

**D.R. 2/2007**

**RANG UNDANG-UNDANG**

*b e r n a m a*

Suatu Akta untuk meminda Akta Syarikat 1965.

**DIPERBUAT** oleh Parlimen Malaysia seperti yang berikut:

**Tajuk ringkas dan permulaan kuat kuasa**

**1.** (1) Akta ini bolehlah dinamakan Akta Syarikat (Pindaan) 2007.

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

**Pindaan seksyen 11A**

**2.** Seksyen 11 A Akta Syarikat 1965 [*Akta 125*], yang disebut "Akta ibu" dalam Akta ini, dipinda—

(a) dengan memasukkan selepas subseksyen (6) subseksyen yang berikut:

"(6A) Where a document is to be filed or lodged electronically, in place of a statutory declaration that must be made by a person under this Act, there shall be filed or lodged with the Registrar electronically a declaration made by the person in the manner prescribed by the Registrar and the Registrar may accept such statements as sufficient evidence of compliance.

*Rang Undang-Undang*

(6B) Statements made by virtue of subsection (6A) shall be deemed to be such declarations as are referred to in sections 199 and 200 of the Penal Code [Act 574].

(6c) Where a document that is required to be signed and attested under this Act is to be filed and lodged electronically, the requirement for attestation of the signature does not apply."; dan

(b) dengan memasukkan selepas subseksyen (8) subseksyen yang berikut:

"(9) Where a document is filed or lodged with the Registrar under this section which does not comply with any requirement of this section, the Registrar may serve on the person by whom the document was filed or lodged (or, if there are two or more such persons, on any of them) a notice indicating the requirement which the document does not comply with.

(10) Where a replacement document—

(a) is filed or lodged with the Registrar within fourteen days after the service of the notice in subsection (9); and

(b) complies with the requirement of this section,

the document shall be deemed to have been filed or lodged with the Registrar.

(11) For the purpose of any provision of this Act which imposes a penalty for failure to file or lodge a document, so far as it imposes a penalty for a continued contravention, no account shall be taken of the period between the filing or lodgement of the document at the first instance and the end of the period of fourteen days after the service of the notice under subsection (9).".

*Syarikat (Pindaan)*

**Seksyen baru 11B dan lie**

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

**"Issuing document electronically**

**11B.** The Registrar may, by electronic means, issue any document which is to be issued by him under this Act.

**Information certified by Registrar admissible as evidence**

**lie.** Any information supplied by the Registrar which is certified under his hand and seal to be a true extract from any document filed or lodged with or submitted to the Registrar under subsection 11 A( 1) or issued by the Registrar under section HE shall in any proceedings be admissible in evidence and be presumed, unless evidence to the contrary is adduced, to be a true extract from such document."

**Pindaan seksyen 69i**

4. Seksyen 69i Akta ibu dipinda dengan memotong perkataan "the Stock Exchange as defined in the Securities Industry Act 1983 and".

**Pindaan seksyen 131**

5. Seksyen 131 Akta ibu dipinda dengan memasukkan selepas subseksyen (7) subseksyen yang berikut:

"(7A) For the purpose of this section, an interest of the spouse of a director of a company (not being herself or himself a director of the company) and an interest of a child, including adopted child or stepchild, of a director of the company (not being himself or herself a director of the company) in the shares or debenture of the company, shall be treated as an interest in the contract and proposed contract.

*Rang Undang-Undang*

(7B) Where a contract or proposed contract is entered into in contravention of this section, the contract or proposed contract shall be voidable at the instance of the company except if it is in favour of any person dealing with the company for any valuable consideration and without any actual notice of the contravention."

**Seksyen baru 131A dan 131B**

**6.** Akta ibu dipinda dengan memasukkan selepas seksyen 131 seksyen yang berikut:

"Interested director **not to participate or vote**

131A. (1) Subject to section 131, a director of a company who is in any way, whether directly or indirectly, interested in a contract entered into or proposed to be entered into by the company, unless the interest is one that need not be disclosed under section 131, shall be counted only to make the quorum at the board meeting but shall not participate in any discussion while the contract or proposed contract is being considered at the board meeting and shall not vote on the contract or proposed contract.

(2) Subsection (1) shall not apply to —

- (a) a private company unless it is a subsidiary to a public company;
- (b) a private company which is a wholly-owned subsidiary of a public company, in respect of any contract or proposed contract to be entered into by the private company with the holding company or with another wholly-owned subsidiary of that same holding company;
- (c) any contract or proposed contract of indemnity against any loss which any director may suffer by reason of becoming or being a surety for a company;
- (d) any contract or proposed contract entered into or to be entered into by a public company or a private company which is subsidiary of a public company,

### *Syarikat (Pindaan)*

with another company in which the interest of the director consists solely of—

- (i) in him being a director of the company and the holder of shares not more than the number or value as is required to qualify him for the appointment as a director; or
- (ii) in him having an interest in not more than five per centum of its paid up capital.

