

D.R. 26/2004

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Akta Sewa Beli 1967.

DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Sewa Beli (Pindaan) 2004.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta*.

Pindaan seksyen 1

2. Akta Sewa Beli 1967 [*Akta 212*], yang disebut "Akta ibu" dalam Akta ini, dipinda dalam seksyen 1 dengan memotong subseksyen (3) dan proviso kepada subseksyen itu.

Pindaan seksyen 2

3. Seksyen 2 Akta ibu dipinda dengan memasukkan selepas takrif "action" takrif yang berikut:

' "base lending rate" means the minimum interest rate based on owner's cost of funds and other administrative costs;'

Pindaan seksyen 4c

4. Seksyen 4c Akta ibu dipinda dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

"(1A) Paragraph (1)(d) shall not apply where in the hire-purchase agreement the terms charges are at a variable rate.

(1B) Where in a hire-purchase agreement the terms charges are at a variable rate, the following items shall be specified in the hire-purchase agreement based on the terms charges calculated in accordance with the base lending rate applicable at the time the hire-purchase agreement is entered into:

- (a) the number of instalments to be paid under the agreement by the hirer;
- (b) the amount of each of these instalments;
- (c) the annual percentage rate of terms charges which shall be calculated in accordance with the formula set out in the Seventh Schedule; and
- (d) the balance originally payable under the agreement."

Bahagian baru IIA

5. Akta ibu dipinda dengan memasukkan selepas Bahagian II Bahagian yang berikut:

"PART IIA**OPTION TO HIRER****Option to hirer**

6A. (1) An owner shall provide an option to the hirer for the terms charges under a hire-purchase agreement to be at a fixed rate or at a variable rate.

(2) A variable rate of terms charges shall be quoted at a margin percentage above the base lending rate.

Right of owner to revise the base lending rate

6B. (1) Where in the hire-purchase agreement the terms charges are at a variable rate, the owner may revise the base lending rate at any time during the continuance of the agreement.

(2) Where the owner has revised the base lending rate, the rate and total amount of terms charges and the amount of each instalment or the number of instalments under the hire-purchase agreement shall be revised accordingly.

(3) Where the owner has revised the base lending rate, he shall serve a notice to hirer specifying the following:

- (a) the revised base lending rate;
- (b) the revised rate of terms charges;
- (c) the revised total amount of terms charges; and
- (d) the revised amount of instalments or the revised number of instalments, as the case may be.

Right of hirer where the base lending rate is revised

6c. Where the owner has revised the base lending rate, the hirer may opt whether—

- (a) to retain the existing number of instalments and vary the amount of instalments; or
- (b) to retain the existing amount of instalments and vary the number of instalments."

Pindaan seksyen 14

6. Seksyen 14 Akta ibu dipinda dengan menggantikan subseksyen (2) dengan subseksyen yang berikut:

"(2) For the purposes of subsection (1)—

- (a) where in the hire-purchase agreement the terms charges are at a fixed rate, the net balance due is the balance originally payable under the agreement less—
 - (i) any amounts (other than the deposit) paid or provided by or on behalf of the hirer under the agreement;
 - (ii) the statutory rebate for terms charges; and
 - (iii) if the hirer requires any contract of insurance to be cancelled, the statutory rebate for insurance; or

- (b) where in the hire-purchase agreement the terms charges are at a variable rate, the net balance due is the outstanding amount financed and terms charges accrued and calculated up to the next due date of payment less, if the hirer requires any contract of insurance to be cancelled, the statutory rebate for insurance."

Pindaan seksyen 15

7. Subseksyen 15(6) Akta ibu dipinda dengan menggantikan perenggan (a) dengan perenggan yang berikut:

- (a) "balance outstanding under the hire-purchase agreement" means—
- (i) where in the hire-purchase agreement the terms charges are at a fixed rate, the total sum payable by the hirer to complete the purchase of goods to which the agreement relates and the amount derived from interest on overdue instalments which has yet to be paid less—
 - (a) the amount paid by or on behalf of the hirer excluding deposit;
 - (b) statutory rebate for terms charges; and
 - (c) statutory rebate for insurance, if any; or
 - (ii) where in the hire-purchase agreement the terms charges are at a variable rate, the outstanding amount financed and terms charges accrued and calculated up to the next due date of payment less statutory rebate for insurance, if any;'

Pindaan seksyen 18

8. Seksyen 18 Akta ibu dipinda—

- (a) dengan menggantikan subperenggan (l)(b)(i) dengan subperenggan yang berikut:
- "(i) where in the hire-purchase agreement the terms charges are at a fixed rate, if the value of the goods at the time of the owner so taking possession of the goods—
- (A) is less than the net amount payable but the total of that value and the amount paid or

provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement exceeds the net amount payable, the difference between that total and the net amount payable; or

