

A BILL

*i n t i t u l e d*

An Act to amend the Land Public Transport Act 2010.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

**1.** (1) This Act may be cited as the Land Public Transport (Amendment) Act 2017.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

**Amendment of section 2**

**2.** The Land Public Transport Act 2010 [*Act 715*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) in the definition of “customer”, by substituting for the words “and includes the hirer of a goods vehicle service” the words “hirer of a goods vehicle service or customer of an intermediation business”;

(b) by inserting after the definition of “licensee” the following definition:

‘ “intermediation business license” means the holder of a licence issued under Chapter 2A of Part II;’;

(c) by substituting for the definition of “goods vehicle service” the following definition:

‘ “goods vehicle service” means—

(a) the carriage of goods for any third party by means of a goods vehicle for hire or reward; or

(b) the carriage of goods for any third party or the carriage of own goods by means of a goods vehicle in connection with a trade or business;’;

(d) by inserting after the definition of “tourism vehicle business” the following definition:

‘ “intermediation business” means the business of facilitating arrangements, bookings or transactions for the provision of land public transport services as specified in the Third Schedule whether for any valuable consideration or money’s worth or otherwise;’;

(e) in the definition of “railway company”, by deleting the words “whether incorporated or not,”; and

(f) by substituting for the definition of “terminals” the following definition:

‘ “terminal” means—

(a) a single or multi-modal station and transport hub dedicated to land public transport or the part or portion thereof relating to land public transport;

(b) a service counter or ticket counter relating to land public transport; or

(c) a container depot for storage of containers used for import or export;’.

## **New Chapter 2A of Part II**

3. The principal Act is amended by inserting after Chapter 2 of Part II the following chapter:

### “Chapter 2A

#### *Licensing of intermediation business*

#### **Licensing of intermediation business**

**12A.** (1) Subject to sections 194 and 195, no person shall operate or provide an intermediation business unless he holds a licence issued under this section.

(2) An application for a licence under this section shall be made to the Commission in the form and manner as determined by the Commission and shall be accompanied by the prescribed application fee and such information and documents as may be specified by the Commission.

(3) The applicant shall provide to the Commission complete information of his financial standing to prove his ability to maintain and operate the intermediation business.

(4) Subject to this Act, the Commission may, on an application for a licence under this section—

(a) grant the application in full or in part or with such modifications as the Commission thinks fit, and, upon payment of the prescribed fee, issue a licence to the applicant; or

(b) refuse the application.

(5) Every licence issued under this section shall set out the duration of the licence and the Commission may attach to the licence conditions that include—

- (a) the type and extent of intermediation business to be operated or provided by the intermediation business licensee;
- (b) the general level of service to be provided to persons using services provided by the intermediation business;
- (c) the measures to safeguard the safety and security of persons using services provided by the intermediation business; and
- (d) the standards of performance to be complied with by the intermediation business licensee in the operation of the intermediation business.

(6) The Commission may, at any time, add, cancel or vary any of the conditions attached to a licence issued under this section.

(7) The issuance of a licence by the Commission under subsection (4) shall not impose any liability on the Commission for any loss or damage occasioned by any act, omission or default of the intermediation business licensee.

(8) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(9) An intermediation business licensee who fails to comply with any of the conditions attached to the licence under subsection (5) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Renewal of licence**

**12B.** (1) Subject to subsections (2) and (3), the Commission may, on an application by the intermediation business licensee, renew the licence on such conditions as the Commission thinks fit or refuse the application.

(2) An application for the renewal of a licence under subsection (1) shall be made at least ninety days before the date of expiry of the licence and shall be accompanied by the prescribed renewal fee and such documents as may be specified by the Commission.

(3) If the applicant fails to comply with subsection (2) and offers no reason which the Commission thinks reasonable, the Commission may refuse to proceed with, hear or determine such application.

(4) Where no application for renewal of a licence has been submitted, the intermediation business licensee shall, within fourteen days from the date of expiry of the licence, return the licence to the Commission.