(3) Where a contract or proposed contract is entered into in contravention of subsection (1), the contract or proposed contract shall be voidable at the instance of the company except if it is in favour of any person dealing with the company for a valuable consideration and without any actual notice of the contravention.

(4) A director who knowingly contravenes this section shall be guilty of an offence against this Act.

Penalty: Imprisonment for five years or one hundred and fifty thousand ringgit or both.

### **Functions and powers of the board**

**131B.** (1) The business and affairs of a company must be managed by, or under the direction of, the board of directors.

(2) The board of directors has all the powers necessary for managing and for directing and- supervising the management of the business and affairs of the company subject to any modification, exception or limitation, contained in this Act or in the memorandum or articles of association of the company."

### **Pindaan seksyen 132**

7. Seksyen 132 Akta ibu dipinda—

(a) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

"(1) A director of a company shall at all times exercise his powers for a proper purpose and in good faith in the best interest of the company.";

## *Rang Undang-Undang*

(b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

"(1A) A director of a company shall exercise reasonable care, skill and diligence with—

- (a) the knowledge, skill and experience which may reasonably be expected of a director having the same responsibilities; and
- (b) any additional knowledge, skill and experience which the director in fact has.

### **Business judgment**

(1B) A director who makes a business judgment is deemed to meet the requirements of the duty under this subsection (1A) and the equivalent duties under the common law and in equity if the director—

- (a) makes the business judgment in good faith for a proper purpose;
- (b) does not have a material personal interest in the subject matter of the business judgment;
- (c) is informed about the subject matter of the business judgment to the extent the director reasonably believes to be appropriate under the circumstances; and
- (d) reasonably believes that the business judgment is in the best interest of the company.

### **Reliance on information provided by others**

(1c) A director, in exercising his duties as a director may rely on information, professional or expert advice, opinions, reports or statements including financial statements and other financial data, prepared, presented or made by —

- (a) any officer of the company whom the director believes on reasonable grounds to be reliable and competent in relation to matters concerned;

### *Syarikat (Pindaan)*

- (b) any other person retained by the company as to matters involving skills or expertise in relation to matters that the director believes on reasonable grounds to be within the person's professional or expert competence;
- (c) another director in relation to matters within the director's authority; or
- (d) any committee to the board of directors on which the director did not serve in relation to matters within the committee's authority.

(ID) The director's reliance made under subsection (1c) is deemed to be made on reasonable grounds if it was made—

- (a) in good faith; and
- (b) after making an independent assessment of the information or advice, opinions, reports or statements, including financial statements and other financial data, having regard to the director's knowledge of the company and the complexity of the structure and operation of the company.

### **Responsibility of a nominee director**

(1E) A director, who was appointed by virtue of his position as an employee of a company, or who was appointed by or as a representative of a shareholder, employer or debenture holder, shall act in the best interest of the company and in the event of any conflict between his duty to act in the best interest of the company and his duty to his nominator, he shall not subordinate his duty to act in the best interest of the company to his duty to his nominator.

### **Responsibility for actions of delegatee**

(1F) Except as is otherwise provided by this Act, the memorandum or articles of association of the company or any resolution of the board of directors or shareholders of the company, the directors may

*Rang Undang-Undang*

delegate any power of the board of directors to any committee to the board of directors, director, officer, employee, expert or any other person and where the directors have delegated any power, the directors are responsible for the exercise of such power by the delegatee as if such power had been exercised by the directors themselves.

(1G) The directors are not responsible under subsection (1F) if-

- (a) the directors believed on reasonable grounds at all times that the delegatee would exercise the power in conformity with the duties imposed on the directors under this Act and the memorandum and articles of association of the company (if any); and
- (b) the directors believed on reasonable grounds, in good faith and after making a proper inquiry if the circumstances indicated the need for the inquiry, that the delegatee was reliable and competent in relation to the power delegated.";

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

**"Prohibition against improper use of company's property, position, corporate opportunity or competing with the company**

(2) A director or officer of a company shall not, without the consent or ratification of a general meeting—

- (a) use the property of the company;
- (b) use any information acquired by virtue of his position as a director or officer of the company;
- (c) use his position as such director or officer;
- (d) use any opportunity of the company which he became aware of, in the performance of his functions as the director or officer of the company; or

*Syarikat (Pindaan)*

(e) engage in business which is in competition with the company,

to gain directly or indirectly, a benefit for himself or any other person, or cause detriment to the company."; dan

(d) dalam subseksyen (6), dengan memasukkan selepas takrif "agent" takrif yang berikut:

