

**D.R. 7/91**

**Naskhah Sahih—Bahasa Inggeris**

**RANG UNDANG-UNDANG**

*b e r n a m a*

Suatu Akta untuk meminda Akta Insurans 1963.

[ ]

MAKA INILAH DIPERBUA UNDANG-UNDANG oleh Duli Yang Maha Mulia 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) 1991. Tajuk ringkas.

2. Seksyen IA Akta Insurans 1963, yang disebut "Akta ibu" dalam Akta ini, adalah dipinda dengan memasukkan, selepas takrif "Co-operative Societies Ordinance", takrif baru yang berikut: Pindaan seksyen 1A. Akta 89.

' "employee", in relation to an insurer, includes the managing director, the chief executive, and the principal officer of the insurer;'

3. Seksyen 28 Akta ibu adalah dipinda dengan mengantikannya dengan yang berikut: Pindaan seksyen 28.

"Insurer unable to meet obligations to inform Director General. 28. Where any insurer is insolvent, or is likely to become unable to meet all or any of its obligations, or is about to suspend payment to any extent, it shall immediately inform the Director General of that fact."

Seksyen  
bam 28A,  
28B, 28c,  
28D, 28b,  
28F dan  
28G;

4. Akta ibu adalah dipinda dengan memasukkan, selepas seksyen 28, seksyen baru 28A, 28B, 28c, 28D, 28E, 28F dan 28c yang berikut:

"Action by  
Director  
General  
in respect  
of insurer  
in certain  
circum-  
stances.

28A. (1) **Where** upon receiving information from the insurer pursuant to section 28, or after an inspection under section 18, or after an investigation under section 27, or otherwise, the Director General is satisfied that an insurer—

- (a) is carrying on its business in a manner detrimental to the interests of its policy owners, or its creditors, or the public generally;
- (b) is insolvent, or has become or is likely to become unable to meet all or any of its obligations, or is about to suspend payment to any extent; or
- (c) has contravened any provision of this Act, or any condition of its registration,

the Director General may, by order in writing, exercise any one or more of the following powers, as he deems necessary:

- (i) require the insurer to do or not to do any act or thing, whatsoever, in relation to the insurer, or its business, or its directors or employees, within such time as may be specified in the order;
- (ii) prohibit the insurer from issuing any new policies relating to all insurance business, or any class of insurance business, or any type or description of insurance business under any class, extending any further credit facility, or transacting such other business or carrying on such other activities for such period as may be specified in the order; and such prohibition may be made subject to such exceptions, with such conditions in relation to the exceptions, as may be specified in the order;

- (iii) notwithstanding anything in any written law, or any limitations contained in the memorandum of association or articles of association or other constituent documents of the insurer, for reasons to be recorded by him in writing, remove from employment, with effect from such date as may be set out in the order, any employee of the insurer, or appoint any person as an employee of the insurer with such functions, powers and duties as may be set out in the order;
- (iv) in respect of an insurer incorporated as a company in Malaysia, notwithstanding anything in any written law, or any limitations contained in the memorandum of association and articles of association or other constituent documents of the insurer, for reasons to be recorded by him in writing, remove from office, with effect from such date as may be set out in the order, any director of the insurer, or appoint any person as a director of the insurer;
- (v) appoint a person to advise the insurer in relation to the proper conduct of its business; or
- (vi) terminate any contract, agreement or arrangement entered into by the insurer with any person for such person to provide the insurer with consultancy or management services of any description:

Provided that the powers of the Director General under paragraphs (ii), (iii), (iv), (v) and (vi) shall be exercised only with the prior approval of the Minister.

(2) The Director General may, instead of exercising any of his powers under subsection (1)(i), (1)(ii), (1)(iii), (1)(iv), (1)(v) or (1)(vi), recommend to the Minister to provide, and the

Minister may on such recommendation accordingly provide, by order published in the *Gazette*—

- (a) for the Director General to assume control, either by himself or through a person duly appointed by him, over the whole or part of the property, business and affairs of the insurer, and to carry on such business and affairs, and for the costs and expenses of the Director General, or the remuneration of the person so appointed, as the case may be, to be payable out of the funds and properties of the insurer as a first charge thereon;
- (b) whether or not an order has been made under paragraph (a), for an application to be made by the Director General to the High Court to appoint a receiver or manager to manage the whole or part of the business, affairs and property of the insurer; or
- (c) whether or not an order has been made under paragraph (a) or (b), for the Director General to present a petition to the High Court for the dissolution or winding up of the insurer.

