

Legal Review of the Role of the Ministry of Finance in Filing Bankruptcy Applications Against State-Owned Bankruptcy Debtors

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Abstract

The purpose of this research is to find out how the Bankruptcy Regulations Against BUMN and how the Role of the Minister of Finance in Submitting the Application for a Statement of Bankruptcy Against BUMN Debtors, which with normative legal research methods are concluded: 1. Arrangements for bankruptcy of a State-Owned Enterprise (BUMN) are regulated as a whole in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. More specifically, the regulation is regulated in Article 2 paragraph (5) of Law Number 37 of 2004. Bankruptcy arrangements for BUMN have ambiguity or multiple interpretations related to the explanation of Article 2 paragraph (5) regarding BUMN that are engaged in the public interest, the Bankruptcy Law does not provide restrictions the criteria for the public interest are strictly defined, only using limits on the size and origin of the capital but not clearly explaining that what is meant by public interest is BUMN Perum. The existence of disharmony of the law regarding the authority of the Minister of Finance in insolvency of BUMN Perum must also pay attention to the principle of Lex posteriori derogate legi priori, namely the new regulation defeats or paralyzes the old regulation. 2. The Minister of Finance has an important role in submitting an application for a declaration of bankruptcy against a State-Owned Enterprise (BUMN). The Minister of Finance has a role to bankrupt a BUMN that is engaged in the public interest (perum) for the benefit of the country's economy, or to be one way to save the country's economy through bankruptcy. The role of the Minister of Finance in the bankruptcy of SOEs in accordance with Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations is as an applicant for a declaration of bankruptcy against State-Owned Enterprises (BUMN) engaged in the public interest or Perum. In the event that BUMN creditors who will file for bankruptcy must first submit an application to the Minister of Finance through the Legal Bureau for State Property Law, Company, and Legal Information which will then be submitted to the Minister of Finance to immediately submit a request for a declaration of bankruptcy against BUMN to the Chairperson of the Court.

Keywords: bankrupt; Minister of Finance;

I. Introduction

Economic activities that occur in society are essentially a series of legal actions of many types, varieties, qualities and variations carried out by individuals, between companies, between countries and between groups in various volumes with high frequency at any time in various places. Considering that the higher the frequency of economic activities that occur in certain communities, the more the need for funds as one of the driving factors in moving the wheels of the economy.¹

State-Owned Enterprises (BUMN) which all or most of their capital comes from separated state assets are one of the economic actors in the national economic system, in addition to private businesses and cooperatives. BUMN which is one of the tangible manifestations of Article 33 of the 1945 Constitution of the Republic of Indonesia has a strategic position for improving people's welfare. The state controls the natural wealth, but the state cannot try or run a company by implementing government, because it will result in a commercial government. So that the government can run well, the State establishes BUMN to exploit these natural resources for the prosperity of the people.²

In its development, SOEs, especially State-Owned Enterprises (BUMN) face the risk of losses that lead to bankruptcy or bankruptcy when the management is carried out unprofessionally, not based on the principles of efficiency and not applying the principles of *good corporate governance*. SOEs often take actions that are detrimental to their business partners and *stake holders*, because they have broken promises/ *defaults* or acted against the law. The regulation of the petition for declaration of bankruptcy against BUMN, in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (UUKPKPU) shows that the government is aware of the ups and downs of BUMN's finances.³

In Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations it is stated that "In the event that the Debtor is an Insurance Company, Reinsurance Company, Pension Fund, or State-Owned Enterprise operating in the field of public interest, the application a declaration of bankruptcy can only be submitted by the Minister of Finance".⁴ In the article it is

¹ Paisol Burlian, " *The Authority for Filing Application for Bankruptcy Against Insurance Companies* " *Journal of Master of Laws*, volume 1, number 2, 2016, (University of Muhammadiyah Palembang), page 1

² Andriani Nurdin, *State-Owned Enterprise Bankruptcy Based on Legal Certainty Principles*, Bandung: PT Alumni, 2012, p. 1

³ *Ibid.*, p. 2

⁴ Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

emphasized that the only Minister of Finance who can file a bankruptcy petition against a State-Owned Enterprise engaged in the public interest.