' "business judgment" means any decision on whether or not to take action in respect of a matter relevant to the business of the company;

"director" includes the chief executive officer, the chief operating officer, the chief financial controller or any other person primarily responsible for the operations or financial management of a company, by whatever name called;'

**Pemotongan seksyen 132A**

8. Akta ibu dipinda dengan memotong seksyen 132A.

**Pemotongan seksyen 132B**

9. Akta ibu dipinda dengan memotong seksyen 132B.

**Pindaan seksyen 132c**

10. Seksyen 132c Akta ibu dipinda—

(a) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

"(1) Notwithstanding anything in the memorandum or articles of association of the company, the directors shall not carry into effect any arrangement or transaction for-

(a) the acquisition of an undertaking or property of a substantial value; or

*Rang Undang-Undang*

(b) the disposal of a substantial portion of the company's undertaking or property,

unless the arrangement or transaction has been approved by the company in a general meeting.";

(b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

"(1A) For the purpose of subsection (1), in the case of a company where all or any of its shares are listed for quotation on the official list of a Stock Exchange as defined in the Securities Industry Act 1983, the term 'substantial value' or 'substantial portion' shall mean the same value prescribed by the provisions in the listing requirements of the Exchange —

- (a) which relates to acquisitions or disposals by a company or its subsidiaries to which such provision applies; and
- (b) which would require the approval of shareholders at a general meeting in accordance with the provisions of such listing requirements.

(1B) In the case of any company other than a company to which subsection (1A) is applicable, an undertaking or property shall be considered to be of a substantial value and a portion of the company's undertaking or property shall be considered to be a substantial portion if—

- (a) its value exceeds twenty-five per centum of the total assets of the company;
- (b) the net profits (after deducting all charges except taxation and excluding extraordinary items) attributed to it amounts to more than twenty-five per centum of the total net profit of the company; or
- (c) its value exceeds twenty-five per centum of the issued share capital of the company,

whichever is the highest.";

*Syarikat (Pindaan)*

- (c) dengan menggantikan subseksyen (3) dengan subseksyen yang berikut:

"(3) Where an arrangement or transaction is carried into effect in contravention of subsection (1), the arrangement or transaction shall be void except in favour of any person dealing with the company for valuable consideration and without actual notice of the contravention.";

- (d) dalam subseksyen (4) dengan memasukkan selepas perkataan "instrument" perkataan "or by a Court"; dan

- (e) dengan memasukkan selepas subseksyen (5) subseksyen yang berikut:

"(6) In this section, "director" includes the chief executive officer, the chief operating officer, the chief financial controller or any other person primarily responsible for the operations or financial management of a company, by whatever name called."

**Pindaan seksyen 132E**

- 11.** Akta ibu dipinda dengan menggantikan seksyen 132E dengan seksyen yang berikut:

**"Substantial property transaction by director or substantial shareholder**

**132E.** (1) Subject to subsection (2) and section 132F, a company shall not carry into effect any arrangement or transaction where a director or a substantial shareholder of the company or its holding company, or a person connected with such a director or substantial shareholder—

- (a) acquires or is to acquire shares or non-cash assets of the requisite value, from the company; or
- (b) disposes of or is to dispose of shares or non-cash assets of the requisite value, to the company.

*Rang Undang-Undang*

(2) An arrangement or transaction which is carried into effect in contravention of subsection (1) shall be void, unless there is prior approval of the arrangement or transaction —

- (a) by a resolution of the company at a general meeting;  
or
- (b) by a resolution of the holding company at a general meeting, if the arrangement or transaction is in favour of a director or substantial shareholder of its holding company or person connected with such director or substantial shareholder.

(3) The resolution of the company or its holding company at the general meeting of the company or its holding company to consider the arrangement or transaction shall be subject to the director, substantial shareholder or person connected with such director or substantial shareholder, as the case may be, abstaining from voting on the resolution whether or not to approve the arrangement or transaction.

(4) Where an arrangement or transaction is carried into effect by a company in contravention of subsections (1) and (2) that director, substantial shareholder or person connected with such director or substantial shareholder and any director who knowingly authorized the arrangement or transaction shall, in addition to any other liability, be liable —

- (a) to account to the company for any gain which he had made directly or indirectly by the arrangement or transaction; and
- (b) jointly and severally with any person liable under this subsection, to indemnify the company for any loss or damage resulting from the arrangement or transaction.

(5) The Court may, on the application of any member or director of the company, restrain the company from carrying into effect an arrangement or transaction in contravention of subsection (1).

(6) A director or substantial shareholder of a company or its holding company, or a person connected with such director or substantial shareholder, in whose favour the company

*Syarikat (Pindaan)*

carries into effect an arrangement or transaction and who knows that such arrangement or transaction is carried into effect by a company in contravention of this section, or a director who knowingly authorized the company to carry into effect such arrangement or transaction, in contravention of this section, shall be guilty of an offence against this Act.