(3) An order of the Director General under subsection (1), or an order of the Minister under subsection (2), may, from time to time, be amended, varied or replaced by a further order under subsection (1) or (2), as the case may be.

(4) No order under subsection (1) or (2), or by virtue of subsection (3), shall be made unless the insurer in respect of which the order is to be made, and, in the case of an order under subsection (1)(iii), (iv) or (vi), the employee or director who is to be removed from office or the person in respect of whom the contract, agreement or arrangement is to be terminated, has been given a reasonable opportunity of

making representations in respect of the proposed order:

Provided that if in the opinion of the Director General, in the case of an order to be made by the Director General, or in the opinion of the Minister, in the case of an order to be made by the Minister, as the case may be, any delay would be detrimental to the interests of the insurer, or its policy owners, creditors, other customers, or the public generally, the order may be made first and the opportunity to make representations in respect of the order shall be given immediately after the order has been made, and the order may, in consequence of such representations, either be confirmed, or be amended, varied, or replaced by virtue of subsection (3) or revoked by virtue of subsection (5), subject to such condition as the Director General, with the concurrence of the Minister, or the Minister, on the recommendation of the Director General, as the case may be, thinks fit to impose.

(5) An order of the Director General made under subsection (1), or by virtue of subsection (3), or an order of the Minister made under subsection (2), or by virtue of subsection (3), may at any time be revoked by an order similarly made by the Director General, or by the Minister, as the case may be.

Provisions  
in relation  
to appoint-  
ment under  
section 28A.

28B, (1) A person appointed by the Director General under section 28A(1)(iii), 28A(1)(iv), 28A(1)(v) or 28A(2)(a) shall be appointed for such period as may be determined by the Director General, and the appointment may, upon expiry of the initial period, be extended for such further period as may be determined by the Director General:

Provided that the Director General may revoke such person's appointment at any time without giving any notice or assigning any reason therefor.

(2) The terms and conditions including the remuneration of an appointment referred to in subsection (1) shall, subject to the order under which the appointment is made, and to subsection (1), be determined by the Director General and shall be binding on the insurer concerned.

(3) A person holding any appointment as is referred to in subsection (1) shall not incur any obligation or liability solely by reason of his holding such appointment.

(4) Where a receiver or manager has been appointed in respect of an insurer by the High Court upon an application referred to in section 28A.(2)(b), all proper costs, charges and expenses, including the remuneration, of such receiver or manager shall be payable out of the assets of the insurer in priority to all other claims.

Provisions  
in relation  
to removal  
from office  
under  
section  
28A(1)(iii)  
or  
28A(1)(iv),  
or  
termination  
of contract,  
etc., under  
section  
28A(1)(vi).

28c. (1) Any employee removed from employment or any director removed from office under section 28A(1)(iii) or 28A(1)(iv), or any person in respect of whom a contract, agreement or arrangement has been terminated under section 28A(1)(vi) shall cease to be employed or to hold the office from which he is removed, or continue to provide services in respect of which the contract, agreement or arrangement is terminated, with effect from the date set out in the order, and shall not thereafter be employed in any capacity, hold any office or provide any services whatsoever in the insurer or, in any manner, whether directly or indirectly, be concerned with, or take part or engage in, any activity, affairs or business of or in relation to that insurer.

(2) The removal of an employee or a director under section 28A(1)(iii) or 28A(1)(iv) or the termination of a contract, agreement or arrangement under section 28A(1)(vi), shall be lawful and valid notwithstanding anything

contained in any contract of service, or in any other contract, agreement or arrangement, whether express or implied, whether individual or collective, and whether or not made or provided for under any written law, and a person so removed from office or a person in respect of whom a contract, agreement or arrangement is so terminated, shall not be entitled to claim any compensation for the loss of office or the termination of the contract, agreement or arrangement.