In the explanation of Article 2 paragraph (5) of Law no. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, it is explained that State-Owned Enterprises engaged in the public interest are State-Owned Enterprises whose entire capital is owned by the state and is not divided into shares. Which means that BUMN Perum is a type of BUMN that can apply for a declaration of bankruptcy by the Minister of Finance because BUMN Perum is entirely controlled by the State and is not divided into shares. The explanation of the article is not sufficient to answer the form of BUMN that can be bankrupted by the Minister of Finance, because if it refers to Law Number 19 of 2003 concerning State-Owned Enterprises, Article 55 paragraph (1) states that directors can only submit an application to the district court. so that Perum is declared bankrupt based on the approval of the Minister. The BUMN Law does not describe the intent of Article 55 paragraph (1) of Law no. 19 of 2003 in the explanation of the article, Based on this, it can be said that the Minister of Finance does not play an active role in the bankruptcy of Perum, so it is as if the Board of Directors of Perum plays an active role in the bankruptcy of BUMN Perum. This is very different from what is stated in the Bankruptcy Law and PKPU which states that a bankruptcy application against a BUMN can only be submitted by the Minister of Finance.

In practice, the number of cases of bankruptcy petitions against SOEs is relatively rare when compared to bankruptcy petitions against private companies. However, it is also very important to know the role of the Minister of Finance in bankruptcy of a BUMN. In Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations (UUKPKPU) it is not explained in detail how to regulate the bankruptcy of BUMN, the role of the Minister of Finance in filing bankruptcy applications against BUMN bankrupt debtors, position, influence, the initial process carried out by The Minister of Finance has arrived at the submission of his bankruptcy petition against BUMN, therefore it can create another perception among the public regarding the objectivity of the filing of the bankruptcy petition. It is very necessary to explain in terms of laws and regulations regarding clear procedures or legal umbrellas as well as through other technical regulations to provide certainty and justice in filing an application for bankruptcy against BUMN, because it cannot be denied that a BUMN is already in a state of insolvency, but for reasons of certain interests. such as political, personal, or some groups so that the government in this case the Minister of Finance does not file an application for bankruptcy to the BUMN, so that it can harm the creditors of the BUMN. Therefore, it must also be known together how the role of the Minister of Finance in filing a Bankruptcy Application against a state-owned bankrupt debtor.

2. Research Method

The research method used in this study is a normative juridical research method, namely research that is focused on examining the application of rules or norms in positive law.⁵ According to Soerjono Soekanto, in normative juridical research, only library materials or secondary data are examined, which includes primary, secondary and tertiary legal materials.⁶ The legal materials used as data sources in this study are as follows:

1. Primary legal materials, namely the main materials or sources obtained from statutory regulations, such as in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations and Law Number 19 of 2003 concerning State-Owned Enterprises, Civil Code, Regulation of the President of the Republic of Indonesia, Regulation of the Minister of Finance, and other regulations below that can explain the material of this research.
2. Secondary legal materials, namely legal materials that provide explanations of primary legal materials obtained from literature books, journals, scholarly opinions, relevant scientific writings, and from other sources.
3. Tertiary legal materials are legal materials that can provide meaningful instructions or explanations for primary and secondary legal materials such as legal dictionaries, encyclopedias, black law dictionaries and others.

3. Results and Discussion

3.1 Bankruptcy Regulations Against BUMN

Bankruptcy arrangements for State-Owned Enterprises (BUMN) are regulated in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. In Law Number 37 of 2004 concerning Bankruptcy and Postponement of Obligation for Payment of Debt, the regulation regarding bankruptcy of State-Owned Enterprises (BUMN) is specifically regulated in Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Obligation for Payment of Debt. The article states that in the event that the debtor is an Insurance Company, Reinsurance Company, Pension Fund, or State-Owned Enterprise engaged in the public interest, the application for a declaration of bankruptcy can only be submitted by the Minister of Finance.⁷

3.1.a. State-Owned Enterprises (BUMN) Engaged in the Public Interest.

⁵ Johnny Ibrahim, *Normative Law Research Theory and Methodology*, Malang: Bayumedia Publishing, 2006, p. 295

⁶ Soerjono Soekanto, *Introduction to Legal Research*, Jakarta: University of Indonesia Press, 1986, p. 52

⁷ Article 2 paragraph 5 of Law No. 37 of 2004.