### **Application for variation**

**12c.** On an application by an intermediation business licensee for a variation of the licence or the conditions of the licence, the Commission shall have full power in its discretion—

- (a) to grant the application in full or in part;
- (b) to refuse the application; or
- (c) to order any variation of the licence or the conditions of the licence, other than the variation specified in the application.

### **Revocation or suspension of licence**

**12D.** (1) The Commission may, by written notice to the intermediation business licensee and without any compensation, revoke or suspend any licence issued under section 12A—

- (a) if any of the provisions of this Act or any of the conditions of the licence has not been complied with;

- (b) if the issuance of the licence was induced by a false representation of fact by or on behalf of the intermediation business licensee; or
- (c) in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation of the intermediation business licensee or, where a receiver or manager is appointed in relation to the business of providing intermediation business by the intermediation business licensee:

Provided that the Commission—

- (A) in the case of paragraph (a), may in lieu of revocation or suspension of the licence appoint a third party to rectify the non-compliance and recover the costs of such rectification from the intermediation business licensee;
  - (B) in the case of a breach of any of the conditions of the licence under paragraph (a), shall not revoke or suspend the licence unless it is satisfied, after giving the intermediation business licensee an opportunity of making any representation in writing he may wish to make, that owing to the frequency of the breach, or to the breach having been committed wilfully or the danger to the public involved in the breach, the licence should be revoked or suspended; or
  - (C) in the case of a breach of any of the provisions of this Act under paragraph (a), or paragraph (b) or (c), shall not revoke or suspend the licence unless it is satisfied that, after giving the intermediation business licensee an opportunity of making any representation in writing he may wish to make, the licence should be revoked or suspended.
- (2) Where a licence—
- (a) has been revoked, it shall have no effect from the date of revocation and the intermediation business licensee shall within fourteen days from the date of revocation of the licence return the licence to the Commission; or

(b) has been suspended, any intermediation business licensee which continues to operate or provide an intermediation business during the period of suspension, shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

### **Transfer of licence prohibited**

**12E.** (1) Subject to subsection (3), a licence issued under section 12A shall be personal to the intermediation business licensee thereof, and shall not be transferred or assigned.

(2) An intermediation business licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) Notwithstanding paragraph 12D(1)(c), the Commission may, in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation of the intermediation business licensee or, where a receiver or manager is appointed in relation to the business of providing intermediation business of such intermediation business licensee or, where for any reason the Commission is satisfied that it would be unjust not to do so, authorize the transfer of such licence.

### **Duty of intermediation business licensee to keep records, etc.**

**12F.** (1) It shall be the duty of an intermediation business licensee to keep such accounts and records as required by rules made by the Commission under paragraph 253(1)(m) in relation to the licence issued to him.

(2) An intermediation business licensee who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Duty of intermediation business licensee to inform Commission**

**12G.** (1) It shall be the duty of every intermediation business licensee, at all times, to inform the Commission immediately of the following matters:

- (a) any proceedings or claims instituted or made against the intermediation business licensee which might have an adverse effect on his financial condition or on his ability to perform any condition under the licence;
- (b) any reprimands or fines imposed on the intermediation business licensee by any Government Entity; and
- (c) any change in the control of the intermediation business licensee.

(2) For the purposes of this section, “control”, in relation to an intermediation business licensee, means having the power, directly or indirectly, to direct the management and policy of the intermediation business licensee.

(3) An intermediation business licensee who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.”.

**Amendment of section 21**

**4.** Section 21 of the principal Act is amended—

- (a) in the shoulder note, by inserting after the words “**public service vehicle**” the words “**or tourism vehicle**”; and
- (b) by inserting after the words “use a public service vehicle” the words “or tourism vehicle”.

**Amendment of section 34**

5. Section 34 of the principal Act is amended—

- (a) in the shoulder note, by deleting the word “**bus**”; and
- (b) by substituting for the words “express buses, mini buses and stage buses” the words “any classes of public service vehicle”.