Provisions relating to assumption of control under section 28A(2)fa).

28D. (1) Where control of an insurer has been assumed in pursuance of an order under section 28A(2)(a), the insurer and its directors and employees shall submit its property, business and affairs to such control, and shall provide the Director General and, if the control is assumed by a person appointed by the Director General (hereinafter in this Part referred to as "the appointed person"), also to such appointed person, all such facilities as may be required to carry on the business and affairs of the insurer.

(2) The Director General or the appointed person, as the case may be, shall remain in control of the property, business and affairs of the insurer concerned, and carry on the business and affairs of that insurer in the name and on behalf of that insurer, as provided in the order referred to in subsection (1) until such time as the said order is revoked.

(3) Throughout the period of control of an insurer in pursuance of an order under section 28A(2)(a), there shall be vested in the Director General, or in the appointed person, as the case may be, all the powers of the insurer and its directors, under the memorandum of association or articles of association or other constituent documents of the insurer, or exercisable by the insurer or its directors under any written law, or otherwise, regardless

whether such powers are exercisable by resolution, special resolution, or in any other manner whatsoever, and any difficulty arising in relation thereto may be resolved by the Minister by a direction in writing.

(4) During the period that an order under section 28A(2)(a) is in force, no director of the insurer to which the order relates shall, either directly or indirectly, engage in any activity in relation to the insurer, except as may be required or authorised by the Director General, or the appointed person, as the case may be, and no remuneration of whatever nature shall accrue or be payable to any director of the insurer, except such as may be approved in writing by the Director General, or the appointed person, as the case may be, in relation to any activity required or authorised as aforesaid by the Director General, or the appointed person, as the case may be.

(5) For the avoidance of doubt, it is hereby declared that an order under section 28A(2)(a) shall not have the effect of conferring on, or vesting in, the Director General, or the appointed person, as the case may be, any title to, or any beneficial interest in, any property of the insurer to which the order relates.

Power to reduce share capital and to cancel shares of insurer which is subject to an order under section 28A(2)(a).

28E. (1) Notwithstanding anything in any written law, or in the memorandum of association or articles of association or other constituent documents of an insurer, where the Director General, or the appointed person, has, pursuant to an order under section 28A(2)(a), assumed control of the insurer and the paid-up capital of such insurer is lost or unrepresented by available assets, the Director General or the appointed person, as the case may be, may apply to the High Court for an order to reduce the share capital of such insurer by cancelling any portion of its paid-up capital which is lost or unrepresented by available assets.

(2) The High Court may, upon an application made under subsection (1), make an order to reduce the share capital of an insurer accordingly, and may—

- (a) on an application by the Director General, or the appointed person, as the case may be; and
- (b) if, on the expiry of thirty days from the date of any call made by the insurer on its members to pay on their respective shares, payment on any such shares has not been made,

also order that such shares for which payment has not been made be cancelled accordingly.

(3) Where the share capital of an insurer is reduced, or any of its shares cancelled, under subsection (2), the Director General, or the appointed person, as the case may be, may cause the memorandum of association or articles of association or other constituent documents of the insurer to be altered accordingly,

(4) The powers conferred on the Director General and the appointed person under the foregoing provisions of this section shall be in addition to any powers exercisable under section 64(1) of the Companies Act 1965, and where an application is made to the High Court under subsection (1)—

*Act 125,*

- (a) the High Court may exercise any of the powers conferred on it under section 64 of the Companies Act 1965 in relation to an application for confirmation referred to therein; and
- (b) subsections (9) and (10) of the said section 64 shall apply in relation thereto.