Law No. 19 of 2003 concerning State-Owned Enterprises (BUMN) recognizes two forms of State-Owned Enterprises (BUMN), namely Limited Liability Companies (Persero) and Public Companies (Perum).⁸Article 1 point 2 of the BUMN Law states that a Limited Liability Company, hereinafter referred to as a Persero, is a State-Owned Enterprise in the form of a limited liability company whose capital is divided into shares of which all or at least 51% (fifty one percent) of the shares are owned by the State of the Republic of Indonesia. main goal is to make profit.⁹while a Public Company, hereinafter referred to as Perum, is a State-Owned Enterprise whose entire capital is owned by the state and is not divided into shares, which aims for the public benefit in the form of providing high quality goods and/or services and at the same time pursuing profits based on the principles of corporate management.¹⁰What is meant by State-Owned Enterprises (BUMN) engaged in the field of public interest are Public Companies (Perum) because it is in accordance with the explanation. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations.

Elucidation of Article 2 paragraph 5 of Law no. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations are as follows:¹¹

“What is meant by “Insurance Company” is Life Insurance Company and Loss Insurance Company.

Insurance Company and Reinsurance Company are Insurance Company and Reinsurance Company as referred to in the Law governing Insurance Business.

The authority to apply for a declaration of bankruptcy for an Insurance Company or Reinsurance Company rests entirely with the Minister of Finance.

This provision is necessary to build the level of public trust in Insurance Companies and Reinsurance Companies as risk management institutions and at the same time as public fund management institutions that have a strategic position in economic development and life.

Based on the explanation of Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, what is meant by State-Owned Enterprises engaged in the public interest are SOEs whose entire capital is controlled by the state and not divided into shares, then petition for declaration of bankruptcy against BUMN whose capital is divided into shares, whose capital is wholly or partly owned by the state, namely BUMN in the form of a State-Owned Enterprise or Persero not included in the provisions of Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and The postponement of the

⁸Article 9 of Law no. 19 of 2003.

⁹Article 1 paragraph (2) of Law no. 19 of 2003.

¹⁰Article 1 paragraph (4) of Law no. 19 of 2003.

¹¹See the explanation of Article 2 paragraph (5) of Law no. 37 Year 2004

obligation to pay debts, so that the application for a declaration of bankruptcy can be submitted directly by the creditor, while the State-Owned Enterprises (BUMN) in the form of a Public Company (Perum) the application for a declaration of bankruptcy must be submitted by the Minister of Finance because Perum is not divided into shares and all of its capital is controlled by the Minister of Finance. Country.

Prof. Dr. Rahayu Hartini, SH, M.Sc., M. Hum is of the opinion that the limits provided by the Law on Bankruptcy and Suspension of Debt Payment Obligations regarding the purpose of "State-Owned Enterprises engaged in the public interest", are unclear or inappropriate because they only use limitation or size of the amount and origin of capital and its form but does not explain what the public interest itself is, so this still opens up other interpretation opportunities that can provide opportunities for legal deviations in practice.¹²

The absence of clear boundaries or parameters regarding the meaning of public interest in SOEs engaged in the public interest and multi-interpreted formulations in Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations and their explanations have led to differences of opinion. among judges in handling bankruptcy applications for State-Owned Enterprises. This can be seen from the case of PT. Dirgantara Indonesia (Persero) filed for bankruptcy by 3 former employees of PT. DI Persero, which at the Commercial Court, the panel of judges granted the bankruptcy petition because former employees could file for bankruptcy because PT. DI is a BUMN in the form of a Persero while at the Cassation level the panel of judges rejected the application because they considered PT. DI Persero is a BUMN that is engaged in the public interest.

In addition to the ambiguity or multiple interpretations of the explanation of Article 2 paragraph (5), Bankruptcy Regulations against BUMN that are engaged in the public interest must refer to Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, in accordance with the explanation The reason is that what is meant by BUMN that is engaged in the public interest is BUMN whose entire capital is controlled by the state and is not divided into shares, is a BUMN in the form of a Public Company (Perum).

Based on the above description, if the BUMN is in the form of a Public Company (Perum) then the Minister of Finance who has an important role in the application for

¹²Rahayu Hartini, *BUMN Persero, Concept of State Finance and Indonesian Bankruptcy Law* , Malang: Setara Press, 2017, p. 187

bankruptcy is the Minister of Finance, whereas if the BUMN is in the form of a Persero, it does not have to go through the Minister of Finance and can be carried out by the Debtor himself or by his creditors.

3.1.b Disharmonization between Article 55 of Law Number 19 of 2003 and Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Obligation to Pay Debt.