Penalty: Imprisonment for seven years or two hundred and fifty thousand ringgit or both.

- (7) For the purposes of subsection (1)~
- (a) "person connected with a substantial shareholder" shall have the same meaning as that assigned to a "person connected with a director" in section 122A save that all references therein to a director shall be read as a reference to a substantial shareholder;
  - (b) "requisite value", in the case of a company where all or any of its shares are listed for quotation on the official list of a Stock Exchange as defined under the Securities Industry Act 1983, shall be the same value as the value prescribed by the provisions in the listing requirements of the Exchange —
    - (i) which relates to acquisitions or disposals by a company or its subsidiaries to which such provision applies; and
    - (ii) which would require the approval of shareholders at a general meeting in accordance with the provisions of such listing requirements;
  - (c) in the case of any company other than a company to which paragraph (b) is applicable, non-cash asset is of the requisite value if, at the time of the transaction, its value exceeds two hundred and fifty thousand ringgit or, if its value does not exceed two hundred and fifty thousand ringgit but exceeds ten per centum of the company's asset value provided it is not less than ten thousand ringgit, where —
    - (i) the value of the company's assets is determined by reference to the accounts prepared and laid under Part VI in respect of the last financial year prior to the arrangement or transaction; or

*Rang Undang-Undang*

- (ii) no accounts have been so prepared and laid before that time, the amount of the company's called up share capital.

Penalty: Imprisonment for seven years or two hundred and fifty thousand ringgit or both.

- (8) In this section—
  - (a) a reference to the acquisition or disposal of a non-cash asset includes the creation or extinction of an estate or interests in, or a right over, any property and also the discharge of any person's liability, other than liability for a liquidated sum;
  - (b) "cash" includes foreign currency;
  - (c) "director" includes the chief executive officer, the chief operating officer, the chief financial controller or any other person primarily responsible for the operations or financial management of a company, by whatever name called;
  - (d) "non-cash asset" means any property or interest in property other than cash."

**Pindaan seksyen 132F**

**12. Seksyen 132F Akta ibu dipinda—**

- (a) dengan memotong perkataan "or" yang terdapat di hujung perenggan (c);
- (b) dalam perenggan (d), dengan menggantikan noktah dengan koma bernoktah; dan
- (c) dengan memasukkan selepas perenggan (d) perenggan yang berikut:
  - "(e) by a company made in pursuance of a scheme of arrangement approved by the Court under section 176; or
  - (f) by a company in connection with a takeover offer made in accordance with the relevant law applicable to such offers."

*Syarikat (Pindaan)*

**Pemotongan seksyen 132G**

13. Akta ibu dipinda dengan memotong seksyen 132G.

**Pindaan seksyen 134**

14. Subseksyen 134(12) Akta ibu dipinda—

- (a) dengan memotong perkataan "and" yang terdapat di hujung perenggan (a);
- (b) dalam perenggan (b), dengan menggantikan noktah dengan perkataan "; and"; dan
- (c) dengan memasukkan selepas perenggan (b) perenggan yang berikut:

"(c) a reference to an interest of the spouse of a director of a company (not being herself or himself a director of the company) and an interest of a child, including adopted child or stepchild, of a director of the company (not being himself a director of the company) in the shares or debentures of the company, shall be treated as the interest of the director in the shares or debentures of the company."

**Pemotongan seksyen 135**

15. Akta ibu dipinda dengan memotong subseksyen 135(2A).

**Pindaan seksyen 145**

16. Seksyen 145 Akta ibu dipinda—

- (a) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

"(2A) Notwithstanding subsection (2), the annual general meeting of a public company shall be called by a notice in writing of not less than twenty-one days before the annual general meeting or such longer period as is provided in the articles."; dan

*Rang Undang-Undang*

(b) dalam subseksyen (3) dengan memasukkan selepas perkataan "(2)" perkataan "or (2A)".

**Pindaan seksyen 145A**

**17.** Akta ibu dipinda dengan menggantikan seksyen 145A dengan seksyen yang berikut:

**"Venues and technology for company meetings**

**145A.** A company shall hold all meetings of its members within Malaysia and may hold a meeting of its members within Malaysia at more than one venue using any technology that allows all members a reasonable opportunity to participate."

**Seksyen baru 167A**

**18.** Akta ibu dipinda dengan memasukkan selepas seksyen 167 seksyen yang berikut:

**"System of internal control**

**167A.** Except as otherwise provided for in the listing requirement of a Stock Exchange in relation to companies whose shares are listed for quotation on the Stock Exchange, the directors of a public company or a subsidiary of a public company shall have in place a system of internal control that will provide a reasonable assurance that—

- (a) assets of the company are safeguarded against loss from unauthorized use or disposition; and
- (b) all transactions are properly authorized and that they are recorded as necessary to enable the preparation of true and fair profit and loss accounts and balance sheets and to give a proper account of the assets.

