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NIGERIAN INSURANCE INDUSTRY REFORM ACT, 2025

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SCHEDULE

NIGERIAN INSURANCE INDUSTRY REFORM ACT, 2025

ACT No. 14

AN ACT TO REPEAL THE INSURANCE ACT, CAP. I17, LAWS OF THE FEDERATION OF NIGERIA, 2004, THE MARINE INSURANCE ACT, CAP. M2 LAWS OF THE FEDERATION OF NIGERIA, 2004, THE MOTOR VEHICLES (THIRD PARTY INSURANCE) ACT, CAP. M22, LAWS OF THE FEDERATION OF NIGERIA, 2004, THE NATIONAL INSURANCE CORPORATION OF NIGERIA ACT, CAP. N54, LAWS OF THE FEDERATION OF NIGERIA, 2004 AND THE NIGERIA REINSURANCE CORPORATION ACT, CAP. N131, LAWS OF THE FEDERATION OF NIGERIA, 2004, AND ENACT THE NIGERIAN INSURANCE INDUSTRY REFORM ACT, 2025 TO PROVIDE FOR A COMPREHENSIVE LEGAL AND REGULATORY FRAMEWORK FOR INSURANCE BUSINESS IN NIGERIA; AND FOR RELATED MATTERS.

[31*st July,* 2025] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria —

PART I — OBJECTIVES AND APPLICATION

Objectives

1.—(1) The objectives of this Act are to —

(*a*) regulate the insurance industry in order to develop the insurance sector ; and

(*b*) protect the interest of policyholders, prospective policyholders and other stakeholders under insurance policies in ways that are consistent with the continued development of a viable, competitive and innovative insurance industry.

(2) This Act, the regulations and other regulatory instruments issued by the Commission under this Act, shall achieve the objectives referred to in subsection (1) by —

(*a*) determining who carries on insurance business in Nigeria and requiring insurance operators, the directors and the management of insurance operators to meet certain suitability requirements ;

(*b*) imposing on insurance operators, requirements to promote prudent management, good business practices and good corporate governance ; and

(*c*) providing for an effective mechanism for settlement of insurance disputes.

Application

2.—(1) Except as otherwise provided by this Act, the provisions of this Act shall apply to regulation and supervision of all insurance businesses, and insurance operators in Nigeria.

(2) This Act applies to all insurance businesses and insurers, other than insurance businesses carried on or by insurers of the following description —

(*a*) a friendly society that is an association of persons established with no share for the purposes of aiding its members or their dependents where such association does not employ any person whose main occupation is the —

(*i*) canvassing of other persons to become members of the association, or

(*ii*) collecting of contributions or subscriptions towards the funds of the association from its members ;

(*b*) a company or any other body, whether corporate or unincorporated, or person whose business is established outside Nigeria, engaged solely in reinsurance transactions with an insurer authorised or under the provisions of this Act to carry on any class of insurance business, but not otherwise ; and

(*c*) deposit insurance carried out by the Nigerian Deposit Insurance Corporation established under the Nigerian Deposit Insurance Corporation Act.

Act. No. 33, 2023

(3) Without prejudice to the provisions of subsection (2), no cooperative shall engage in the business of any form of insurance made compulsory by law.

Part II — Classification

Classification of insurance business

3.—(1) There shall be for the purpose of this Act two main categories of insurance business, that is —

(*a*) life insurance business ; and

(*b*) non-life insurance business.

(2) In the case of life assurance business, there shall be four classes, that is —

(*a*) individual life assurance business ;

(*b*) group life assurance business ;

(*c*) annuity ; and

(*d*) health insurance business.

(3) In the case of non-life insurance business, there shall be eight classes, that is —

(*a*) fire insurance business ;

(*b*) general accident insurance business ;

(*c*) motor vehicle insurance business ;

(*d*) marine and aviation insurance businesses ;

(*e*) energy (oil, gas and power) insurance business ;

(*f*) engineering insurance business ;

(*g*) bonds credit guarantee and suretyship insurance business ; and

(*h*) agricultural insurance business, other than schemes covered by the Nigerian Agricultural Insurance Corporation Act. Cap. N89, LFN, 2004

(4) There shall also be miscellaneous insurance business, including financial inclusion insurance business.

(5) The Commission may publish additional list of classes in the Federal Government *Gazette*.

(6) For the purposes of this Act —

(*a*) any part of an insurance business may be treated as part of a particular class of insurance business ; and

(*b*) reinsurance of liabilities under an insurance policy shall be treated as insurance business of the class to which such policy belonged if it had been issued by the reinsurer.

(7) Subject to this Act, an insurer may be authorised to transact any new category of miscellaneous insurance business if he shows evidence of adequate reinsurance arrangement in respect of that category of insurance business and requisite capital where necessary, and other conditions as may be required by the Commission.

(8) The Commission may by rules, regulations or guidelines classify insurance business as it may determine.

Restriction on the use of the word "insurance" or "underwriter"

4.—(1) A person other than an insurer, insurance broker, loss adjuster licensed under this Act or an insurer's agent duly appointed shall not use the word "insurer" or any derivative of it as part of his business name or for describing the nature or object of such business.

(2) A person, other than an insurer licensed under this Act or a duly appointed insurance agent shall not use the word "underwriter" or any derivative as part of his business name or for describing the nature or object of such business.

(3) A person who contravenes the provisions of subsection (1) or (2), commits an offence and is liable on conviction to a fine of ₦250,000 for every day or part in which the name or description is so used.

Part III — Licensing and Operation of Insurer

Conditions for licensing

5.—(1) A person shall not commence or carry on insurance, or

reinsurance or related business in Nigeria unless licensed by the Commission as an insurer or a reinsurer under this Act.

(2) An application for licensing as an insurer shall be made to the Commission in the prescribed form and accompanied by such other documents or information as the Commission may require.

(3) A person shall not be licensed as an insurer or a reinsurer under this Act except —

Act No. 3, 2020

(*a*) incorporated as a limited liability company under the Companies and Allied Matters Act or established under any other law or enactment in Nigeria ;

(*b*) the company has and maintains, while carrying on the business, the required minimum capital as may be prescribed by the Commission ;

(*c*) the company has paid and maintained such statutory deposit with the Central Bank of Nigeria as may be prescribed by the Commission ; and

(*d*) the company has met all other requirements specified by the Commission which shall include submission of business plan that identifies the niche market the applicant will address.

(4) The Commission shall publish and make available to the general public, a Service Charter which shall provide for products and services of the Commission, and the complete list of requirements to obtain the products and services.

(5) Where the Commission is satisfied that all requirements for licensing have been met, it shall license the company within the relevant timeline for the type of license being applied for in accordance with the Commission's Service Charter.

(6) Any insurer incorporated in a foreign jurisdiction or its subsidiaries which —

(*a*) does not have physical presence in the country where it is incorporated and licensed, and

(*b*) is not affiliated to any financial services group that is subject to effective consolidated supervision,

shall not operate in Nigeria and no Nigerian insurer or its subsidiary shall establish or continue any relationship with such insurer or subsidiary.

(7) A person resident in Nigeria or body corporate registered in Nigeria who carries on insurance business in any part of the world other than Nigeria, shall for the purpose of this Act be deemed to be an insurer carrying on insurance business within Nigeria.

Specialisation

6.—(1) As from the commencement of this Act, the Commission shall license an insurer only in the categories specified in section 3 of this Act.

(2) Notwithstanding the provisions of subsection (1), a company —

(*a*) licensed to operate a life assurance business may own or acquire shares in a non-life insurance company ; and

(*b*) licensed to operate a non-life insurance business may own or acquire shares in a life assurance company.

(3) The Commission may issue a combined or composite life and non-life licence to a reinsurer.

(4) Existing composite insurance companies shall, within five years of the commencement of this Act, comply with the provisions of subsection (1).

(5) Subject to satisfying any requirements as may be prescribed by the Commission, the Commission shall license a reinsurer.

Rejection of application

7.—(1) The Commission may refuse to license a company for an application made under section 5 of this Act where it is satisfied that the —

(*a*) information contained in the application for licence is false in any material particular ;

(*b*) application does not meet the requirements prescribed by the Commission for a licence ; or

(*c*) licence of the applicant had earlier been revoked or cancelled by the Commission under any of the provisions of this Act.

(2) Where the Commission refuses to license an applicant, it shall immediately notify the applicant in the prescribed form stating the reasons for such refusal within the timeframe provided in the Commission's Service Charter.

(3) Notwithstanding the provisions of subsections (1) and (2), the applicant, on satisfying the condition stipulated in the notice may reapply to the Commission.

(4) An aggrieved applicant may appeal to the Board within 30 working days of receiving the notice of refusal.

(5) The Board shall within 30 days of receiving an appeal give its decision on whether to allow or reject the appeal and may impose such conditions as it deems fit where it allows the appeal.

Cancellation of licence

8.—(1) Where the Commission is satisfied that a licensed insurer or reinsurer —

(*a*) is not conducting insurance business in accordance with sound insurance principles,

(*b*) has failed to satisfy the capital or solvency requirement as prescribed by the Commission,

(*c*) has ceased to carry on the business of insurance and the primary purpose for which it was registered for at least one year in Nigeria,

(*d*) has applied in writing for the cancellation of its licence as an insurer,

(*e*) has a judgment debt in relation to a judgment obtained against it from a Court of competent jurisdiction in Nigeria which remains unsatisfied for 90 days and there is no appeal pending against the judgment,

(*f*) is carrying on simultaneously the insurance business with any other business which is detrimental to its insurance business,

(*g*) subject to Part XIII of this Act, has transferred to or amalgamated with the business of any other insurer,

(*h*) has refused to submit to an examination of its books as provided for in this Act,

(*i*) has failed to comply with the provisions of this Act relating to filing of returns with the Commission,

(*j*) has failed to maintain adequate reinsurance arrangements and treaties in respect of the category of insurance business which the insurer or reinsurer is authorised to transact,

(*k*) lacks the necessary expertise by virtue of a substantial reduction in the number of its qualified employees,

(*l*) has a net asset below the minimum capital and capital injections have not been made within the time stipulated by the Commission,

(*m*) has not less than five complaints of failure to pay claims promptly made against it which the Commission has received and verified,

(*n*) has failed to set up the special reserves as prescribed by the Commission,

(*o*) acts in any manner, without the approval of the Commission, in cases where this Act requires such approval,

(*p*) has been wound-up or dissolved or has gone into liquidation, or

(*q*) has failed to maintain reserves as required under this Act,

the Commission shall give notice in writing to the insurer of its intention to cancel the licence of the insurer.

(2) The Commission shall, in the notice of its intention to cancel the licence of the insurer, give the insurer a 30 days' period within which to remedy

any of the defects or breaches identified in subsection (1) where the defects or breaches are capable of being remedied.

(3 Any such notice issued by the Commission in subsection (2) shall prevent the insurer from carrying out any licensable activity within the specified period until the breach is remedied.

(4) Where the defect or breach is not capable of being remedied or where it is not remedied within the time specified by the Commission in the notice given, the Commission shall proceed to cancel the licence of the insurer.

(5) Where the licence of an insurer is cancelled —

(*a*) the insurer shall immediately discontinue to accept any new business ; and

(*b*) the Commission may, in all cases, act as a receiver from the date of cancellation in accordance with the provisions of this Act or may appoint any person to act on its behalf as a receiver of the company.

(6) An insurer whose licence has been cancelled by the Commission may within 30 days after the notice of the Commission's cancellation of its licence, appeal to the Board in writing setting out the grounds of appeal.

(7) The Board shall within 90 days of receiving the appeal give its decision on whether to allow or reject the appeal and may impose such conditions as it may deem fit.

(8) Where an appeal is disallowed, the Commission shall cause a notice to be published in the Federal Government *Gazette* or in such other manner to ensure publicity as it may determine.

(9) An action to challenge the cancellation of the licence of an insurer on any ground whatsoever shall only be instituted in the Federal High Court and such action shall be heard and determined within a reasonable time from the date of the cancellation to which the action relates.

(10) Where an appeal is filed against the decision of the court or the Insurance Tribunal, the appeal shall be heard and disposed of by the appellate court within maximum period of 90 days from the date the appeal is filed.

(11) An action in respect of the cancellation of the licence of an insurer shall not be maintained unless such action is filed within a period of 60 days from the date of the cancellation.

Power to vary the conditions of a licence

Second Schedule

9.—(1) The Commission may subject to Part II of this Act, vary any category or class of licence granted to an insurance institution on any of the conditions specified in the Second Schedule to this Act, or such additional conditions as may be prescribed by the Commission.

(2) Without prejudice to the power of the Commission to cancel the license of an insurer or reinsurer in section 8 of this Act, the Commission may take over or assume control of the insurance institution, and carry on its business and affairs or appoint persons to do so on behalf of the Commission for such period as it may determine.

Operating an unlicensed insurance business

10. A person who transacts any insurance business without being licensed for that purpose under this Act commits an offence and is liable on conviction, in the case of —

(*a*) an individual, to a fine of ₦25,000,000 or imprisonment for a term of two years or both ; or

(*b*) a company, firm or other combination of persons, each principal officer of the company, firm or other combination of persons responsible to a fine of ₦50,000,000 or imprisonment for a term of two years or both.

Holding company

11.—(1) Insurance operators licensed under this Act may operate a holding company structure.

(2) Subject to the provisions of this Act, the Commission shall make regulations for insurance companies operating a holding company structure, regarding investing in any business or establishing subsidiaries, including purchase and holding of shares, equity or debenture or participation in joint venture with other businesses.

(3) Notwithstanding the provisions of subsection (2), where an insurance company is a subsidiary in a holding company structure, the Commission shall only regulate the business of the insurance subsidiary and the contractual relationship between the subsidiary and other members of the group :

Provided that such holding company does not in any way through its internal regulation prevent the subsidiary from complying with any regulation of the Commission.

Appointment and change of principal officers

12.—(1) An insurer shall not appoint or change any principal officer except with the prior written approval of the Commission.

(2) An insurer shall notify the Commission of any change due to death, dismissal, redundancy or resignation of any of its principal officers.

(3) An insurer who contravenes the provision of subsection (1) shall be liable to such penalty as may be prescribed in regulations issued by the Commission.

Disqualification for appointment as principal officer

13.—(1) An insurer shall not appoint or have in its employment a chief executive, director, or principal officer if such a person —

(*a*) is or becomes of unsound mind, or as a result of ill health, is incapable of discharging his duties ;

(*b*) is convicted of an offence involving dishonesty or fraud ;

(*c*) is guilty of serious misconduct in relation to his duties ;

(*d*) in the case of a person with professional qualification, has been disqualified or suspended from practicing his profession in Nigeria by the order of any competent authority made in respect of such a person ;

(*e*) has been a director of or has been directly concerned with the management of an insurance or financial institution whose licence to operate has been cancelled or whose business has been wound-up on grounds specified in sections 571 (d) and 572 of the Companies and Allied Matters Act ; Act No. 3 of 2020

(*f*) is a person whose appointment with an insurance or a financial institution has been terminated or dismissed for reason of fraud or dishonesty ; or

(*g*) has been convicted by a court or tribunal of an offence of criminal misappropriation of funds, breach of trust or cheating.

(2) An insurer shall not appoint as a director or have in its employment, a partner, director or employee in a firm of insurance brokers or loss adjusters.

(3) An insurer who contravenes the provisions of this section is liable to such penalties as shall be prescribed by the Commission.

Principal place of business

14.—(1) An insurer registered under this Act shall have a principal office in Nigeria where all communications and notices are to be addressed.

(2) The Commission shall be notified in writing within 21 days of the location of the principal office or any subsequent change.

(3) A postal box address or a private mail bag is insufficient for the purpose of subsection (1).

(4) The inclusion of an address of an insurer or reinsurer in its application or in its annual returns or any other return to the Commission shall not be deemed to satisfy the obligation imposed by this section.

(5) Where an insurer contravenes the provisions of this section, the insurer and every director shall be liable to a penalty of a sum of ₦500,000 for every day during which the insurer so carries on business.

(6) An insurer may not open or close any branch office or representative office anywhere within or outside Nigeria without the prior approval of the Commission.

(7) An insurer intending to close any of its branches or subsidiaries shall

give notice in writing to the Commission of its intention, at least six months before the date of the intended closure or within such shorter period as may be allowed by the Commission.

PART IV — CAPITAL REQUIREMENTS

Minimum capital requirements

15.—(1) A person shall not carry on insurance business in Nigeria unless the insurer has and maintains, while carrying on that business, a minimum capital, in the case of —

(*a*) non-life insurance business, the higher of —

(*i*) ₦15,000,000,000, or

(*ii*) risk-based capital determined by the Commission ;

(*b*) life assurance business, the higher of —

(*i*) ₦10,000,000,000, or

(*ii*) risk-based capital determined by the Commission ; and

(*c*) reinsurance business, the higher of —

(*i*) ₦35,000,000,000, or

(*ii*) risk-based capital determined by the Commission.

(2) In determining the risk-based capital required, the Commission shall take into consideration the capital for insurance risk, market risk, credit risk and operational risk, and apply such capital charges on assets and liabilities as shall be determined.

(3) For the purpose of this section, "capital charge" means the proportion of capital required to take care of the potential deterioration of the economic value of an asset and the uncertainty in estimating liability due to the occurrence of an adverse event.

(4) The minimum capital requirement specified in subsection (1) may in the case of a new company consist of one or more of —

(*a*) Government Bonds and Treasury Bills ; or

(*b*) cash and cash equivalent.

(5) The minimum capital requirement as specified in subsection (1) shall, in the case of existing company, consist of one or more of —

(*a*) the excess of admissible assets over liabilities, less the amount of own shares held by the firm ;

(*b*) subordinated liabilities subject to approval by the Commission ; and

(*c*) any other financial instrument as may be prescribed by the Commission.

(6) An insurer registered before the commencement of this Act shall comply with the requirements within 12 months of the commencement of this Act.

(7) The Commission shall —

(*a*) cancel the registration of any insurer or reinsurer that fails to satisfy the provisions of subsection (1) as it relates to the category of operation of such insurer or reinsurer ; and

(*b*) not later than 30 days after expiration of the period specified in subsection (6), publish a list of all insurers that have complied with the provisions of this section.

(8) Where the Commission considers it appropriate, having regard to the nature, size and complexity of the insurance business carried on or proposed to be carried on by an insurer, and to the insurer's risk profile, the Commission may issue a directive —

(a) requiring the insurer to increase its minimum capital to an amount higher than the minimum specified in this section or the regulations made under this section ; or

(b) increasing the minimum capital requirements applicable to an insurer to a higher sum than that specified in this section or the regulations made under this section.

Minimum capital to be deposited with the Central Bank of Nigeria

16.—(1) An insurer intending to commence insurance business in Nigeria after the commencement of this Act shall deposit the equivalent of 50% of the minimum capital requirement referred to in section 15 of this Act with the Central Bank of Nigeria.

(2) Upon registration as an insurer, the Central Bank of Nigeria shall return 80% of the statutory deposit, with interest to the insurer, not later than 60 days after registration.

(3) In the case of existing companies an equivalent of 10% of the minimum capital stipulated in section 15 shall be deposited with the Central Bank of Nigeria.

(4) Any statutory deposit made under Subsections (1) and (3) of this section shall be invested by the Central Bank in treasury bills or such other securities as the Bank may determine from time to time and the income thereof shall be payable to the insurance institutions bi-annually.

(5) Notwithstanding the provisions of Subsection (4), the Commission may mandate the Central Bank to invest the statutory deposit in such other secured investment guaranteed by the Federal Government.

(6) The statutory deposit made pursuant to this section shall not be subject of garnishee and shall only be applied in line with the provisions of this Act and any withdrawal from the statutory deposit shall be made good within 60 days, failure of which shall constitute a ground for suspension from business and such suspension shall be published in at least two widely circulated newspapers in Nigeria.

(7) Failure to deposit the statutory deposit shall constitute a ground for cancellation of the insurer's licence.

(8) Upon successful registration of an applicant as an insurer under this Act, the Commission shall —

(*a*) communicate to the Central Bank of Nigeria in writing, of the registration of the insurer ; and

(*b*) request the Central Bank of Nigeria to comply with the provision of subsection (2).

PART V — OPERATION OF INSURANCE COMPANY

Delivery of policy document

17.—(1) The policy document in respect of a contract of insurance shall be delivered to the insured on or before the commencement of the policy.

(2) An insurer who contravenes the provisions of this section shall be liable to a penalty of not more than 5% of the premium received and such other penalties as may be prescribed in regulations issued by the Commission.

(3) An insurer shall not be entitled to rely on any term, condition or warranty in a policy of insurance to refuse a claim where it is established that the policy document was not delivered to the insured or his broker before the loss occurred, except where the loss occurs within the period specified in subsection (1).

(4) The means of delivery of policy document under this section shall include physical delivery by insurer, agent, broker or courier services providers, email or other contractual electronic means.

(5) Where email or other contractual electronic means are deployed, the insurer is bound to ensure that the policy document was actually received.

Approval of new insurance products

18.—(1) New product shall not be introduced into any class or category of insurance business without the prior approval of the Commission.

(2) The approval or otherwise of the Commission shall be communicated within 30 days of the receipt of the application or such other period as may be specified in the Service Charter, and where the Commission does not communicate its approval, or disapproval within the period specified, the application shall be deemed approved.

(3) An insurer who contravenes the provisions of subsection (1) is liable to a penalty of ₦500,000 for each day the contravention subsists.

(4) Where the Commission fails to communicate its feedback within 30 days, the product shall be deemed to have been approved.

