsory requirement to be coloured with green for tourism vehicles.
5. Caravans and recreational vehicles needs to be registered under companies for the purpose of monitoring
6. 16 seat capacity tourism vehicles must employ the services of a MOTAC certified tour guide

unless an exemption is obtained from the MOTAC State office.

7. The disallowing of other van models than Toyota commuter vans for the use for tourism vehicles.

*Q1. Are there overlapping of regulations?*

*Q2. Do you think any regulations are not justified at all?*

*Q3. Which regulations do you think are too onerous given what they are trying to achieve?*

*Q4. Which current regulations that govern your operations concern you the most?*

#### **Lack of government incentives.**

In Malaysia, tax incentives, both direct and indirect, are provided for in various regulations, e.g. the Promotion of Investments Act 1986, Income Tax Act 1967, Customs Act 1967, Sales Tax Act 1972, Excise Act 1976 and Free Zones Act 1990. These Acts cover investments in the manufacturing, agriculture, tourism (including hotel) and other approved services as well as R&D, training and environmental protection

*Q1. Are you aware of any incentive for transport operator in Malaysia? If not, what are your recommendations?*

We hope that you will be able to give us a clearer picture and better understanding on these issues and other problems you face in transport services. It would be most useful if you can cite real-case examples, provide evidences and give further explanation on any issues raised.

----- (END) -----

This Issues paper can be downloaded from [www.mpc.gov.my](http://www.mpc.gov.my)

Any enquiries regarding this Issues paper should be sent to:

**Productivity and Competitiveness Development Division  
Malaysia Productivity Corporation (MPC)  
P.O.Box 64, Jalan Sultan  
46904 Petaling Jaya, SELANGOR.**

Thank you

## AN INVITATION TO COMMENT

MPC is seeking feedback from interested parties, from public and private sectors, with expertise or experience in the Malaysian Transport Services sector, who can assist in this study. The types of information being sought include the following:

1. Which regulations concern you the most? Why?
2. Which regulations are the hardest to comply with? In what way?
3. Which regulations do you think are too onerous given what they are trying to achieve?
  - What do you think of the current costs involved in getting your application to maintain your business?
  - How about the application's processing time? Which exact processing stage is the most burdensome to maintaining the business?
4. Do you think any regulations are not justified at all?
5. Are some regulatory requirements inconsistent?
6. Do you consider inspectors and other regulatory administrators do a good or a poor job? In what way?
7. Do you find inspectors and administrators are consistent in their decisions?
8. Do you find they are helpful or unhelpful in advising you how to comply
9. Are there any publicly available guidelines?
10. How long do regulators take to respond applications, queries, etc?
11. Do you have any suggestions for reducing the burden of compliance of regulations?
12. Are there any other issues you want to suggest we should cover in our review?

## ANNEX 2 - EXPRESSION OF INTEREST

### MALAYSIA PRODUCTIVITY CORPORATION (MPC) REDUCING UNNECESSARY REGULATORY BURDENS ON BUSINESS: TRANSPORT SERVICES IN TOURISM INDUSTRY

**Please complete and submit this form with your submission (if any) before 30 March 2016:**

By email : [alamin@mpc.gov.my](mailto:alamin@mpc.gov.my)  
[mohdzulkifly@mpc.gov.my](mailto:mohdzulkifly@mpc.gov.my)  
By Fax : (03) 7960 0206

Contact (name) : \_\_\_\_\_  
Position : \_\_\_\_\_  
Organisation : \_\_\_\_\_  
Address : \_\_\_\_\_  
City : \_\_\_\_\_ Postcode : \_\_\_\_\_  
Telephone(off) : \_\_\_\_\_ Mobile : \_\_\_\_\_  
Email address : \_\_\_\_\_

**Please indicate your interest in this review:** (√)

i.) Would like to be interviewed by the MPC ( )

ii) Would like to make a submission ( )

iii.) Be informed of development of study including receiving the draft report ( )

**Please describe the nature of your business activity / area of specialisation:**

Travel Planning  Domestic Transport   
International Transport  Excursions   
Accommodation  Other:

**Area of specialisation:** \_\_\_\_\_

Company Equity : Local own   
Joint-venture   
Foreign own