(B) is equal to or greater than the net amount payable, the total of that value and the amount paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement, less the net amount payable; or";

(b) dengan menggantikan subperenggan (l)(b)(ii) dengan subperenggan yang berikut:

"(ii) where in the hire-purchase agreement the terms charges are at a variable rate and the value of the goods at the time of the owner so taking possession of the goods is equal to or greater than the balance outstanding under the hire-purchase agreement, the difference between the value of the goods and the balance outstanding under the hire purchase agreement.";

(c) dengan menggantikan subseksyen (2) dengan subseksyen yang berikut:

"(2) Where the owner takes possession of any goods comprised in a hire-purchase agreement, the owner is not entitled to recover—

(a) where in the hire-purchase agreement the terms charges are at a fixed rate, any sum (whether under a judgment or order or otherwise) exceeding the net amount payable in respect of the goods obtained by adding—

(i) the value of the goods at the time of the owner so taking possession of the goods; and

(ii) the amount paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement; or

(b) where in the hire-purchase agreement the terms charges are at a variable rate, any sum (whether under a judgment or order or otherwise) which exceeds the balance outstanding under the hire-purchase agreement."; dan

(d) dalam subseksyen (3)—

(i) dalam perenggan (a), dengan memotong perkataan "and" di hujung perenggan itu; dan

(ii) dengan memasukkan selepas perenggan (a) perenggan yang berikut:

"(aa) the balance outstanding under the hire-purchase agreement is the outstanding amount financed and terms charges accrued and calculated up to the time of the owner taking possession of the goods less the statutory rebates for insurance; and".

Pindaan seksyen 34

9. Perenggan 34(c) Akta ibu dipinda dengan memasukkan selepas perkataan "per annum" perkataan "under a hire-purchase agreement which provides for terms charges at a fixed rate or, two per centum above the prevailing rate of terms charges, under a hire-purchase agreement which provides for terms charges at a variable rate,".

Pindaan seksyen 39

10. Seksyen 39 Akta ibu dipinda dengan memasukkan selepas perkataan "opposite the alteration or additional matter" perkataan "or, the hirer or his agent has consented to the alteration or the additional matter by signing an agreement supplemental to the hire-purchase agreement".

Seksyen baru 57A

11. Akta ibu dipinda dengan memasukkan selepas seksyen 57 seksyen yang berikut:

"Power to amend Schedules

57A. (1) The Minister may by order published in the *Gazette* amend the Schedules to this Act.

(2) Hire-purchase agreements entered into prior to any amendment, or variation of, deletion from, or addition to, any Schedule to this Act shall not be affected by such amendment, variation, deletion or addition and the Act shall continue to apply or not to apply, as the case may be, to such hire-purchase agreements."

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Akta Sewa Beli 1967 [Akta 212]. Pada masa ini Akta 212 hanya memperuntukkan kadar tetap bagi caj terma untuk urusan sewa beli. Rang Undang-Undang ini memasukkan suatu opsyen bagi kadar boleh ubah bagi caj terma untuk urusan sewa beli. Kadar boleh ubah bagi caj terma dicadangkan untuk disebut harga pada peratusan margin melebihi kadar pinjaman asas. Akta 212 pada masa ini juga membenarkan perjanjian sewa beli diubah dengan menandatangani atau menandatangani ringkas perjanjian bersetentangan dengan perubahan itu. Rang Undang-Undang ini membenarkan apa-apa perubahan perjanjian sewa beli dibuat melalui perjanjian tambahan.

2. *Fasal 1* mengandungi tajuk ringkas dan peruntukan permulaan kuat kuasa Akta yang dicadangkan.

3. *Fasal 3* bertujuan untuk meminda seksyen 2 Akta 212 untuk memasukkan takrif "base lending rate".

4. *Fasal 5* bertujuan untuk memasukkan Bahagian baru IIA ke dalam Akta 212. Bahagian baru yang dicadangkan itu bertujuan untuk memberikan opsyen kepada penyewa untuk memilih sama ada caj terma pada kadar tetap atau caj terma pada kadar boleh ubah. Bahagian baru yang dicadangkan itu juga bertujuan untuk mengadakan peruntukan tentang hak pemilik untuk mengubah kadar pinjaman asas dan menghendaki pemilik itu menyampaikan suatu notis kepada penyewa memaklumkan apa-apa perubahan pada kadar pinjaman asas dan kesannya. Jika kadar pinjaman asas diubah oleh pemilik, penyewa diberi opsyen sama ada untuk mengekalkan jumlah ansuran yang sedia ada dan mengubah bilangan ansuran atau mengubah jumlah ansuran dan mengekalkan bilangan ansuran.

