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FEDERAL GOVERNMENT GAZETTE

PERATURAN-PERATURAN KESELAMATAN SOSIAL PEKERJAAN SENDIRI (PENILAI PERUBATAN) 2018

SELF-EMPLOYMENT SOCIAL SECURITY (MEDICAL ASSESSOR) REGULATIONS 2018

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AKTA KESELAMATAN SOSIAL PEKERJAAN SENDIRI 2018

PERATURAN-PERATURAN KESELAMATAN SOSIAL PEKERJAAN SENDIRI
(PENILAI PERUBATAN) 2018

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AKTA KESELAMATAN SOSIAL PEKERJAAN SENDIRI 2018

PERATURAN-PERATURAN KESELAMATAN SOSIAL PEKERJAAN SENDIRI
(PENILAI PERUBATAN) 2018

PADA menjalankan kuasa yang diberikan oleh seksyen 83 Akta Keselamatan Sosial Pekerjaan Sendiri 2017 [*Akta 789*], Menteri membuat peraturan-peraturan yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Peraturan-peraturan ini bolehlah dinamakan **Peraturan-Peraturan Keselamatan Sosial Pekerjaan Sendiri (Penilai Perubatan) 2018**.

(2) Peraturan-Peraturan ini disifatkan telah mula berkuat kuasa pada 13 Jun 2017.

Pelantikan penilai perubatan

2. (1) Pertubuhan boleh, tertakluk kepada apa-apa syarat, melantik mana-mana orang sebagai penilai perubatan sebagaimana yang difikirkannya perlu atau suai manfaat bagi maksud Akta.

(2) Walau apa pun subperaturan (1), seseorang boleh dilantik sebagai penilai perubatan jika—

(a) dia merupakan warganegara Malaysia;

(b) dia merupakan pengamal perubatan berdaftar dengan Majlis Perubatan Malaysia di bawah Akta Perubatan 1971 [*Akta 50*] atau pengamal pergigian berdaftar dengan Majlis Pergigian Malaysia di bawah Akta Pergigian 1971 [*Akta 51*], mengikut mana-mana yang berkenaan;

- (c) dia mempunyai sijil amalan yang sah yang dikeluarkan di bawah Akta Perubatan 1971 atau Akta Pergigian 1971, mengikut mana-mana yang berkenaan;
- (d) dia telah menjalankan amalan sebagai pengamal perubatan atau pengamal pergigian bagi tempoh yang tidak kurang daripada lima tahun;
- (e) dia tidak pernah didapati bersalah atas apa-apa siasatan tatatertib di bawah Akta Perubatan 1971 atau Akta Pergigian 1971, atau disabitkan dengan apa-apa kesalahan jenayah di bawah mana-mana undang-undang bertulis yang boleh dihukum dengan pemenjaraan selama satu tahun atau lebih; dan
- (f) dia telah menghadiri apa-apa latihan sebagaimana yang ditentukan oleh Pertubuhan.

(3) Tertakluk kepada subperaturan (2), mana-mana pegawai perubatan Pertubuhan boleh dilantik sebagai penilai perubatan.

(4) Pegawai perubatan yang dilantik sebagai penilai perubatan di bawah subperaturan (3) hendaklah memastikan bahawa kewajipannya sebagai penilai perubatan tidak bercanggah dengan kewajipannya sebagai pegawai perubatan.

Elaun bagi penilai perubatan

3. Penilai perubatan, selain pegawai perubatan Pertubuhan yang dilantik sebagai penilai perubatan di bawah subperaturan 2(3), hendaklah dibayar apa-apa elaun sebagaimana yang ditentukan oleh Pertubuhan.

Penggantungan dan pembatalan pelantikan penilai perubatan

4. (1) Pertubuhan boleh menggantung pelantikan penilai perubatan jika hal keadaan yang berikut berlaku:

- (a) suatu aduan telah dibuat oleh mana-mana orang kepada Pertubuhan terhadap penilai perubatan itu;
- (b) suatu pengataan telah dibuat oleh mana-mana orang terhadap penilai perubatan itu bahawa penilai perubatan itu telah melanggar Kod Tatalaku Profesional yang dikeluarkan oleh Majlis Perubatan Malaysia atau Majlis Pergigian Malaysia, atau mana-mana garis panduan lain sebagaimana yang ditentukan oleh Pertubuhan;
- (c) penilai perubatan itu gagal menghadiri apa-apa latihan yang berkaitan sebagaimana yang ditentukan oleh Pertubuhan; atau
- (d) penilai perubatan itu telah memungkiri apa-apa syarat pelantikan sebagaimana yang ditentukan oleh Pertubuhan.