Records to be kept by an insurer

19.—(1) An insurer shall keep and maintain at its principal office —

(*a*) the Memorandum and Articles of Association ;

(*b*) a record containing the names and addresses of the owners of the insurance business whether known as or called shareholders or otherwise ;

(*c*) the minutes of any meeting of the owners and of the policy-making executive, whether known as or called the Board of Directors or otherwise ;

(*d*) a register of all policies in which shall be entered in respect of every policy issued, the names and address of the policyholder, the date when the policy was effected and a record or any transfer, assignment or nomination of which the insurer has notice ;

(*e*) a register of claims in which shall be entered every claim made together with the date of claim, the name and address of the claimant and the date on which the claim was settled, or in the case of a claim which is repudiated, the date of repudiation and the grounds for the repudiation or in the case of litigation, the particulars of the litigation and the decision of the court in the matter ;

(*f*) a register of investment showing those which are attributable to the insurance funds and those which are not, and also any alteration in their values ;

(*g*) a register of its assets ;

(*h*) a register of reinsurance ceded, showing separately those ceded in Nigeria and those ceded outside Nigeria ;

(*i*) a cash book ;

(*j*) a current account book ;

(*k*) a register of open policies in respect of marine insurance transactions ; and

(*l*) management accounts.

(2) An insurer shall in respect of its life assurance business maintain and keep the following additional record whether in physical or electronic form, that is —

(*a*) a register of assured under group policies ;

(b) a register of loans on policies ;

(*c*) a register of cash surrendered values ;

(*d*) a register of lapsed and expired policies ; and

(*e*) such other documents or records as the Commission may determine.

(3) Where an insurer fails to comply with any of the provisions of subsection (1) or (2), the insurer and every principal officer of the insurer shall be liable, in the case of the insurer to a penalty of not less than ₦500,000 and in the case of every principal officer to a penalty of not less than ₦250,000, for each day of non-compliance.

Records to be kept by a reinsurer

20.—(1) A reinsurer shall keep and maintain at its principal office the following—

(*a*) the Memorandum and Articles of Association or other evidence of the constitution of the reinsurer ;

(*b*) records containing the names and addresses of the owners of the reinsurer, whether known as or called shareholders ;

(*c*) minutes of any meeting of the owners and of the policy-making executives. whether known as or called the Board of Directors ;

(*d*) a register of all treaties, in which shall be entered in respect of every treaty issued, the name of the cedant, and the date when the treaty was effected ;

(*e*) a register of all claims in which shall be entered every claim made together with the date of claim, the name of the cedant or insured, their proportionate share and the date the claim is settled ;

(*f*) a register of events showing those which are attributable to the insurance funds and those which are not and any alteration in value ;

(*g*) a register of assets ;

(*h*) a register of business or retrocession, showing separately those ceded within and outside Nigeria ;

(*i*) a register of new and existing clients ;

(*j*) a cashbook ; and

(*k*) domestic or management report prepared by external auditors.

(2) A life reinsurer shall keep the following additional records —

(*a*) a register of assured under group policies ;

(*b*) a register of cancelled, lapsed and expired policies ;

(*c*) a register of claims showing the names of the cedant and when the claim is settled ; and

(*d*) such other records as the Commission may determine.

(3) Where a reinsurer fails to comply with any of the provisions of subsection (1) or (2), the reinsurer and every principal officer of the reinsurer shall be liable, in the case of the reinsurer to a penalty of not less than ₦500,000 and in the case of every principal officer to a penalty of not less than ₦250,000, for each day of non-compliance.

Provisions for unexpired risks and claims (insurance reserves)

21.—(1) An insurer shall establish and maintain, as may be applicable in respect of each class of insurance business —

(*a*) provision for unearned premiums ;

(*b*) provision for unexpired risks ;

(*c*) provision for outstanding claims ; and

(*d*) such other provisions as may be prescribed by the Commission.

(2) The Commission shall prescribe the method for determination of the provisions referred to in subsection (1).

(3) The amount of the provisions made under subsections (1) and (2) and other business expenses incurred by an insurance company registered under this Act, shall be fully deductible for tax purposes.

Reserves for life assurance business

22. An insurer carrying on a life assurance business shall maintain a reserve fund which shall be based on an annual valuation conducted by an actuary and the valuation approach shall consider the risk-based capital regulations.

General reserve fund for reinsurers

23. A reinsurer shall establish a general reserve fund which shall be credited with an amount —

(a) not less than 50% of the insurer's gross profit for the year where the fund is less than the authorised capital of the insurer ; and

(b) not less than 25% of the reinsurer's gross profit for the year where the fund is equal to or exceeds the authorised capital of the reinsurer.

Capital adequacy

24.—(1) An insurer carrying on insurance business in Nigeria shall maintain the capital adequacy ratio of 100%.

(2) Notwithstanding subsection (1), the Commission may prescribe a higher capital adequacy ratio as may be determined by the Commission.

(3) The following assets shall not be included in the capital available computation or be used for the purpose of determining the insurer's capital adequacy under this section —

(*a*) goodwill and other intangible assets ;

(*b*) deferred tax income or expenses and deferred tax assets ;

(*c*) assets pledged to support credit facilities obtained by an insurer or other specific purposes ;

(*d*) assets over their concentration limits ;

(*e*) all credit facilities granted by an insurer and secured by its own shares ;

(*f*) prepayments ;

(*g*) 100% of fixed assets and computer equipment ;

(*h*) unsecured loans ;

(*i*) receivables from insurers ;

(*j*) merchandise inventory ; and

(*k*) such other assets as may be prescribed by the Commission.

Risk-based approach

25.—(1) With effect from the commencement of this Act, insurance regulation and supervision in Nigeria shall be carried out on a risk-based approach.

(2) The Commission shall issue risk-based capital requirements for each class of insurance business.

(3) Every insurer shall, on or before 31 March of each year prepare and submit to the Commission, a report of its risk-based capital levels as at 31 December of the preceding year in a form and containing such information as may be prescribed by the Commission.

Determination of required capital

26.—(1) In determining the required capital, an insurer shall —

(*a*) take into consideration the capital for insurance risk, market risk, credit risk and operational risk ; and

(*b*) apply such capital charges on assets and liabilities as shall be determined by the Commission.

(2) For the purpose of this section, "capital charge" means the proportion of capital required to take care of the potential deterioration of the economic value of an asset and the uncertainty in estimating liability due to the occurrence of an adverse event.

(3) An insurer shall maintain such risk-based capital as may be prescribed by the Commission which shall be at all-time not less than the insurer's risk exposure.

(4) Notwithstanding subsection (1), the Commission may prescribe a higher or lower risk-based capital with respect to any class of insurance business.

(5) The Commission may require an insurer to maintain an additional risk-based capital, which the Commission considers appropriate in respect of specific risks.

(6) Failure to comply with the provisions of this section by an insurer may be a ground for suspension of licence of the insurer.

Investment of policy holders' funds

27.—(1) An insurer shall at all times, in respect of the insurance business transacted by it in Nigeria, invest and hold invested in Nigeria, assets equivalent to not less than the amount of insurance funds in the accounts of the insurer.

(2) Subject to guidelines issued by the Commission, insurance funds and assets shall be invested in —

(*a*) bonds, bills and other securities issued or guaranteed by the Federal Government and the Central Bank of Nigeria ;

(*b*) bonds, debentures, redeemable preference shares and other debt instruments issued by corporate entities listed on a Stock Exchange registered under the Investment and Securities Act, provided that appropriate credit ratings and other criteria as determined by the Commission are met ;

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(c) ordinary shares of public limited companies listed on a securities exchange registered under the Investments and Securities Act ;

(*d*) bank deposits and bank securities ;

(*e*) investment certificates of closed-end investment fund or hybrid investment funds listed under the Investment and Securities Act, with good track records of earnings ;

(*f*) units sold by open-end investment funds or specialist open-end investment funds registered under the Investment and Securities Act ;

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(*g*) real estate development investment ; or

(*h*) specialist investment funds and such other financial instruments as the Commission may approve.

(3) An insurer may invest insurance funds in units of any investment outside Nigeria within the categories of investment set out in subsection (2).

(4) The Commission may approve the portfolio limits for investment of insurance fund or asset outside the territory of the Federal Republic of Nigeria :

Provided that nothing in this Act shall prohibit or prevent an insurer from keeping assets in currencies other than the Nigerian currency to support the liabilities in those currencies and such assets in other currencies shall include assets in banks in any African country or other countries whose ratings shall be as the Commission may determine and shall be admissible assets for solvency calculations.

(5) Nothing contained in any law relating to investment by insurance companies of insurance funds in real property, shall affect the provisions of

this Act and for all intents and purposes, where there is a conflict between the provisions of such laws and the relevant provisions of this Act, the provisions of this Act shall take precedence.

Penalty in relation to investments

28. A principal officer of an insurer who recklessly or negligently encumbers or disposes of investment or does any other thing which results in diminishing the security offered by any investment made under this Act shall be liable to a penalty in such amount as may be prescribed by the Commission.

Statement of accounts

29.—(1) An insurer shall, not later than the 30 June of each year, submit in writing to the Commission a —

(*a*) duly audited financial statements of the insurer and its subsidiaries at the end of the preceding year before presentation at its annual general meeting ;

(*b*) revenue account applicable to each category or class of insurance business for which the insurer is required to keep separate account of receipts and payments ; and

(c) statement of investments representing the insurance funds and shareholders' fund.

(2) The returns and accounts required to be submitted under subsection (1) (*a*) and (*b*) are to be in such form as may be prescribed by the Commission.

(3) An insurer who fails, neglects, delays or refuses to file the returns and accounts under this section is liable to such penalty as may be prescribed by the Commission.

(4) Where the Commission is satisfied that the insurer has complied with the provisions of subsections (1) and (2), it shall, within 14 days of submission of the returns, approve such returns and where the Commission is dissatisfied, it shall inform the insurer in writing within the period.

(5) Where the Commission fails to communicate its decision as prescribed in subsection (4), the returns shall be deemed to have been approved by the Commission with effect from the expiration of that period.

(6) An insurer shall in each year after receipt of the approval of the Commission, publish its general annual statement of financial position together with its statement of profit or loss and other comprehensive income in at least two widely circulated newspapers in Nigeria.

(7) An insurer shall not hold its annual general meeting or distribute any dividends until the Commission has approved the annual returns.

(8) An insurer who fails or neglects to comply with the provisions of subsections (6) and (7) is liable to such penalty as may be prescribed by the Commission.

Quarterly returns

30. An insurer shall submit quarterly returns in the form prescribed to the Commission not later than 10 days after the last day of each quarter or such other interval as the Commission may specify.

Life assurance returns

31.—(1) An insurer transacting life assurance business shall, in addition to the provisions of section 30 of this Act, submit annually to the Commission an actuarial valuation report.

(2) Pursuant to the provisions of subsection (1), the Commission shall require an insurer transacting life assurance business to —

(*a*) cause a person who for the time being is the statutory actuary of the insurer to investigate the insurer's financial condition, including carrying out a valuation of the insurer's liabilities, in respect of its insurance business as at a specified date ;

(*b*) cause the actuary to make and submit to the Commission a copy of the report of the investigation ;

(*c*) prepare and submit to the Commission a statement of its life assurance business or part of it as at the date of the request ; and

(*d*) show sufficient evidence that not more than a prescribed proportion of the actuarial surplus declared is appropriate.

(3) An insurer transacting life assurance business shall, at the expiration of each year, submit to the Commission such statements and documents as may be prescribed by the Commission.

(4) The Commission shall, where it appears to it that the statement furnished by an insurer under subsections (1) and (2) is inaccurate or is not prepared in the prescribed form or is defective in any material particular —

(*a*) require from the insurer such further information as it may consider necessary ;

(*b*) call on the insurer to submit, for its examination, any book of account, register or any other document ;

(*c*) require the insurer to confirm, on oath or by a sworn declaration, the authenticity of any statement submitted by the insurer ; or

(*d*) refuse to approve the insurer's annual statement until the inaccuracies have been rectified.

(5) An insurer who fails, neglects or refuses to file the required returns or accounts under this section is liable to a penalty as may be prescribed by the Commission.

Non-life insurance returns

32.—(1) An insurer transacting non-life insurance business shall, in addition to the provisions of section 29 of this Act, submit annually to the Commission, an actuarial valuation report.

(2) Pursuant to the provisions of subsection (1), the Commission shall require an insurer transacting non-life insurance business to —

(*a*) cause a person who for the time being is the statutory actuary of the insurer to investigate an insurer's financial condition, including the carrying out of valuation of the insurer's liabilities, in respect of the insurer's business as at a specified date ;

(*b*) cause the actuary to make and submit to the Commission a copy of the report of the investigation ;

(*c*) prepare and submit to the Commission a statement of its non-life insurance business or part of it as at the date of the request ; and

(*d*) show sufficient evidence that not more than a prescribed proportion of the actuarial surplus declared is appropriated for shareholders.

(3) An insurer transacting non-life insurance business shall, at the expiration of each year, submit to the Commission such statements and documents as may be prescribed by the Commission.

(4) The Commission shall, where it appears to it that the statement furnished by an insurer under subsections (1) and (2) is inaccurate or is not prepared in the prescribed form or is defective in any material particular —

(*a*) require from the insurer such further information as it may consider necessary ;

(*b*) call on the insurer to submit, for its examination, any book of account, register or any other document ;

(*c*) require the insurer to confirm, on oath or by a sworn declaration, the authenticity of any statement submitted by the insurer ; or

(*d*) refuse to approve the insurer's annual statement unless the inaccuracies have been rectified.

(5) An insurer who fails, neglects or refuses to file the required returns or accounts under this section is liable to a penalty as may be prescribed by the Commission.

Audits

33.—(1) The financial statements and revenue account of an insurer in respect of the insurance business transacted by the insurer, shall be audited annually by an external auditor approved by the Commission.

(2) At the conclusion of the audit, the auditor shall issue a report signed by him in accordance with relevant auditing standards and other requirements as may be prescribed by the Commission.

Termination of auditor's appointment by insurer

34.—(1) Where the external auditor's appointment is terminated for any reason, the auditor shall submit to the Commission a statement of what the auditor believes to be the reasons for that termination.

(2) The furnishing, in good faith, by an auditor of a report or information as required under this section shall not be deemed to constitute a contravention of a provision of a law or a breach of a provision of a code of professional conduct to which the auditor is subject.

(3) The failure, in good faith, by an auditor to furnish a report or information in terms of this section shall not confer upon any person a right of action against the auditor which, but for that failure that person may not have had.

Restriction on dividend

35.—(1) An insurer shall not declare or pay dividend on its shares until —

(*a*) all its preliminary expenses, organisational expenses, commission, brokerage, amount of loses incurred and other capitalised expenses not represented by tangible assets have been completely written off ;

(*b*) adequate provisions have been made to the satisfaction of the Commission for actual and contingent losses on risk assets and liabilities ; and

(*c*) it has complied with any capital or solvency requirement as specified by the Commission under this Act.

(2) Any director, manager or officer who fails to comply with the requirement of this section commits an offence and is liable on conviction to a fine of not more than 5% of the dividend paid or to imprisonment for a term not exceeding three years or both.

Exemption of retirement life annuity from taxation

36. Notwithstanding the provisions in any other law, any amount payable as retirement life annuity including interests, dividends, profits and investments shall not be subject to tax and levies in any form.

Part VI — Insurance Intermediaries

Insurance agents

37.—(1) Notwithstanding the provisions of any other law, no person shall transact business in Nigeria as an insurance agent unless he is licensed under the provisions of this Act.

(2) A person shall not be licensed as an insurance agent unless —

(*a*) he possesses a minimum of certificate of proficiency issued by the Chartered Insurance Institute of Nigeria (in this Act referred to as "the Institute") ;

(*b*) in the case of a corporate entity, at least one of the principal officers possesses a certificate of proficiency issued by the Institute ;

(*c*) he possesses experience or length of service of at least 10 years in an underwriting firm ;

(*d*) prior to the date of his appointment, he has not been convicted by a court or tribunal for an offence involving dishonesty or fraud ; and

(*e*) he has not, within the preceding five years to the date of application become bankrupt or applied to take the benefit of the law for the relief of bankruptcy.

(3) Where the Commission is satisfied that the applicant has satisfied the requirements of this section and such other requirements as may be prescribed by the Commission in its Service Charter, it shall license the applicant as an insurance agent.

(4) Where the Commission is not satisfied as to any of the matters referred to in this section and such other requirements as may be prescribed in the Service Charter, the Commission shall inform the applicant in writing of its decision rejecting the application within a period as may be specified in the Service Charter counted from the date of receipt of the application or submission of any other relevant document or evidence as may be required by the Commission.

(5) A person aggrieved by the decision of the Commission rejecting his application may appeal in writing against such a decision to the Board within 30 days of receiving notice of refusal.

(6) The Board shall within 45 days of receiving the appeal give its decision on whether to allow or reject the appeal and may impose such conditions as it deems fit where it allows the appeal.

(7) A licence issued to an agent under this section entitles the holder to transact business as an insurance agent for the insurers named in the licence.

(8) A licence issued under this section is renewable after three years or at such times and upon payment of such fees as may be prescribed by the Commission.

(9) Any insurer who deals with an insurance agent not licensed under this Act is liable to a penalty of a sum equal to five times the amount of premium collected in respect of the business transacted.

(10) A person who transacts business as an insurance agent without having been licensed as required under this Part, commits an offence and is liable on conviction to a fine not exceeding ₦500,000 or imprisonment for a term not exceeding six months or both.

(11) In addition to subsection (10), the court may make an order requiring the person to refund any sum collected by him while transacting the business, to the rightful owners or other entitled persons.

Duties of insurance agents in relation to remittance of premiums

38.—(1) An insurer who carries on insurance business through insurance agents shall maintain a register showing the name and address of every insurance agent and the date on which the services were contracted and, where applicable, terminated.

(2) An insurance agent shall not collect premium on behalf of an insurer, and any premium payment shall be made directly to the insurer.

(3) An insurance agent who fails to pay any premium collected by him to the insurer in accordance with subsection (2) —

(*a*) commits an offence and is liable to a penalty of not more than 5% of the premium involved and additional ₦100,000 for each day the offence continues ; and

(b) shall not be eligible for further engagement as an insurance agent or employee by any insurance operator for a period of 12 months.

(4) Notwithstanding the provisions of subsection (3), the Commission may, where appropriate, impose such penalties on the insurance agent as may be prescribed by the Commission.

Licensing of insurance brokers

39.—(1) No person shall transact business in Nigeria as an insurance broker unless he is licensed under the provisions of this Act.

(2) A licence issued under this Act shall be renewed every five years or for such longer duration as the Commission may determine.

(3) Application for a licence as an insurance broker shall be made to the Commission in the prescribed form and accompanied by the fee and such other documents as may be prescribed by the Commission.

(4) The Commission may issue a licence where the —

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(*a*) applicant is a firm registered under Part E of the Companies and Allied Matters Act, or a partnership registered under Part C or D of Companies and Allied Matters Act, or a limited liability company, as the case may be ;

(*b*) partner or chief executive officer of the applicant company is a qualified person with cognate experience, a member of the Institute and a member of the professional body of registered insurance brokers established by an Act of the National Assembly ; and

(*c*) partner or the chief executive officer of the applicant company possesses the current membership clearance certificate of the professional body of registered insurance brokers established by an Act of the National Assembly.

(5) Where the Commission is not satisfied as to any of the matters referred to in subsection (4), the Commission shall inform the applicant in writing of its decision rejecting the application within a period as may be specified in the Service Charter counted from the date of receipt of the application or submission of any other relevant document or evidence as may be required by the Commission.

(6) A person aggrieved by the decision of the Commission rejecting his application may appeal in writing against such a decision to the Board within 30 days of receiving notice of refusal.

(7) The Board shall within 60 days of receiving the appeal give its decision on whether to allow or reject the appeal and may impose such conditions as it deems fit where it allows the appeal.

(8) A person who knowingly transacts business as an insurance broker without having been licensed for that purpose under this Act commits an offence and is liable on conviction, in the case of —

(*a*) a company, firm or other combination of persons, each principal officer of the company, firm or other combination of persons to a penalty of not less than ₦10,000,000 ; and

(*b*) an individual, to a fine not exceeding ₦5,000,000 or imprisonment for a term not exceeding 12 months :

Provided that the Commission shall impose minimum penalties relative to the amount gained or to be gained.

(9) In addition to the provisions of subsection (8), the Commission shall make an order requiring the refund of the money collected by the company, firm or individual to the rightful owners or other persons entitled to the money collected.

(10) An insurer who knowingly or recklessly transacts insurance business with any person mentioned in subsection (8) or pays commission to a broker whose licence has expired and had not submitted its application for renewal with the Commission shall be liable to a penalty of a sum equal to the commission due on the business transacted, and the Commission shall, by regulations, define "knowingly" and "recklessly" for the purpose of this section.

(11) An insurance broker shall not transact any insurance business with any underwriter without providing fundamental risk assessment information in accordance with the regulations issued by the Commission.

(12) An insurance broker who knowingly or recklessly transacts insurance business without providing the risk assessment information provided in subsection (11) shall not be entitled to earn, deduct or be paid the commission due on the business transaction and the business transacted shall be deemed and treated as a direct business to the relevant insurance company.

Reinsurance broking

40.—(1) An insurance broker shall not undertake reinsurance broking without being licensed by the Commission.

(2) The Commission may grant license to an insurance broker for purposes of subsection (1), where it is satisfied that —

(*a*) the insurance broker has the required expertise to conduct the class of reinsurance business ; and

(*b*) at least one partner or director of the reinsurance broking firm or company has a minimum of seven years working experience in the middle management cadre of a reinsurance broking firm or reinsurance department of an insurance company, and where it is an insurance broking company combining reinsurance broking to its practice, a minimum of three years' experience in a reinsurance broking firm or reinsurance department of an insurance company, reinsurance company or reinsurance department of an insurance broking company.