In Chapter III, the fourth part of Law Number 19 of 2003 concerning State-Owned Enterprises regarding the authority of the Minister, it does not clearly state the involvement of the Minister of Finance in the case of bankruptcy. Minister's Authority.¹³

Article 38 of Law no. 19 of 2003 concerning BUMN:

- (1) The Minister approves the Perum business development policy proposed by the Board of Directors.
- (2) The business development policy as referred to in paragraph (1) is proposed by the Board of Directors to the Minister after obtaining approval from the Supervisory Board.
- (3) The policy as referred to in paragraph (1) shall be determined in accordance with the aims and objectives of the Perum concerned.

Article 39 of Law no. 19 of 2003 concerning State-Owned Enterprises:

"The Minister is not responsible for all the consequences of legal actions made by Perum and is not responsible for the loss of Perum exceeding the value of state assets that have been separated into Perum, except if the Minister:
either directly or indirectly in bad faith using Perum solely for personal gain; involved in unlawful acts committed by Perum; or directly or indirectly illegally use the assets of Perum."

Article 40 of Law no. 19 of 2003 concerning State-Owned Enterprises:

"Stipulations regarding the procedures for transferring, charging Perum's fixed assets, as well as receiving medium/long term loans and granting loans in any form and in any way, as well as not collecting and writing off receivables and inventories by Perum are regulated by a Ministerial Decree."

Based on the authority of the Minister in Law no. 19 of 2003 concerning State-Owned Enterprises, it can be said that the Minister of Finance does not play an active role in the bankruptcy of BUMN Perum, while in Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, only the Minister of Finance plays an active role in filing a bankruptcy petition against State-Owned Enterprises (BUMN) Perum.

¹³Article 38, Article 39, Article 40 of Law no. 19 of 2003

Conflicting regulations between Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations and Article 55 paragraph (1) of Law Number 19 of 2003 concerning State-Owned Enterprises can be resolved by one of the principles of preference, namely the *principle of Lex posteriori derogate legi priori* (the new regulation defeats the old regulation), this principle is very appropriate to be used to answer the problem of the disharmony of these two laws, because Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations is newer than Law Number 19 of 2003 concerning State-Owned Enterprises.

Based on the *Lex posteriori derogate legi priori principle*, it can be concluded that the Minister of Finance has the authority and has an active role in submitting a petition for a declaration of bankruptcy against a State-Owned Enterprise (BUMN) engaged in the public interest (Perum).

The application for a declaration of bankruptcy against a State-Owned Enterprise (BUMN) which is engaged in the field of public interest must be submitted by the Minister of Finance, and if the SOE takes the form of a Persero that wishes to apply for bankruptcy, it can be submitted directly by the creditor or debtor itself without having to go through the Minister of Finance. furthermore, regarding the regulation of bankruptcy of State-Owned Enterprises (BUMN) as a whole, it must refer to Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, namely BUMN engaged in the public interest are BUMN Perum that can filed for bankruptcy by the Minister of Finance. because there are no other rules that detail the bankruptcy of SOEs.

3.2 The Role of the Minister of Finance in Filing Bankruptcy Applications Against Bankrupt Debtors of State-Owned Enterprises (BUMN)

The Minister of Finance acts on behalf of the State and can bankrupt a State-Owned Enterprise (BUMN) which is engaged in the public interest in this case is a BUMN in the form of a Public Company (Perum) for the benefit of the State's economy, or as a way to save the country's economy through bankruptcy. , because the one who knows the country's economy as a whole is the Minister of Finance. The role of the Minister of Finance in the bankruptcy of SOEs in accordance with Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations is as an applicant for a declaration of bankruptcy against State-Owned Enterprises (BUMN) engaged in the public interest or Perum. If a creditor from a State-Owned Enterprise (BUMN) wishes to apply for bankruptcy, he must first ask the Minister of Finance to

request that the Minister of Finance file an application for bankruptcy against the SOE. The role of the Minister of Finance in bankruptcy of a BUMN is very much in tandem with the stages or processes carried out by the Minister of Finance in bankruptcy of a BUMN.

3.1.a Process for Filing Application for Bankruptcy against BUMN

State-Owned Enterprises (BUMN) engaged in the public interest or BUMN in the form of a Public Company that will be filed for bankruptcy by the Minister of Finance must refer to Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations. The stage that will be carried out by the Minister of Finance is to assess whether the SOE is in a state of insolvency or has been able to meet the requirements for bankruptcy.

