

Miscellaneous

Versi Bahasa Indonesia

Enforcement Date

31 March 2017

Related ILB

- Electronic-Road-Pricing Policy in Jakarta Redefined
- Provisions on Donations for Victims of Road Accidents Adjusted
- Govt. Redefines Provisions on Donation Amounts and Mandatory Premiums for Public-Transportation Passengers Involved in Accidents
- Provisions for Road-Transportation Businesses Utilizing Public Motor Vehicles Within Jakarta Reregulated
- Ministry of Transportation Relaxes Age Limitations for Commercial Aircraft

Application-Based Transportation Services Reregulated

The Ministry of Transportation (“Ministry”) has issued Regulation [No. PM 26 of 2017](#) on the Organization of Non-Fixed-Route Public-Transportation Services (“**Regulation 26/2017**”), in an attempt to offer greater legal certainty for the organization of said public-transportation services, specifically application-based transportation services.¹

With this goal in mind, Regulation 26/2017 redefines the legal framework which was previously addressed under Ministerial Regulation [No. PM 32 of 2016](#) on the Organization of Non-Fixed-Route Public-Transportation Services (“**Regulation 32/2016**”),² by making a number of essential revisions which relate to the following areas:³

1. The categorization of application-based transportation services;
2. Specifications of the cars and vehicles which can be used by application-based transportation services;
3. Base and ceiling tariffs for application-based transportation services;
4. Mandatory labeling for application-based transportation vehicles (with special stickers),
5. Vehicle quotas for public-transportation services serving particular destinations;
6. Regular, mandatory roadworthiness inspections for application-based transportation services in order that such services can obtain mandatory certification (these certificates are locally known as KIR);
7. The requirement for owners of vehicles for application-based transportation services to be in possession of Vehicle Registration Certificates (*Surat Tanda Nomor Kendaraan* - “**STNK**”) under the name of the relevant public-transportation service company (“**Company**”);
8. The obligation for companies to be in possession of sufficient space to be able to pool their vehicles;
9. The obligation for companies to be in possession of vehicle maintenance facilities or to enter into cooperation agreements with other parties for the use of such facilities;

¹ Recital (b), Regulation 26/2017.

² For further information on Regulation 32/2016, see ILB [No. 2869](#).

³ See also: “[11 Poin Revisi Peraturan Menteri Perhubungan Transportasi Online](#)”.

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10. Mandatory access to the digital dashboards which are utilized any transportation-services application providers (“**Provider**”); and
11. Imposition of tax upon Providers.

This edition of Indonesian Legal Brief will be discussing all of the above topics, with the exception of point (11).

Application-Based Transportation Services: Categories, Car Specifications, Tariff Caps

In general, there are four types of non-fixed-route public-transportation services, specifically:⁴

1. Taxi services;
2. Services serving particular destinations, including rental-vehicle services;
3. Services for tourism purposes; and
4. Services serving certain areas.

Regulation 26/2017 now classifies rental-vehicle services into two categories, specifically: general rental-vehicle services and special rental-vehicle services. Special rental-vehicle services are door-to-door transportation services offered in urban areas which may be ordered through the use of information-technology-based applications.⁵

Furthermore, Regulation 26/2017 also specifies that any vehicles which are used as part of the operations of application-based transportation services must comply with the following requirements:⁶

1. Must have a minimum engine capacity of 1,000 cubic centimeters (cc); and
2. Must prominently display official stickers in both front and rear windows;
3. Must prominently display the following: (a) drivers’ identities on vehicle dashboards or through the relevant technology-based applications; and (b) customer-care contacts, which should be displayed in easily noticeable locations inside vehicles;
4. Must have legal operational documents, specifically: (a) an STNK under the relevant Company name; (b) a vehicle-testing card; and (c) a vehicle-monitoring card.

In addition, the base and ceiling tariffs for said services are now to be determined by the Director General of Land Transportation (“**Director General**”) and should be based on proposals which are made by the relevant governor or Head of Transportation Management Institution (“**Head of Institution**”).⁷

⁴ Arts. 3 and 11, Regulation 26/2017.

⁵ Arts. 17 (2) and 19 (1), Regulation 26/2017.

⁶ Art. 19 (3), Parts (d) to (g), Regulation 26/2017.