(3) Where the Commission is not satisfied as to any of the matters referred to in subsection (2) or any other matter, the Commission shall inform the applicant in writing of its decision rejecting the application within a period of 30 working days from the date of receipt of the application or submission of any other relevant document or evidence as may be required by the Commission.

(4) A person aggrieved by the decision of the Commission rejecting his application may appeal in writing against such a decision to the Board within 30 days of receiving notice of refusal.

(5) The Board shall within 60 working days of receiving the appeal give its decision on whether to allow or reject the appeal and may impose such conditions as it deems fit where it allows the appeal.

(6) A person who transacts business as a reinsurance broker without having been licensed for that purpose under this Act commits an offence and is liable on conviction in the case of —

(*a*) a company, firm or other combination of persons, each principal officer of the company, firm or other combination of persons to a penalty not exceeding ₦1,000,000 ; and

(*b*) an individual, to a fine of at least ₦500,000 or imprisonment for a term not exceeding 12 months.

(7) In addition to the provisions of subsection (6), the Commission shall make an order requiring the refund of the money collected by the company, firm or individual to the rightful owners or other persons entitled to the money collected.

Renewal of licence of an insurance or reinsurance broker

41.—(1) All insurance and reinsurance brokers shall renew their licenses within six months to the expiry or such longer date as may be prescribed by the Commission in the licence.

(2) For the purpose of renewal, all documents including evidence of being a current member of the professional body of registered insurance

brokers established by an Act of the National Assembly shall be submitted within such time as may be prescribed by the Commission.

(3) The Commission shall publish the list of all brokers with valid licences on its website not later than 30 days after the date specified in subsection (1).

(4) A letter of authorisation to continue to operate for a period of not more than six months beginning from the date of expiry of licence shall be issued to an insurance broker who has submitted all relevant documents pending the processing and issuance of a new licence by the Commission.

(5) Where the Commission informs an applicant of rejection of the application for renewal of licence, the provisions of section 39 (5), (6) and (7) of this Act shall apply in relation to insurance and reinsurance brokers.

Cancellation of licence of an insurance or reinsurance broker

42.—(1) The Commission may cancel the licence of an insurance broker in the following circumstances, where a broker —

(*a*) has knowingly or recklessly contravened the provisions of this Act or regulations issued under this Act ;

(*b*) is carrying on business as a loss adjuster ;

(*c*) has, for the purpose of obtaining a licence or paying a levy to the Commission, knowingly or recklessly made a statement which is false in any material particular ;

(*d*) has his name struck off the list of the membership of the professional body of registered insurance brokers established by an Act of the National Assembly ;

(*e*) has knowingly or recklessly made false declaration of its income or false declaration of remittance of premiums collected ;

(*f*) has been found guilty by a court of competent jurisdiction of dishonesty or fraud by whatever name called, including misappropriation of clients' money ; or

(*g*) has knowingly or recklessly acted contrary to the code of conduct of the profession.

(2) Prior to invoking cancellation of a broker's licence, the Commission shall apply a graduated sanction procedure which shall include warnings, fines, and suspension of licence.

(3) A formal notice of intention to cancel licence by the Commission shall be given to the broker by the Commission.

(4) The Commission shall in the notice of its intention to cancel the licence give the broker a specified period of time, as it may deem necessary, within which to remedy any of the defects or breaches identified in subsection

(1), where the defects or breaches are capable of being remedied.

(5) Where the defect or breach is not capable of being remedied or where it is not remedied within the time specified by the Commission in the notice given, the Commission shall proceed to cancel the licence of the broker.

(6) Where the licence of a broker is cancelled —

(*a*) the broker shall immediately discontinue to accept any new business ; and

(*b*) in all cases, the Commission may act as a receiver from the date of cancellation in accordance with the provisions of this Act or may appoint any person to act on its behalf.

(7) A broker whose licence has been cancelled by the Commission may, within 30 days after the notice of the Commission's cancellation of its license appeal to the Board in writing setting out the grounds of appeal and the exercise of the right to appeal by a broker whose license is cancelled shall act as a stay of the implementation of the decision of the Commission.

(8) The Board shall within 90 days of receiving the appeal give its decision on whether to allow or reject the appeal, and where the appeal is allowed, the Board may impose such conditions as it deems fit.

(9) Where an appeal is disallowed by the Board, the Commission shall cause a notice to be published as it may determine.

Requirement as to indemnity cover

43. An insurance and reinsurance broking firm shall —

(*a*) maintain a professional indemnity cover of not less than ₦100,000,000 or 50% of its annual brokerage income for the preceding year, whichever is greater ;

(*b*) not directly or indirectly hold financial interest in excess of 10% in —

(*i*) an insurance company, or

(*ii*) a loss adjusting company in Nigeria ;

(*c*) have as a member of its senior management staff at least one person who has professional qualification in insurance or at least seven years experience at senior management level with an insurer or insurance broking firm ; and

(*d*) satisfy such other conditions as the Commission may prescribe in relation to indemnity cover, staff, financial interest and keeping of register.

Records of transactions and other documents to be kept by insurance brokers

44.—(1) An insurance or reinsurance broker shall keep —

(*a*) records of all insurance business handled by him and accounting

records in such form and for such period as may be prescribed by the Commission ; and

(*b*) evidence of current membership of the Nigerian Council of Registered Insurance Brokers.

(2) An insurance or reinsurance broker shall submit audited financial statements and revenue account to the Commission not later than 30 June in each year or later date as the Commission may prescribe.

(3) An insurance or reinsurance broking firm that contravenes the provisions of this section is liable to a penalty of such sum as may be prescribed by the Commission.

Suspension of licence

45.—(1) Where an insurance broker fails to comply with the provisions of this Act, the Commission may, without prejudice to any further sanction, suspend his licence for a period not exceeding six months.

(2) An insurer who transacts business with an insurance broker whose licence has been suspended is liable to a penalty of ₦250,000 or the amount of premium involved, whichever is higher.

(3) Where an insurer continues to violate the provisions of subsection (2), the Commission may give notice of its intention to cancel the licence of the insurer under section 8 of this Act

Audit of insurance broker

46.—(1) An external auditor who audits the accounts of an insurance broker shall, at the conclusion of each audit issue a —

(*a*) certificate that all premiums collected by the insurance broker have been paid to the insurer with whom he transacted business during the year ; and

(*b*) report signed by him in accordance with relevant auditing standards and other requirements as may be prescribed by the Commission.

(2) A false declaration of income or remittance of premiums collected knowingly or recklessly made by an insurance or reinsurance broker shall constitute a ground for the cancellation of licence.

Insurance broker to establish clients' account

47.—(1) An insurance broker shall establish and maintain, at all times, a clients' account into which all money, premiums, claims and recoveries from and on behalf of clients, insurers and reinsurers shall be paid.

(2) An insurance broker who contravenes the provisions of subsection (1) shall be liable to a penalty of not less than the sum of ₦1,000,000.

Licencing of loss adjusters

48.—(1) A person shall not transact business as a loss adjuster in Nigeria unless the —

(*a*) person is licenced for that purpose under this Act ; and

(*b*) chief executive or executive director is a registered member of a professional body of loss adjusters recognised by law.

(2) An application for licensing as a loss adjuster shall be made to the Commission in the form and be accompanied by such fee and other documents as may be prescribed by the Commission.

(3) The Commission shall license the applicant as a loss adjuster, where —

(*a*) the applicant has the prescribed qualifications ;

(*b*) the applicant is either a partnership or a limited liability company duly registered under the Companies and Allied Matters Act, with such minimum fully paid up share capital, as may be prescribed by the Commission ;

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(*c*) the chief executive or the executive director of the applicant company is a member of the Institute and a registered member of professional body of loss adjusters recognised by law ;

(*d*) no partner or director of the applicant company is an employee or director of any other insurance operator ; and

(*e*) the applicant has met such requirements as may be prescribed by the Commission.

(4) A person who transacts business as a loss adjuster without having been licensed for that purpose under this Act commits an offence and is liable on conviction, in the case of —

(*a*) a company, firm or other combination of persons, each principal officer of the company, firm or other combination of persons to a penalty of at least ₦500,000 ; and

(*b*) an individual, to a penalty of at least ₦250,000 or imprisonment for a term not exceeding 12 months.

(5) An insurer who, knowingly or recklessly, engages the services of a person not licensed as a loss adjuster under this Act is liable to a penalty of a sum equal to 10 times the fees charged for the services rendered.

Renewal of licence of loss adjusters

49.—(1) All loss adjusters shall renew their licenses every five years or for such longer duration as may be prescribed by the Commission.

(2) For the purposes of renewal, all documents shall be submitted to the Commission within such time as may be prescribed by the Commission.

(3) The Commission shall publish annually the list of all licenced loss adjusters on its website.

Cancellation of licence of a loss adjuster

50.—(1) The Commission shall give notice in writing of its intention to

cancel the licence of a loss adjuster where a licensed loss adjuster has —

(*a*) knowingly or recklessly contravened the provisions of this Act ;

(*b*) for the purpose of licensing or payment of a levy to the Commission, made a statement which is false in any material particular ;

(*c*) been found guilty, by a court of competent jurisdiction of dishonesty or fraud including misappropriation of client's money ; or

(*d*) displayed any act of professional misconduct.

(2) The Commission shall in the notice of its intention to cancel the licence of the loss adjuster give the loss adjuster a specified period of time, as it may deem necessary, within which to remedy any of the defects or breaches identified in subsection (1) where the defects or breaches are capable of being remedied.

(3) Where the defect or breach is not capable of being remedied or where it is not remedied within the time specified by the Commission in the notice given, the Commission shall proceed immediately to cancel the licence of the loss adjuster.

(4) The Commission shall cancel the license of a loss adjuster within 30 days of receipt of the notice from the Institute of Loss Adjusters of Nigeria that the name of the loss adjuster is struck off from the list of loss adjusters.

(5) Where the licence of a loss adjuster is cancelled, the —

(*a*) loss adjuster shall immediately discontinue to accept any new business ; and

(*b*) Commission may act as a receiver from the date of cancellation in accordance with the provisions of this Act or may appoint any person to act on its behalf.

(6) A loss adjuster whose licence has been cancelled by the Commission may within 30 days after the cancellation appeal to the Board in writing setting out the grounds of appeal, and the exercise of the right to appeal by an aggrieved loss adjuster shall act as a stay of the implementation of the decision of the Commission.

(7) The Board shall within 90 days of receiving the appeal give its decision on whether to allow or reject the appeal and where the appeal is allowed, the Board may impose such conditions as it deems fit.

(8) Where an appeal is disallowed by the Board, the Commission shall cause a notice to be published in such a manner as it may determine.

Records to be kept by loss adjuster

51. A loss adjuster shall keep proper records of its business in such forms as may be prescribed which shall be subject to inspection by the Commission or any person authorised by the Commission.

Attendance to claims by foreign loss adjusters

52. The Commission shall permit a recognised foreign loss adjuster to attend to claims in Nigeria provided that the foreign loss adjuster carries out the assignment in collaboration with at least one firm of loss adjusters licensed under this Act.

Part VII — Actuary

An Actuary

53.—(1) Actuary is a person who possesses the required professional actuarial qualification from a recognised actuarial professional body.

(2) Statutory Actuary is an Actuary, as defined in subsection (1) and recognised by the Commission as qualified to practice in Nigeria, who has been contracted to carry out annual actuarial valuation report for the insurer or reinsurer.

(3) The Commission shall be advised of the appointment and termination of the Statutory Actuary.

(4) The Statutory Actuary shall be independent of the insurer or reinsurer on which the valuation is being carried out.

Powers of the Commission to appoint actuary

54.—(1) An insurer shall appoint an Actuary for its insurance business.

(2) Where an insurer fails to appoint an Actuary, the Commission may appoint a qualified person to act as the Actuary for the business of the insurer under this Act.

(3) An Actuary appointed under subsection (2) is considered, for the purposes of this Act, to have been appointed by the insurer.

(4) Where the Commission is satisfied that the Actuary of an insurer failed to fulfil his obligations under this Act, it may revoke its approval of the appointment of the Actuary by a written notice to the insurer and the insurer shall appoint a new Actuary.

(5) A notice revoking the appointment of an Actuary under subsection (4) shall be sent to the Actuary and the insurer.

(6) The Commission shall issue regulations to guide operations of actuaries.

Powers of Actuary

55.—(1) The Actuary of an insurer —

(*a*) is entitled to have access to any information or document in the possession or under the control of the insurer required for the proper performance of his functions and discharge of his duties under this Act ; and

(*b*) may require any director or employee of the insurer to answer questions or produce documents for the purpose of enabling the Actuary

to properly perform his functions and discharge of his duties under this Act.

(2) A director or employee of an insurer shall not refuse or fail, without excuse, to comply with the requirement of subsection (1) (*b*).

(3) Where, without reasonable ground —

(*a*) an insurer fails or refuses to provide its Actuary access to the documents and information specified in this section, or

(*b*) a director or employee of the insurer contravenes the provisions of subsection (1) (*b*),

the Actuary shall report the matter to the Commission, and the insurer and its officers shall be liable to penalty as may be prescribed by the Commission.

Obligations of Actuary

56.—(1) The Actuary of an insurer shall report immediately to the Commission where —

(*a*) reasonable grounds exist for believing that the insurer or a director of the insurer may have contravened the provisions of this Act or any other relevant enactment ; and

(*b*) the contravention is such as may adversely affect the interest of policy holders of the insurer.

(2) Where in the course of discharging his duties under this Act, the Actuary comes across any matter in relation to the business of the insurer which, in the opinion of the Actuary, requires action to be taken by the insurer, or its directors, to avoid —

(*a*) any contravention of the provisions of this Act, or

(*b*) the interest of policy holders of the insurer, being adversely affected,

the Actuary shall immediately report such matter to the insurer.

(3) Where the Actuary of an insurer makes a report to the insurer under subsection (2) and the insurer does not, within such time as the Actuary may specify take the action required, the Actuary shall report the matter to the Commission.

(4) Where the appointment of an Actuary is terminated by an insurer, the Actuary shall —

(*a*) immediately inform the Commission of the termination and disclose to the Commission the circumstance that gave rise to the termination ; and

(*b*) report any information which, but for the termination, would have been reported to the Commission.

(5) Where, in good faith, an Actuary provides a report or information to the Commission under the provisions of subsections (1), (3), or (4), the Actuary shall not be in contravention of any enactment, rule, law or professional code of conduct to which the Actuary is subject and no civil, criminal or disciplinary proceedings shall lie against the Actuary in respect of the report or information provided to the Commission.

(6) The failure, in good faith, of an Actuary to provide a report or information to the Commission under subsections (1), (3), or (4), does not confer upon any other person a right of action against the Actuary which, but for the failure, the person would not have had.

(7) An Actuary who contravenes the provisions of subsections (1), (3) or (4), shall be liable to a fine of ₦1,000,000 or imprisonment for a term not more than six months.

Annual investigations

57.—(1) An insurer shall, at such period as may be prescribed by the Commission, cause an investigation to be carried out by its Actuary into its financial condition in respect of its insurance business.

(2) An investigation under subsection (1) shall comply with such requirements as may be prescribed by the Commission.

(3) The Actuary shall produce a report of the investigation carried out under subsection (1) as may be prescribed by the Commission.

Valuation by statutory Actuary

58.—(1) An insurer shall, at least once every year cause an actuarial valuation to be carried out by its Statutory Actuary into the liabilities in respect of its insurance business.

(2) An investigation under subsection (1) shall comply with such requirements as may be prescribed by the Commission.

(3) The Statutory Actuary shall produce a report of the investigation carried out under subsection (1) as may be prescribed by the Commission.

Actuarial investigation and report

59.—(1) The Commission may, at any time, by notice, direct an insurer to cause an Actuary to investigate the aspects of its financial condition that the Commission may specify in the notice and to provide the Commission with the report prepared by the Actuary.

(2) A report prepared under subsection (1) shall be at the cost of the insurer.

(3) The Commission may direct that actuarial investigation be carried out by the Actuary appointed by the insurer, or by any other Actuary the Commission may specify.

PART VIII — PREMIUMS AND COMMISSIONS

Payment of insurance premium

60.—(1) The receipt of an insurance premium shall be a condition precedent to a valid contract of insurance and there shall be no cover in respect of an insurance risk, unless the premium is paid in advance.

(2) An insurance premium collected by a broker in respect of an insurance business transacted through the broker shall be deemed to be premium paid to the insurer involved in the transaction.

(3) Where an insurer grants cover, howsoever described, in contravention of the provisions of subsection (1) or any other provision of this Act or regulations made by the Commission under this Act, the insurer shall be liable to such penalty not more than two times the premium collected for the policy, or as may be prescribed by the Commission.

(4) The provisions of subsection (1) shall not apply where an insurer grants cover, howsoever described, in respect of policies issued for the benefit of third parties under any insurance made compulsory by law.

(5) The provisions of this section are without prejudice to reinsurance contracts which shall be governed by the terms of such contracts.

Payment of premium through a broker

61.—(1) Where an insurance business is transacted through a broker, the broker shall, not later than 20 working days or 30 calendar days after the receipt of the premium or effective date of cover, or due date of cover, whichever is later, pay to the insurer.

(2) A broker who contravenes the provisions of subsection (1) is liable to —

(*a*) pay the net premium due to the insurer with interest at 2% above the Central Bank of Nigeria minimum rediscount rate from the date of the breach ; and

(*b*) a penalty in the sum of ₦500,000 or two times the value of the commission earned, whichever is higher.

(3) Where a broker collects premium on behalf of the insurer, it shall satisfy such requirements as may be prescribed by the Commission.

(4) Non-remittance of premium may constitute a ground for restriction or cancellation of the licence.

Payment of insurance commission

62.—(1) An insurer shall not pay, by way of commission to an insurance broker or any other intermediary, except in accordance with regulations issued by the Commission, an amount exceeding —

(*a*) 9 % of the premium in respect of group life assurance ;

(*b*) 12.5% of the premium in respect of motor insurance business ;

(*c*) 15% of the premium in respect of workmen's compensation ;

(*d*) 20% of the premium in respect of any other class of non-life insurance business ; or

(*e*) 3 % of single premium annuity.

(2) No alteration in the rates of a commission mentioned in subsection (1) shall be made except with the prior approval of the Commission.

(3) The rate of commission payable to an insurance agent shall not exceed the rate of commission payable to insurance brokers or as may be determined by the Commission.

(4) A person who pays or receives any commission other than in compliance with the provisions of this section, is liable to a penalty of not more than five times the amount of excess commission paid or received.

Administration of certain discounts and rebates

63.—(1) Subject to any regulations as may be issued by the Commission in this regard, an insurer shall be at liberty to grant incentives in the form of 'no claims' discount, risk improvement discount, profit share and other similar forms of incentives in respect of any class of insurance, and the Commission shall issue regulations for the application and administration of such incentives.

(2) An insurer who grants incentives in breach of any regulations issued by the Commission in that regard shall be liable to a penalty as may be determined by the Commission in the relevant regulations.

(3) Premium loading in whatever form is prohibited.

PART IX — INSURANCE CONTRACTS: DISCLOSURE, CONDITIONS AND WARRANTIES

Proposal form

64.—(1) Where an insurer requires an insured to complete a proposal form or any other application form for insurance, the form shall be drawn up in a manner as to elicit such information as the insurer considers material in accepting the application for insurance of the risk and any information not specifically requested shall be deemed not to be material.

(2) The proposal form or any other application form for insurance shall be printed in easily readable letters with an inscription in a conspicuous place on the front page, that "the insurance agent who assists an applicant to complete an application or proposal form for insurance shall be deemed to have done so as the agent of the applicant".

(3) A disclosure or representation made by the insured to the insurance agent shall be deemed to be a disclosure or representation to the insurer provided the agent is acting within his authority.

(4) The provision of the Bank Verification Number (BVN) and National Identification Number (NIN) shall form part of the material information required for submission to the insurer in the case of an individual insured and

corresponding Corporate Affairs Commission documents in the case of a corporate entity.

Breach of material and relevant terms

65.—(1) In a contract of insurance, a breach of a term of the contract, whether called a warranty or a condition, shall not give rise to any right by, or afford a defence to the insurer unless the term is material and relevant to the risk or loss insured against.

(2) Where there is a breach of a term of a contract of insurance, the insurer shall not be entitled to repudiate the whole or any part of the contract or a claim brought on the grounds of the breach unless —

(*a*) the breach amounts to a fraud ; or

(*b*) it is a breach of a fundamental term of the contract.

(3) Where there is a breach of a material term of a contract of insurance and the insured makes a claim against the insurer and the insurer is not entitled to repudiate the whole or any part of the contract, the insurer shall be liable to indemnify the insured only to the extent of the loss which the insured may have suffered if there was no breach of the term.

(4) Nothing in this section shall prevent the insurer from repudiating a contract of insurance on the ground of a breach of a material term before the occurrence of the risk or loss insured against.

(5) Notwithstanding the provisions of this section an insurer may waive the breach of a term of the contract.

(6) For the purpose of subsection (2), "fundamental term" means a warranty, condition or other term of an insurance contract which a prudent insurer will regard as material and relevant in accepting to underwrite a risk and in fixing the amount of premium.

Insurable interest

66.—(1) A policy of insurance made by a person on the life of any other person, on property or on any other event whatsoever shall be void where the person, for whose benefit, or on whose account the policy of insurance is made, has no insurable interest in the life, property or subject matter insured or where it is made by way of gaming or wagering.

(2) A person shall be deemed to have an insurable interest in the life of any other person or any property or in any other event where he stands in any legal relationship to that person, property or other event in consequence of which he may benefit by the safety of that person, property or event or be prejudiced by the death, loss, injury or destruction of that person or property or the loss from the occurrence of the event.

(3) In this section, "legal relationship" includes —

(*a*) the relationship which exists between persons under customary

law or Islamic law whereby one person assumes responsibility for the maintenance and care of the other ; and

(*b*) equitable interests.