*Moratorium.* 28p. (1) The Minister may, on the recommendation of the Director General, if he considers it

to be in the interests of the policy owners of an insurer, by order published in the *Gazette* provide for all or any of the following:

- (a) prohibit the insurer from carrying on all its business or such part of it as may be set out in the order for such period as may be specified in the order, or until the revocation of the order;
- (b) prohibit the insurer from doing or performing any act or function connected with all its business or any part of it as may be set out in the order for such period as may be specified in the order, or until the revocation of the order;
- (c) authorise the Director General to apply to the High Court for an order staying for a period not exceeding six months the commencement or continuance of all, or any class, category or description of, actions and proceedings of a civil nature by or against the insurer with respect to all business, or any class, category or description of business, of the insurer, except actions and proceedings arising out of any policy of insurance;
- (d) provide for all such matters of an incidental, ancillary or consequential nature, or for which it may be otherwise necessary or expedient to provide, in order to give effect to the matters under the foregoing paragraphs, including provisions for the taking into the custody or control of the Director General of property, books, documents or effects of the insurer.

(2) An order under subsection (1) may, from time to time, be amended, varied or replaced by a further order under subsection (1).

(3) An order under subsection (1) shall not be made unless the insurer has been given a reasonable opportunity of making representations in respect of the proposed order, provided that where any delay would be detrimental to the interests of the policy owners, the order may be made first, and the opportunity to make representations shall be given immediately after the order has been made, and in consequence of such representations, the order may, on the recommendation of the Director General, either be confirmed, or be amended, varied, replaced or revoked by the Minister.

(4) An order under subsection (1), or by virtue of subsection (2), may at any time be revoked by the Minister by an order made on the recommendation of the Director General, and any such order may contain all such orders, directions or provisions of an incidental, ancillary or consequential nature as may be deemed necessary by the Minister,

Offences  
in relation  
to sections  
28, 28A  
and 28F.

28G. Any person who contravenes—

- (a) any provision of section 28;
- (b) any requirement of an order in writing under section 28A(1)(i);
- (c) any prohibition under an order in writing under section 28A(1)(ii);
- (d) any provision of an order under section 28F(1) imposing a prohibition under paragraph (a) or (b), or making any provision in relation to any matter under paragraph (d), of the said section,

shall be guilty of an offence and shall, on conviction, be liable to imprisonment not exceeding five years or a fine not exceeding five million ringgit, or to both such imprisonment and fine, and, in the case of a continuing offence, shall, in addition, be liable to a daily

fine not exceeding five thousand ringgit for every day during which the offence continues:

Provided that where the person found guilty of such offence is a body corporate, the aforesaid punishment of imprisonment shall not apply to the body corporate."

Pindaan  
seksyen 30.

5. Seksyen 30 Akta ibu adalah dipinda—

(a) dengan menggantikan nota birainya dengan nota birai yang berikut:

"Special provisions for insurers ordered to be wound up by the Court pursuant to section 28A(2),c).";

(b) dengan memotong subseksyen (1);

(c) dengan menggantikan subseksyen (2), (3) dan (4) dengan yang berikut:

"(2) Notwithstanding anything contained in section 218 of the Companies Act 1965, where a petition for the winding up of an insurer is presented to the Court by the Director General under section 28A(2)(c), the Court may order the winding up of the insurer, and the provisions of Part X of the Companies Act 1965 shall apply in so far as they are not inconsistent with this Act.

(3) The Director General may either before, or at any time after, he has presented a petition to the Court under section 28A(2)(c) for the winding up of the insurer, if he is satisfied that it is in the interests of the policy owners of the insurer that there be a winding up of only a part of the business of the insurer, draw up a scheme for the purpose of the winding up of that part of the business of the insurer and submit it to the Court for an order of the Court for such partial winding up (referred to in this section as a "partial winding up order").

(4) Any scheme prepared under subsection (3) shall provide for—

- (a) the allocation and distribution of the assets and liabilities of the insurer to the class of business, or the type or description of business under any class which is affected, or between the classes of business or types of descriptions of business under any class which are affected;
  - (b) the allocation of any surplus assets which may arise on the proposed winding up;
  - (c) any future right of every description of policy owners in respect of their policies;
  - (d) the manner of winding up of any of the business of the insurer which is proposed to be wound up; and
  - (e) such provisions as are necessary, appropriate or expedient for giving effect to the scheme."; dan
- (d) dengan menggantikan perkataan-perkataan "such an order" masing-masing dalam subseksyen (5) dan (6) dengan perkataan-perkataan "a partial winding up order".