Penalty: Imprisonment of six months or ten thousand ringgit or both."

*Syarikat (Pindaan)*

**Seksyen baru 172A**

**19.** Akta ibu dipinda dengan memasukkan selepas seksyen 172 seksyen yang berikut:

**"Duty to inform upon ceasing to hold office as auditor**

**172A.** Where an auditor has made written representations to the company pursuant to subsection 172(5) or if an auditor gives notice to the directors of the company of his desire to resign as auditor of the company pursuant to subsection **172(15)**, he shall within seven days of the submission of the written representations or the submission of his notice of resignation, submit a copy of the written representations or his written explanations of his resignation, to the Registrar and, to the Stock Exchange where the company is a company whose shares or debentures are listed on the official list of a Stock Exchange as defined in the Securities Industry Act 1983."

**Pindaan seksyen 174**

**20.** Seksyen 174 Akta ibu dipinda dengan memasukkan selepas subseksyen (8) subseksyen yang berikut:

**"Duties of auditors of public company**

(8A) In addition to subsection (8), if an auditor in the course of performance of his duties as an auditor of a public company or a company controlled by a public company, is of the opinion that a serious offence involving fraud or dishonesty is being or has been committed against the company or this Act by officers of the company, he shall forthwith report the matter in writing to the Registrar.

Penalty: Imprisonment for seven years or two hundred and fifty thousand ringgit or both.

(8B) NO duty to which an auditor of a company may be subjected to shall be regarded as having been contravened by reason of his reporting the matter referred to in subsection (8A) in good faith to the Registrar.

*Rang Undang-Undang*

(8c) For the purpose of subsection (8A) —

- (a) a company is presumed, unless the contrary is established, to be controlled by a public company if the public company is entitled to exercise or control the exercise of not less than fifteen per centum of votes attached to the voting shares of the company; and
- (b) "a serious offence involving fraud or dishonesty" means an offence that is punishable by imprisonment for a term that is not less than two years or the value of the assets derived or likely to be derived or any, loss suffered by the company, member or debenture holder from the commission of such an offence exceeds two hundred and fifty thousand ringgit and includes offences under sections 364, 364A, 366 and 368."

**Pindaan seksyen 174A**

**21.** Seksyen 174A Akta ibu dipinda dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

"(2A) NO auditor shall be liable to be sued in any court or be subject to any criminal or disciplinary proceedings for any report under section 174 submitted by the auditor in good faith and in the intended performance of any duty imposed on the auditor under this Act."

**Seksyen baru 181A, 181B, 181C, 181D dan 181E**

**22.** Akta ibu dipinda dengan memasukkan selepas seksyen 181 seksyen yang berikut:

**"Proceedings on behalf of a company**

**181A.** (1) A complainant may, with the leave of the Court, bring, intervene in or defend an action on behalf of the company.

(2) Proceedings brought under this section shall be brought in the company's name.

### *Syarikat (Pindaan)*

(3) The right of any person to bring, intervene in, defend or discontinue any proceedings on behalf of a company at common law is not abrogated.

(4) For the purposes of this section and sections 181B and 181E, "complainant" means —

- (a) a member of a company, or a person who is entitled to be registered as member of a company;
- (b) a former member of a company if the application relates to circumstances in which the member ceased to be a member;
- (c) any director of a company; or
- (d) the Registrar, in case of a declared company under Part IX.

### **Leave of court**

**181B.** (1) An application for leave of the court under section 181A shall be made by originating summons and no appearance need to be entered.

(2) The complainant shall give thirty days notice in writing to the directors of his intention to apply for the leave of Court under section 181A.

(3) Where leave has been granted pursuant to an application under section 181A, the complainant shall initiate proceedings in Court within thirty days from the grant of leave.

(4) In deciding whether or not leave shall be granted the Court shall take into account whether—

- (a) the complainant is acting in good faith; and
- (b) it appears *prima facie* to be in the best interest of the company that the application for leave be granted.

### **Leave to discontinue, compromise or settle proceedings**

**181c.** Any proceedings brought, intervened in or defended under section 181A shall not be discontinued, compromised or settled except with the leave of the Court.

*Rang Undang-Undang*

**Effect of ratification**

**181D.** If members of a company, ratify or approve the conduct, the subject matter of the action—

- (a) the ratification or approval does not prevent any person from bringing, intervening in or defending proceedings with the leave of the Court;
- (b) the application for leave or action brought or intervened in shall not be stayed or dismissed by reason only of the ratification or approval; and
- (c) the Court may take into account the ratification or approval in determining what order to make.