Policy document to specify insured or event

67.—(1) A policy of insurance shall not be made on the life of a person, property or event without inserting in the policy, the name of the insured, the property or the event as applicable and those for whose benefit or on whose account the policy is made.

(2) The provision of subsection (1) shall not invalidate a policy for the benefit of unnamed persons, falling within a specified class or description, if the class or description is stated in the policy with sufficient particularity to make it possible to establish the identity of all persons who at any given time are entitled to benefit under the policy.

Special requirements relating to group life assurance

68.—(1) Notwithstanding any other provision in this Act and any other Act, every employer shall maintain a group life assurance policy in favour of each employee for a minimum of three times the annual total emolument of the employee and premium shall be paid not later than the date of commencement of the cover.

(2) Where an employee dies, his entitlements under group life assurance policy maintained under subsection (1) shall be paid by an underwriter to the named beneficiary in accordance with section 67 of this Act.

(3) No group life assurance policy shall be issued without clearly stating the employer as trustee and employees as the life assured, and containing the details specified in subsection (4).

(4) The details required to be specified under subsection (3) include —

(*a*) names and addresses of the assured ;

(*b*) the exact salary grade level ;

(*c*) total death benefit payable ; and

(*d*) names and addresses of beneficiaries, verifiable by any acceptable means of identification.

(5) Every insurer providing a group life cover under this section shall generate a Personal Identification Number (PIN) for each of the scheme members under the policy and deliver same to each of the scheme member not later than two weeks after the issuance of the policy.

(6) From the commencement of this Act, all employees' group life assurance policy required to be effected under this Act shall be undertaken by all Ministries, Departments and Agencies of the Government.

(7) An insurer who fails to comply with the requirements of this section

shall be liable to a penalty of at least ₦10,000,000 or as the Commission may determine.

(8) An employer who fails to comply with this section shall be liable to a penalty of the annual total emolument of each employee without a group life assurance policy or as the Commission may determine.

(9) In the event of the death of an employee without a group life cover, the employer shall be liable to pay three times the total emolument of such employee.

(10) The Commission shall make regulations for the effective implementation of this section.

Missing employee

69. Where an employee is missing and is not found within a period of one year, from the date he was declared missing, and a board of inquiry set up by the Commission makes a determination that, having regards to available information and all relevant circumstances, it is reasonable to presume that the employee is dead, the provisions of section 68(2) of this Act shall apply.

Limitation on amount receivable

70. A person with an insurable interest in the life, property or event insured, shall not be entitled to receive from the insurer an amount greater than that value of the interest of the insured in such life, property or other event and the balance payment shall be paid into the estate of the insured or policy holder.

Right of assignee to sue

71. A person who —

(*a*) is entitled by assignment or other derivative title to a policy of insurance, and

(*b*) has, at the time when action is brought on the policy, the right in equity to receive and to give an effectual discharge to the insurer liable under such policy for money thereby assured or secured,

shall be entitled to sue in the name of the person to recover the money, but the assignee shall not have a better title than the insured.

Notice of assignment

72.—(1) An assignment of a policy of life assurance shall not confer on the assignee or his personal representatives any right to sue for the amount of the policy or the insured money, unless a written notice of the date and purport of the assignment is given to the assurer liable under the policy at his principal address of business.

(2) The date on which the notice is received shall regulate the priority of all claims under the assignment.

(3) An assignment of a policy of life assurance may be made by endorsement on the policy or by a separate instrument in such form as may be prescribed by the Commission.

Acknowledgement of notice of assignment

73.—(1) An insurer to whom a notice of assignment is given in respect of any policy for which the insurer is liable, shall acknowledge such notice and that acknowledgement, shall be a conclusive evidence against the insurer of his having received the notice.

(2) Notwithstanding the provisions of this section, the onus of proving the delivery of a notice of assignment shall be on the assignee if the insurer fails to acknowledge the receipt of the notice.

Provisions inapplicable to marine insurance

74. The provisions of this Part shall not apply to contracts of marine insurance.

Insurance of building under construction

75.—(1) A person shall not construct or cause to be constructed any building of more than one floor without insuring his liability in respect of the construction risks that may be caused by his negligence or the negligence of his servants, agents, consultants or public authority which may result in bodily injury or loss of life to any person or workman working on the site or to any member of the public.

(2) The owner or contractor shall procure insurance as required under the provision of subsection (1) immediately upon approval of building plan before commencing construction.

(3) A person who contravenes the provision of subsection (1) commits an offence and is liable on conviction to a fine of ₦5,000,000 or imprisonment to a maximum term of 12 months or both.

Insurance of public buildings

76.—(1) Every public building shall be insured against the hazards of collapse, fire, earthquake, storm, flood and such other hazards as the Commission may determine.

(2) The insurance policy to be provided for under subsection (1) shall cover the legal liabilities of the owner and occupier of premises for loss or damage to property or bodily injury or death suffered by any user of the premises and third parties.

(3) Every direct insurer on policies issued under subsection (1) shall pay 0.25% of the net premium received quarterly into a Fire Services Maintenance Fund which shall be established, administered and disbursed by the Commission for the purpose of providing grant or equipment to institutions engaged in fire-fighting services.

(4) An insurer who defaults in making payment as required under subsection (3) is liable to a penalty of not more than 10 times the amount payable, provided that persistence in non-compliance with the provision shall be a ground for the cancellation of registration of an insurer.

(5) An owner or occupier of premises who contravenes the provision of this section, commits an offence and is liable on conviction to a fine of at least ₦1,000,000 or imprisonment for a term not exceeding 12 months or both.

(6) In this section, "public building" includes a tenement house of more than one floor hostel, a building occupied by a tenant, lodger or licensee and any building to which members of the public have access for the purpose of obtaining educational or medical service, or for the purpose of recreation or transaction of business.

(7) The Commission shall request the approving authority for building plans to seal up any building on reasonable belief that it poses serious risk to the public and no adequate or evidence of insurance has been provided in accordance with section 75 of this Act.

Insurance of Government assets and employees

77.—(1) All assets and employees of the Federal Government and its agencies shall be insured against the hazards and perils of such nature as the Commission may determine.

(2) The Commission shall make regulations on the decision-making process of such risk in a manner that is expedient and in the interest of all stakeholders.

Insurance of petroleum and gas stations and products in transit

78.—(1) All petroleum and gas refilling stations and installations shall be insured against third-party losses occasioned by accidental fire outbreak or explosion.

(2) All vehicles transporting petroleum and gas products shall be insured against third-party losses occasioned by accidental fire outbreak or explosion.

(3) The responsibility of the cover referred to in subsections (1) and (2) shall be on the owner of the petroleum and gas products in transit, or owner or operator of the relevant refilling station as the case may be.

(4) A copy of certificate of insurance that meets the minimum requirement shall be displayed in a conspicuous location at the refilling station or included in the documents covering the petroleum and gas products in transit as the case may be.

(5) A person who fails to comply with subsections (1), (2) and (3) is liable on conviction to a fine of at least ₦1,000,000 or a minimum term of two years imprisonment or both.

(6) The Commission shall make regulations for effective implementation of this section.

Application of proceed of claims on houses destroyed by fire

79.—(1) Where a house or any other building insured against loss by fire is damaged or destroyed by fire and there is no reasonable ground to suspect that the owner, occupier or any other person who insured the house or other building is guilty of fraud in respect of the insurance, or of willfully causing the

fire, the insurer who is liable to make good the loss may, on the request of any person entitled or interested in the insured house or building cause the insurance money payable to be paid out and expended as set out in subsection (2).

(2) The insurance money payable under subsection (1) shall be paid out and expended towards re-building, re-instating or repairing of the house or any other building so burnt down, damaged or destroyed by fire, unless —

(*a*) the party or parties claiming such insurance money, within 60 days after the claim is agreed, gives security to the satisfaction of the insurer that the insurance money will be paid out and expended as stated ; or

(*b*) the insurance money is, at the time, settled and disposed of among all the parties entitled as the insurer may determine with the approval of the court on the application of the insurer or any of the interested parties.

(3) Notwithstanding the provisions of subsection (1), the insured shall have the right to elect whether to re-instate the house or building damaged or destroyed by fire, or to pay the insured for the loss suffered but not exceeding the insured sum.

Professional indemnity by health care providers

80.—(1) A health care provider shall —

(*a*) maintain a professional indemnity insurance from a registered insurance company ; and

(*b*) display in its office, its Certificate of Insurance.

(2) A health care provider who fails to comply with the provisions of this section is liable to such fine as may be prescribed by the Commission in consultation with the National Health Insurance Authority or any other body established by an Act of the National Assembly to replace it.

(3) A health care provider shall have the meaning assigned to it under the National Health Insurance Authority Act, or any other applicable Act and shall include a provider of mortuary services.

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Aviation insurance

81.—(1) The provisions of this section shall apply in addition to the provisions of the Civil Aviation Act.

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(2) Where the provisions of the Civil Aviation Act in relation to insurance matters are inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

(3) A carrier operating air transport services to, from or within Nigeria, or an aerodrome operator, aviation fuel supplier, or a provider of ground handling services, traffic control services, aircraft maintenance services, or a provider of such other related or allied services as the Nigerian Civil Aviation Authority may determine, shall maintain adequate insurance covering their liabilities —

(*a*) under the Civil Aviation Act ; and

(*b*) to pay compensation for damages that may be sustained by third parties.

(4) Notwithstanding anything contained in the Civil Aviation Act —

(*a*) the policy document as an evidence of insurance cover shall be deposited by the carrier, operator or other aviation service provider with the Commission not later than seven days before commencement of operation ; and

(*b*) a carrier, operator or other aviation service provider who fails to deliver the policy document referred to in paragraph (a) shall not be allowed to commence operation.

(5) Any carrier, operator or other aviation service provider that commences operation without having complied with the provisions of this section commits an offence and is liable on conviction to a fine of not less than three times the value of all related premiums payable on the various classes of insurance required and any of its principal officers who is responsible is liable on conviction to imprisonment for a maximum term of 12 months or both.

Insurance of import of goods and merchandise

82.—(1) An insurance in respect of goods and merchandise to be imported into Nigeria shall be made with an insurer registered under this Act.

(2) The provisions of any law, contract or instrument shall be construed with such modifications, amendments and omissions, as may bring them into conformity with the general intendment of this section.

(3) Without prejudice to subsection (1), every letter of credit or such similar document issued by any bank or other financial institution in Nigeria in respect of such goods and merchandise shall be on a carriage and freight basis only.

(4) An importer, consignee, shipper, broker or agent who effects any insurance other than in compliance with the provisions of this section commits an offence and is liable on conviction to a fine of ₦1,000,000 or the premium involved, whichever is higher.

Ad-hoc committee on compulsory insurance business

83.—(1) The Commission may set up an *ad-hoc* committee to deal with matters relating to any class of insurance business made compulsory by this Act.

(2) The Committee set up by the Commission under subsection (1) shall consist of such number of persons with relevant qualification, knowledge, skill, and experience on the subject matter and perform such functions as the Commission may determine.

PART X — MOTOR VEHICLES (THIRD PARTY) INSURANCE

Insurance against third-party risks

84.—(1) Subject to the provisions of this Part, a person shall not use, cause or permit any other person to use a motor vehicle or be in effective control of such a vehicle unless there is in effect in relation to the use of that motor vehicle by such person or such other person as the case may be, a policy of insurance in respect of third-party risks in compliance with the provisions of this Part.

(2) A person who contravenes the provision of this section is liable on conviction to a fine of at least ₦250,000 or imprisonment to a maximum term of 12 months or both.

(3) A person shall be deemed to be in effective control of a motor vehicle within the meaning of this section if he is the owner of the motor vehicle or directs, instructs or orders the motor vehicle to be used on a highway or in any other public place.

(4) In relation to a vehicle carrying passengers for hire or reward, every fare paying passenger in the vehicle shall be insured by the operator of the vehicle against death or bodily injury.

(5) Pursuant to the provisions of subsection (4), the amount of compensation payable in respect of death or total permanent disability shall be ₦2,000,000 or such higher sum as the Commission may specify in regulations.

Limitation of time for proceedings

85. Notwithstanding the provisions of any law, proceedings in respect of an offence under section 84 of this Act may be instituted within a period —

(*a*) of 12 months from the date of the commission of the alleged offence ; or

(*b*) not exceeding 12 months from the date on which it came to the knowledge of the prosecutor that the offence had been committed or one year from the date of the commission of the offence, whichever period is longer.

Exemptions

86.—(1) The provisions of this Part shall not apply to —

(*a*) the user of a motor vehicle owned or in use for military purposes by the Nigerian Armed Forces ; and

(*b*) vehicles of government of a foreign state with which there is reciprocal agreement with the Government of the Federal Republic of Nigeria in use by the diplomatic mission or officials of such State while such vehicles are being used in the course of official duties.

(2) With respect to subsection (1) (a), the Minister of Defence or such other body responsible for defence matters shall be liable for all third-party risks.

(3) With respect to subsection (1) (b), where there is no reciprocal agreement, the Diplomatic Mission shall be liable for all third-party risks.

Requirements in respect of policies and certificates of insurance

87.—(1) A policy of insurance, for the purposes of this Part, shall be a policy which —

(*a*) is issued by a registered insurer ; and

(*b*) insures such persons or classes of persons as may be specified in the policy in respect of liability which may be incurred by him or them in respect of —

(*i*) death of or bodily injury to third parties,

(*ii*) medical expenses of any third-party accident victim not exceeding ₦100,000 for out-patient treatment and ₦250,000 for in-patient treatment or such sum as may be prescribed by the Commission, and

(*iii*) damage to the property of third parties not exceeding ₦3,000,000 or such sum as may be prescribed by the Commission, caused by or arising out of the use of a motor vehicle covered by the policy.

(2) The policy of insurance mentioned in subsection (1) shall in addition provide compensation for damage to any public property on the highways including streetlights, traffic lights, crash barriers and sign posts.

(3) Where any payment is made, whether or not with an admission of liability by an insurer under or in consequence of a policy issued under the provisions of this Act in respect of the death or bodily injury to any person arising out of the use of a motor vehicle and the deceased or person who sustained bodily injury has to the knowledge of the insurer received treatment at a hospital, whether as an in-patient or out-patient, in respect of the injury, the insurer shall pay to the hospital the expenses reasonably incurred in giving such treatment after deducting any money received by such hospital in payment of a specific charge for the treatment :

Provided that the amount to be paid by the insurer shall not exceed ₦1,500,000 for in-patient or ₦500,000 for out-patient or such sum as may be prescribed by the Commission for each person so treated.

(4) Notwithstanding the provisions of any other law, a person issuing a policy of insurance under this section shall be liable to indemnify a person specified in the policy in respect of any liability which the policy purports to cover.

Certain conditions in policies to be of no effect

88.—(1) Any condition in a policy issued under this Part shall be of no effect in connection with such claims where it provides that —

(*a*) no liability shall arise under the policy ; or

(*b*) any liability so arising shall cease in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy.

(2) Nothing in this section shall be so construed as to render void any provision in a policy requiring the person insured to repay to the insurer any sums which the insurer may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third-parties.

Avoidance of restriction on third-party policies

89.—(1) Where an insurance policy has been taken out under the provisions of section 87 of this Act by the insured, so much of the policy as purports to restrict the insurance of the person insured, in respect of any of the following matters, the —

(*a*) age or physical or mental condition of persons driving the motor vehicle,

(*b*) condition of the motor vehicle,

(*c*) number of persons that the motor vehicle carries,

(*d*) weight or physical characteristics of the goods that the motor vehicle carries,

(*e*) times at which or the areas within which the motor vehicle is used,

(*f*) horsepower or value of the motor vehicle,

(*g*) carrying on the motor vehicle of any particular apparatus, or

(*h*) carrying on the motor vehicle of any means of identification required to be carried under the provisions of the Road Traffic Laws, in respect of such liabilities as are required to be covered by a policy under section 91 (1) (*b*) of this Act,

shall be of no effect.

(2) Any sum paid by an insurer in or towards the discharge of the liability of any person which is covered by the policy by virtue of this section shall be recoverable by the insurer from that person.

Duty of insurer to satisfy judgments

90.—(1) Where a judgment in respect of any liability covered by the terms of the policy is obtained against any person insured, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of such judgment, any sum payable, including any sum payable in respect of costs, written law or any interest on that judgment sum.

(2) No sum shall be payable by an insurer under the provisions of

subsection (1) in connection with any liability if before the happening of the event, which was the cause of the death or bodily injury or property damage giving rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained in it —

(*a*) before the happening of such event the certificate of insurance was surrendered to the insurer or the person to whom the certificate of insurance was delivered made a statutory declaration stating that the certificate of insurance had been lost or destroyed and so could not be surrendered ;

(*b*) after the happening of such event but before the expiration of 14 days from the coming into effect of the cancellation of the policy, the certificate of insurance was surrendered to the insurer or the person to whom the certificate of insurance was delivered, a statutory declaration that the certificate of insurance had been lost or destroyed and so could not be surrendered ; or

(*c*) before or after the happening of the event or within 14 days from the coming into effect of the cancellation of the policy the insurer had commenced proceedings under this Part in respect of the failure to surrender the certificate of insurance.

(3) No sum shall be payable by an insurer under the provisions of this section if, in an action commenced before or within three months after the commencement of the proceedings in which the judgment was given, the insurer has —

(*a*) obtained a declaration that apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in a material particular ; or

(*b*) avoided the policy on the ground that he was entitled to do so notwithstanding any provision contained in the policy.

(4) An insurer who obtained the declaration referred to in subsection (3), in an action shall not be entitled to the benefit of the provisions of this subsection in respect of any judgment obtained in any proceedings commenced before the commencement of that action unless, within seven days after the commencement of that action, the insurer has given notice to the plaintiff in the action under the policy, specifying the non-disclosure or false representation on which he proposes to rely and that he intends to seek a declaration and any person to whom notice of such action is given may, if he desires, be made a party to it.

(5) Where the amount which an insurer under the provisions of this

section, becomes liable to pay, in respect of the liability of a person insured by the policy exceeds the amount for which he may, apart from the provisions of this section, be liable to pay under the policy in respect of that liability, he shall be entitled to recover the excess from that person.

(6) In this Part, references to a certificate of insurance in any provision relating to the surrender or loss or destruction of a certificate shall —

(*a*) in relation to policies under which more than one certificate is issued, be construed as references to all or any of such certificates ; and

(*b*) where any copy of a certificate has been issued, be construed as including a reference to such copy.

Rights of third parties against insurers

91.—(1) Where, in a policy issued under this Act for the purposes of this Part, a person, (in this Act referred to as "the insured") is insured against liabilities to third parties which the insured may incur —

(*a*) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors, or

(*b*) where the insured is a company, and a winding-up order has been made or a resolution for the voluntary winding-up of the company passed or a receiver or manager of the company's business or undertaking has been appointed or in the event of possession having been taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge, before or after any such liability is incurred by the insured,

his rights against the insurer under the policy in respect of that liability shall, notwithstanding anything to the contrary contained in any written law, be transferred to and vested in the third-party to whom the liability was incurred.

(2) Where, under the provisions of any law, an order is made for the administration in bankruptcy of the estate of a deceased debtor then if any debt, which may be proved in bankruptcy, is owed by the deceased in respect of a liability against which he was insured under a policy issued for the purposes of this Part as being a liability to a third party, the rights of the deceased debtor against the insurer under that policy shall, notwithstanding anything to the contrary contained in any law, be transferred to and vest in the person to whom the debt is owed.

(3) Credit providers or lenders are obligated to mandate borrowers who take out loans exceeding ₦10,000,000 to obtain credit life insurance and this insurance shall cover the remaining balance of credit obtained if the borrower dies or becomes permanently disabled and the cost of the insurance shall be transparently disclosed to the borrower, and the lender shall be designated as

the beneficiary in the policy to settle the outstanding debt in the event of the borrower's death or permanent disability.

(4) Any condition in a policy issued for the purposes of this Part purporting directly or indirectly to avoid the policy or to alter the rights of the parties upon the happening of any of the events specified in subsection (1) or (2), shall be of no effect.

(5) Upon a transfer of rights under subsection (1) or (2) the insurer shall, subject to the provisions of section 92 of this Act, be under the same liability to the third-party as he may have been to the insured except where the liability of the insurer to the insured —

(*a*) exceeds the liability of the insured to the third-party, and nothing in this Part shall affect the right of the insured against the insurer in respect of such excess ; and

(*b*) is less than the liability of the insured to the third-party, nothing in this Act shall affect the rights of the third-party against the insured in respect of the balance.

(6) The provisions of this section shall —

(*a*) not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company ; and

(*b*) apply to other insurances made compulsory under this Act.

(7) For the purposes of this section Act and section 92 of this Act the expression "liabilities to third parties", in relation to a person insured under a policy of insurance, shall not include any liability of that person in the capacity of insurer under some other policy of insurance.

Duty to give information to third parties

92.—(1) Any person against whom a claim is made in respect of any liability required to be covered by a policy shall, on demand by or on behalf of the person making such claim, state whether or not he was insured in respect of that liability by any policy having effect for the purpose of this Act or may have been so insured if the insurer had not cancelled or avoided the policy and, if he were or may have been so insured, give such particulars with regard to that policy as were specified in the certificate of insurance issued.

(2) In the event of —

(*a*) a person becoming bankrupt or making a composition or arrangement with his creditors,

(*b*) an order being made under the provisions of any law relating to bankruptcy in respect of the estate of any person, or

(*c*) a winding-up order being made or a resolution for a voluntary winding-up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

it shall be the duty of the bankrupt debtor, personal representative of the deceased debtor and, as the case may be, of the official assignee, trustee, liquidator, receiver, manager, or person in possession of the property to give, at the request of any person claiming in respect of liability of him, such information as may reasonably be required to ascertain whether any rights have been transferred to and vested in him under the provisions of this Act.