**Amendment of section 51**

6. Section 51 of the principal Act is amended—

- (a) in subsection (6), by substituting for the words “A person,” the words “Subject to subsection (5), a person,”; and
- (b) in subsection (7), by substituting for the words “A company” the words “Subject to subsection (5), a company”.

**Amendment of section 79**

7. Subsection 79(2) of the principal Act is amended by inserting after the word “licensee” the words “, terminal licensee, intermediation business licensee”.

**Amendment of section 144**

8. Section 144 of the principal Act is amended—

- (a) by substituting for the words “or terminal licensee” the words “, terminal licensee or intermediation business licensee”; and
- (b) by substituting for the words “and terminal licensees” the words “, terminal licensees and intermediation business licensees”.

**Amendment of section 166**

9. Section 166 of the principal Act is amended by substituting for the words “and terminal licensee” the words “, terminal licensee and an intermediation business licensee”.

**Amendment of section 167**

10. Paragraph 167(1)(b) of the principal Act is amended by substituting for the words “or terminal licensee” the words “, terminal licensee or an intermediation business licensee”.

**Amendment of section 169**

11. Paragraph 169(1)(d) of the principal Act is amended by substituting for the words “and terminal licensees” the words “, terminal licensees and intermediation business licensees”.

**Amendment of section 171**

12. Section 171 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “and terminal licensees” the words “, terminal licensees and intermediation business licensees”; and

(b) in subsection (4), by substituting for the words “or terminal licensee” the words “, terminal licensee or intermediation business licensee”.

**Amendment of section 194**

13. Section 194 of the principal Act is amended—

(a) in subsection (1), by inserting after the words “9,” the words “12D,”;

(b) in subsection (2), by substituting for the words “Chapter 2” the words “Chapters 2 and 2A”; and

- (c) by substituting for the words “or terminal licensee” wherever appearing the words “, terminal licensee or intermediation business licensee”.

#### **Amendment of section 195**

**14.** Section 195 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**or terminal licensee**” the words “, **terminal licensee or intermediation business licensee**”;
- (b) in the national language text, by substituting for the words “atau pemegang lesen terminal” wherever appearing the words “, pemegang lesen terminal atau pemegang lesen perniagaan pengantaraan”;
- (c) in the English language text—
- (i) in paragraphs (a) and (b), by substituting for the words “or terminal licensee” wherever appearing the words “, terminal licensee or an intermediation business licensee”;
- (ii) in paragraph (d), by substituting for the words “or terminal licensee” the words “, terminal licensee or intermediation business licensee”; and
- (iii) by substituting for the words “or terminal licensee’s” wherever appearing the words “, terminal licensee’s or intermediation business licensee’s”; and
- (d) in subsection (4), by substituting for the words “Chapter 2” the words “Chapters 2 and 2A”.

#### **Amendment of section 196**

**15.** Section 196 of the principal Act is amended—

- (a) in the national language text, in subsections (2) and (4), by substituting for the words “atau pemegang lesen terminal” wherever appearing the words “, pemegang lesen terminal atau pemegang lesen perniagaan pengantaraan”; and

(b) in the English language text—

- (i) in subsections (2) and (4), by substituting for the words “the licensee, licensed operator or terminal licensee” the words “the licensee, licensed operator, terminal licensee or intermediation business licensee”; and
- (ii) in subsection (4), by substituting for the words “a licensee, licensed operator or terminal licensee” the words “a licensee, licensed operator, terminal licensee or an intermediation business licensee”.

### **Amendment of section 197**

**16.** Section 197 of the principal Act is amended—

(a) in the national language text, by substituting for the words “atau pemegang lesen terminal” wherever appearing the words “, pemegang lesen terminal atau pemegang lesen perniagaan pengantaraan”; and

(b) in the English language text—

- (i) by substituting for the words “a licensee, licensed operator or terminal licensee” wherever appearing the words “a licensee, licensed operator, terminal licensee or an intermediation business licensee”; and
- (ii) by substituting for the words “licensee, licensed operator or terminal licensee” wherever appearing the words “licensee, licensed operator, terminal licensee or intermediation business licensee”.