(2) Walau apa pun subperaturan (1), Pertubuhan hanya boleh menggantung pelantikan penilai perubatan selepas berpuas hati bahawa terdapat merit dalam menggantung pelantikan itu.

(3) Jika Pertubuhan memutuskan untuk menggantung pelantikan penilai perubatan, Pertubuhan hendaklah memberikan suatu notis bertulis mengenai penggantungan itu kepada penilai perubatan itu.

(4) Apabila pelantikan penilai perubatan digantung di bawah subperaturan (3), Pertubuhan hendaklah memulakan suatu siasatan berkenaan dengan aduan, pengataan, kegagalan atau kemungkiran yang disebut dalam subperaturan (1) dan penilai perubatan itu hendaklah mempunyai hak untuk membuat representasi.

(5) Selepas mengambil kira representasi yang dibuat oleh penilai perubatan dan apabila siasatan di bawah subperaturan (4) selesai, Pertubuhan hendaklah memutuskan sama ada untuk menarik balik penggantungan atau membatalkan pelantikan penilai perubatan itu.

(6) Pertubuhan hendaklah memberikan suatu notis bertulis mengenai keputusannya di bawah subperaturan (5) kepada penilai perubatan secepat yang boleh dilaksanakan.

(7) Walau apa pun pelantikan seseorang sebagai penilai perubatan dibatalkan di bawah subperaturan (5), Pertubuhan boleh melantik semula orang itu sebagai penilai perubatan jika orang itu telah mengambil langkah yang perlu dan munasabah untuk membetulkan apa-apa aduan, pengatahan, kegagalan atau kemungkiran yang disebut dalam subperaturan (1).

Penentuan persoalan mengenai hilang upaya kekal dan penyakit pekerjaan

5. (1) Bagi maksud menentukan apa-apa persoalan mengenai hilang upaya kekal di bawah seksyen 39 atau penyakit pekerjaan di bawah seksyen 40 Akta, penilai perubatan hendaklah memeriksa orang berinsurans bekerja sendiri dan mempertimbangkan dokumen yang berikut:

- (a) borang tuntutan bagi faedah;
- (b) laporan yang disediakan oleh pengamal perubatan berdaftar atau pengamal pergigian berdaftar yang merawat orang berinsurans bekerja sendiri itu, mengikut mana-mana yang berkenaan;
- (c) laporan penyiasatan klinikal yang disediakan oleh pengamal perubatan berdaftar atau pengamal pergigian berdaftar, mengikut mana-mana yang berkenaan;
- (d) laporan mengenai tuntutan bagi faedah yang terdahulu yang dibuat oleh orang berinsurans bekerja sendiri itu di bawah Akta;
- (e) laporan mengenai apa-apa kemudahan pemulihan yang diberikan kepada orang berinsurans bekerja sendiri itu jika orang berinsurans bekerja sendiri itu telah menjalani apa-apa penilaian pemulihan;

(f) berhubung dengan penentuan persoalan mengenai penyakit pekerjaan, laporan yang berhubungan dengan sifat pekerjaan, tempat bekerja, bahaya, pendedahan dan risiko pekerjaan itu, dan apa-apa maklumat lain yang berkaitan yang disediakan oleh Pertubuhan; atau

(g) dokumen lain sebagaimana yang ditentukan oleh Pertubuhan.

(2) Penilai perubatan hendaklah hanya memeriksa orang berinsurans bekerja sendiri yang telah menjalani rawatan perubatan yang dijalankan oleh pengamal perubatan berdaftar atau pengamal pergigian berdaftar, mengikut mana-mana yang berkenaan.

(3) Selepas mempertimbangkan keterangan di bawah subperaturan (1), penilai perubatan hendaklah membuat penentuan mengenai persoalan yang disebut dalam subperaturan (1) dan boleh menghendaki keterangan lanjut jika perlu.

(4) Dalam penentuan yang dibuat di bawah subperaturan (3), penilai perubatan boleh mengesyorkan kepada Pertubuhan supaya orang berinsurans bekerja sendiri disediakan kemudahan pemulihan jasmani dan vokasional.