6. Seksyen 35 Akta ibu adalah dipinda dengan menggantikan perkataan-perkataan ", 20c(3) and 28" dalam subseksyen (3A) dengan perkataan-perkataan "and 20c(3)".

Pindaan  
seksyen 35.

#### HURAIAN

Rang Undang-Undang ini bertujuan meminda Akta Insurans 1963, kemudian daripada ini disebut "Akta ibu", dengan menggantikan suatu peruntukan baru bagi seksyen 28, dan dengan memasukkan seksyen baru 28A, 28B, 28c, 28D, 28E, 28F dan 28G yang memberi Ketua Pengarah dan Menteri kuasa untuk mengambil langkah-langkah

berhubungan dengan sesuatu penanggung insurans dalam keadaan-keadaan tertentu untuk melindungi kepentingan-kepentingan pemunya-pemunya polisi dan pemiutang-pemiutang penanggung insurans itu, dan orang-orang awam pada amnya.

2. *Fasal 2* memasukkan, ke dalam seksyen 1A, suatu takrif baru, iaitu bagi perkataan 'employee' berhubungan dengan penanggung insurans dan memasukkan, dalam takrif itu, pengarah urusan, ketua eksekutif dan pegawai utama penanggung insurans itu.

3. *Fasal 3* menggantikan seksyen 28 Akta ibu dengan suatu seksyen yang mengenakan suatu obligasi ke atas sesuatu penanggung insurans yang tak solven, atau yang mungkin menjadi tak berupaya menunaikan kesemua atau mana-mana obligasinya, atau yang hampir akan menggantung pembayaran hingga kepada apa-apa takat, supaya memaklumkan Ketua Pengarah dengan segera akan hakikat itu.

4. *Fasal 4* memasukkan seksyen baru 28A, 28B, 28c, 28D, 28E, 28F dan 28c ke dalam Akta Ibu.

#### *Seksyen 28A*

5. Seksyen baru 28A memperuntukkan bahawa jika sesuatu penanggung insurans memberikan maklumat kepada Ketua Pengarah di bawah seksyen 28 atau jika Ketua Pengarah berpuas hati sama ada selepas suatu pemeriksaan di bawah seksyen 18, atau selepas suatu penyiasatan di bawah seksyen 27, atau selainnya, bahawa penanggung insurans itu sedang menjalankan perniagaannya mengikut cara yang memudaratkan kepentingan-kepentingan pemunya-pemunya polisinya atau pemiutang-pemiutang atau orang-orang awam pada amnya, atau bahawa ia tak solven, atau telah menjadi atau mungkin akan menjadi tak berupaya untuk menunaikan kesemua atau mana-mana obligasinya, atau adalah hampir akan menggantung pembayaran hingga kepada apa-apa takat, atau telah melanggar mana-mana peruntukan Akta ibu, atau mana-mana syarat pendaftarannya, atau apa-apa peruntukan mana-mana undang-undang bertulis, Ketua Pengarah boleh melalui perintah secara bertulis menjalankan mana-mana satu atau lebih kuasanya di bawah subseksyen (1) seksyen baru 28A. Di bawah kuasa-kuasa ini Ketua Pengarah boleh menghendaki penanggung insurans melakukan atau tidak melakukan apa-apa perbuatan berhubungan dengan penanggung insurans itu atau perniagaannya atau pengarah-pengarahnya atau pekerja-pekerjanya. Ketua Pengarah boleh melarang penanggung insurans daripada mengeluarkan apa-apa polisi baru yang berhubungan dengan semua perniagaan insuransnya, atau mana-mana golongan atau mana-mana jenis atau perihalan, perniagaan insurans, atau memberikan apa-apa kemudahan kredit atau mengurusniagakan perniagaan lain atau menjalankan aktiviti-aktiviti lain selama tempoh yang tertera dalam perintah. Ketua Pengarah juga boleh melantik mana-mana orang sebagai pekerja atau pengarah kepada penanggung insurans itu, dan boleh memecat mana-mana pekerja atau pengarah penanggung