### **Amendment of section 199**

**17.** Section 199 of the principal Act is amended by inserting after the words “one thousand ringgit” the words “or to imprisonment for a term not exceeding three months or to both”.

**Amendment of section 200**

**18.** Section 200 of the principal Act is amended—

(a) by inserting after the words “any nuisance” the words “at a terminal or”;

(b) by substituting for paragraph (b) the following paragraph:

“(b) assaults, hinders or obstructs a licensee, terminal licensee, intermediation business licensee or licensed operator or an employee of the licensee, terminal licensee, intermediation business licensee or licensed operator, including a railway official from providing land public transport service or in the execution of the duties of such employees.”;

(c) by inserting after the words “the licensee” wherever appearing the words “, terminal licensee, intermediation business licensee”; and

(d) by inserting after the words “licensed operator from such” the words “terminal.”.

**Amendment of section 210**

**19.** Section 210 of the principal Act is amended—

(a) in the national language text, by substituting for the words “atau pemegang lesen terminal” wherever appearing the words “, pemegang lesen terminal atau pemegang lesen perniagaan pengantaraan”;

(b) in the English language text—

(i) by substituting for the words “A licensee, licensed operator or terminal licensee” wherever appearing the words “A licensee, licensed operator, terminal licensee or an intermediation business licensee”; and

- (ii) in subsection (1), by substituting for the words “the licensee, licensed operator or terminal licensee” the words “the licensee, licensed operator, terminal licensee or intermediation business licensee”; and
- (c) in subsection (2), by inserting after the words “two hundred thousand ringgit” the words “or to imprisonment for a term not exceeding two years or to both”.

### **Amendment of section 216**

**20.** Subsection 216(1) of the principal Act is amended by deleting the words “of a licensee, licensed operator or terminal licensee”.

### **Amendment of section 230**

**21.** Paragraph 230(a) of the principal Act is amended by inserting after the words “terminal licensee” the words “, an intermediation business licensee”.

### **Amendment of section 237**

**22.** Section 237 of the principal Act is amended—

(a) in the national language text, by substituting for the words “atau pemegang lesen terminal” wherever appearing the words “, pemegang lesen terminal atau pemegang lesen perniagaan pengantaraan”; and

(b) in the English language text—

(i) in subsection (1)—

(A) by substituting for the words “a licensee, licensed operator or terminal licensee” the words “a licensee, licensed operator, terminal licensee or intermediation business licensee”; and

(B) by substituting for the words “the licensee, licensed operator or terminal licensee” the words “the licensee, licensed operator, terminal licensee or intermediation business licensee”; and

(ii) in subsection (2), by substituting for the words “or terminal licensee” the words “, terminal licensee or an intermediation business licensee”.

**New section 241A**

**23.** The principal Act is amended by inserting after section 241 the following section:

**“Magistrate to have full jurisdiction**

**241A.** Notwithstanding the provisions of any written law to the contrary, a court of a Magistrate shall have jurisdiction to try any offence under this Act and to award the full punishment for any such offence.”.

**Amendment of section 245**

**24.** Section 245 of the principal Act is amended—

(a) in paragraph (1)(b), by deleting the word “or” at the end of the paragraph;

(b) in paragraph (1)(c), by substituting for the full stop at the end of the paragraph the words “; or”;

(c) by inserting after paragraph (1)(c) the following paragraph:

“(d) by forwarding the document to the person by electronic means.”; and

(d) by inserting after subsection (2) the following subsections:

“(3) Where a document is served by post in a prepaid letter, such document shall be deemed to have been served on the succeeding day on which the document would have been received, in the ordinary course of post.

(4) Where the person to whom a document is served by post in a prepaid letter is informed of the fact that there is a prepaid letter awaiting him at a post office, and such person refuses or neglects to take delivery of such prepaid letter, such document shall be deemed to have been served upon him on the date on which he was so informed.”.

