

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Akta Insurans 1963.

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MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh Seri Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut:

1. Akta ini bolehlah dinamakan Akta Insurans (Pindaan) 1994. Tajuk ringkas
2. Akta Insurans 1963, yang disebut "Akta ibu" dalam Akta ini, adalah dipinda dalam seksyen 12A— Pindaan Sekyen 12A. Akta
 - (a) dengan menggantikan subseksyen (2) dengan subseksyen yang berikut:

"(2) There shall be paid into the insurance guarantee scheme funds through the Director General—

 - (a) all such levies as may be imposed on and collected from insurers in such instalments as the Director General may allow;
 - (b) moneys borrowed under section 12B;

- (c) any amount recovered from the liquidator of an insurer that is being wound up; and
- (d) any donations or contributions from any person.";

(bi) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

"(2A) A levy which is payable under subsection (2) shall be a debt due to an insurance guarantee scheme fund.";

(c) dengan menggantikan subseksyen (4) dengan subseksyen yang berikut:

"(4) Subject to subsection (5A), the moneys in an insurance guarantee scheme fund may be withdrawn and utilised from time to time with the approval and subject to the direction of the Director General—

- (a) to meet the administrative, legal, and other costs of maintaining and administering such fund;
- (b) to repay the moneys borrowed by the Director General under section 12B and to pay interest on such moneys; and
- (c) to meet the liabilities of any insolvent insurer to any policy owner or person entitled through him or any other proper claimant:

Provided that any sum so withdrawn and utilised for the purpose of meeting the liabilities of any insolvent insurer shall not, together with any amount received from other sources or from the liquidator, at any time exceed ninety per cent of the lawful amount due and payable to any policy owner or person entitled through him or any other proper claimant.";

(d) dengan memasukkan selepas subseksyen (4) subseksyen yang berikut:

"(4A) For the purpose of subsection (4), an insurer shall be deemed to be insolvent if—

- (a) at the close of the last accounting period for which statements have been lodged with the Director General under section 22, the insurer is insolvent;
- (b) winding up proceedings have been commenced against the insurer; or
- (c) a receiving order has been made against him by the Court.

(4B) Notwithstanding subsection (4), moneys in an insurance guarantee scheme fund shall not be utilised to pay—

- (a) any liabilities of an insolvent insurer to its director, controller, associate or subsidiary or the associate or subsidiary of a body corporate of which that insurer is a subsidiary; and
- (b) any liabilities of an insolvent insurer that is being wound up unless the liquidator is notified of the liability within six months from the effective date of that insurer's winding up order or such other period as the Director General may allow in any particular case.

(4c) The Director General may, having regard to the assets of an insolvent insurer that are available for distribution to its claimants, determine the percentage of a claim or a description of claims that is payable by an insurance guarantee scheme fund.

(4D) The Director General may impose a maximum amount on a claim or a description of claims of an insolvent insurer which is payable by an insurance guarantee scheme fund.

14E) Notwithstanding subsection (4), where an insurance guarantee scheme fund is unable to meet its obligations in full may—

(a) pay a claim in such instalments as the Director General may direct; or

(b) defer making any payment.";

(e) dalam subseksyen (5) dengan menggantikan noktah bertindih dengan noktah dan dengan memotong proviso kepada subseksyen itu:

(f) dengan memasukkan selepas subseksyen (5) subseksyen yang berikut:

"(5A) The Minister may from time to time at his discretion, restrict the utilisation of the moneys in an insurance guarantee scheme fund to certain types of insurance business within any class or he may direct that the utilisation of such moneys may only be made with such exceptions or restrictions or on terms or for any period or in any manner as he may prescribe."; dan

(g) dalam subseksyen (9) dengan memotong perkataan "private policyholder" means a policyholder who is an individual, a partnership or any other unincorporated body of persons, all of whom are individuals; and'.

3. Akta ini adalah dipinda dengan memasukkan selepas seksyen 12A seksyen yang berikut:

"Director
General
may
borrow
moneys

12B. The Director General may, with the approval of the Minister, borrow moneys for an insurance guarantee scheme fund to such extent, in such manner, from such

persons or sources, and on such terms and conditions, as may be approved by the Minister in writing.