(3) For the purpose of enforcing the right provided under subsection (2) and any contract of insurance that purports directly to avoid the contract or to alter the rights of the parties upon the giving of any such information or to prohibit, prevent or limit the giving of such information shall be of no effect.

(4) Where the information given to any person under the provisions of subsection (2) discloses reasonable grounds of belief that the rights may have been transferred to him under the provisions of this Part against any particular insurer, that insurer shall be subject to the same duty as imposed by subsection (2) on the persons mentioned in it.

(5) The duty imposed by this section to give information, shall include a duty to allow all contracts of insurance, receipts for premiums and other relevant documents in the possession, power or control of the person on whom the duty is so imposed, to be inspected and copies to be taken.

(6) Any person who, without reasonable excuse, fails to comply with the provisions of this section or who willfully or negligently makes any false or misleading statement in response to a demand for information commits an offence under this Act.

Certain settlements between insurer and insured to be of no effect

93. Where a person insured under a policy under this Part becomes bankrupt or where such insured person being a company, a winding-up order has been made or resolution for a voluntary winding-up has been passed with respect to that company, no agreement made between the insurer and the insured after liability has been incurred to a third-party and after the commencement of the bankruptcy or the winding-up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured after such commencement, shall be effective to defeat or affect the rights transferred to or vested in the third-party and such rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

Bankruptcy of insured person not to affect certain claims

94. Where, under the provisions of this Part, a certificate of insurance has been delivered to the person by whom a policy has been effected, in relation to any person insured by the policy of any of the events specified in section 91(1) or (2) notwithstanding anything contained in this Part, the liability of that person as required to be covered by a policy under the provisions of this Part, shall not be affected and nothing in this section shall affect any right against the insurer conferred under this section and the provisions of sections 90 and 92 of this Act on the person to whom the liability was incurred.

Further right of third parties against insurers

95.—(1) Any settlement made by an insurer in respect of a claim which might be made by a third-party in respect of any liability as required to be covered by a policy issued under the provisions of this Part shall not be valid unless such third-party is a party to such settlement.

(2) A policy issued under the provisions of this Part shall remain in effect and available for third parties notwithstanding the death of any person insured under such policy as if such insured person were still alive.

Further right of third parties against insurers and certificates to be produced

96.—(1) A person driving a motor vehicle on a highway or on any public place shall, on being required by a law enforcement officer —

(*a*) give his name and address and the name and address of the owner of the motor vehicle ; and

(*b*) produce his certificate of insurance or insurance cover note in print or electronic form.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction, to a fine not exceeding ₦25,000.

(3) Where, owing to the presence of a motor vehicle on a highway or any public place, an accident occurs involving bodily injury to any person the driver of the motor vehicle shall produce his certificate of insurance or cover note or copy of same to a law enforcement officer or to any person having reasonable grounds for requiring its production and if any such driver, for any reason, is unable to produce his certificate of insurance or cover note, he shall immediately and not later than 24 hours of the occurrence, report the accident and produce his certificate of insurance or cover note to the police station nearest to the scene of the accident.

(4) A person who contravenes the provision of subsection (3) commits an offence and is liable on conviction, to a fine not exceeding ₦50,000.

(5) The provisions of this section shall be in addition to, and not in derogation of, the relevant provisions of the Road Traffic Laws.

(6) In this section, the expression "to produce a certificate of insurance" means to produce for examination the relevant certificate of insurance or

cover note that the motor vehicle is not being driven in contravention of the provision of this Part.

Duty of owner

97. The owner of a motor vehicle shall give such information as may be required by a law enforcement officer for the purpose of determining whether the motor vehicle is not being driven in contravention of the provisions of this Part on any occasion in which the driver is required to produce his certificate and, any owner who fails to do so commits an offence and is liable on conviction to a fine of ₦25,000.

False statements or forging of certificates

98.—(1) Where a person, for the purpose of obtaining a certificate of insurance makes any statement, either oral or written, which is false or misleading or withholds any material information, such person shall, unless he proves to the satisfaction of the court that he acted without any intent to deceive, commits an offence and is liable on conviction to a fine not exceeding ₦100,000 or imprisonment for a term of six months or both.

(2) Any person who —

(*a*) forges, alters, defaces or mutilates any certificate of insurance or any other document issued under this Part,

(*b*) uses or allows to be used by any other person any forged, altered, defaced or mutilated certificate of insurance or any other document issued under this Part,

(*c*) lends to or borrows from any other person so closely resembling any certificate or document issued under the provisions of this Part,

(*d*) makes or has in his possession any document so closely resembling any certificate or document issued under the provisions of this Part as to be calculated to deceive, or

(*e*) issues a certificate of insurance or other document to be issued under the provisions of this Part,

commits of an offence and is liable on conviction to a fine not exceeding ₦200,000 or imprisonment for a term of one year or both.

Road Accident Victims' Compensation Fund

99. There is established a Fund to be known as the Road Accident Victims Compensation Fund (hereinafter referred to as "the Fund") into which shall be paid 0.5% of the underwriting profit on motor insurance business.

Road Accident Victims' Compensation Committee

100.—(1) There is established the Road Safety and Accident Victims Compensation Committee (in this Act referred to as "the Compensation Committee") responsible for over-seeing the management of the Fund.

(2) The Compensation Committee shall consist of —

(*a*) a Chairman representing the insurance industry (Nigerian Insurers Association) ;

(*b*) three persons appointed by the Commission, one of whom shall be a medical practitioner with cognate experience in orthopedic and trauma medicine ;

(*c*) two representatives of the Commission ;

(*d*) a representative of the Federal Road Safety Corps ;

(*e*) a representative of the Nigerian Police Force ;

(*f*) a person to be appointed by the State Traffic Agencies on rotation basis among the States of the federation ;

(*g*) a representative of the Federal Ministry of Finance, from the directorate cadre ; and

(*h*) representatives of intermediaries.

(3) The amount due from every insurer under section 99 shall be paid quarterly to the Fund which shall be administered and disbursed, on the recommendation of the Compensation Committee, by the Commission.

(4) The Commission shall on the recommendation of the Compensation Committee administer and disburse money accruing to the Fund as follows —

(*a*) 10% to the Federal Road Safety Commission as grant for the procurement of equipment ;

(*b*) 10% to the Nigeria Police Force as grant for the procurement of equipment ;

(*c*) 10% to road-traffic agencies for the procurement of equipment ;

(*d*) 65% into a separate fund out of which the Commission shall pay compensation, in accordance with regulations made by the Commission, to any person in respect of death or bodily injury following a motor vehicle accident caused by an uninsured vehicle or an unidentified driver and expenses reasonably incurred by any hospital known to have treated any person involved in any motor accident by an uninsured vehicle or unidentified driver provided such hospital expenses shall not exceed the sum of ₦2,000,000 for any person treated and this may be reviewed by the Commission ; and

(e) not more than 5% as cost of administration and management of the Fund.

(5) An insurer who defaults in making payment as required under section 99 is liable to a penalty of a sum equal to five times the amount payable, provided that persistent non-compliance with the requirement of section 99 shall be a ground for suspension of authorisation to underwrite motor insurance policies by the Commission.

(6) Subject to the approval of the Minister, on the recommendation of the Commission, the percentage disbursement stipulated in subsection (4) may be reviewed every five years after the commencement of this Act.

General penalty under this Part

101. Any person who is found guilty of an offence under this Part for which no specific penalty is provided is liable in respect of a first conviction, to a penalty of ₦250,000 or imprisonment for six months or both and in the case of a second or subsequent conviction to a penalty of ₦500,000 or imprisonment for a maximum term of 12 months or both.

Interpretation in this Part

102. In this Part —

"*bankruptcy*" with its grammatical variations and cognate expressions includes insolvency under the laws of Nigeria ;

"*company*" includes any company registered or required to be registered under the provisions of the Companies and Allied Matters Act No. 3 of 2020 ;

"*days*" means working days ;

"*drivers licence*" means a licence to drive a motor vehicle granted under the provisions of the Federal Road Safety Commission (Establishment) Act, No. 22, 2007 or law applicable in a state in Nigeria ;

"*highway*" or "public place" includes any roadway, car park, path or place to which the public have access ;

"*liability covered by the terms of the policy*" means a liability which is covered by the policy or which would be covered were it not that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy ;

"*material*" means of such a nature as to influence the judgment of a prudent insurer in determining whether he will accept the risk and, if so, at what premium and on what conditions ;

"*motorcycle*" or "*tricycle*" means a motor vehicle designed to travel on not more than three wheels and includes a combination of motorcycle and side car ;

"*motor-vehicle*" means a vehicle propelled by mechanical power other than a vehicle constructed to run on rails and includes a motor-cycle and tricycle ;

"*owner*" in relation to a motor vehicle which is subject of a hiring or hire purchase agreement means the person in possession of the vehicle under the agreement ;

"*third-party*" means any person other than the insurer and the insured who sustains physical injury or property damage as a result of an accident

caused by or involving a motor vehicle in use or under the control of a person whose liability is covered under a policy ; and

"*use*" with its grammatical variations and cognate expressions means use on a highway or other public place and where any word or expression used in this Act is defined in the Road Traffic laws, such word or expression, unless the context otherwise requires, shall bear in this Act the meaning assigned to it in the Road Traffic laws.

Part XI — ECOWAS Brown Card Scheme

Establishment of the National Bureau on the ECOWAS Brown Card Scheme

103.—(1) Notwithstanding anything to the contrary contained in any other enactment and in accordance with the provisions of Article 5 of the Protocol on the ECOWAS Brown Card Scheme ("the Scheme") there is established a National Bureau on the ECOWAS Brown Card Scheme (in this Act referred to as "the Bureau").

(2) The Bureau shall —

(*a*) be a body corporate with perpetual succession ; and

(*b*) have a common seal with power to sue and be sued in its corporate name.

(3) The Bureau shall be managed by a board of directors (in this Act referred to as "the Management Board") which shall comprise of —

(*a*) a Chairman, who elected by the General Assembly ;

(*b*) three representatives of motor underwriting companies that are members of the Bureau elected at a general meeting of the Bureau ;

(*c*) a representative of the Governing Council of the Nigerian Insurers Association ;

(*d*) three persons representing the public to be appointed by the Commission ; and

(*e*) the Executive Secretary of the Bureau who shall be the Secretary of the Board.

(4) The tenure of office and procedure for meetings of the Management Board shall be as prescribed by the Commission.

(5) The Bureau shall —

(*a*) be charged with responsibility for issuing ECOWAS Brown Cards to motor insurers as required under the Protocol ;

(*b*) handle Nigeria's financial and other commitments under the Protocol ;

(*c*) be the managers of insurance operations against liability risks in respect of motor vehicle accidents ;

(*d*) settle claims arising from accidents involving holders of ECOWAS Brown Cards issued by the Bureau in any West African country under the Scheme ;

(*e*) handle claims arising from accidents caused in Nigeria by holders of the Brown Cards issued by the Bureau of other participating countries ; and

(*f*) enter into agreements with Nigerian insurers who shall apply to participate in the Scheme as members of the Bureau.

(6) The participating members shall make contributions towards the operating expenses of the Bureau and provide the Bureau with such guarantees as the Bureau may require.

(7) An insurer shall not participate in the Scheme unless it has entered into an agreement with the Bureau in accordance with the provisions of subsection (5) (*f*).

(8) From the commencement of this Act, all motor vehicle insurance cover issued in Nigeria, shall carry automatic Brown Card.

Savings and transitional provisions pertaining to the Bureau

104.—(1) The Bureau established under section 103 of this Act shall be subject to all the obligations and liabilities to which the former Bureau was subject to immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Bureau established by this Act as they had against the Bureau immediately before the commencement of this Act.

(2) Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the former Bureau in respect of any right, interest, obligation or liability of that Bureau may be continued or, as the case may be, commenced and any determination of a court of law, tribunal or other Commission or person may be enforced by or against the Bureau established by this Act to the same extent that such proceeding, cause of action or determination might have been continued, commenced or enforced by or against the Bureau as if this Act had not been made.

(3) All assets, funds, resources and other movable property which, immediately before the commencement of this Act were vested in the former Bureau shall be vested in the Bureau established by section 103 of this Act.

Appointment of staff by the Bureau

105. The Bureau established by this Act shall be competent to appoint officers as may be necessary for the administration of the Bureau.

Police report in motor accidents cases

106.—(1) Where any claim referred to under this Part and Part XI arises out of an accident involving one or more vehicles, it shall not be necessary,

if there is sufficient evidence of proof of loss or damage, for any claimant to report and deliver a police report to the insurer, except death of or serious bodily injury to a person is involved.

(2) Without prejudice to any other mode of proof, it is sufficient evidence of proof of loss or damage for the purpose of this section, where —

(*a*) only one person is involved in the accident, the person delivers a statement of the facts to the insurer concerned together with a statement of an eye witness to the accident, if any ; or

(*b*) more than one person is involved in the accident, each person delivers a statement of the facts to the insurer or insurers concerned and the alleged facts do not differ in any material particular.

(3) Nothing in this section shall be construed as implying that a police report is not required in the case of claims arising from car theft.

(4) In Parts XI and XII "insurer" includes an insurance underwriter registered or licensed under the laws and regulations of a West African country that is participating in the Motor Vehicles (Third-Party Liability Insurance) ECOWAS Brown Card Scheme relating to a motor vehicle third-party liability insurance.

Part XII — Acquisitions, Amalgamations and Transfers

Procedure for amalgamation

107.—(1) Subject to the provisions of this section, an insurer shall not, without the prior approval of the Commission —

(*a*) amalgamate with, transfer to or acquire from any other insurer any insurance business or part of it ;

(*b*) enter into an agreement or arrangement for the reconstruction of an insurer business ; or

(*c*) enter into an agreement or arrangement to employ a management agent or to transfer business to any such agent.

(2) The Commission may, before granting an approval under subsection (1), call for such statements, documents and other information as may be prescribed by the Commission.

(3) Prior to making an application to the Commission for approval of any transaction under this section, certified true copies of each of the following documents shall be kept open for inspection by the members and policyholders at the principal and branch offices of the insurers concerned —

(*a*) a draft of the proposed agreement or deed to effect the amalgamation, acquisition or transfer ;

(*b*) the auditor's report in respect of the insurance business of each of the insurers concerned, prepared in the prescribed form ;

(*c*) the actuarial reports in respect of the insurance business of each of the insurers concerned, prepared in the prescribed form ; and

(*d*) a report on the proposed amalgamation, transfer or acquisition prepared by an independent actuary nominated by the company, but when the company fails to nominate, then the Commission may nominate the independent actuary.

(4) The deed, scheme or agreement under which an amalgamation, transfer or acquisition as the case may be, is proposed to be effected, shall be available for inspection without payment of any fee by policyholders and shareholders at all reasonable times in all the offices of the insurers in Nigeria in a manner to be prescribed by the Commission.

(5) The Commission may approve the amalgamation, transfer or acquisition if it has no objection against it.

(6) Any insurer from whom the business is transferred shall not be re-registered to undertake the same category or class or, as the case may be, classes of insurance business until after the expiration of five years from the date of the approval by the Commission or sanction of the Court where applicable.

(7) Where an application for an amalgamation or transfer is refused by the Commission, the applicant may within six months of such refusal apply to Court for a review.

(8) The Commission shall by regulation provide for the process, requirements and timeline for obtaining its approval for any transaction under this section.

Post amalgamation returns (documents to be deposited)

108. Within three months after the date of completion of the amalgamation, transfer or acquisition of insurance business under section 107 of this Act, the insurer carrying on the amalgamated business or to whom the business is transferred or by whom the business is acquired as the case may be, shall furnish, in duplicate, to the Commission such documents as the Commission may prescribe.

Prohibition law

109. Notwithstanding the provision of any other law, the provision of this Part shall apply as it relates to amalgamation of insurance entities.

Part XIII — Winding–Up

Appointment of receiver or provisional liquidator

110.—(1) Where the licence of an insurance operator is cancelled under this Act, the Commission may, unless the insurance operator is a body corporate being wound up by the Court, appoint a receiver or provisional liquidator to —

(*a*) immediately take charge of insurance operator's assets ;

(*b*) collect and gather in all other assets due to the insurance operator ; and

(*c*) administer the assets as expeditiously as possible for the benefit of the policyholders, clients and creditors of the insurance operator.

(2) The Commission or the appointed receiver or provisional liquidator after his appointment may apply to the Court to wind up the business of the insurance operator and for this purpose, the provisions of the Companies and Allied Matters Act relating to winding-up of companies by the Court shall, subject to the provision of this Act, apply.

Act No. 3, 2020

(3) The receiver or provisional liquidator may, immediately after his appointment freeze the accounts of the insurance operator and shall take charge of its management and control.

(4) The liquidation fee payable to the liquidator shall be determined by the Commission.

Act No. 3, 2020

(5) Subject to the provisions of the Companies and Allied Matters Act or any other enactment, the following order of priority shall apply in the settlement of debts owed by a failed insurance operator being wound up —

(*a*) liquidation fees and expenses ;

(*b*) policy holders ;

(*c*) secured creditors ;

(*d*) other creditors ;

(*e*) staff ; and

(*f*) shareholders and directors.

(6) Where in any action challenging —

(*a*) the cancellation of the licence of an insurance operator,

(*b*) a petition for winding-up the affairs of an insurance operator, or

(*c*) the appointment of a liquidator, an application for an interim or interlocutory injunction is brought against the Commission or the liquidator appointed by it seeking to restrain the Commission or the appointed liquidator from paying policyholders of a failed insurance operator,

the party applying shall put the Commission or the liquidator on notice.

(7) The Commission or liquidator appointed by the Commission shall cause a notice to be published in a national newspaper or other news media requiring all policyholders and creditors with the failed insurance operator under liquidation to forward their claims to the Commission or the liquidator.

(8) The Commission or liquidator of the failed insurance operator shall have power to —

(*a*) realise the assets of the failed insurance operator ;

(*b*) enforce the individual liability of the shareholders and directors of the failed insurance operator ; and

(*c*) wind up the affairs of the failed insurance operator as provided under this Act.

(9) The provisions of the Limitation Law of a State or the Limitation Act of the Federal Capital Territory shall not apply to any debt owed to a failing or failed insurance operator. Cap. 522 Laws of FCT

(10) There shall be no action, suit or proceedings, proceeded with or commenced against any insurer over which the Commission acts as liquidator or against the Commission or its agent except by leave of court given on such terms as the court may impose.

Petition for winding-up in other cases

111. A petition for the winding-up of an insurer may be presented to the Court either —

(*a*) subject to the approval of the Commission by at least 50 policyholders, each of whom holds a policy that has been in effect for at least three years, on the grounds specified in section 571 and 572 of the Companies and Allied Matters Act ; or Act No. 3, 2020

(*b*) by the Commission on any of the following grounds that the —

(*i*) licence of the insurer has been cancelled in accordance with section 8 of this Act, or

(*ii*) insurer may not be revived despite the intervention of the Commission.

Prohibition of voluntary winding-up

112. Notwithstanding the provisions of the Companies and Allied Matters Act or any other enactment, no insurer which transacts life assurance business shall voluntarily wind-up its business except for the purpose of effecting an amalgamation, transfer or acquisition under this Act. Act No. 3, 2020

Continuation of life insurance business in liquidation

113.—(1) The Commission or receiver or liquidator appointed for the winding-up shall, unless the Court otherwise orders, carry on the life insurance business of the insurer with a view to its being transferred, as a going concern, to another insurer, whether an existing insurer or an insurer registered for that purpose.

(2) In carrying on the business specified in subsection (1), the Commission or receiver or liquidator appointed may agree to the variation of any contract of insurance in existence when the winding-up order is made, provided it shall not affect new contracts of insurance.

(3) The Court may, subject to such conditions as it may determine, reduce the amount of the contracts made by the insurer in the course of carrying on life insurance business.

(4) The Commission or the Court may at any time on the application of the liquidator, appoint an independent actuary to investigate the life insurance business of the insurer.

(5) The actuary shall report to the Commission the desirability or otherwise of the life insurance business being continued and on any reduction in the contracts made in the course of carrying on that business that may be necessary for its successful continuation.

(6) The Commission or the liquidator may petition the Court in the name or on behalf of the insurer as provided in this Act.

(7) Notwithstanding anything to the contrary in a life insurance contract, upon cancellation of the registration of a life insurance company, the requirement for the payment of premium in the contract shall abate until the life insurance business of the company is transferred to another life insurance company under the provisions of this Act :

Provided that where the life policyholder elects to continue to pay such premium, the receiver or liquidator appointed to manage the life insurance company whose registration has been cancelled under this Act, shall ensure the collection of such premium.

Exception of Insurance funds from liquidation or garnishee

114. Notwithstanding the provisions of any other law, no policyholder's funds or assets kept with an insurer shall be seized or subject of any execution of judgment debt or be used to meet the claims of any of the insurer's creditors in the event of liquidation, winding-up or otherwise cessation of business of the insurer.

Part XIV — Marine Insurance

Marine insurance defined

115. A contract of marine insurance is a contract of the utmost good faith whereby the insurer undertakes to indemnify the assured, in the manner and to the extent agreed, against marine losses, that is to say, the losses incident to marine adventure.

Mixed sea and land risks

116.—(1) A contract of marine insurance may, by its express terms, or by usage of trade, be extended so as to protect the assured against losses on inland waters or any land risk which may be incidental to any sea voyage.

(2) Where a ship in the course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Part, shall apply, but, except as by this

section provided, nothing in this Part shall alter or affect any rule of law applicable to any contract of insurance other than a contract of marine insurance as defined in section 115 of this Act.

Marine adventure and maritime perils

117.—(1) Subject to the provisions of this Part, every lawful marine adventure may be the subject of a contract of marine insurance.