insurans itu daripada jawatan mereka. Ketua Pengarah juga boleh melantik seseorang untuk menasihati penanggung insurans tentang perjalanan perniagaannya yang sepatutnya dan menghendaki penanggung insurans itu membayar kepada orang itu saraan sebagaimana yang tertera dalam perintah Ketua Pengarah. Ketua Pengarah adalah juga diberi kuasa untuk menamatkan apa-apa kontrak, perjanjian atau perkiraan yang dibuat oleh penanggung insurans dengan mana-mana orang bag! orang itu memberi penanggung insurans apa-apa jenis perkhidmatan perundingan atau pengurusan. Kuasa-kuasa Ketua Pengarah ini hanya boleh dijalankan dengan terlebih dahulu mendapat persetujuan daripada Menteri, kecuali dalam hal sesuatu perintah yang menghendaki penanggung insurans mengambil langkah-langkah atau tindakan yang berhubungan dengan penanggung insurans itu, atau perniagaannya, atau pekerja-pekerja atau pengarah-pengarahnya.

Subseksyen (2) memperuntukkan bahawa Ketua Pengarah boleh mengesyorkan kepada Menteri supaya membuat suatu perintah yang disiarkan di dalam *Warta* bag! Ketua Pengarah mengambil alih kawalan kesemua atau mana-mana bahagian harta, perniagaan dan hal-ehwal penanggung insurans, dan sama ada menjalankan sendiri perniagaan insurans dan hal-ehwal penanggung insurans itu, atau melantik mana-mana orang untuk melakukannya bagi pihak Ketua Pengarah. Sama ada atau tidak suatu perintah bagi pengambilalihan kawalan telah dibuat, perintah Menteri itu boleh membenarkan Ketua Pengarah membuat permohonan kepada Mahkamah Tinggi untuk melantik seorang penerima atau pengurus untuk menguruskan keseluruhan atau sebahagian daripada perniagaan, hal-ehwal dan harta penanggung insurans. Perintah Menteri itu juga boleh membenarkan Ketua Pengarah mengemukakan satu petisyen kepada Mahkamah Tinggi bagi menggulung penanggung insurans itu.

Subseksyen (3) memperuntukkan bahawa perintah-perintah yang tersebut di atas, sama ada oleh Ketua Pengarah atau oleh Menteri, boleh, dari semasa ke semasa, dipinda, diubah atau digantikan.

Subseksyen (4) menghendaki supaya mana-mana perintah tidak dibuat tanpa memberi penanggung insurans, dan juga mana-mana pengarah atau pekerja penanggung insurans yang akan dipecat daripada jawatan, atau mana-mana orang yang berkenaan dengannya suatu kontrak perundingan atau pengurusan akan ditamatkan, peluang yang munasabah untuk membuat representasi-representasi berkenaan dengan perintah yang dicadangkan itu. Bagaimanapun, jika kelengahan dalam membuat sesuatu perintah akan memudaratkan kepentingan-kepentingan penanggung insurans, atau pemunya-pemunya polisi atau pemiutang-pemiutangnya, atau orang-orang awam pada amnya, perintah itu boleh dibuat dahulu dan peluang untuk membuat representasi-representasi diberikan sebaik sahaja perintah dibuat. Dalam hal yang sedemikian, perintah itu boleh, berbangkit daripada representasi-representasi itu, disahkan, dipinda, diubah, digantikan atau dibatalkan, tertakluk kepada syarat-syarat yang difikirkan patut oleh pihak berkuasa yang berkenaan.

Apa-apa perintah seperti yang tersebut di atas boleh dibatalkan pada bila-bila masa melalui suatu perintah daripada pihak berkuasa yang membuat perintah yang asal.

#### *Seksyen 28B*

6. Seksyen baru 28B membuat peruntukan berkaitan dengan tempoh perlantikan, terma-terma, syarat-syarat dan saraan orang-orang yang dilantik oleh Ketua Pengarah di bawah suatu perintah yang dibuat di bawah seksyen 28A.

Seseorang yang memegang jawatan berdasarkan perlantikan yang dibuat oleh Ketua Pengarah di bawah seksyen 28A diberi oleh subseksyen (4) kekebalan daripada apa-apa obligasi atau liabiliti semata-mata oleh sebab dia memegang jawatan itu.