Keputusan Pertubuhan

6. Selepas menerima suatu laporan pemeriksaan dan penentuan oleh penilai perubatan di bawah subseksyen 39(2) atau 40(2) Akta, Pertubuhan—

(a) jika Pertubuhan tidak berpuas hati dengan penentuan itu, boleh merayu kepada Jemaah Doktor Rayuan mengikut peraturan 7; atau

(b) jika Pertubuhan berpuas hati dengan penentuan itu, hendaklah memaklumkan keputusannya yang berhubungan dengan tuntutan bagi faedah secara bertulis kepada orang berinsurans bekerja sendiri itu.

Rayuan terhadap penentuan penilai perubatan

7. (1) Rayuan kepada Jemaah Doktor Rayuan di bawah subseksyen 41(2) Akta hendaklah dibuat—

(a) dalam hal Pertubuhan, dalam tempoh tiga puluh hari selepas menerima laporan pemeriksaan dan penentuan di bawah subseksyen 39(2) atau 40(2) Akta; atau

(b) dalam hal orang berinsurans bekerja sendiri, dalam tempoh tiga puluh hari selepas menerima keputusan di bawah perenggan 6(b).

(2) Walau apa pun subperaturan (1), Jemaah Doktor Rayuan boleh membenarkan rayuan yang dibuat selepas habis tempoh tiga puluh hari itu jika Jemaah Doktor Rayuan berpuas hati dengan alasan bagi kelewatan itu.

(3) Jika Jemaah Doktor Rayuan memutuskan untuk menolak rayuan orang berinsurans bekerja sendiri atau Pertubuhan itu, Jemaah Doktor Rayuan hendaklah menyatakan alasan bagi penolakan itu.

Tempat dan masa bagi pemeriksaan orang berinsurans bekerja sendiri

8. (1) Pertubuhan hendaklah menentukan tempat dan masa bagi pemeriksaan orang berinsurans bekerja sendiri di bawah peraturan 5 dan penilai perubatan hendaklah memeriksa orang berinsurans bekerja sendiri itu di tempat dan pada masa sebagaimana yang ditentukan oleh Pertubuhan.

(2) Dalam menentukan tempat dan masa di bawah subperaturan (1), Pertubuhan hendaklah mengambil kira tempat di mana orang berinsurans bekerja sendiri itu tinggal pada masa pemeriksaan itu akan dijalankan dan keadaan kesihatannya.

(3) Pertubuhan hendaklah memaklumkan tempat dan masa pemeriksaan kepada orang berinsurans bekerja sendiri itu sekurang-kurangnya tiga hari bekerja sebelum tarikh pemeriksaan.

Pemindahan penentuan yang belum selesai

9. Pertubuhan boleh memindahkan apa-apa penentuan yang belum diputuskan oleh penilai perubatan kepada penilai perubatan yang lain jika Pertubuhan berpuas hati bahawa—

- (a) pemindahan itu adalah perlu untuk menolong orang berinsurans bekerja sendiri itu; atau
- (b) terdapat konflik kepentingan jika penilai perubatan yang mula-mula disebut itu membuat penentuan.

Perakuan elaun layanan sentiasa

10. (1) Bagi maksud memperakukan darjah kehilangan upaya yang melayakkan orang berinsurans bekerja sendiri bagi elaun layanan sentiasa di bawah seksyen 21 Akta, penilai perubatan hendaklah mempertimbangkan sama ada—

- (a) orang berinsurans bekerja sendiri itu tidak dapat memberi makan kepada dirinya sendiri atau menguruskan keperluan peribadinya dan kebersihan diri; dan
- (b) orang berinsurans bekerja sendiri itu tidak dapat bergerak.

(2) Selepas berpuas hati dengan darjah kehilangan upaya orang berinsurans bekerja sendiri itu di bawah subperaturan (1), penilai perubatan hendaklah memperakukan orang berinsurans bekerja sendiri itu bagi elaun layanan sentiasa.

(3) Sebagai tambahan kepada perakuan yang dibuat di bawah subperaturan (2), penilai perubatan boleh mengesyorkan kepada Pertubuhan supaya orang berinsurans bekerja sendiri itu disediakan kemudahan pemulihan jasmani dan vokasional.

(4) Perakuan yang dibuat di bawah subperaturan (2) boleh diperakukan semula atas permohonan Pertubuhan dari semasa ke semasa.

(5) Apabila diperakukan semula di bawah subperaturan (4), Pertubuhan boleh memutuskan sama ada pembayaran elaun layanan sentiasa diteruskan atau tidak kepada orang berinsurans bekerja sendiri itu.