(2) There is a marine adventure where —

(*a*) any ship, goods or other moveables are exposed to marine perils, such property being referred to in this Part as "insurable property" ;

(*b*) the earning or acquisition of any freight, passage money, commission, profit or other pecuniary benefit, or the security for any advances, loan, or disbursements, is endangered by the exposure of insurable property to maritime perils ; and

(*c*) any liability to a third-party may be incurred by the owner of, or other persons interested in or responsible for, insurable property, by reason of maritime perils.

(3) For the purposes of this Part, "maritime perils" means the perils consequent on, or incidental to the navigation of the sea, that is say, perils of the seas, fire, war perils, pirates, rovers, thieves, captures, seizures, restraints, and detainment of princes and peoples, jettisons, barratry, and any other perils, either of the like kind or which may be designated by the policy.

Avoidance of wagering or gaming contracts

118.—(1) Every contract of marine insurance by way of gaming or wagering is void.

(2) A contract of marine insurance shall be deemed to be a gaming or wagering contract, where the —

(*a*) assured has no insurable interest as defined by this Part, and the contract is entered into with no expectation of acquiring such an interest ; or

(*b*) policy is made "interest or no interest" or "without further proof of interest than the policy itself", or "without benefit of salvage to the insurer" or subject to any other like term :

Provided that, where there is no possibility of salvage, a policy may be effected without benefit of salvage to the insurer.

Insurable interest in marine insurance

119.—(1) Subject to the provisions of this Part a person has an insurable interest if he is interested in a marine adventure.

(2) A person is interested in a marine adventure where he stands in any legal or equitable relation to the adventure or to any insurable property at risk in consequence of which he may benefit by the safety or due arrival of insurable

property, or may be prejudiced by its loss, or damage, or by detention, or may incur liability in respect of it.

When interest attaches

120.—(1) The assured shall be interested in the subject matter insured at the time of the loss, though he need not be interested when the insurance is effected :

Provided that where the subject matter is insured "lost or not lost", the assured may recover although he may not have acquired his interest until after the loss, unless at the time of effecting the contract of insurance the assured was aware of the loss, and the insurer was not.

(2) Where the assured has no interest at the time of the loss he shall not acquire interest by any act or election after he is aware of the loss.

Defeasible or contingent interest

121.—(1) A defeasible interest shall be insurable, as also shall be a contingent interest.

(2) Where the buyer of goods has insured them, he has an insurable interest, notwithstanding that he might, at his election, have rejected the goods or have treated them as at the seller's risk, by reason of the latter's delay in making delivery or otherwise.

Partial interest

122. A partial interest of any nature shall be insurable.

Reinsurance

123. The insurer under a contract of marine insurance has an insurable interest in his risk and may reinsure in respect of it, but unless the policy otherwise provides, the original assured shall have no right or interest in respect of such reinsurance.

Bottomry

124. The lender of money on bottomry or respondentia has an insurable interest in respect of the loan.

Master's and seamen's wages

125. The master or any member of the crew of a ship has an insurable interest in respect of his wages.

Advance freight

126. In the case of advance freight, the person advancing the freight has an insurable interest where such freight is not payable in case of loss.

Charges of insurance

127. The assured has an insurable interest in the charges of any insurance which he may effect.

Quantum of interest

128.—(1) Where the subject matter insured is mortgaged, the mortgagor has an insurable interest in the full value, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage.

(2) A mortgagee, consignee, or other person having an interest in the subject matter insured may insure on behalf and for the benefit of other persons interested as well as for his own benefit.

(3) The owner of insurable property has an insurable interest in respect of the full value, notwithstanding that some third person may have agreed, or be liable, to indemnify him in case of loss.

Assignment of interest

129.—(1) When the assured assigns or otherwise parts with his interest in the subject matter insured, he shall not transfer to the assignee his rights under the contract of insurance, unless there is an express or implied agreement with the assignee to that effect.

(2) Nothing in this section shall affect transmission of interest by operation of law.

Measure of insurable value

130. Subject to the express provision or valuation in the policy, the insurable value of the subject matter insured shall be ascertained as follows, in insurance on —

(*a*) ship, the insurable value which, in the case of a steamship, includes also the machinery, boilers, and coals and engine stores if owned by the assured, and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade, is the value at the commencement of the risk, of the ship, including her outfit, provisions and stores for the officers and crew, money advanced for seamen's wages, and other disbursement, if any, incurred to make the ship fit for the voyage or adventure contemplated by the policy plus the charges of insurance upon the whole ;

(*b*) freight, whether paid in advance or otherwise, the insurable value is gross amount of freight at the risk of the assured, plus the charges of insurance ;

(*c*) goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole ; and

(*d*) any subject matter, the insurable value is the amount at the risk of the assured when the policy attaches, plus the charges of insurance.

Disclosure and representations before contract or variation

131.—(1) This section makes provision about disclosure and representations by an insured to an insurer before a marine insurance contract is entered into or varied.

(2) The insured shall take reasonable care not to make a misrepresentation to the insurer.

(3) A failure by the insured to comply with the insurer's request to confirm or amend particulars previously given is capable of being a misrepresentation for the purposes of this Act.

The duty of fair representation

132.—(1) Before a contract of insurance is entered into, the insured shall make to the insurer a fair presentation of the risk.

(2) The duty imposed by subsection (1) is referred to in this Act as "the duty of fair presentation".

(3) A fair presentation of the risk is one —

(*a*) which makes the disclosure required by subsection (4) ;

(*b*) which makes that disclosure in a manner which would be reasonably clear and accessible to a prudent insurer ; and

(*c*) in which every material representation as to a matter of fact is substantially correct, and every material representation as to a matter of expectation or belief is made in good faith.

(4) The disclosure required is as follows, except as provided in subsection (5) —

(*a*) disclosure of every material circumstance which the insured knows or ought to know ; or

(*b*) failing that, disclosure which gives the insurer sufficient information to put a prudent insurer on notice that it needs to make further enquiries for the purpose of revealing those material circumstances.

(5) In the absence of enquiry, subsection (4) does not require the insured to disclose a circumstance if —

(*a*) it diminishes the risk ;

(*b*) the insurer knows it ;

(*c*) the insurer ought to know it ;

(*d*) the insurer is presumed to know it ; or

(*e*) it is something as to which the insurer waives information.

(6) Sections 133 and 134 of this Act makes further provision about the knowledge of the insured and of the insurer respectively, and section 136 of this Act contains supplementary provisions.

Knowledge of insured

133.—(1) This section provides for what an insured knows or ought to know for the purposes of section 132 (4) (*a*) of this Act.

(2) An insured who is an individual knows only —

(*a*) what is known to the individual ; and

(*b*) what is known to one or more of the individuals who are responsible for the insured's insurance.

(3) An insured who is not an individual knows only what is known to one or more of the individuals who are —

(*a*) part of the insured's senior management ; or

(*b*) responsible for the insured's insurance.

(4) An insured is not by virtue of subsection (2)(*b*) or (3) (*b*) taken to know confidential information known to an individual if the —

(*a*) individual is, or is an employee of, the insured's agent; and

(*b*) information was acquired by the insured's agent, or by an employee of that agent, through a business relationship with a person who is not connected with the contract of insurance.

(5) For the purposes of subsection (4), the persons connected with a contract of insurance are —

(*a*) the insured and other persons for whom cover is provided by the contract ; and

(*b*) if the contract reinsures risks covered by another contract, the persons who are, by virtue of this subsection, connected with that other contract.

(6) Whether an individual or not, an insured ought to know what may reasonably have been revealed by a reasonable search of information available to the insured, whether the search is conducted by making enquiries or by any other means.

(7) In subsection (6), "information" includes information held within the insured's organisation or by any other person, such as the insured's agent or a person for whom cover is provided by the contract of insurance.

(8) For the purposes of this section —

(*a*) "*employee*", in relation to the insured's agent, includes any individual working for the agent, whatever the capacity in which the individual acts ;

(*b*) an individual is responsible for the insured's insurance if the individual participates on behalf of the insured in the process of procuring the insured's insurance, whether the individual does so as the insured's employee or agent, as an employee of the insured's agent or in any other capacity ; and

(*c*) "*senior management*" means those individuals who play significant roles in the making of decisions about how the insured's activities are to be managed or organised.

Knowledge of insurer

134.—(1) For the purposes of section 132 (5) (b) of this Act, an insurer knows something only if it is known to one or more of the individuals who participate on behalf of the insurer in the decision whether to take the risk, and if so, on what terms, whether the individual does so as the insurer's employee or agent, as an employee of the insurer's agent or in any other capacity.

(2) For the purposes of section 132 (5) (c) of this Act, an insurer ought to know something only if —

(*a*) an employee or agent of the insurer knows it, and ought reasonably to have passed on the relevant information to an individual mentioned in subsection (1) ; or

(*b*) the relevant information is held by the insurer and is readily available to an individual mentioned in subsection (1).

(3) For the purposes of section 132 (5) (d) of this Act, an insurer is presumed to know things which —

(*a*) are common knowledge ; and

(*b*) an insurer offering insurance of the class in question to insured in the field of activity in question would reasonably be expected to know in the ordinary course of business.

Knowledge : general

135.—(1) For the purposes of sections 132-134 of this Act, references to an individual's knowledge include not only actual knowledge, but also matters which the individual reasonably and strongly suspected, and of which the individual would have had knowledge but for deliberately refraining from confirming them or enquiring about them.

(2) Nothing in this Part affects the operation of any rule of law according to which knowledge of a fraud perpetrated by an individual ("F") either on the insured or on the insurer is not to be attributed to the insured or to the insurer (respectively), where the fraud is on the —

(*a*) insured, F is any of the individuals mentioned in section 133 (2) (*b*) or (3) of this Act ; or

(*b*) insurer, F is any of the individuals mentioned in section 134 (1) of this Act.

Supplementary

136. (1) A fair presentation need not be contained in only one document or oral presentation.

(2) The term "circumstance" includes any communication made to, or information received by the insured.

(3) A circumstance or representation is material if it would influence the judgment of a prudent insurer in determining whether to take the risk and, if so, on what terms.

(4) Examples of things which may be material circumstances are —

(*a*) special or unusual facts relating to the risk ;

(*b*) any particular concerns which warranted the insured to seek insurance cover for the risk ; and

(*c*) anything which those concerned with the class of insurance and field of activity in question would generally understand as being something that is be dealt with in a fair presentation of risks of the type in question.

(5) A material representation is substantially correct if a prudent insurer would not consider the difference between what is represented and what is actually correct to be material.

(6) A representation may be withdrawn or corrected before the contract of insurance is entered into.

Remedies for breach

137.—(1) The insurer has a remedy against the insured for a breach of the duty of fair presentation only if the insurer shows that, but for the breach, the insurer would —

(*a*) not have entered into the contract of insurance at all ; or

(*b*) have done so only on different terms.

(2) A breach for which the insurer has a remedy against the insured is referred to in this Act as a "qualifying breach".

(3) A qualifying breach is —

(*a*) either deliberate or reckless ; or

(*b*) neither deliberate nor reckless.

(4) A qualifying breach is deliberate or reckless if the insured —

(*a*) knew that it was in breach of the duty of fair presentation ; or

(*b*) did not care whether or not it was in breach of that duty.

(5) It is for the insurer to show that a qualifying breach was deliberate or reckless.

Good faith

138.—(1) Any rule of law permitting a party to a contract of insurance to avoid the contract on the ground that the utmost good faith has not been observed by the other party is abolished.

(2) Any rule of law to the effect that a contract of insurance is a contract based on the utmost good faith is modified to the extent required by the provisions of this Part.

Representation pending negotiation of contract

139.—(1) A representation is material which would influence the judgment of a prudent insurer in fixing the premium or determining whether he will take the risk.

(2) A representation may be either a representation as to a matter of fact, or as to a matter of expectation or belief.

(3) A representation as to a matter of fact is true, if it is substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

(4) A representation as to a matter of expectation or belief is true, if it is made in good faith.

(5) A representation may be withdrawn or corrected before the contract is concluded.

(6) Whether a particular representation is material or not, it is in each case, a question of fact.

When contract deemed to be concluded

140. A contract of marine insurance shall be deemed to be concluded when the proposal of the insured is accepted by the insurer, whether the policy is then issued or not, and, for the purpose of showing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract.

Contract to be embodied in a policy

First Schedule

141.—(1) Subject to the provisions of any statute, a contract of marine insurance shall not be admissible in evidence unless it is embodied in a marine policy in accordance with the form in the First Schedule to this Act or to the like effect.

(2) The policy may be executed and issued either at the time when the contract is concluded, or afterwards, and subject to the provisions of this Part and unless the context of the policy otherwise requires, the terms and expressions mentioned in the Second Schedule to this Act shall be construed as having the scope and meaning in that Schedule assigned to them.

Second Schedule

Name of insured to be specified in policy document

142. A marine policy shall specify the name of the insured, or of some person who effects the insurance on his behalf.

Signature of insurer

143.—(1) A marine policy shall be signed by or on behalf of the insurer, or if the insurer is a corporation, the corporate seal may be sufficient.

(2) Where a policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary be expressed, shall constitute a distinct contract with the assured.

(3) Nothing in this section shall be construed as requiring the subscription of a corporation to be under seal.

Designation of subject matter

144.—(1) The subject matter insured shall be designated in a marine policy with reasonable certainty, but the nature and extent of the interest of the insured in the subject matter insured need not be specified in the policy.

(2) Where the policy designates the subject matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered.

(3) In the application of this section, regard shall be had to any usage regulating the designation of the subject matter insured.

Floating policy by ship or ships

145.—(1) A floating policy is a policy which describes the insurance in general terms and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration.

(2) The subsequent declaration or declarations may be made by endorsement on the policy or in other customary manner.

(3) Unless the policy otherwise provides, the declaration shall be made in the order of dispatch or shipment, and in the case of goods, they shall comprise all consignments within the terms of the policy, and the value of the goods or other property shall be honestly stated, but any omission or erroneous declaration may be rectified even after loss or arrival :

Provided that the omission or declaration was made in good faith.

(4) Unless the policy otherwise provides, where a declaration of value is not made until after notice of loss or arrival, the policy shall be treated as an unvalued policy as regards the subject matter of that declaration.

Double insurance

146.—(1) Where two or more policies are effected by or on behalf of the insured on the same adventure and interest or any part of it, and the sums insured exceed the indemnity allowed by this Part, the insured is said is to be over- insured by double insurance.

(2) Where the insured is over-insured by double insurance —

(*a*) the insured, unless the policy otherwise provides, may claim payment from the insurers in such order as he thinks fit, provided that he shall not be entitled to receive any sum in excess of the indemnity allowed by this Part ;

(*b*) where the policy under which the insured claims is a valued policy, the insured shall give credit as against the valuation for any sum received by him under any other policy without regard to the actual value of the subject matter insured ;

(*c*) where the policy under which the insured claims is an unvalued policy, he shall give credit, as against the full insurable value, for any sum received by him under any other policy ; and

(*d*) where the insured receives any sum in excess of the indemnity allowed by this Part, he shall be deemed to hold such sum in trust for the insurers, according to their right of contribution among themselves.

Breach of warranty

147.—(1) Any rule of law that breach of a warranty, express or implied, in a contract of insurance results in the discharge of the insurer's liability under the contract is abolished.

(2) An insurer has no liability under a contract of insurance in respect of any loss occurring, or attributable to something happening, after a warranty, express or implied, in the contract has been breached but before the breach has been remedied.

(3) Subsection (2) shall not apply if —

(*a*) because of a change of circumstances, the warranty ceases to be applicable to the circumstances of the contract ;

(*b*) compliance with the warranty is rendered unlawful by any subsequent law ; or

(*c*) the insurer waives the breach of warranty.

(4) Subsection (2) shall not affect the liability of the insurer in respect of losses occurring, or attributable to something happening —

(*a*) before the breach of warranty ; or

(*b*) if the breach can be remedied, after it has been remedied.

(5) For the purposes of this section, a breach of warranty is to be taken as remedied —

(*a*) in a case falling within subsection (6), if the risk to which the warranty relates later becomes essentially the same as that originally contemplated by the parties ; or

(*b*) in any other case, if the insured ceases to be in breach of the warranty.

(6) A case falls within this subsection if —

(*a*) the warranty in question requires that by an ascertainable time something is to be done (or not done), or a condition is to be fulfilled, or something is (or is not) to be the case ; and

(*b*) that requirement is not complied with.

Express warranties

148. An express warranty —

(*a*) may be in any form of words from which the intention to warrant is to be inferred ;

(*b*) shall be included in or written upon the policy, or be contained in some document incorporated by reference into the policy ; and

(*c*) shall not exclude an implied warranty, unless it is inconsistent.

Warranty of neutrality

149.—(1) Where insurable property, whether ship or goods, is expressly warranted neutral, there is an implied condition that the property shall have a neutral character at the commencement of the risk, and if the insured can control the matter, its neutral character shall be preserved during the risk.

(2) Where a ship is expressly warranted "neutral", there is also an implied condition that, if the insured can control the matter, she shall be properly documented, that is to say, that she shall carry the necessary papers to establish her neutrality, and that she shall not falsify or suppress her papers or use simulated papers and where any loss occurs through breach of this condition, the insurer may avoid the contract.

No implied warranty of nationality

150. There is no implied warranty as to the nationality of a ship, or that her nationality shall not be changed during the risk.

Warranty of good safety

151. Where the subject matter insured is warranted "well" or "in good safety" on a particular day, it is sufficient if it be safe at any time during that day.

Warranty of seaworthiness of ship

152.—(1) In a voyage policy, there is an implied warranty that, at the commencement of the voyage, the ship shall be seaworthy for the purpose of the particular adventure insured.

(2) Where the policy attaches while the ship is in port, there is also an implied warranty that she shall, at the commencement of the risk, be reasonably fit to encounter the ordinary perils of the port.

(3) Where the policy relates to a voyage which is performed in different stages, during which the ship requires different kinds of or further preparation or equipment, there is an implied warranty that, at the commencement of each stage, the ship is seaworthy in respect of such preparation or equipment for the purposes of that stage.

(4) A ship is deemed to be seaworthy when she is reasonably fit in all respects to encounter the ordinary perils of the seas of the adventure insured.

(5) In a time policy, there is no implied warranty that a ship shall be seaworthy at any stage of the adventure, but where, with the privity of the insured, the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness.

No implied warranty that goods are seaworthy

153.—(1) In a policy on goods or other moveables, there is no implied warranty that the goods or movable are seaworthy.

(2) In voyage policy on goods or other moveables, there is an implied warranty that, at the commencement of the voyage, the ship is not only seaworthy as a ship, but also that she is reasonably fit to carry the goods or other moveables to the destination contemplated by the policy.

Warranty of legality

154. There is an implied warranty that the adventure insured is a lawful one, that the insured can control the matter, and the adventure shall be carried out in a lawful manner.

Implied condition as to commence-ment of risk

155.—(1) Where the subject matter is insured by a voyage policy "at and from" or "from" a particular place, it is not necessary that the ship to be at that place when the contract is concluded, but there is an implied condition that the adventure shall be commenced within a reasonable time, and if the adventure be not so commenced, the insurer may avoid the contract.

(2) The implied condition may be negative by showing that the delay was caused by circumstances known to the insurer before the contract was concluded, or by showing that he waived the condition.

Alteration of port of departure

156. Where the place of departure is specified by the policy, and the ship instead of sailing from that place sails from any other place, the risk does not attach.

Sailing for different destination

157. Where the destination is specified in the policy, and the ship, instead of sailing for that destination, sails for any other destination, the risk shall not attach.

Change of voyage

158.—(1) Where, after the commencement of the risk, the destination of the ship is voluntarily changed from the destination contemplated by the policy, there is said to be a change of voyage.

(2) Unless the policy otherwise provides, where there is a change of voyage, the insurer is discharged from liability as from the time of change, that is to say, as from the time when the determination to change it is manifested, and it is immaterial that the ship may not in fact have left the course of voyage contemplated by the policy when the loss occurs.

Deviation

159.—(1) Where a ship, without lawful excuse, deviates from the voyage contemplated by the policy, the insurer is discharged from liability as from the time of deviation, and it is immaterial that the ship may have regained her route before any loss occurs.

(2) Lawful excuse in subsection (1) shall include any reason for deviation from voyage that may be prevalent in seafaring in the circumstance or any reason beyond the control of the policy holder.

(3) There is a deviation from the voyage contemplated by the policy where the course of the voyage is —

(*a*) specifically designated by the policy and that course is departed from ; or

(*b*) not specifically designated by the policy but the usual and customary course is departed from.

(4) The intention to deviate is immaterial and if there is a deviation in fact the insurer is discharged from his liability under the contract.

Several ports of discharge

160.—(1) Where several ports of discharge are specified by the policy, the ship may proceed to all or any of them, but, in the absence of any usage or sufficient cause to the contrary, the ship shall proceed to all or any of them as she goes to, in the order designated by the policy, and if she does not, there is a deviation.

(2) Where the policy is to "ports of discharge", within a given area, which are not named, the ship shall, in the absence of any usage or sufficient cause to the contrary, proceed to them, or any of them as she goes to, in their geographical order, and if she does not, there is a deviation.

Discharge from liability due to unreasonable delay in voyage

161. In the case of a voyage policy, the adventure insured shall be prosecuted throughout its course with reasonable dispatch, and, if without lawful excuse it is not so prosecuted, the insurer shall be discharged from liability as from the time when the delay became unreasonable.