Seseorang penerima atau pengurus yang dilantik oleh Mahkamah Tinggi di bawah seksyen 28A hendaklah menerima segala kos, caj dan perbelanjaannya yang sepatutnya, termasuk saraannya, yang diberikan keutamaan daripada segala tuntutan lain, yang dibayar daripada aset penanggung insurans.

#### *Seksyen 28c*

7. Seksyen baru 28c menghendaki supaya mana-mana pekerja atau pengarah yang dipecat daripada jawatan, atau seseorang yang kontrak perundingan atau pengurusannya telah ditamatkan di bawah seksyen 28A, berhenti memegang jawatan yang daripadanya dia telah dipecat atau berhenti memberikan perkhidmatan-perkhidmatan perundingan atau pengurusan mulai dari tarikh yang dinyatakan di dalam perintah yang membuat peruntukan bagi pemecatannya atau penamatan kontrak perundingan atau pengurusan itu. Dia tidak boleh, selepas itu, memegang jawatan dalam, atau memberikan apa-apa perkhidmatan jua pun kepada, penanggung insurans itu atau dengan apa-apa jua cara terlibat dengan atau mengambil bahagian dalam apa-apa aktiviti penanggung insurans itu.

Pemecatan seseorang pekerja atau pengarah, atau penamatan sesuatu kontrak perundingan atau pengurusan, yang tersebut di atas adalah menurut undang-undang dan sah walau apa pun apa-apa jua yang terkandung dalam mana-mana kontrak perkhidmatan atau kontrak bagi perkhidmatan-perkhidmatan atau apa-apa kontrak atau perjanjian lain, dan orang yang dipecat sedemikian tidaklah berhak menuntut apa-apa pampasan kerana kehilangan atau penamatan jawatan atau penamatan kontrak perundingan atau pengurusan itu.

#### *Seksyen 28D*

8. Seksyen baru 28D membuat peruntukan bagi memberikan kuatkuasa kepada sesuatu perintah di bawah seksyen 28A yang melaluinya kawalan sesuatu penanggung insurans diambil alih oleh Ketua Pengarah atau oleh seseorang yang dilantik oleh Ketua

Pengarah. Peruntukan ini meletakkan obligasi ke atas pengarah-pengarah dan pekerja-pekerja untuk menyerahkan harta, perniagaan dan hal-ehwal penanggung insurans itu kepada kawalan sedemikian dan memberikan apa-apa kemudahan yang mungkin diperlukan bagi menjalankan perniagaan dan hal-ehwal penanggung insurans itu. Sepanjang tempoh kawalan, kuasa-kuasa penanggung insurans dan pengarah-pengarahnya adalah terletak pada Ketua Pengarah atau pada orang yang dilantik oleh Ketua Pengarah untuk mengambil alih kawalan, mengikut mana-mana yang berkenaan. Dalam tempoh perintah yang di bawahnya kawalan diambil alih, pengarah-pengarah penanggung insurans adalah dilarang daripada terlibat dalam apa-apa aktiviti yang berhubungan dengan penanggung insurans itu, sama ada secara langsung atau secara tak langsung, kecuali jika mereka dikehendaki atau dibenarkan oleh Ketua Pengarah, atau oleh orang yang dilantik untuk mengambil alih kawalan, mengikut mana-mana yang berkenaan, dan dalam tempoh itu tiada saraan daripada apa-apa jua jenis pun boleh terakru atau kena dibayar kepada mana-mana pengarah, kecuali sebagaimana yang diluluskan secara bertulis oleh Ketua Pengarah, atau oleh orang yang dilantik seperti yang disebutkan terdahulu, berhubungan dengan apa-apa aktiviti yang dikehendaki atau dibenarkan oleh Ketua Pengarah, atau oleh orang yang dilantik sedemikian, mengikut mana-mana yang berkenaan, seperti yang disebutkan terdahulu.