**Powers of the Court**

**181E.** (1) **In** granting leave under this section and sections 181B and 18 1E, the Court may make such orders as it thinks appropriate including an order—

- (a) authorizing the complainant or any other person to control the conduct of the proceedings;
- (b) giving directions for the conduct of the proceedings;
- (c) for any person to provide assistance and information to the complainant, including to allow inspection of company's books;
- (d) requiring the company to pay reasonable legal fees and disbursements incurred by the complainant in connection with the application or action or pending the grant of the leave or pending the grant of any injunction by the Court hearing the application for leave under this section; or
- (e) the costs of the complainant, the company or any other person for proceedings taken under this section, including an order as to indemnification for costs."

*Syarikat (Pindaan)*

**Pindaan seksyen 217**

**23.** Subseksyen 217(1) Akta ibu dipinda—

- (a) dengan menggantikan koma di hujung perenggan (h) dengan koma bernoktah; dan
- (b) dengan memasukkan selepas perenggan (h) perenggan yang berikut:

"(i) in the case of a member institution under the Malaysia Deposit Insurance Corporation Act 2005 [Act 642], the Malaysia Deposit Insurance Corporation under section 71 of that Act,".

**Seksyen baru 368A dan 368B**

**24.** Akta ibu dipinda dengan memasukkan selepas seksyen 368 seksyen yang berikut:

**"Injunctions**

**368A.** (1) Where a person has engaged, is engaging or intends to engage in conduct that constituted, constitutes or would constitute—

- (a) a contravention of this Act;
- (b) an attempt to contravene this Act;
- (c) an attempt that aids, abets, advises or procures a person to contravene this Act;
- (d) an attempt to induce, whether by threats, promises or otherwise, a person to contravene this Act;
- (e) an attempt by which any person would be in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of this Act; or
- (f) an attempt of conspiracy with others to contravene this Act,

the Court may, on the application of the Registrar, or of a person whose interests have been, are or would be affected by the conduct, grant an injunction, on such terms as the

*Rang Undang-Undang*

Court thinks appropriate, restraining the first-mentioned person from engaging in the conduct and, if in the opinion of the Court it is desirable to do so, requiring that person to do any act or thing.

(2) Where a person has refused or failed, is refusing or failing, or is intending to refuse or fail, to do an act or thing that the person is required by this Act to do, the Court may, on the application of the Registrar or any person whose interests have been, are or would be affected by the refusal or failure to do that act or thing, grant an injunction, on such terms as the Court thinks appropriate, requiring the first-mentioned person to do that act or thing.

(3) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised whether or not—

- (a) it appears to the Court that the person intends to engage again or to continue to engage, in conduct of that kind;
- (b) the person has previously engaged in conduct of that kind; or
- (c) there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.

(4) The power of the Court to grant an injunction requiring a person to do an act or thing may be exercised whether or not —

- (a) it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing;
- (b) the person has previously refused or failed to do that act or thing; or
- (c) there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

(5) Where the Registrar applies to the Court for the grant of an injunction under this section, the Court shall not require the applicant or any other person, as a condition of granting an interim injunction, to give an undertaking as to damages.

### *Syarikat (Pindaan)*

(6) Where an application for an injunction under subsection (1) or (2) has been made, the Court may, if the Court determines it to be appropriate, grant an injunction by consent of all parties to the proceedings, whether or not the Court is satisfied that that subsection applies.

(7) Where in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).

(8) The Court may revoke or vary an injunction granted under subsection (1), (2) or (7).

(9) In granting an injunction restraining a person from engaging in particular conduct, or requiring a person to do a particular act or thing, the Court may, either in addition to or in substitution for the grant of the injunction, order that person to pay damages to any other person.

### **Protection to certain officers who make disclosures**

**368B.** (1) Where an officer of a company in the course of performance of his duties has reasonable belief of any matter which may or will constitute a breach or non-observance of any requirement or provision of this Act or its regulations, or has reason to believe that a serious offence involving fraud or dishonesty, as defined under paragraph 174(8c)(6) has been, is being or is likely to be committed against the company or this Act by other officers of the company, he may report the matter in writing to the Registrar.

(2) The company shall not remove, demote, discriminate against, or interfere with the lawful employment or livelihood of such officer of the company by reason of the report submitted under subsection (1).

(3) No officer of a company shall be liable to be sued in any court nor be subject to any tribunal process, including disciplinary action for any report submitted by him under subsection (1) in good faith and in the intended performance of his duties as an officer of the company."