Garis panduan

11. Dalam menjalankan kewajipannya di bawah Akta dan Peraturan-Peraturan ini, penilai perubatan hendaklah merujuk kepada garis panduan yang berhubungan dengan kewajipannya yang disiarkan oleh Pertubuhan dan garis panduan lain sebagaimana yang ditentukan oleh Pertubuhan.

Dibuat 21 Disember 2018

[KSM/PUU(S)600-1/2/27/2; PN(PU2)744/I]

M. KULASEGARAN
Menteri Sumber Manusia

SELF-EMPLOYMENT SOCIAL SECURITY ACT 2018

SELF-EMPLOYMENT SOCIAL SECURITY (MEDICAL ASSESSOR) REGULATIONS 2018

ARRANGEMENT OF REGULATIONS

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SELF-EMPLOYMENT SOCIAL SECURITY ACT 2018

SELF-EMPLOYMENT SOCIAL SECURITY (MEDICAL ASSESSOR) REGULATIONS 2018

IN exercise of the powers conferred by section 83 of the Self-Employment Social Security Act 2017 [Act 789], the Minister makes the following regulations:

Citation and commencement

1. (1) These regulations may be cited as the **Self-Employment Social Security (Medical Assessor) Regulations 2018**.

(2) These Regulations is deemed to have come into operation on 13 June 2017.

Appointment of medical assessor

2. (1) The Organization may, subject to such conditions, appoint any person to be a medical assessor as it considers necessary or expedient for the purposes of the Act.

(2) Notwithstanding subregulation (1), a person may be appointed as a medical assessor if—

- (a) he is a citizen of Malaysia;
- (b) he is a registered medical practitioner with the Malaysian Medical Council under the Medical Act 1971 [Act 50] or a registered dental practitioner with the Malaysian Dental Council under the Dental Act 1971 [Act 51], as the case may be;
- (c) he has a valid practising certificate issued under the Medical Act 1971 or the Dental Act 1971, as the case may be;
- (d) he has been practising as a medical practitioner or dental practitioner for a period of not less than five years;

- (e) he has not been found guilty of any disciplinary inquiry under the Medical Act 1971 or the Dental Act 1971, or convicted of any criminal offence under any written law punishable with imprisonment for one year or more; and
- (f) he has attended any training as determined by the Organization.

(3) Subject to subregulation (2), any medical officer of the Organization may be appointed as a medical assessor.

(4) The medical officer appointed as a medical assessor under subregulation (3) shall ensure that his duties as a medical assessor do not conflict with his duties as a medical officer.

Allowance for medical assessor

3. A medical assessor, other than the medical officer of the Organization appointed as a medical assessor under subregulation 2(3), shall be paid such allowances as determined by the Organization.

Suspension and revocation of appointment of medical assessor

4. (1) The Organization may suspend the appointment of a medical assessor if the following circumstances occur:

- (a) a complaint has been made by any person to the Organization against the medical assessor;
- (b) an allegation has been made by any person against the medical assessor that the medical assessor has contravened the Code of Professional Conduct issued by the Malaysian Medical Council or the Malaysian Dental Council, or any other guidelines as determined by the Organization;

- (c) the medical assessor has failed to attend any relevant training as determined by the Organization; or
- (d) the medical assessor has breached any conditions of appointment as determined by the Organization.

(2) Notwithstanding subregulation (1), the Organization may only suspend the appointment of a medical assessor after being satisfied that there is merit in suspending such appointment.

(3) If the Organization decides to suspend the appointment of a medical assessor, the Organization shall give a written notice of such suspension to the medical assessor.

(4) Upon the suspension of the appointment of the medical assessor under subregulation (3), the Organization shall commence an inquiry in respect of the complaint, allegation, failure or breach referred to in subregulation (1) and the medical assessor shall have the right to make his representation.

(5) After taking into consideration the representation made by the medical assessor and upon the completion of the inquiry under subregulation (4), the Organization shall decide whether to withdraw the suspension or revoke the appointment of the medical assessor.

(6) The Organization shall give a written notice of its decision under subregulation (5) to the medical assessor as soon as practicable.

(7) Notwithstanding that the appointment of a person as a medical assessor is revoked under subregulation (5), the Organization may reappoint the person as a medical assessor if the person has taken the necessary and reasonable steps to make good any complaint, allegation, failure or breach referred to in subregulation (1).