5. *Fasal 10* bertujuan untuk meminda seksyen 39 Akta 212 untuk membenarkan perubahan perjanjian sewa beli melalui perjanjian tambahan.

6. Pindaan lain yang tidak diperkatakan dengan khusus dalam Huraian ini merupakan pindaan yang berbangkit atau kecil.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan.

[PN(U²)2395]

A BILL

intituled

An Act to amend the Hire-Purchase Act 1967.

ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Hire-Purchase (Amendment) Act 2004.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 1

2. The Hire-Purchase Act 1967 [*Act 212*], which is referred to as the "principal Act" in this Act, is amended in section 1 by deleting subsection (3) and the proviso to that subsection.

Amendment of section 2

3. Section 2 of the principal Act is amended by inserting after the definition of "action" the following definition:

' "base lending rate" means the minimum interest rate based on owner's cost of funds and other administrative costs;'

Amendment of section 4c

4. Section 4c of the principal Act is amended by inserting after subsection (1) the following subsections:

"(1A) Paragraph (1)(d) shall not apply where in the hire-purchase agreement the terms charges are at a variable rate.

(1B) Where in a hire-purchase agreement the terms charges are at a variable rate, the following items shall be specified in the hire-purchase agreement based on the terms charges calculated in accordance with the base lending rate applicable at the time the hire-purchase agreement is entered into:

- (a) the number of instalments to be paid under the agreement by the hirer;
- (b) the amount of each of these instalments;
- (c) the annual percentage rate of terms charges which shall be calculated in accordance with the formula set out in the Seventh Schedule; and
- (d) the balance originally payable under the agreement."

New Part IIA

5. The principal Act is amended by inserting after Part II the following Part:

"PART IIA

OPTION TO HIRER

Option to hirer

6A. (1) An owner shall provide an option to the hirer for the terms charges under a hire-purchase agreement to be at a fixed rate or at a variable rate.

(2) A variable rate of terms charges shall be quoted at a margin percentage above the base lending rate.

Right of owner to revise the base lending rate

6B. (1) Where in the hire-purchase agreement the terms charges are at a variable rate, the owner may revise the base lending rate at any time during the continuance of the agreement.

(2) Where the owner has revised the base lending rate, the rate and total amount of terms charges and the amount of each instalment or the number of instalments under the hire-purchase agreement shall be revised accordingly.

(3) Where the owner has revised the base lending rate, he shall serve a notice to hirer specifying the following:

- (a) the revised base lending rate;
- (b) the revised rate of terms charges;
- (c) the revised total amount of terms charges; and
- (d) the revised amount of instalments or the revised number of instalments, as the case may be.

Right of hirer where the base lending rate is revised

6c. Where the owner has revised the base lending rate, the hirer may opt whether—

- (a) to retain the existing number of instalments and vary the amount of instalments; or
- (b) to retain the existing amount of instalments and vary the number of instalments."

Amendment of section 14

6. Section 14 of the principal Act is amended by substituting for subsection (2) the following subsection:

"(2) For the purposes of subsection (1)—

- (a) where in the hire-purchase agreement the terms charges are at a fixed rate, the net balance due is the balance originally payable under the agreement less—
 - (i) any amounts (other than the deposit) paid or provided by or on behalf of the hirer under the agreement;
 - (ii) the statutory rebate for terms charges; and
 - (iii) if the hirer requires any contract of insurance to be cancelled, the statutory rebate for insurance; or

- (b) where in the hire-purchase agreement the terms charges are at a variable rate, the net balance due is the outstanding amount financed and terms charges accrued and calculated up to the next due date of payment less, if the hirer requires any contract of insurance to be cancelled, the statutory rebate for insurance."