## *Rang Undang-Undang*

### HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Akta Syarikat 1965 ("Akta 125").

2. *Fasal 1* mengandungi tajuk ringkas dan peruntukan bagi permulaan kuat kuasa Akta yang dicadangkan.
3. *Fasal 2* bertujuan untuk meminda seksyen 11 A Akta 125 bagi membenarkan akuan berkanun difail atau diserah simpan kepada Pendaftar secara elektronik dan member! kuasa kepada Pendaftar untuk menyerahkan notis kepada orang yang tidak mematuhi kehendak penyerahan dokumen di bawah seksyen itu.
4. *Fasal 3* bertujuan untuk memasukkan seksyen baru 11B dan 11C ke dalam Akta 125. Seksyen baru 11B membolehkan Pendaftar menggunakan cara perhubungan elektronik berhubung dengan pemfailan dan penyerahsimpanan dokumen kepada Pendaftar manakala seksyen baru 11C memperuntukkan bagi nilai keterangan dokumen yang dibekalkan dan disahkan oleh Pendaftar secara elektronik.
5. *Fasal 4* bertujuan untuk meminda seksyen 69I Akta 125 dengan memotong rujukan kepada Bursa Saham berhubung dengan pemberitahuan atau perubahan dalam pemegang saham substansial.
6. *Fasal 5* bertujuan untuk meminda seksyen 131 Akta 125 untuk memperuntukkan bahawa kepentingan pasangan dan anak, termasuk anak angkat dan anak tiri adalah termasuk dalam kepentingan yang pengarah mesti dedahkan di bawah seksyen 131. Mana-mana kontrak atau kontrak dicadangkan yang dibuat melanggar seksyen 131 adalah boleh batal atas kehendak syarikat kecuali jika ia memihak kepada orang yang tidak mempunyai pengetahuan mengenai pelanggaran itu dan yang telah memberi balasan yang berharga.
7. *Fasal 6* bertujuan untuk memasukkan seksyen baru 131A dan 131B ke dalam Akta 125. Seksyen baru 131A melarang pengarah sesuatu syarikat awam atau syarikat subsidiari sesuatu syarikat awam yang mempunyai kepentingan dalam kontrak yang dibuat atau dicadangkan untuk dibuat oleh syarikat itu daripada mengundi, atau mengambil bahagian dalam perbincangan, mengenai kontrak itu atau kontrak dicadangkan semasa kontrak atau kontrak dicadangkan itu sedang dibincangkan dalam mesyuarat lembaga. Seksyen baru 131B memperuntukkan bahawa pengarah mempunyai kuasa untuk mengurus atau menyelia hal ehwal syarikat.
8. *Fasal 7* bertujuan untuk meminda seksyen 132 Akta 125 untuk menjelaskan dengan lanjut peruntukan sedia ada mengenai tugas dan tanggungan pengarah sesuatu syarikat.
9. *Fasal 8* dan 9 bertujuan untuk memotong seksyen 132A dan 132B Akta 125 kerana hal perkara dalam seksyen ini berhubung dengan kesalahan dagangan dalaman telah diperkatakan dalam Akta Perindustrian Sekuriti 1983.

## *Syarikat (Pindaan)*

10. *Fasal 10* bertujuan untuk meminda seksyen 132c Akta 125 untuk menjelaskan dengan lanjut peruntukan sedia ada mengenai pelupusan aku janji dan harta syarikat oleh pengarah.
11. *Fasal 11* bertujuan untuk meminda seksyen 132E Akta 125 untuk memperuntukkan bahawa syarikat dilarang daripada menjalankan apa-apa perkiraan atau urus niaga jika pengarah atau pemegang saham substansial sesuatu syarikat atau syarikat induknya atau orang yang berhubungan dengan pengarah atau pemegang saham substansial itu memperoleh dari atau melupuskan kepada syarikat saham atau aset bukan tunai daripada nilai yang dikehendaki.
12. *Fasal 12* bertujuan untuk meminda seksyen 132F Akta 125 untuk meluaskan pengecualian berkanun bagi memasukkan dua lagi perkiraan atau urus niaga yang seksyen 132E Akta 125 tidak terpakai.
13. *Fasal 13* bertujuan untuk memotong seksyen 132G Akta 125 kerana semua perkara dalam seksyen ini ada diperkatakan dalam seksyen 132E Akta 125.
14. *Fasal 14* bertujuan untuk meminda seksyen 134 Akta 125 bagi menetapkan bahawa kepentingan pasangan dan anak, termasuk anak angkat dan anak tiri adalah termasuk dalam kepentingan yang pengarah mesti dedahkan.
15. *Fasal 15* bertujuan untuk meminda seksyen 135 Akta 125 bagi mengurangkan pertindihan pemberitahuan kepada Bursa Saham.
16. *Fasal 16* bertujuan untuk meminda seksyen 145 Akta 125 bagi memperuntukkan bahawa notis memanggil mesyuarat agung tahunan syarikat awam mesti dihantar tidak kurang daripada dua puluh satu hari sebelum mesyuarat itu atau apa-apa tempoh yang lebih panjang sebagaimana yang diperuntukkan dalam artikel syarikat.
17. *Fasal 17* bertujuan untuk memasukkan seksyen baru 145A ke dalam Akta 125 bagi memperuntukkan bahawa syarikat hendaklah mengadakan mesyuarat anggota dalam Malaysia dan boleh mengadakan mesyuarat lebih daripada satu tempat dengan syarat kesemua anggota diberi peluang yang munasabah untuk mengambil bahagian dalam mesyuarat itu. Ini membolehkan syarikat menggunakan apa-apa teknologi dalam mengendalikan mesyuarat pemegang saham.
18. *Fasal 18* bertujuan untuk memasukkan seksyen baru 167A ke dalam Akta 125 bagi memperuntukkan bahawa lembaga pengarah syarikat awam atau subsidiari sesuatu syarikat awam mesti menubuhkan sistem kawalan dalaman bagi menjamin syarikat itu tidak menanggung kerugian melalui penggunaan tanpa izin asetnya dan rekod yang wajar diselenggara bagi menjamin aset dikira dengan betul.
19. *Fasal 19* bertujuan untuk memasukkan seksyen baru 172A ke dalam Akta 125. Seksyen baru ini menghendaki bahawa jika juruaudit menyampaikan representasi bertulis kepada syarikat berhubung dengan pemecatannya, dia mestilah menyerahkan, dalam masa tujuh hari dari tarikh penyampaian representasi itu, representasi bertulis itu kepada Pendaftar dan dalam hal syarikat awam, kepada Bursa Saham.