Determination of question on permanent disablement and occupational disease

5. (1) For the purpose of determining any question on permanent disablement under section 39 or occupational disease under section 40 of the Act, the medical assessor shall examine a self-employed insured person and consider the following document:

- (a) the claim for benefits form;
- (b) the report prepared by the registered medical practitioner or the registered dental practitioner who treated the self-employed insured person, as the case may be;
- (c) the clinical investigation report prepared by the registered medical practitioner or the registered dental practitioner, as the case may be;
- (d) the report on the previous claim for benefits made by the self-employed insured person under the Act;
- (e) the report on any rehabilitation facilities provided to the self-employed insured person if such self-employed insured person has undergone any rehabilitation assessment;
- (f) in relation to the determination on the question of occupational disease, the report relating to the nature of the job, the workplace, the hazard, exposure and risk of the job, and any other relevant information prepared by the Organization; or
- (g) other document as determined by the Organization.

(2) A medical assessor shall only examine a self-employed insured person who has undergone a medical treatment conducted by a registered medical practitioner or a registered dental practitioner, as the case may be.

(3) After considering the evidence under subregulation (1), the medical assessor shall make a determination on the question referred to in subregulation (1) and may require further evidence if necessary.

(4) In the determination made under subregulation (3), the medical assessor may make recommendations to the Organization that the self-employed insured person to be provided with physical and vocational rehabilitation facilities.

Decision of the Organization

6. After receiving a report of the examination and determination by the medical assessor under subsection 39(2) or 40(2) of the Act, the Organization—

- (a) if it is not satisfied with the determination, may appeal to the Appellate Medical Board in accordance with regulation 7; or
- (b) if it is satisfied with the determination, shall inform its decision relating to the claim for benefits in writing to the self-employed insured person.

Appeal against determination of medical assessor

7. (1) An appeal to the Appellate Medical Board under subsection 41(2) of the Act shall be made—

- (a) in case of the Organization, within thirty days after receiving the report of the examination and determination under subsection 39(2) or 40(2) of the Act; or
- (b) in case of the self-employed insured person, within thirty days after receiving the decision under paragraph 6(b).

(2) Notwithstanding subregulation (1), the Appellate Medical Board may allow the appeal made after the period of thirty days expires if it is satisfied with the reasons for the delay.

(3) If the Appellate Medical Board decides to refuse the appeal of the self-employed insured person or the Organization, the Appellate Medical Board shall state the ground of such refusal.

Place and time for examination of self-employed insured person

8. (1) The Organization shall determine the place and time of the examination of the self-employed insured person under regulation 5 and the medical assessor shall examine the self-employed insured person at such place and time as determined by the Organization.

(2) In determining the place and time under subregulation (1), the Organization shall take into consideration the place where the self-employed insured person resides at the time the examination is to be conducted and his medical conditions.

(3) The Organization shall inform the place and time of the examination to the self-employed insured person of at least three working days before the examination date.

Transfer of pending determination

9. The Organization may transfer any determination pending to be decided by a medical assessor to another medical assessor if the Organization is satisfied that—

- (a) the transfer is necessary to accommodate the self-employed insured person; or
- (b) there is a conflict of interest if the first-mentioned medical assessor makes the determination.

Certification on constant attendance allowance

10. (1) For the purpose of certifying the degree of incapacity qualifying a self-employed insured person for a constant attendance allowance under section 21 of the Act, the medical assessor shall consider whether—

(a) the self-employed insured person is unable to feed himself or manage his personal need and hygiene; and

(b) the self-employed insured person is unable to ambulate.

(2) After being satisfied with the degree of incapacity of the self-employed insured person under subregulation (1), the medical assessor shall certify the self-employed insured person for the constant attendance allowance.

(3) In addition to the certification made under subregulation (2), the medical assessor may make recommendations to the Organization that the self-employed insured person to be provided with physical and vocational rehabilitation facilities.

(4) The certification made under subregulation (2) may be recertified on application by the Organization from time to time.

(5) Upon recertification under subregulation (4), the Organization may decide whether the payment of the constant attendance allowance should be continued or not to the self-employed insured person.

Guidelines

11. In carrying out his duties under the Act and these Regulations, the medical assessor shall refer to the guidelines relating to his duties published by the Organization and other guidelines as determined by the Organization.

Made 21 December 2018
[KSM/PUU(S)600-1/2/27/2; PN(PU2)744/I]

M. KULASEGARAN
Minister of Human Resources