### **Amendment of section 251**

**25.** Subsection 251(1) of the principal Act is amended by substituting for the words “or terminal licensee” the words “, terminal licensee or an intermediation business licensee”.

### **Amendment of section 252**

**26.** Subsection 252(1) of the principal Act is amended—

- (a) in paragraph (g), by substituting for the words “railway trains” the words “relevant vehicles and railway trains, and conductors of public service vehicles”; and
- (b) in paragraph (r), by substituting for the words “and terminal licensees” the words “, terminal licensees and intermediation business licensees”.

### **Amendment of section 253**

**27.** Subsection 253(1) of the principal Act is amended—

- (a) in paragraph (m), by inserting after the words “licensed operators” the words “, terminal licensees, intermediation business licensees”;
- (b) in paragraph (n), by substituting for the words “and terminal licensee” the words “, terminal licensee and intermediation business licensee”;
- (c) in paragraph (o), by inserting after the words “licensed operators” the words “, terminal licensees, intermediation business licensees”;

- (d) in paragraph (r), by substituting for the words “railway trains” the words “relevant vehicles and railway trains, and conductors of public service vehicles”;
- (e) by deleting paragraph (w);
- (f) in paragraph (mm), by substituting for the words “and terminal licensees” the words “, terminal licensees and intermediation business licensees”;
- (g) in paragraph (rr), by substituting for the full stop at the end of the paragraph the words “; and”; and
- (h) by inserting after paragraph (rr) the following paragraph:
  - “(ss) to provide for the form and content of any arrangement or agreement between the licensed operators of a public service vehicle service and the driver of a public service vehicle.”.

### **Amendment of section 255**

**28.** Section 255 of the principal Act is amended by substituting for the words “First Schedule and Second Schedule” the words “Schedules to this Act”.

### **Amendment of section 256**

**29.** Section 256 of the principal Act is amended by inserting after the words “terminal licensees” the words “, intermediation business licensees”.

### **Amendment of First Schedule**

**30.** The First Schedule to the principal Act is amended—

- (a) in item 1—
  - (i) in the definition of “hire and drive car”, by substituting for the full stop at the end of the paragraph a semicolon; and

- (ii) by inserting after the definition of “hire and drive car” the following definition:

“e-hailing vehicle” means a motor vehicle having a seating capacity of four persons and not more than eleven persons (including the driver) used for the carriage of persons on any journey in consideration of a single or separate fares for each of them, in which the arrangement, booking or transaction, and the fare for such journey are facilitated through an electronic mobile application provided by an intermediation business.’; and

(b) in item 2—

- (i) in paragraph (l), by deleting the word “and” at the end of the paragraph;
- (ii) in paragraph (m), by substituting for the full stop at the end of the paragraph the words “; and”; and
- (iii) by inserting after paragraph (m) the following paragraph:
- “(n) e-hailing vehicle.”.

### **New Third Schedule**

**31.** The principal Act is amended by inserting after the Second Schedule the following schedule:

#### “THIRD SCHEDULE

#### [Section 2]

#### LAND PUBLIC TRANSPORT SERVICE UNDER AN INTERMEDIATION BUSINESS

1. Public service vehicle service.”.

### **Savings and transitional**

**32.** (1) Any person who was operating or providing any service relating to an intermediation business, before the date of coming into operation of this Act, shall make an application for a licence in accordance with this Act within one year from the date of coming into operation of this Act.

(2) Any application for a licence pending on the date of the coming into operation of this Act shall be dealt with under the principal Act as amended by this Act.

(3) Any action, investigation or proceedings commenced or pending immediately before the date of coming into operation of this Act shall, after the date of coming into operation of this Act, be continued as if the principal Act had not been amended by this Act.

(4) Any such obligation, liability, penalty, or punishment accrued or incurred under the principal Act, may be continued, enforced, imposed and be dealt with, as the case may be, as if the principal Act had not been amended by this Act.