Excuses for deviation or delay

162.—(1) Deviation or delay in prosecuting the voyage contemplated by the policy is excused —

(*a*) where authorised by any special term in the policy ;

(*b*) where caused by circumstances beyond the control of the master and his employer ;

(*c*) where reasonably necessary in order to comply with an express or implied warranty ;

(*d*) where reasonably necessary for the safety of the ship or subject matter insured ;

(*e*) for the purpose of saving human life, or aiding a ship in distress where human life may be in danger ;

(*f*) where reasonably necessary for the purpose of obtaining medical or surgical aid for any person on board the ship ; or

(*g*) where caused by the barratrous conduct of the master or crew, if barratry is one of the perils insured against.

(2) When the cause excusing the deviation or delay ceases to operate, the ship shall resume her course, and prosecute her voyage with reasonable dispatch.

Assignability of policy

163.—(1) A marine policy shall be assignable either before or after loss, unless it contains terms expressly prohibiting assignment.

(2) Where a marine policy has been assigned so as to transfer the beneficial interest in such policy, the assignee of the policy shall be entitled to

sue in his own name, and the defendant shall be entitled to make any defence arising out of the contract which he would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.

(3) A marine policy may be assigned by endorsement on it or in other customary manner.

Insured who has no interest shall not assign

164.—(1) Where the insured has parted with, transferred or lost his interest in the subject matter insured, and has not, before or at the time of doing so, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy shall be inoperative.

(2) Nothing in this section shall be construed so as to affect the assignment of a policy after loss.

Effect of acknowledgment of premium on policy

165. Where a broker effects a marine policy on behalf of the insured, an acknowledgement of receipt of the premium on the policy is, in the absence of fraud, conclusive evidence of subsistence of the policy as between the insurer and the insured, but not as between the insurer and the broker.

Specifically covered and excluded losses

166.—(1) Subject to the provisions of this Part, and unless the policy otherwise provides, the insurer shall only be liable for any loss proximately caused by a peril insured against, but, subject, as aforesaid, he shall not be liable for any loss which is not proximately caused by a peril insured against.

(2) The insurer —

(*a*) shall not be liable for any loss attributable to the willful misconduct of the insured, but unless the policy otherwise provides, he shall be liable for any loss proximately caused by a peril insured against, even though the loss would not have happened but for the misconduct or negligence of the master or crew ;

(*b*) on ship or goods shall not be liable for any loss proximately caused by delay, whether the delay is caused by a peril insured against, unless the policy otherwise provides ; and

(*c*) shall not be liable for ordinary wear and tear, ordinary leakage and breakage, inherent vice or nature of the subject matter insured, or for any loss proximately caused by rats or vermin, or for any injury to machinery not proximately caused by maritime perils, unless the policy otherwise provides.

Total and partial loss

167.—(1) A loss may be total or partial.

(2) A total loss may be either an actual total loss or a constructive total loss and any loss other than a total loss, is a partial loss.

(3) Unless a different intention appears from the terms of a policy, an insurance against total loss includes both constructive total loss and actual total loss.

(4) Where the insured brings an action for a total loss and the evidence proves only a partial loss, he may, unless the policy otherwise provides, recover a partial loss.

(5) Where goods reach their destination in specie, but by reason of obliteration of marks, or otherwise, they are incapable of identifying the loss, if any, is partial, and not total.

Actual total loss

168.—(1) Where the subject matter insured is destroyed, or so damaged as to cease to be a thing of the kind insured, or where the insured is irretrievably deprived of it, there is an actual total loss.

(2) In the case of an actual total loss, no notice of abandonment need be given.

Missing ship

169. Where the ship concerned in the adventure is missing and after the lapse of a reasonable time no news of her has been received, an actual total loss may be presumed.

Effect of transshipment

170. Where, by a peril insured against, the voyage is interrupted at an intermediate port or place, under such circumstances as, apart from any special stipulation in the contract of affreightment to justify the master in landing and re-shipping the goods or other moveables, or in transshipping them, and sending them on to their destination, the liability of the insurer continues, notwithstanding the landing or transshipment.

Constructive total loss

171.—(1) Subject to any express provision in a policy, there is a constructive total loss where the subject matter insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or the preservation of the subject matter from actual total loss would entail costs exceeding its value when the costs are incurred

(2) There is a constructive total loss where —

(*a*) the insured is deprived of the possession of his ship or goods by a peril insured against and —

(*i*) it is unlikely that he may recover the ship or goods as the case may be, or

(*ii*) the cost of recovering the ship or goods as the case may be, would exceed their value when recovered ;

(*b*) in the case of damage to a ship, she is so damaged by a peril insured against that the cost of repairing the damage would exceed the

value of the ship when repaired, and for the purposes of this paragraph, in estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests, but account is to be taken of the expenses of future salvage operations, and of any future general average contributions to which the ship would be liable if repaired ; or

(*c*) in the case of damage to goods, the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival.

Treatment of constructive total loss

172. Where there is a constructive total loss, the insured may either treat the loss as a partial loss, or abandon the subject matter insured to the insurer and treat the loss as if it were an actual total loss.

Notice of abandonment

173.—(1) Subject to the provisions of this section, where the insured elects to abandon the subject matter insured to the insurer, he shall give notice of abandonment, and if he fails to give notice of abandonment, the loss shall only be treated as a partial loss.

(2) Notice of abandonment may be given in writing or by word of mouth, or partly in writing and partly by word of mouth and may be given in terms which indicate the intention of the insured to abandon his insured interest in the subject matter insured unconditionally to the insurer.

(3) Notice of abandonment shall be given with reasonable diligence after the receipt of reliable information of the loss, but where the information is of a doubtful character, the insured is entitled to a reasonable time to make inquiry.

(4) Where notice of abandonment is properly given, the rights of the insured shall not be prejudiced by the fact that the insurer refuses to accept the abandonment.

(5) The acceptance of abandonment may be either express or implied from the conduct of the insurer, but the mere silence of the insurer after notice shall not be construed as an acceptance.

(6) Where notice of abandonment is accepted, the abandonment is irrevocable, and the acceptance of the notice shall be construed as conclusive admission of liability for the loss and the sufficiency of the notice.

(7) Notice of abandonment is unnecessary where, at the time when the insured receives the information of the loss, there would be no possibility of benefit to the insurer if notice were given to the insurer.

(8) The insured shall not be required to give notice of abandonment to the insurer if —

(*a*) the loss is an actual loss ; or

(*b*) notice of abandonment is waived by the insurer.

(9) Where an insurer has re-insured his risk, no notice of abandonment need be given by him.

Effect of abandonment

174.—(1) Where there is a valid acceptance of an abandonment, the insurer shall be entitled to take over the interest of the insured in whatever may remain of the subject matter insured, and all proprietary rights incidental to it.

(2) Upon the abandonment of a ship, the insurer shall be entitled to any freight in course of being earned, and which is earned by her subsequent to the casualty causing the loss, less the expenses of earning it incurred after the casualty, and, where the ship is carrying the owner's goods, the insurer shall be entitled to a reasonable remuneration for the carriage of them subsequent to the casualty causing the loss.

Partial losses

175.—(1) A partial loss may be a particular average loss, a general average loss, salvage charges or particular charges.

(2) A particular average loss is a partial loss of the subject matter insured, caused by a peril insured against, and which is not a general average loss.

(3) Expenses incurred by or on behalf of the insured for the safety or preservation of the subject matter insured, other than general average and salvage charges, are called particular charges, and particular charges are not included in particular average.

Salvage charges

176.—(1) Subject to any express provision in the policy, salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils.

(2) For the purposes of this section, "salvage charges" means the charges recoverable under maritime law by a salvor independently of any contract but does not include expenses for services in the nature of salvage which are recoverable, if properly incurred, as particular charges of general average loss, as the case may be, where rendered by the effect of abandonment.

General average loss

177.—(1) A general average loss is a loss caused by or directly consequential on a general average act and includes a general average expenditure as well as a general average sacrifice.

(2) There is a general average act where any extraordinary sacrifice or expenditure is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperiled in the common adventure.

(3) Where there is a general average loss, the party on whom it falls shall be entitled, subject to the conditions imposed by maritime law, to a rateable

contribution, called a general average contribution, from the other parties interested.

(4) Subject to any express provision in the policy, where the insured has incurred a general average expenditure, he may recover from the insurer in respect of the proportion of the loss which falls upon him, and, in the case of general average sacrifice, he may recover from the insurer in respect of the whole loss without having enforced his right of contribution from the other parties liable to contribute.

(5) Subject to any express provision in the policy, where the insured has paid, or is liable to pay, a general average contribution in respect of the subject matter insured, he may recover from the insurer.

(6) In the absence of express stipulation, the insurer shall not be liable for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connection with the avoidance of, a peril insured against.

(7) Where ship, freight, and cargo, or any two of those interests, are owned by the same insured, the liability of the insurer in respect of general average losses or contributions shall be determined as if those subjects were owned by different persons.

Proportional liability of insurer for loss

178.—(1) Where there is a loss recoverable under the policy, the insurer, or each insurer if there are more insurers than one, shall be liable for such proportion of the measure of indemnity as the amount his subscription bears to the value fixed by the policy in the case of a valued policy, or to the insurable value in the case of an unvalued policy.

(2) For the purposes of this section "measure of indemnity" means the sum which the insured may recover in respect of a loss on a policy by which he is insured, being in the case of a valued policy, the full extent of the value fixed by the policy, and in the case of an unvalued policy, the full extent of the insurable value.

Total loss

179. Subject to the provisions of this Part and to any express provision in the policy, where there is a total loss of the subject matter insured, where the policy is —

(*a*) a valued policy, the measure of indemnity shall be the sum fixed by the policy ; and

(*b*) an unvalued policy, the measure of indemnity shall be the insurable value of the subject matter insured.

Partial loss of a ship

180. Where a ship is damaged, but is not totally lost, the measure of indemnity, subject to any express provision in the policy, shall be as provided herein where the ship —

(*a*) has been repaired, the insured shall be entitled to the reasonable cost of the repairs, less the customary deductions, but not exceeding the sum insured in respect of any one casualty ;

(*b*) had been only partially repaired, the insured shall be entitled to the reasonable cost of such repairs, computed as in paragraph (*a*), and the reasonable depreciation, if any, arising from the unrepaired damage, provided that the aggregate amount shall not exceed the cost of repairing the whole damage, computed as in paragraph (*a*) ; and

(*c*) had not been repaired and had not been sold in her damaged state during the risk, the insured shall be entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed in paragraph (*a*).

Partial loss of freight

181. Subject to any express provisions in the policy, where there is a partial loss of freight, the measure of indemnity shall be such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the insured bears to the whole freight at the risk of the insured under the policy.

Partial loss of goods, merchandise and other movables

182. Where there is a partial loss of goods, merchandise or other moveables, the measure of indemnity, subject to any express provision in the policy, shall be as provided in it where —

(*a*) part of the goods, merchandise or other moveables insured by a valued policy is totally lost, the measure of indemnity shall be such proportion of the sum fixed by the policy as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy ;

(*b*) part of the goods, merchandise, or other moveables insured by an unvalued policy is totally lost, the measure of indemnity shall be the insurable value of the part lost, ascertained as in case of total loss ; and

(*c*) the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity shall be such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value.

Apportionment of valuation

183.—(1) Where different species of property are insured under a single valuation, the valuation shall be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy, and for the purposes of this subsection, the insured value of any part of a species is such proportion of the total insured value of the same as the

insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Part.

(2) Where a valuation is to be apportioned, and particulars of the prime cost of each separate species, quality, or description of goods are not ascertainable, the division of the valuation may be made over the net arrived sound values of the different species, qualities, or descriptions of goods.

General average contribution and salvage charges

184.—(1) Subject to any express provision in the policy, the measure of indemnity in respect of a general average contribution that an insured has paid or is liable to pay shall be as provided in it where —

(*a*) the insured has paid, or is liable for, any general average contribution, the measure of indemnity shall be the full amount of such contribution, if the subject matter liable to contribution is insured for its full contributory value, but, where such subject matter is not insured for its full contributory value or if only part of it is insured, the indemnity payable by the insurer shall be reduced in proportion to the under insurance ; and

(*b*) there has been a particular average loss which constitutes a deduction from the contributory value, and for which the insurer is liable, that amount shall be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

(2) Where the insurer is liable for salvage charges, the extent of his liability shall be determined on the applicable principle.

Liabilities to third parties

185. Where the insured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him to such third-party in respect of such liability.

General provisions as to measure of indemnity

186.—(1) Where there has been a loss in respect of any subject matter not expressly provided for in the provisions of this Part, the measure of indemnity shall be ascertained, as nearly as may be, in accordance with those provisions applicable to the particular case.

(2) Nothing in this Part relating to the measure of indemnity shall affect the rules relating to double insurance or prohibit the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject matter insured was not at risk under the policy.

Particular average warranties

187.—(1) Where the subject matter insured is warranted free from particular average, the insured shall not recover for a loss of part other than a loss incurred by a general average sacrifice, unless the contract contained in the policy is apportionable, but, if the contract is apportionable, the insured may recover for a total loss of any apportionable part.

(2) Where the subject matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer shall nevertheless be liable for salvage charges, and the insurer shall also be liable for particular charges for and other expenses of averting a loss insured against, where properly incurred under the provisions of a suing and laboring clause to the like effect as set out in the prescribed form, if contained in the policy.

(3) Unless the policy otherwise provides, where the subject matter insured is warranted free from particular average under a specified percentage, a general average loss shall not be added to a particular average loss to make up the specified percentage.

(4) For the purpose of ascertaining whether the specified percentage has been reached, regard shall be had only to the actual loss suffered by the subject matter insured, and particular charges and the expenses of and incidental to ascertaining and proving the loss shall be excluded.

Successive losses

188.—(1) Unless the policy otherwise provides, and subject to the provisions of this Part, the insurer shall be liable for successive losses, even though the total amount of such losses may exceed the sum insured.

(2) Where, under the same policy, a partial loss, which has not been repaired or otherwise made good, is followed by a total loss, the assured may recover in respect only of the total loss.

(3) Nothing in this section shall affect the liability of an insurer under a suing and labouring clause in the prescribed form or to the like effect if contained in the policy.

Suing and labouring clause

189.—(1) Where the policy contains a suing and labouring clause in the prescribed form or to the like effect, the agreement entered into shall be deemed to be supplementary to the contract of insurance, and the insured may recover from the insurer any expenses properly incurred under the clause, notwithstanding that the insurer may have paid for a total loss, or that the subject matter may have been warranted free from particular average, either wholly or under a certain percentage.

(2) General average losses and contributions and salvage charges, as defined by this Part, shall not be recoverable under the suing and labouring clause.

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy is not recoverable under the suing and labouring clause.

(4) The insured and his agents, in all cases, shall take such measures as may be reasonable for the purpose of averting or minimising a loss.

Right of contribution

190.—(1) Where the insured is over insured by double insurance, each insurer shall be bound, as between himself and the other insurers, to contribute rateably to the loss in proportion to the amount for which he is liable under his contract.

(2) Where any insurer pays more than his proportion of the loss, he shall be entitled to maintain an action for contribution against the other insurers and be entitled to the like remedies as a surety who has paid more than his proportion of the debt.

(3) Where there is double insurance and one of the insurance policies contains another insurance clause that excludes or limits an insurer's liability to contribute rateably to the loss, that clause shall be void.

Effect of under insurance

191. Where the insured is insured for an amount less than the insurable value or, in the case of a valued policy, for an amount less than the policy valuation, he shall be deemed to be his own insurer in respect of the uninsured balance.

Enforcement of return of premium

192. Where the premium or a proportionate part of it is, by this Part, declared to be returnable, where —

(*a*) already paid, it may be recovered by the insured from the insurer ; and

(*b*) unpaid, it may be retained by the insured or his agent.

Return by agreement

193. Where the policy contains a stipulation for the return of the premium, or a proportionate part of it, on the happening of a certain event, and that event happens, the premium, or, as the case may be, the proportionate part of it, shall be returned to the insured.

Return for failure of consideration

194.—(1) Where the consideration for the payment of the premium totally fails, and there has been no fraud or illegality on the part of the insured or his agents, the premium shall be returned to the insured.

(2) Where the consideration for the payment of the premium is apportionable and there is total failure of any apportionable part of the consideration, a proportionate part of the premium shall, under the like conditions, be returned to the insured.

(3) Where —

(*a*) a policy is void, or is avoided by the insurer as from the commencement of the risk, the premium shall be returnable, provided that there has been no fraud or illegality on the part of the insured, but if the risk is not apportionable, and has once attached, the premium shall not be returnable ;

(*b*) the subject matter insured, or part of it, has never been imperiled, premium, or, as the case may be, a proportionate part of it, is returnable :

Provided that where the subject matter has been insured "lost or not lost" and has arrived in safety at the time when the contract is concluded, the premium is not returnable unless, at such time, the insurer knew of the safe arrival where the insured has ;

(*c*) no insurable interest throughout the currency of the risk, the premium shall be returnable, but nothing in this paragraph shall be construed to apply to a policy effected by way of gaming or wagering ;

(*d*) a defeasible interest which is terminated during the currency of the risk, the premium shall not be returnable ; and

(*e*) over-insured under an unvalued policy, a proportionate part of the premium shall be returnable.

(4) Subject to the provisions of this section, where the insured has over-insured by double insurance, a proportionate part of the several premiums shall be returnable :

Provided that, if the policies are effected at different times, and any earlier policy has at any time borne the entire risk, or if a claim has been paid on the policy in respect of the full sum insured, no premium shall be returnable in respect of that policy, and when the double insurance is effected knowingly by the insured, no premium shall be returnable.

Ratification by the insured

195. Where a contract of marine insurance is, in good faith, effected by one person on behalf of another, the person on whose behalf it is effected may ratify the contract even after he is aware of a loss.

Implied obligations varied by agreement or usage

196.—(1) Where any right, duty, or liability would arise under a contract of marine insurance by implication of law, it may be negative or varied by express agreement, or by usage, if the usage is such as to bind both parties to the contract.

(2) The provisions of this section shall extend to any right, duty, or liability declared by this Part which may be lawfully modified by agreement.

Slip as evidence

197. Where there is a duly stamped policy, reference may be made to the slip or covering note, in any legal proceeding.

Gambling on loss by maritime perils prohibited

198. (1) If any person —

(*a*) effects a contract of marine insurance without having any bona fide interest, direct or indirect, either in the safe arrival of the ship in relation to which the contract is made or in the safety or preservation of the subject matter insured, or a bona fide expectation of acquiring such an interest ; or

(*b*) in the employment of the owner of a ship, not being a part owner of the ship, effects a contract of marine insurance in relation to the ship and the contract is made —

(*i*) "interest or no interest",

(*ii*) "without further proof of interest than the policy itself",

(*iii*) "without benefit or salvage to the insurer", or

(*iv*) subject to any other like term,

the contract shall be deemed to be a contract by way of gambling on loss by marine perils, and the person effecting the contract shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding ₦250,000 and, in either case, to forfeit any money he may have received under the contract.

(2) Any broker or other person through whom, and any insurer with whom, any such contract is effected shall be guilty of an offence and liable, on conviction, to the like penalties, if he acted knowing that the contract was by way of gambling on loss by maritime perils within the meaning of this section.

(3) Proceedings shall not be instituted under this section against a person, other than a person in the employment of the owner of the ship in relation to which the contract was made, alleged to have effected a contract by way of gambling on loss by marine perils until an opportunity has been afforded him of showing that the contract was not such a contract, and any information given by that person for that purpose shall not be admissible in evidence against him in any prosecution under this section.

(4) Where proceedings under this section are taken against any person, other than a person in the employment of the owner of the ship in relation to which the contract was made, for effecting such a contract and the contract was made —

(*a*) "interest or no interest",

(*b*) "without further proof of interest than the policy itself",

(*c*) "without benefit of salvage to the insurer", or

(*d*) subject to any other like term,

the contract shall be deemed to be a contract by way of gambling on loss by maritime perils unless the contrary is proved.

(5) For the purpose of giving jurisdiction under this section, every offence shall be deemed to have been committed either in the place in which the same actually was committed or in any place in which the offender may be.

(6) For the purposes of this section, the expression "owner" includes charterer.

Interpretation of this Part

199. (1) In this Part —

"*action*" includes "counter-claim" and "set-off" ;

"*freight*" includes the profit derivable by a ship owner from the employment of his ship to carry his own goods or moveables, as well as freight payable by a third-party, but does not include passage money ;

"*gross proceeds*" means the actual price obtained at a sale where all charges on sale are paid by the sellers ;

"*movables*" means any moveable tangible property other than the ship and includes money, valuable securities and other documents ;

"*policy*" means a marine policy ;

"*prescribed form*" means the form of policy in the First Schedule or such other policy as may be approved by the Commission ;

"*unvalued policy*" means a policy which does not specify the value of the subject matter insured, but, subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained, in the manner specified in section 145 of this Act ;

"*valued policy*" means a policy which specifies the agreed value of the subject matter insured, subject to the provisions of this Part, and in the absence of fraud, the value fixed by the policy is, as between the insurer and the insured, conclusive of the insurable value of the subject intended to be insured, whether the loss is total or partial, and unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purposes of determining whether there has been a constructive total loss ; and

"*voyage policy*" is a policy where the contract is to ensure the subject matter "at and from", or from one place to another or others.

(2) For the purposes of this Act, where there is a reference to —

(*a*) "reasonable time",

(*b*) "reasonable premium", or

(*c*) "reasonable diligence",

the question of what is reasonable shall be a question of fact.

Regulations for the operation of specialised insurance institutions

200.—(1) A person shall not commence or carry-on Takaful or micro-insurance or related business unless licensed by the Commission.

(2) The Commission shall have power to issue regulations for the operation of specialised insurance institutions including Takaful, micro- insurance or as

may be required to ensure adequate protection of the policy holders and the insuring public.

Operation of web aggregators

201.—(1) A person shall not commence or carry-on web, internet or electronic based insurance or related business unless licensed by the Commission.