#### *Seksyen 28E*

9. Seksyen baru 28E memperuntukkan bahawa jika Ketua Pengarah atau seseorang yang dilantik oleh Ketua Pengarah telah mengambil alih kawalan sesuatu penanggung insurans menurut suatu perintah di bawah seksyen 28A, Ketua Pengarah atau orang itu boleh memohon kepada Mahkamah Tinggi untuk mendapatkan suatu perintah bagi mengurangkan modal syer penanggung insurans itu dengan membatalkan apa-apa bahagian modal berbayarnya yang telah kerugian atau tidak digambarkan oleh aset-aset yang ada. Dalam hal yang sedemikian, Mahkamah Tinggi juga boleh membuat suatu perintah bagi pembatalan syer-syer penanggung insurans yang baginya pembayaran masih belum dibuat jika, selepas habis tempoh tiga puluh hari dari tarikh apa-apa panggilan oleh penanggung insurans kepada anggota-anggotanya untuk membayar syer mereka masing-masing, pembayaran bagi apa-apa syer sedemikian belum juga dibuat.

Subseksyen (4) memperuntukkan bahawa kuasa-kuasa yang disebutkan terdahulu yang diberikan kepada Ketua Pengarah dan orang yang dilantik untuk mengambil alih kawalan adalah sebagai tambahan kepada kuasa-kuasa yang boleh dijalankan di bawah seksyen 64(1) Akta Syarikat 1965, dan apabila sesuatu permohonan seperti yang disebutkan terdahulu dibuat kepada Mahkamah Tinggi, Mahkamah Tinggi boleh menjalankan apa-apa kuasa yang diberikan kepadanya di bawah seksyen 64 Akta tersebut berhubungan dengan sesuatu permohonan bagi pengesahan yang disebutkan dalam seksyen

itu, dan subseksyen (9) dan (10) seksyen 64 Akta tersebut hendaklah terpakai berhubung dengan permohonan yang dibuat kepada Mahkamah Tinggi di bawah seksyen ini oleh Ketua Pengarah, atau oleh orang yang dilantik untuk mengambil alih kawalan, mengikut mana-mana yang berkenaan.

*Seksyen 28E*

10. Seksyen baru 28p member! Menteri, kuasa untuk melarang penanggung insurans daripada menjalankan kesemua atau mana-mana bahagian perniagaannya, atau melarang penanggung insurans daripada melakukan atau melaksanakan apa-apa perbuatan atau fungsi yang berkaitan dengan kesemua atau mana-mana bahagian perniagaannya, atau untuk memberikuasa Ketua Pengarah memohon kepada Mahkamah Tinggi bagi mendapatkan suatu perintah untuk menangguhkan permulaan atau penerusan semua atau apa-apa golongan, kategori atau perihalan tindakan atau prosiding yang bersifat sivil oleh atau terhadap penanggung insurans itu berkenaan dengan kesemua perniagaan, atau apa-apa golongan, kategori atau perihalan perniagaan, penanggung insurans itu selama suatu tempoh yang tidak melebihi enam bulan, kecuali tindakan-tindakan dan presiding yang berbangkit daripada apa-apa polisi insurans.

Sebelum suatu perintah seperti yang disebutkan terdahulu dibuat, penanggung insurans mestilah diberi peluang yang munasabah untuk membuat representasi-representasi, tetapi jika apa-apa kelengahan akan memudaratkan kepentingan-kepentingan pemunya-pemunya polisi. perintah itu boleh dibuat dahulu dan peluang untuk membuat representasi-representasi diberikan selepas sahaja perintah itu dibuat. Berbangkit daripada apa-apa representasi yang sedemikian, perintah itu boleh, atas syor Ketua Pengarah, disahkan, dipinda, diubah, digantikan atau dibatalkan oleh Menteri.

*Seksyen 28G*

11. Seksyen baru 28G membuat peruntukan bagi kesalahan-kesalahan yang berbangkit di bawah seksyen baru 28, 28A dan 28F dan penalti pemenjaraan selama lima tahun, atau denda sebanyak lima juta ringgit. atau kedua-duanya, dan, sebagai tambahan. denda harian sebanyak lima ribu ringgit bagi tiap-tiap hari kesalahan itu berterusan.

12. *Fasal 5 dan 6* membuat pindaan-pindaan berbangkit kepada seksyen 30 dan 35.

*IMPLIKASI KEWANGAN*

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan kewangan tambahan. [PN. (U<sup>2</sup>) 1652.]