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#### EXPLANATORY STATEMENT

This Bill seeks to amend the Land Public Transport Act 2010 (“Act 715”).

2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.
3. *Clause 2* seeks to amend section 2 of Act 715 to introduce a new definition of “intermediation business” and to amend certain existing definitions.
4. *Clause 3* seeks to introduce a new Chapter 2A of Part II to regulate the licensing of intermediation business.

The proposed new section 12A provides for the licensing of intermediation business, including the application, conditions that may be attached to a licence issued by the Commission and the offence of operating an intermediation business without a licence.

The proposed new section 12B provides for the renewal of an intermediation business licence including the application and conditions for the renewal of such licence within the period and in the manner as determined by the Commission.

The proposed new section 12C empowers the Commission to grant or refuse the application by an intermediation business licensee to vary the licence or the conditions of the licence.

The proposed new section 12D provides for the circumstances in which the Commission may revoke or suspend an intermediation business licence.

The proposed new section 12E provides that the intermediation business licence shall not be transferred or assigned to any other person. The proposed section 12E also provides that the Commission may authorize the transfer or assignment of the intermediation business licence to any other person.

The proposed new section 12F requires the intermediation business licensee to keep accounts and records in accordance with the rules made by the Commission.

The proposed new section 12G provides for the duty of the intermediation business licensee to inform the Commission of any proceedings or claim against the licensee which might have an adverse affect on the financial condition of the licensee and affecting the licensee's ability to perform any conditions under the licence.

5. *Clause 4* seeks to amend section 21 of Act 715 to expand the powers of the Commission to authorize an application by a licensed operator for temporary change of use of public service vehicle to include tourism vehicle.

6. *Clause 5* seeks to amend section 34 of Act 715 to expand the existing scope of classification and numbering of existing bus routes to all classes of public service vehicle.

7. *Clause 6* seeks to amend section 51 of Act 715 to provide for the requirements of an operator's licence.

8. *Clause 7* seeks to amend section 79 of Act 715 in consequence of the introduction of a new Chapter 2A of Part II to regulate the licensing of intermediation business.

9. *Clause 8* seeks to amend section 144 of Act 715 in consequence of the introduction of a new Chapter 2A of Part II to regulate the licensing of intermediation business.

10. *Clauses 9, 10, 11, 12, 13, 14, 15 and 16* seek to amend sections 166, 167, 169, 171, 194, 195, 196 and 197 of Act 715 respectively in consequence of the the introduction of a new Chapter 2A of Part II to regulate the licensing of intermediation business.

11. *Clauses 18, 19, 21 and 22* seek to amend sections 200, 210, 230 and 237 of Act 715 respectively in consequence of the introduction of a new Chapter 2A of Part II to regulate the licensing of intermediation businesses. The proposed paragraph 200(b) of Act 715 seeks to allow the Commission to take action against any persons who assaults, hinders or obstructs a licensee, terminal licensee, intermediation business licensee or licensed operator or an employee of the licensee, terminal licensee, intermediation business licensee or licensed operator.

12. *Clause 23* seeks to introduce a new section 241A to empower a Magistrate to award full punishment for any offences under Act 715.

13. *Clause 24* seeks to amend section 245 of Act 715 to provide for the manner of service of documents.
14. *Clause 28* seeks to amend section 255 of Act 715 in consequence of the introduction of the Third Schedule into Act 715.
15. *Clause 29* seeks to amend section 256 of Act 715 in consequence of the introduction of a new Chapter 2A of Part II to regulate the licensing of intermediation business.
16. *Clause 30* seeks to amend the First Schedule to Act 715 to introduce a new definition of “e-hailing vehicle”.
17. *Clause 31* seeks to introduce a new Third Schedule into Act 715 to provide for a new category of the land public transport services under an intermediation business.
18. *Clause 32* seeks to provide for savings and transitional provisions.
19. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

*FINANCIAL IMPLICATIONS*

The Bill will not involve the Government in any extra financial expenditure.

[PN(U2)3033]