

Insights

HK'S PROPOSED LEGAL FRAMEWORK FOR ONLINE HAILING HIRE CARS

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SUMMARY

Earlier this month, the Hong Kong Government unveiled its long-anticipated legislative proposal to regulate online hailing hire car services.

This legislative proposal will pave the way to remove the legal uncertainty surrounding online hailing hire car services ("Services") and improve personalised point-to-point transport services in Hong Kong.

LEGISLATIVE PROPOSAL

While it might take some time for the Government to produce a bill to set out its legislative proposal, the [Legislative Council discussion papers](#) prepared by the Government stated that the future regulatory framework will regulate three target groups in this industry – regulatory platforms, vehicles and drivers. Some of the key points in the proposal are set out below:

PLATFORMS

- **Licence:** All platforms providing Services must obtain an online hailing car platform licence, which will be valid for five years (renewable).
- **Eligibility:** A platform company must (a) be a registered company in Hong Kong, (b) have qualified executive personnel, (c) have an office in Hong Kong, (d) meet certain entry thresholds, including operational experience, proof of financial standing and capital investment.
- **Due diligence:** A platform licensee must ensure that vehicles and drivers providing Services through its platform (a) hold valid permits, (b) are lawful and compliant with the relevant regulations, and (c) have taken out valid third party liability insurance.

- **Criminal offence:** It will be a criminal offence if (a) a person provides online hailing platform services without a licence, and (b) a platform arranges for passengers to be picked up by vehicles or drivers without a valid permit.
- **Anti-competition conduct:** To promote competition, the platforms must not impose restriction on their vehicles / drivers from registering with other platforms.
- **Target vehicles:** Platforms will be allowed to provide hailing services to both online hailing cars and taxis.

VEHICLES

- **Permit:** All private cars providing Services must hold a valid permit, which will be valid for one year (renewable for not more than five years).
- **Eligibility:** The vehicle must not be older than seven years and must pass an annual vehicle inspection. The permit holder must take out, for each vehicle, third-party liability insurance for commercial vehicles.
- **Criminal offence:** It will be a criminal offence if (a) a person provides Services using a private car without a valid permit (even if that person holds a valid driver permit – see below), and (b) the licensed car picks up passengers without reservations directly on the street.

DRIVERS

- **Permit:** All drivers providing Services must hold a valid permit, which will be valid for five years (renewable).
- **Eligibility:** A driver must be 21 years old or above, must have held a private car driving licence for at least one year, must have had no serious traffic convictions in the past five years, and must have passed the required assessments and courses.
- **Criminal offence:** It will be a criminal offence if (a) a person drives a vehicle to provide Services without a valid permit (even if that vehicle holds a valid permit – see above), and (b) a driver fails to provide Services through a licensed platform.

OTHER KEY PROPOSALS

- It is proposed that that the Road Traffic Ordinance (Cap 374) be amended to allow law enforcement agencies to apply to the court to have a vehicle impounded when there is sufficient evidence to show that the vehicle has been involved in illegal carriage of passengers for hire or reward.

- It also is proposed to introduce a minimum disqualification period (one year) for persons convicted of illegal carriage of passengers for hire or reward.

CONCLUSION

By imposing minimum standards on the operations of platforms, vehicles and drivers, the proposed legal framework is expected to improve the safety and professionalism of personalised point-to-point transport services in Hong Kong.

Platform companies, vehicle owners and drivers intending to provide Services in the future should pay close attention to the details of the forthcoming bill and be prepared to comply with the new licencing and operation requirements once enacted.

RELATED CAPABILITIES

- Business & Commercial Disputes
- Intellectual Property & Technology Disputes

MEET THE TEAM



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