Mon.
advance and
assignment.

12c. The Director General may in his discretion, pay to the claimant of an insolvent insurer the amount of dividend that may be declared by that insurer's liquidator together with the amount due from an insurance guarantee scheme fund subject to the claimant assigning all his rights in respect of the claim in favour of the insurance guarantee scheme fund and upon the claimant accepting that amount of payment from the insurance guarantee scheme fund in full and final settlement of his claim."

4. Akta ini adalah dipinda dengan memasukkan selepas seksyen 29 seksyen yang berikut:

Seksyen baru
29A, 29B, 29C
dan 29C.

"Applica-
tion of
sections
29B dan
29c.
AG 115

29A Sections 29B and 29c shall in addition to the provisions of the Companies Act 1965. apply to the winding up of an insurer. including an insurer whose registration has been revoked and an insurer whose winding up has commenced but has not been completed.

Control of
liquidation
by the
Director
General.

29B. (1) Subject to any order of the Court. a liquidator, other than the Official Receiver, appointed on an application made under section 28A(2)(c) or 29, shall carry out his functions **under** the direction and supervision of the **Director General**.

(2) Without affecting the generality of subsection (1), the **Director General** may, in the interests of the policy owners or claimants of an insurer that **is** being wound up, direct the liquidator to appoint such person as he may specify **to** assist in the winding up of the **insurer**, for such period and on such terms and conditions as he thinks fit.

Liquidator's
report and
accounts.

29c. (1) The liquidator shall lodge with the Director General a copy of—

- (a) the preliminary report referred to in section 235 of the Companies Act 1965 at the same time as he submits it to the Court; and
- (h) the prescribed form referred to in section 281(1) of the Companies Act 1965 at the same time as he submits it to the Official Receiver.

(2) In addition to the documents referred to in subsection (1), the liquidator shall submit to the Director General such reports, accounts and statements as the Director General may specify from time to time.

Termination
of policies
on date of
winding up
order

29D. (1) All policies issued by an insurer shall cease to be in force from the effective date of the winding up order.

(2) The liquidator shall notify each policy owner and, in the case of a group policy, the group policy owner, about such cessation of insurance by ordinary mail and by advertisement in such newspapers as may be specified by the Director General.

(3) Where a policy ceases to be in force under subsection (1), the policy owner shall only be eligible to claim as a debt due to him—

- (a) a refund of his premiums in proportion to the unexpired period of his general policy; or
- (b) the actuarial valuation reserve in respect of his life policy.

as the case may be, and shall participate in any distribution of dividend by the liquidator on that basis."

INSURANS (PINDAAN)

HURAIAN

Rang Undang-Undang ini bertujuan meminda Akta Insurans 1963 ("Akta").

2. *Fasal 1* bertujuan rmemperuntukkan tajuk ringkas Rang Undang-Undang.

3. *Fasal 2* bertujuan meminda seksyen 12A Akta. *Subfasal 2(a)* bertujuan meminda subseksyen (2) untuk memperjelaskan dan memperluaskan jenis-jenis pembayaran yang akan masuk ke dalam kumpulan wang skim jaminan insurans.

Subfasal 2(c) bertujuan meminda subseksyen (4) untuk membolehkan wang dalam kumpulan wang skim jaminan insurans digunakan bagi pembayaran balik wang yang dipinjam oleh Ketua Pengarah di bawah seksyen 12B Akta. Pindaan ini memperluaskan pemakaian kumpulan wang bagi segala tuntutan berhubungan dengan sesuatu polisi dan bukan sahaja bagi pemegang polisi persendirian.

Subfasal 2(d) bertujuan memasukkan beberapa subseksyen baru. Subseksyen baru (4B) secara nyata melarang kumpulan wang itu daripada digunakan bagi membayar apa-apa tuntutan pengarah, pengawal, sekutu atau subsidiarinya atau sekutu atau subsidiari sesuatu pertubuhan perbadanan yang penanggung insurans tak sotven itu ialah subsidiarinya. Seterusnya, sesuatu tuntutan hanya akan dibayar jika pelikuidasi diberitahu mengenai liabiliti itu dalam tempoh enam bulan dari tarikh perintah penggulungan itu atau dalam apa-apa tempoh lain yang dibenarkan oleh Ketua Pengarah.