⁷ Art. 19 (2f), Regulation 26/2017.

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Previously, Regulation 32/2016 did not classify rental-vehicle services into two categories, as described above. As a result, there were no further provisions which specifically regulated special rental-vehicle services, as is now the case under Regulation 26/2017. However, the uncategorized provisions set out under Regulation 32/2016 were generally similar and have now been incorporated under the “general rental-vehicle services category” of Regulation 26/2017.⁸

Furthermore, Regulation 26/2017 states that the mandatory labeling obligation described above comes into force on 1 June 2017, while the imposition of base and ceiling tariffs will apply from 1 July 2017.⁹

Vehicle Quotas

Vehicle quotas for public-transportation services covering particular destinations are to be determined by the Director General, Head of Institution or by the relevant governor, regent or mayor, and should be based on potential and estimated transportation needs. Any determined quota will remain valid for a period of five years and must be publicly announced.¹⁰ These provisions will then apply to application-based transportation services through the “public-transportation services for particular destinations” category.

Previously, Regulation 32/2016 stipulated that such quotas were to be determined by the Director General and didn't mandate that such quotas had to be announced after they had been determined.¹¹

Application-Based Transportation Services

Similar to Regulation 32/2016, Regulation 26/2017 also specifies that non-fixed-route public-transportation services may only be offered by a Company (i.e. one that takes the form of a state/regionally owned enterprise, a limited-liability company or a cooperative) which has first secured a license for the organization of said services. In order to secure such a license, a Company must meet the following requirements:¹²

1. Must be in possession of at least five vehicles, as evidenced through the possession of STNKs under the relevant names and certificates, evidencing the fact that vehicles have passed regular, mandatory roadworthiness inspections;
2. Must provide a pool with sufficient space to contain all of its vehicles; and
3. Must be in possession of vehicle-maintenance facilities or must enter into a cooperation agreement with other parties regarding the provision of vehicle-maintenance facilities.

⁸ Compare: Art. 18 of Regulation 32/2016 with Art. 18 of Regulation 26/2017.

⁹ Art. 66 (5) and (6), Regulation 26/2017.

¹⁰ Art. 21 (1), (2) and (4), Regulation 26/2017.

¹¹ Compare: Art. 21 of Regulation 26/2017 with Art. 12 of Regulation 32/2016.

¹² Arts. 25 to 27, Regulation 26/2017.

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Furthermore, Regulation 26/2017 clarifies that any Company which utilizes applications in order to offer services will also be subject to the abovementioned requirements. Therefore, any such Company must now ensure that the relevant STNKs for its operational vehicles are now registered under its name and that said vehicles also undergo the regular, mandated roadworthiness inspections.

Moreover, the Provider (via the Company) must also provide access to its digital dashboard to the Director General, Head of Institution, or to the relevant governor or regent/mayor. Any such digital dashboard must contain at least the following information:¹³

1. The Provider's name, address and identities of any person or persons in charge;
2. Data relating to any Companies which are cooperating with the Provider;
3. Data relating to drivers and vehicles;
4. Access to the monitoring of vehicle movements and tariffs; and
5. Customer-care information.

Previously, Regulation 32/2016 required Companies to also provide the abovementioned pools but did not specify any further details regarding pool capacities.¹⁴ In addition, Providers were only required to report the abovementioned dashboard information to the Director General, without the further requirement that any such reports had to be made via the relevant Company.¹⁵

It should be further noted that Regulation 26/2017 states that the provisions which relate to the obligation to undertake regular roadworthiness inspections and to provide access to digital-dashboards will come into force by 1 June 2017. Meanwhile, STNKs for any vehicles which are being used for non-fixed-route transportation services must be registered under a Company's name by 1 July 2017.¹⁶

Regulation 26/2017 has been in force since 31 March 2017 and simultaneously repeals and replaces Regulation 32/2016.^{AP}

¹³ Art. 52 (3-4), Regulation 26/2017.

¹⁴ Compare: Art. 27, Part (b) of Regulation 26/2017 with Art. 23, Part (b) of Regulation 32/2016.

¹⁵ Art. 41 (4), Regulation 32/2016.

¹⁶ Art. 66 (5) and (6), Regulation 26/2017.

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