In relation to the process of submitting an application for a declaration of bankruptcy conducted by the Minister of Finance, the Minister of Finance must pay attention to the documents or letters that must be fulfilled or attached, namely as follows:¹⁴

1. Stamped application letter addressed to the Head of the District Court/Commercial Court.
2. Lawyer Permit/lawyer card.
3. Special Power of Attorney
4. Company Registration Certificate (Company Registration Certificate)/Foundation/Association legalized (stamped) by the Trade Office no later than 1 (one) week before the application is registered.
5. Debt Agreement or other evidence showing the existence of debt.
6. Unpaid debt details.
7. Name and address of each creditor/debtor.

The Minister of Finance does not need an advocate to file a bankruptcy petition, because if it refers to Article 7 paragraph (2) of Law no. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations The provisions referred to in Article 7 paragraph (1) which must be submitted by an advocate do not apply in the event that the application is submitted by the prosecutor's office, Bank Indonesia, the Capital Market Supervisory Agency, and the Minister of Finance. So the Minister of Finance can directly file a petition for a declaration of bankruptcy against BUMN to the Chairperson of the Court without having to go through an advocate.

The registration of a bankruptcy application against a State-Owned Enterprise (BUMN) by the Minister of Finance must be submitted in accordance with the requirements stipulated in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. The process mechanism is as follows:

¹⁴Jono, Op. Cit , p. 90

1. The petition for declaration of bankruptcy shall be submitted to the chairman of the Court.¹⁵ in this case the Minister of Finance must make an application for a declaration of bankruptcy which is submitted to the Chairperson of the Court.
2. The Registrar registers the application for a declaration of bankruptcy on the date the application is filed, and the applicant is given a receipt signed by the competent authority on the same date as the date of registration.¹⁶
3. The Registrar shall submit the application for a declaration of Bankruptcy to the Chief Justice of the Court no later than 2 (two) days after the date the application is registered.¹⁷
4. Within a period of no later than 3 (three) days after the date on which the petition for declaration of bankruptcy is registered, the court shall study the petition and determine the day of the trial.¹⁸

Before the trial begins, the court through the bailiff shall summon the parties by registered express letter no later than 7 (seven) days before the examination hearing is held.¹⁹ These calls include the following:²⁰

- a. Obligation to summon the Debtor, in the event that the application for a declaration of bankruptcy is submitted by the Creditor, the Prosecutor's Office, Bank Indonesia, the Capital Market Supervisory Agency, or the Minister of Finance.
- b. Can summon Creditors, in the event that the application for declaration of bankruptcy is submitted by the Debtor and there is doubt that the requirements to be declared bankrupt as referred to in Article 2 paragraph (1) have been fulfilled.

Then a hearing will be held. The hearing on the petition for a declaration of bankruptcy shall be held no later than 20 (twenty) days after the date the petition is registered.²¹

The application for a declaration of bankruptcy submitted by the Minister of Finance must be granted if there are facts or circumstances that are simply proven that the requirements to be declared bankrupt as referred to in Article 2 paragraph (1) have been met²². have two or more creditors who do not pay off one debt that is due and collectible. then the Court's Decision on the petition for a declaration of bankruptcy

¹⁵Article 6 paragraph (1) of Law no. 37 of 2004.

¹⁶Article 6 paragraph (2) of Law no. 37 of 2004.

¹⁷Article 6 paragraph (4) of Law no. 37 of 2004.

¹⁸Article 6 paragraph (5) of Law no. 37 of 2004.

¹⁹Article 8 paragraph (2) of Law no. 37 of 2004.

²⁰Article 8 paragraph (1) of Law no. 37 of 2004.

²¹Article 6 paragraph (6) of Law no. 37 of 2004.

²²Article 8 paragraph (4) of Law no. 37 of 2004.

will be pronounced no later than 60 (sixty) days after the date on which the petition for a declaration of bankruptcy is registered.²³

The Court's decision must also contain certain articles of the relevant laws and regulations and/or unwritten legal sources which are used as the basis for adjudicating and legal considerations and opinions differing from the member judges or the chair of the panel.²⁴

The decision on the petition for declaration of bankruptcy as referred to in paragraph (6) which contains in full the legal considerations underlying the decision must be pronounced in a trial open to the public and can be implemented first, even though a legal remedy is filed against the decision.²⁵ If the Minister of Finance objects or feels that the decision on the bankruptcy petition is not appropriate, then the legal remedies that can be submitted against the decision on the petition for declaration of bankruptcy are cassation to the Supreme Court.