Subseksyen baru (4c) dan (4D) memberi Ketua Pengarah kuasa untuk menentukan peratusan tuntutan atau perihalan tuntutan yang kena dibayar oleh sesuatu kumpulan wang skim jaminan insurans, termasuklah penganan suatu amaun maksimum ke atas tuntutan itu.

Subseksyen baru (4E) memberi kumpulan wang skim jaminan insurans kuasa untuk membayar tuntutan-tuntutan secara ansuran atau untuk menanggung daripada membuat pembayaran.

Subfasal 2(f) bertujuan memasukkan subseksyen baru (5A) untuk memperuntukkan dan menjelaskan bahawa Menteri adalah diberikan budi bicara untuk menghadkan penggunaan wang dalam kumpulan wang kepada jenis-jenis tertentu perniagaan insurans dalam apa-apa kelas.

4. *Fasal 3* bertujuan memasukkan dua peruntukan baru Seksyen baru 12B mengadakan peruntukan bagi Ketua Pengarah, dengan kelulusan Menteri, meminjam wang bagi kumpulan wang skim jaminan insurans atas apa-apa terma dan syarat yang diluluskan oleh Menteri. Seksyen baru 12c memberi Ketua Pengarah kuasa untuk

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membayar pihak menuntut secara pendahuluan atas penyerahhakan hak-hak pihak menuntut itu ke atas tuntutan itu dan atas penenmaan pihak menuntut akan amaun yang dibayar itu sebagai penjetasan penuh dan muktamad bagi tuntutan itu. Pembayaran awal ini oleh kumpulan wang akan mengurangkan kesusahan kepada pihak menuntut.

5. *Fasal 4* bertujuan memasukkan empat seksyen baru ke dalam Akta. iaitu, seksyen 29A hmgga 29D. Peruntukan-peruntukan baru ini adalah perlu untuk membolehkan Ketua Pengarah menyelia pelikuidasi dan mengawasi pelikuidasian seseorang penanggung insurans.

Seksyen baru 29A bertujuan mengadakan peruntukan bagi pemakaian seksyen 29A dan 29B bagi pelikuidasian penanggung msurans yang sedia ada, iaitu, bagi First General Insurance Bhd. dan SEG Insurance Sdn. Bhd. yang pelikuidasiannya telah dimulakan tetapi belum selesai lagi.

Seksyen baru 29B memperuntukkan bahawa tertakluk kepada suatu perintah Mahkamah, seseorang pelikuidasi selain daripada Pegawai Pemegang Harta hendaklah menjalankan fungsi-fungsinya di bawah arahan dan penyeliaan Ketua Pengarah. Ketua Pengarah boleh mengarahkan pelikuidasi supaya melantik orang tertentu untuk membantu pelikuidasi dalam penggulungan seseorang penanggung insurans tak solven.

Seksyen baru 29c memperuntukkan bahawa seseorang pelikuidasi adalah dikehendaki menyerah simpan dengan Ketua Pengarah laporan awal dan borang ditetapkan yang dikehendaki diserah simpan olehnya dengan Mahkamah dan Pegawai Pemegang Harta masing-masingnya. Ia juga memberi Ketua Pengarah kuasa untuk menghendaki pengemukaan apa-apa laporan, akaun dan pernyataan lain yang ditentukan olehnya.

Seksyen baru 29D memperuntukkan bahawa semua polisi yang dikeluarkan oleh seseorang penanggung insurans yang sedang dalam penggulungan hendaklah ditamatkan mulai dari tarikh perintah penggulungan itu. Peruntukan ini adalah perlu untuk melindungi kepentingan pemunya polisi dan pihak menuntutnya kerana seseorang penanggung insurans yang dalam penggulungan tidak dapat mengadakan perlindungan msurans atau membayar apa-apa tuntutan dengan memadai.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U²) 1841.]