## *Rang Undang-Undang*

20. *Fasal 20* bertujuan untuk meminda seksyen 174 Akta 125 bagi memperuntukkan tanggungjawab kepada juruaudit syarikat awam melaporkan kepada Pendaftar tentang apa-apa kesalahan serius yang melibatkan fraud atau kecurangan yang dia mempunyai alasan untuk mempercayai telah dilakukan oleh mana-mana pegawai atau pekerja terhadap syarikat atau Akta.

21. *Fasal 21* bertujuan untuk meminda seksyen 174A Akta 125 bagi memperuntukkan perlindungan kepada juruaudit terhadap apa-apa prosiding mahkamah atau disiplin bagi apa-apa laporan yang dikemukakan dengan suci hati dan dalam pelaksanaan tugas yang dikenakan ke atas juruaudit.

22. *Fasal 22* bertujuan memasukkan seksyen baru 181A, 181B, 181C, 181D dan 181E ke dalam Akta 125. Seksyen baru 181A memperuntukkan bagi prosiding hendaklah dibawa atau dicelah bagi pihak syarikat manakala seksyen baru 181B memperuntukkan prosedur bagi permohonan bagi kebenaran Mahkamah. Seksyen baru 181C memperuntukkan bahawa kebenaran Mahkamah mesti diperoleh sebelum prosiding dibawa, dicelah atau dibela bagi pihak syarikat boleh dihentikan, dikompromi atau diselesaikan. Seksyen baru 181D memperuntukkan bagi kesan ratifikasi. Jika terdapat ratifikasi, ia tidak akan menghalang mana-mana orang yang mempunyai *locus standi* daripada mengambil tindakan di bawah seksyen baru itu walaupun Mahkamah boleh mengambil kira ratifikasi itu bagi menentukan apa perintah atau keputusan untuk dibuat. Seksyen baru 181E memberi kuasa kepada Mahkamah untuk membuat perintah berhubung dengan permohonan bagi kebenaran yang dibuat di bawah seksyen itu.

23. *Fasal 23* bertujuan untuk meminda seksyen 217 Akta 125 bagi memasukkan Perbadanan Insurans Deposit Malaysia sebagai orang yang boleh mengemukakan petisyen bagi menggulung institusi anggota di bawah Akta Perbadanan Insurans Deposit Malaysia [*Akta 642*].

24. *Fasal 24* bertujuan untuk memasukkan seksyen baru 368A dan 368B ke dalam Akta 125. Seksyen baru 368A memberi kuasa kepada Mahkamah untuk memberi injunksi bagi menghentikan seseorang daripada menjalankan apa-apa pelakuan yang melanggar Akta 125. Seksyen baru 368B memperuntukkan perlindungan kepada pegawai sesuatu syarikat bagi laporan yang dibuat kepada Pendaftar mengenai pelanggaran Akta 125 atau kesalahan serius yang melibatkan fraud atau kecurangan terhadap syarikat atau Akta 125 yang telah, sedang atau mungkin dilakukan oleh pekerja lain syarikat.

### *IMPLIKASI KEWANGAN*

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

[PN(U<sup>2</sup>)2474]