Amendment of section 15

7. Subsection 15(6) of the principal Act is amended by substituting for paragraph (a) the following paragraph:

'(a) "balance outstanding under the hire-purchase agreement" means —

- (i) where in the hire-purchase agreement the terms charges are at a fixed rate, the total sum payable by the hirer to complete the purchase of goods to which the agreement relates and the amount derived from interest on overdue instalments which has yet to be paid less —
- (a) the amount paid by or on behalf of the hirer excluding deposit;
 - (b) statutory rebate for terms charges; and
 - (c) statutory rebate for insurance, if any; or
- (ii) where in the hire-purchase agreement the terms charges are at a variable rate, the outstanding amount financed and terms charges accrued and calculated up to the next due date of payment less statutory rebate for insurance, if any;'

Amendment of section 18

8. Section 18 of the principal Act is amended—

(a) by substituting for subparagraph (1)(b)(i) the following subparagraph:

"(i) where in the hire-purchase agreement the terms charges are at a fixed rate, if the value of the goods at the time of the owner so taking possession of the goods—

(A) is less than the net amount payable but the total of that value and the amount paid or

provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement exceeds the net amount payable, the difference between that total and the net amount payable; or

(B) is equal to or greater than the net amount payable, the total of that value and the amount paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement, less the net amount payable; or";

(b) by substituting for subparagraph (1)(b)(i) the following subparagraph:

"(ii) where in the hire-purchase agreement the terms charges are at a variable rate and the value of the goods at the time of the owner so taking possession of the goods is equal to or greater than the balance outstanding under the hire-purchase agreement, the difference between the value of the goods and the balance outstanding under the hire purchase agreement.";

(c) by substituting for subsection (2) the following subsection:

"(2) Where the owner takes possession of any goods comprised in a hire-purchase agreement, the owner is not entitled to recovered where in the hire-purchase agreement the terms charges are at a fixed rate, any sum (whether under a judgment or order or otherwise) exceeding the net amount payable in respect of the goods obtained by adding—

(i) the value of the goods at the time of the owner so taking possession of the goods; and

(ii) the amount paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement; or

(b) where in the hire-purchase agreement the terms charges are at a variable rate, any sum (whether under a judgment or order or otherwise) which exceeds the balance outstanding under the hire-purchase agreement."; and

(d) in subsection (3) —

(i) in paragraph (a), by deleting the word "and" at the end of the paragraph; and

(ii) by inserting after paragraph (a) the following paragraph:

"(aa) the balance outstanding under the hire-purchase agreement is the outstanding amount financed and terms charges accrued and calculated up to the time of the owner so taking possession of the goods less the statutory rebate for insurance; and".

Amendment of section 34

9. Paragraph 34(c) of the principal Act is amended by inserting after the words "per annum" the words "under a hire-purchase agreement which provides for terms charges at a fixed rate or, two per centum above the prevailing rate of terms charges, under a hire-purchase agreement which provides for terms charges at a variable rate,".

Amendment of section 39

10. Section 39 of the principal Act is amended by inserting after the words "opposite the alteration or additional matter" the words "or, the hirer or his agent has consented to the alteration or the additional matter by signing an agreement supplemental to the hire-purchase agreement".

New section 57A

11. The principal Act is amended by inserting after section 57 the following section:

"Power to amend Schedules

57A. (1) The Minister may by order published in the *Gazette* amend the Schedules to this Act.

(2) Hire-purchase agreements entered into prior to any amendment, or variation of, deletion from, or addition to, any Schedule to this Act shall not be affected by such amendment, variation, deletion or addition and the Act shall continue to apply or not to apply, as the case may be, to such hire-purchase agreements."

EXPLANATORY STATEMENT

This Bill seeks to amend the Hire-Purchase Act 1967 [*Act 212*]. Currently Act 212 provides only for a fixed rate of terms charges for hire-purchase transactions. This Bill introduces an option for a variable rate of terms charges for hire-purchase transactions. The variable rate of terms charges are proposed to be quoted at a margin percentage above the base lending rate. Act 212 also currently allows hire-purchase agreements to be altered by signing or initialing the agreement opposite the alteration only. This Bill allows any alterations of the hire-purchase agreements to be done through a supplementary agreement.

2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.

3. *Clause 3* seeks to amend section 2 of Act 212 to introduce the definition of "base lending rate".

4. *Clause 5* seeks to introduce a new Part IIA into Act 212. The proposed new Part seeks to give an option to hirers to choose either for a fixed rate of terms charges or a variable rate of terms charges. The proposed new Part also seeks to provide for the owner's rights to revise the base lending rate and to require the owner to serve a notice to the hirer informing any changes in the base lending rate and consequences thereof. Where the base lending rate is revised by the owner, the hirer is given the option to either retain the existing amount of instalments and vary the number of instalments or to vary the amount of instalments and retain the number of instalments.

5. *Clause 10* seeks to amend section 39 of Act 212 to allow alterations to a hire-purchase agreement through a supplementary agreement.

6. Other amendments not specifically dealt with in this Statement are amendments which are consequential or minor in nature.

FINANCIAL IMPLICATIONS

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

[PN(U²)2395]