3.1.b Process of Filing Application for Bankruptcy by BUMN Creditors to the Minister of Finance.

Initiatives from BUMN creditors who feel that a BUMN cannot pay their debts who want to go bankrupt must go through the Minister of Finance. In this case, the Creditors must submit their application to the Minister of Finance.

The submission of a request for bankruptcy of SOEs is addressed to the Minister of Finance through the Legal Bureau for State Assets, Company, and Legal Information. The legal bureau of the State Property Law, Company, and Legal Information section has the task of carrying out research/study on the *legal drafting* of regulatory or stipulating laws and regulations and their processing, and research/study on the juridical aspects of legal issues and/or providing legal considerations in the context of settlement. legal issues in the field of State Property, separated state assets, other state assets, state receivables, auctions, and companies, as well as organizing documentation, information, and legal dissemination.²⁶

It is very clear that the capital of State-Owned Enterprises (BUMN) is and comes from separated state assets. In the explanation of Law Number 19 of 2003 concerning State-Owned Enterprises, what is meant by separated state assets is the separation of state assets from the State Revenue and Expenditure Budget to be used as state capital participation in SOEs for further guidance and management no longer based on the Revenue and Expenditure Budget system. Country.

²³Article 8 paragraph (5) of Law no. 37 of 2004.

²⁴Article 8 paragraph (6) of Law no. 37 of 2004.

²⁵Article 8 paragraph (7) of Law no. 37 of 2004.

²⁶Article 68 Regulation of the Minister of Finance of the Republic of Indonesia Number 217/PMK.01/2018 concerning the Organization and Work Procedure of the Ministry of Finance.

Based on the description above, SOE Creditors must submit an application for Bankruptcy to the Legal Bureau of the Ministry of Finance, Division of State Assets, Company, and Legal Information in order to review the juridical aspects of legal issues, and provide legal considerations in the context of resolving legal issues related to the separated or separated state assets. BUMN. Then after the Legal Bureau of the Ministry of Finance of the State Property Law, Company, and Legal Information section has provided legal considerations, then the bankruptcy application submitted by SOE creditors will be submitted by the Legal Bureau to the Minister of Finance to immediately apply for a SOE bankruptcy statement to the Chairman of the court in accordance with the provisions of the regulations. applicable.

4. Conclusion

1. Arrangements for the bankruptcy of a State-Owned Enterprise (BUMN) are regulated in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. More specifically, it is regulated in Article 2 paragraph (5) of Law Number 37 of 2004. Bankruptcy arrangements for BUMN have ambiguity or multiple interpretations regarding the explanation of Article 2 paragraph (5) regarding BUMN that are engaged in the public interest, the Bankruptcy Law does not provide criteria limits public interest explicitly, using only limits on the size and origin of the capital but does not clearly explain that what is meant by public interest is BUMN Perum. The existence of disharmony of the law regarding the authority of the Minister of Finance in insolvency of BUMN Perum must also pay attention to the principle of *Lex posteriori derogate legi priori*, namely the new regulation defeats or paralyzes the old regulation. Thus the regulation on bankruptcy against BUMN Perum is regulated in Law no. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. The Minister of Finance has full authority to bankrupt SOEs engaged in the public interest, namely SOEs in the form of Public Companies (Perum).
2. The Minister of Finance has an important role in submitting an application for a declaration of bankruptcy against a State-Owned Enterprise (BUMN). The Minister of Finance has a role to bankrupt a BUMN that is engaged in the public interest (perum) for the benefit of the country's economy, or to be one way to save the country's economy through bankruptcy. The role of the Minister of Finance in the bankruptcy of SOEs in accordance with Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations is as an applicant for a declaration of bankruptcy against State-Owned Enterprises (BUMN) engaged in the public interest or Perum. In the event that BUMN creditors who will file for bankruptcy must first

submit an application to the Minister of Finance through the Legal Bureau for State Property Law, Company, and Legal Information which will then be submitted to the Minister of Finance to immediately submit a request for a declaration of bankruptcy against BUMN to the Chairperson of the Court.

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