(2) The Commission shall issue regulations for web, internet or related electronic based insurance business in Nigeria.

Anti-money laundering, combating financing of terrorism and proliferation of weapons of mass destruction

202.—(1) All insurance institutions shall adopt policies stating their commitments to —

(*a*) comply with Know Your Customer (KYC)Anti- Money Laundering (AML), Combatting Financing of Terrorism (CFT) and Combatting Proliferation of Weapons of Mass Destruction (CPF) obligations under subsisting laws, regulations and regulatory directives ; and

(*b*) implement internal control measures to prevent any transaction relating to proliferation of weapons of mass destruction.

(2) Notwithstanding anything to the contrary in this Act or any other enactment, the Commission shall make regulations, guidelines and policies to fight against money laundering, and combat the financing of terrorism and the proliferation of weapons of mass destruction for insurance institutions, in accordance with international best practices and standards.

(3) The Commission shall liaise with relevant bodies in other countries with similar objectives for the purposes of sharing information and relevant data that would aid the fight against money laundering, and combat the financing of terrorism and the proliferation of weapons of mass destruction.

(4) The Commission shall have power to impose administrative sanctions against insurance institutions for non-compliance with the provisions of this section.

Insurance of container

203.—(1) An insurance in respect of usage of a container to deliver goods from the Nigerian ports to any destination within Nigeria shall be made with an insurer registered under this Act.

(2) No person shall be required to make any form of deposit in respect of usage of a container to deliver goods from the Nigerian ports to any destination within Nigeria.

(3) An importer, broker or agent shall effect an appropriate insurance cover in respect of the container to deliver the goods, to be issued by a licenced insurer registered in Nigeria under this Act to protect the interest of the ship liners or owners.

(4) Any person who acts otherwise than in compliance with the provisions of this section commits an offence and is liable on conviction to a fine of at least ₦1,000,000.

Contract with foreign insurer and reinsurer

204.—(1) Except as otherwise exempted under this section, a person shall not place insurance or reinsurance business with a foreign insurer or reinsurer in respect of any life, asset, interest or other properties in Nigeria classified as domestic insurance or reinsurance business unless with a company licensed under this Act.

(2) In this section, "domestic insurance or reinsurance business" includes —

(*a*) fire insurance and reinsurance,

(*b*) motor insurance and reinsurance,

(*c*) liability insurance and reinsurance,

(*d*) life insurance and reinsurance,

(*e*) accident insurance and reinsurance,

(*f*) health insurance and reinsurance,

(*g*) engineering insurance and reinsurance,

(*h*) energy (oil, gas and power) insurance and reinsurance,

(*i*) aviation insurance and reinsurance, and

(*j*) such other insurance and reinsurance business as the Commission may,

determine in regulations made by it.

(3) For all classes of insurance specified in subsection (2), local capacity shall be fully utilised before they are insured or reinsured abroad, subject to prior approval by the Commission.

(4) A person who contravenes the provisions of subsection (1), is liable to a penalty in the sum not more than five times the total premium involved.

(5) Notwithstanding the provisions of subsection (1), where a person satisfies the Commission that by reason of exceptional nature of the risk in or emanating from Nigeria or any other exceptional circumstances, such risk shall not be placed with an insurer or reinsurer registered under this Act, the Commission may in writing permit such person to effect such insurance or reinsurance with an insurer or reinsurer licensed outside Nigeria.

(6) Where an insurer is satisfied that a risk is required to be reinsured abroad, no in-person engagement shall be required with the reinsurer by the insured or reinsured provided the insurer is able to demonstrate that there is adequate reinsurance of the risk in accordance with the reinsurance programme submitted to the Commission at the beginning of every year.

(7) Notwithstanding the provisions of any other law, a foreign or international health insurance provider shall obtain the prior approval of the Commission before transacting any health insurance related business that emanates from Nigeria and any person who contravenes the provisions of this subsection shall be liable to a penalty of a sum not less than the total premium involved.

Contracts of general insurance-entitlements of third-party beneficiaries

205.—(1) Notwithstanding any other provision of this Act and the contract of insurance, a third-party beneficiary under a contract of non-life insurance has a right to recover from the insurer the amount of any loss suffered by the third-party beneficiary within the limit insured in the contract even though the third-party beneficiary is not a party to the contract.

(2) Subject to the contract, the third-party beneficiary —

(*a*) has the same obligations to the insurer in relation to his claim as he would have had if he were the insured ; and

(*b*) may discharge the insured's obligations in relation to the loss.

(3) The insurer has the same defences to an action under this section as the insurer would have in an action by the insured, including defences relating to the conduct of the insured, whether the conduct occurred before or after the contract was entered into.

Internal control system of insurance operators

206.—(1) An insurance operator shall establish a system of internal control over its financial reporting and security of its assets and it shall be the responsibility of the board of directors to ensure the integrity of the operator's financial controls and reporting.

(2) The board of directors of an insurance operator shall report on the effectiveness of the operator's internal control systems in its annual report.

(3) In this section, "internal control" means policies, procedures and practices put in place by management to ensure safety of assets, accuracy of financial records and reports, achievement of corporate objectives and compliance with laws and regulations.

Duty of insurers to report fraudulent insurance conduct

207.—(1) Where an insurer reasonably believes that a fraudulent insurance conduct is being, or has been committed, the insurer shall furnish the Commission, on a form to be prescribed by the Commission, all information relating to such conduct as the Commission may require.

(2) The provisions of subsection (1) does not prevent or prohibit a person from voluntarily disclosing any information concerning insurance fraud to any law enforcement agency other than the Commission.

(3) An insurer who contravenes the provisions of this section is liable to the penalty of a sum not exceeding ₦100,000.

Advertisement

208.—(1) The Commission shall have power to make regulations as to the form and contents of insurance advertisement.

(2) No insurance operator shall issue, publish or cause to be issued or published on its behalf, any form of insurance advertisement without the prior approval of the Commission.

(3) Where the approval or disapproval of the Commission is not communicated to an insurance operator within the timeframe indicated in the Service Charter, the insurance operator shall proceed with the use of the insurance advertisement provided it has satisfied itself that the forms and contents required by the Commission has been followed.

(4) The insurance operator shall file returns to the Commission within 14 days of commencement of use of the insurance advertisement and the returns shall demonstrate to the Commission that the insurance operator has complied with any regulation issued by the Commission as to the form and contents of insurance advertisement.

(5) Any insurance operator that fails to comply with the provisions of this section shall be liable to a penalty as may be stipulated by the Commission.

(6) Where the Commission, having reviewed the return submitted by an insurance operator, is satisfied that an insurance operator has not complied with its regulations as to the form and contents of insurance advertisement, the Commission shall have the power to request for amendments to or withdrawal of the insurance advertisement.

(7) In this section —

(*a*) "advertisement" includes every form of advertising, whether in a publication, display of notice, circulars, other documents, an exhibition of photographs or cinematography, films, electronic media ; and

(*b*) "insurance advertisement" means an advertisement inviting persons to enter into or offer to enter into contracts of insurance, and an advertisement which contains information calculated to lead directly to persons entering into or offering such contracts shall be treated as an advertisement inviting them to do so.

Misleading statements

209. A person who, by any statement, promise or forecast which he knows or reasonably believes to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making either dishonestly or otherwise, of any statement induces another person to enter into or offer to enter into any contract of insurance with an insurance company commits an offence and is liable on conviction to a penalty of at least ₦500,000 or imprisonment for a term of two years or both.

Claims settlement

210.—(1) Subject to the provisions of Parts X and XI of this Act, in every case where a claim is made in writing by the insured or any other party entitled to claim under an insurance policy, the insurer shall, except in the case of denial of liability, have all claims settled within the number of days as contained in the Service Charter or as prescribed by the Commission.

(2) Where any claim remains unpaid as provided in subsection (1), the insured may request the Commission to effect the payment from the statutory deposit of the insurer and the Commission shall have power to effect such payment.

(3) Except for special risk cases, all admitted claims shall be settled within 60 days of notification.

(4) All special risk claims shall be admitted or denied within 60 days of notification.

(5) All admitted special risk claims shall be settled within 60 days of issuance of Discharge Voucher.

(6) Where the insurer does not accept liability or in the case of incomplete claims documentation, he shall deliver a statement in writing stating the reason for declining such liability to the person making the claim or his authorised representative or stating the incomplete claims documentation not later than 60 days from the date on which the person delivered his claim to the insurer, or such period of time as may be prescribed in regulations made by the Commission.

(7) An insurer who contravenes the provisions of this section is liable to a penalty of ₦500,000 and shall pay the claim amount with a monthly compound interest at the prevailing bank rate from the date he ought to have settled the claim within 60 days from the date of notification.

(8) Notwithstanding anything contained in the contract of insurance, in all cases of insurances made compulsory under this Act, an insurer shall be liable to compensate the insured or third-party for damages suffered as a result of the insurer's unreasonable delay in settling a claim as may be awarded by a court of competent jurisdiction or the dispute resolution panel set up under this Act.

(9) All disputes arising out of any insurance contract shall be referred to the Federal High Court or insurance tribunal established under the National Insurance Commission Act, as the case may be.

Cap. N53, LFN 2004

Restriction on loans to directors

211.—(1) An insurer shall not grant loans to a non- executive director of the insurer directly or indirectly except a loan —

(*a*) on life policies issued to such person by the insurer ; or

(*b*) normally forming part of the terms and conditions of service of such person.

(2) An insurer who grants, and a non-executive director who receives any loan other than as provided for in subsection (1) is liable to a penalty of a sum two times the amount of the loan.

(3) An employee of the insurance operator shall not engage in any business transaction or trade in any manner whatsoever with the insurance operator as a counterpart or with the subsidiary in relation to insurance funds or assets.

Insurance Policyholder Protection Fund

212.—(1) There is established the Insurance Policyholders Protection Fund (in this Act referred to as "the Fund") into which shall be paid —

(*a*) 0.25% of the gross premium income of every insurer and reinsurer ; and

(*b*) 0.25% of the balance standing in the Security and Insurance Development Fund as at 31 December of the preceding year after meeting all financial obligations stipulated for the Fund by the National Insurance Commission Act for the time being in effect.

Cap. N53, LFN 2004

(2) The Fund shall be used for the purpose of resolving distress and insolvencies of licensed insurers or reinsurer and payment of claims admitted by or allowed against a licensed insurer or reinsurer which remains unpaid by reason of insolvency or cancellation of the licence of the insurer or reinsurer.

(3) The amount due from every insurer or reinsurer under subsection (1) shall be paid annually to the Fund and at such time as may be prescribed by the Commission.

(4) The Fund shall be managed and administered independent of the funds of the Commission by a competent fund manager appointed by the Commission and the Fund shall not be co-mingled with the funds of the Commission and shall only be in licensed deposit money banks or other recognised financial institutions as may be prescribed by the Commission.

(5) There is established for the Fund a committee (in this Act referred to as "the Insurance Policyholders Protection Fund Committee") responsible for overseeing the management of the Fund and the Insurance Policyholders Protection Fund Committee shall consist of —

(*a*) a chairman to be appointed by Commission ;

(*b*) two representatives of the Commission ;

(*c*) two representatives of the Nigerian insurance industry ; and

(*d*) the fund manager as a Secretary of the Committee.

(6) The Fund shall be disbursed as loan and shall be repaid to the Fund by the insurer or reinsurer after its recovery from insolvency or distress or as first line charge payable by an appointed receiver or liquidator, upon cancellation of licence or certificate of registration, on the realisation of assets of the insurer or reinsurer.

(7) The Commission may require an insurer or reinsurer to make additional contribution to the Fund where the Fund becomes inadequate for meeting admitted claims which remains unpaid by reason of insolvency or cancellation of licence of the insurer or reinsurer and this additional contribution made shall be net of future contributions that may be due from the insurer or reinsurer.

(8) An insurer or reinsurer shall report to the Commission inappropriate or imprudent underwriting, operational, market conduct or corporate governance practices likely to give rise to distress or insolvency of any insurer or reinsurer, not later than five days from the date it became aware of the practice.

(9) The Commission shall immediately investigate such report and, upon confirming the allegation, take regulatory action against the affected insurer or reinsurer in accordance with extant insurance laws and regulations.

(10) An insurer or reinsurer who becomes aware of such imprudent practices and fails to report to the Commission shall be liable to regulatory sanction as may be determined by the Commission.

(11) The Commission shall issue guidelines for the efficient administration, management, investment, disbursement and recovery of loan or interest from beneficiaries or realised assets.

(12) The Insurance Policyholders Protection Fund Committee shall maintain and submit to the Commission the audited annual financial statement of the Fund not later than 30 June of the succeeding year.

(13) Failure of an insurer or reinsurer to contribute to the Fund shall constitute a ground for the cancellation of the licence or certificate of registration of the insurer or reinsurer.

(14) Failure of an insurer or reinsurer to remit or pay back the loan or accrued interest due to the Fund shall constitute a ground for cancellation of the licence or certificate of the insurer or reinsurer.

(15) The annual contribution payable by insurers, reinsurers and the Commission shall continue to be made to the Fund until an amount not less than 10% of the prior year total exposure of the Nigerian insurance industry has been accumulated in the Fund or such amount as may be considered adequate by the Commission.

Offences as to returns

213.—(1) A person, other than an insurance operator, required to furnish returns or information to the Commission under this Act who fails to furnish such returns information, commits an offence and is liable on conviction to a penalty of at least ₦250,000 for every day of default.

(2) A person who, in purported compliance with subsection (1), knowingly or recklessly —

(*a*) makes a statement in the returns ; or

(*b*) gives information which is false, commits an offence and is liable on conviction to a penalty of at least ₦250,000.

(3) Where a ministry, department or agency of Government, is liable under subsection (1) or (2), the chief accounting officer shall also be liable for gross misconduct and punishable according to the terms of the extant public service rules.

Production of documents

214.—(1) Where an original document is to be produced to the Commission, it shall be accompanied by two duly certified true copies of the document for retention by the Commission, unless the Commission dispenses with their production.

(2) Where only a copy of a document is produced, the Commission may require production of further evidence to account for the absence of the original and if it is satisfied, two copies shall be prepared, and shall, when duly certified on behalf of the insurance operator be retained by the Commission, unless the Commission dispenses with their production.

(3) For the purpose of this section, a document shall be deemed to be duly signed or certified where it is signed —

(*a*) on behalf of the insurance operator by the chief executive officer of such insurance operator in Nigeria, and issued under the seal of the insurance operator ; or

(*b*) by some persons approved by the Commission.

Right of subrogation

215.—(1) Where the insurer pays for a total loss, either of the whole, or in the case of goods of any apportionable part, of the subject matter insured, he shall become entitled to take over the interest of the insured in whatever may remain of the subject matter paid for, and shall be subrogated to the rights and remedies of the insured in and in respect of that subject matter as from the time of the casualty causing the loss.

(2) Subject to subsection (1), where the insurer pays for a partial loss, he shall acquire no title to the subject matter insured, or such part of it as may remain, but shall be subrogated to the rights and remedies of the assured in and in respect of the subject matter insured to the extent of such partial loss

and from the time of the casualty causing loss in so far as the assured has been indemnified according to this Part, by such payment for the loss.

Human resource training for special risk business

216.—(1) All insurers and reinsurers underwriting special risk business shall commit a reasonable sum of their net premium or as may be prescribed by the Commission from special risk businesses to human resource training and human resource training for special risk business.

(2) An insurer or reinsurer who contravenes the provision of Subsection (1) shall be liable to a penalty to be determined by the Commission.

Service of process

217.—(1) Service of process in any legal proceeding against an insurance operator, registered or licensed under this Act, may be effected at the principal office of such insurance operator.

(2) Where the principal office of the insurance operator in Nigeria has ceased to exist, process in any legal proceeding against such insurance operator, may be served at the office of the Commissioner of insurance and such service shall be deemed to be service on the insurance operator.

Penalty for non-compliance

218.—(1) Notwithstanding any other provision of this Act, the Commission may in writing, suspend an insurance operator from conducting a new or further insurance business for a period not exceeding 12 months, where the insurance operator fails to pay any penalty or penalty imposed under this Act or regulations made within 60 days from the date of imposition.

(2) The 60 days mentioned under subsection (1) shall not start counting until any appeal process has been concluded.

(3) Where the insurance operator fails to pay a part of the penalty or penalty referred to under subsection (1), the Commission may cancel the certificate of registration of the insurance operator.

(4) Any person who is found guilty of an offence under this Act for which no specific fine is provided shall, on conviction, be liable in the case of a —

(*a*) first conviction, to a fine of at least ₦250,000 or imprisonment for a maximum term of six months or both ; and

(*b*) second or subsequent conviction to a fine of at least ₦500,000 or imprisonment for a maximum term of 12 months or both.

Fees

219. Where fees are to be prescribed under this Act or are specified herein, such fees shall be prescribed, or as the case may be, varied by the Commission.

Application of the provisions of the Companies and Allied Matters Act

220. The provisions of this Act are without prejudice to the application of the Companies and Allied Matters Act and any other enactment applicable to insurance institutions under this Act which are companies registered under

that Act, however, where any of the provisions of the Companies and Allied Matters Act or any enactment is inconsistent with any provision of this Act only as related to the insurance operations of that company, the provision of this Act shall prevail to the extent of that inconsistency.

Act No. 3, 2020

Compounding of offences and imposition of criminal penalties for infractions

221.—(1) Without prejudice to the power of the Attorney General of the Federation, under the Constitution of the Federal Republic of Nigeria, 1999 to continue or discontinue criminal proceedings against any person in any court of law, the Commission may compound any offence punishable under this Act by accepting such sums of money as it deems fit not exceeding the amount of the maximum penalty to which that person would have been liable if he had been convicted of the offence.

Cap. C23 LFN, 2004

(2) The Commission may, in lieu of prosecution under any section of this Act providing for offences impose a penalty of at least ₦250,000 or as may be determined by the Commission.

Recovery of sums involved in the commission of offences

222.—(1) Where an insurance operator or any other person commits an offence under this Act, the Commission shall, in addition to the imposition of the penalty specified for the offence, make an order for the payment of the amount involved in the commission of the offence.

(2) Where the Commission makes an order under subsection (1) and the person fails to comply within the time specified in the order, the Commission shall make an order to levy execution on such of the property of the person as is sufficient to cover the amount involved.

(3) Any amount paid or recovered under this section shall be used to compensate any person who, the Commission is satisfied, suffered in any way as a result of the insurance transaction connected with the offence.

(4) Where the amount referred to in subsection (3) is not fully utilised for the purpose specified in that subsection, the balance shall be paid into the Security and Insurance Development Fund established under the National Insurance Commission Act.

Cap. N53 LFN, 2004

Offences by body corporate

223.—(1) Where an offence under this Act has been committed by a body corporate, firm or other association of individuals, a person who at the time of the commission of the offence was an officer or was purporting to act in such capacity severally commits that offence and is liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

(2) In this section and in the other provisions of this Act, "officer" in relation to —

(*a*) a body corporate, means a director, chief executive, manager and company secretary ; and

(*b*) the firm, includes a partner and other senior officers of the firm.

Jurisdiction and prosecution

224.—(1) An offence under this Act shall, subject to the Rules of the Court, be tried in the Federal High Court or a tribunal established for this purpose.

(2) Without prejudice to the powers of the Attorney-General of the Federation in criminal proceedings, the Commission shall have powers to prosecute offenders under this Act.

Obstruction of public officers

225. Any person who willfully obstructs, interferes with, assaults or resists a public officer in the discharge of his lawful duties under this Act or aids, invites, or abets any other person to obstruct, interfere with, assault or resist any such officer, commits an offence and is liable on conviction to a penalty of at least ₦1,000,000 or imprisonment for a term not more than one year or both.

Misrepresentation by public officers

226.—(1) A public officer commits an offence if, in the discharge of his lawful duties under this Act, he knowingly or recklessly presents to another public officer, who is to take a decision or do any other act in relation to it, information which is false in any material particular, unless he proves that such information was supplied to him by another person and that he exercised all due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and in all the circumstances.

(2) A public officer who contravenes the provisions of subsection (1) is liable to disciplinary rules for public officers and other guidelines or policy issued by the Commission.

Protection against adverse claims

227.—(1) The Federal Government, the Commission or any officer of the Government or Commission shall not be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith under or in execution of, or in connection with the execution or intended execution of any power conferred upon the Government, the Commission or such officer, by this Act or the National Insurance Commission Act, provided that no public officer shall be absolved under this subsection if the public officer contravenes the code of conduct for public officers.

Cap. N53, LFN 2004

(2) For the purpose of this section, the Minister or any officer duly acting on his behalf shall be deemed to be an officer of the Federal Government and the Commissioner, and the Deputy Commissioners of the Commission or other employee shall be deemed to be an officer of the Commission.

Power to make regulations

228. The Commission may make regulations generally for the purpose of implementing and enforcing the provisions of this Act.

Repeal and savings provisions

229. (1) The —

(*a*) Insurance Act, Cap. I17, Laws of the Federation of Nigeria, 2004,

(*b*) Marine Insurance Act, Cap. M2, Laws of the Federation of Nigeria, 2004,

(c) Motor Vehicles (Third-Party Insurance) Act, Cap. M22, Laws of the Federation of Nigeria, 2004,

(*d*) National Insurance Corporation of Nigeria Act, Cap. N54, Laws of the Federation of Nigeria, 2004, and

(*e*) Nigeria Reinsurance Corporation Act, Cap. N131, Laws of the Federation of Nigeria, 2004,

are repealed.

Cap. I23 LFN, 2004

(2) Without prejudice to section 6 of the Interpretation Act, the repeal of the Acts specified in subsection (1), shall not affect anything done under the Acts.

(3) Every order, requirement, certificate, notice, direction, decision, authorisation, consent, application, request or thing made, issued, given or done under any of the Acts repealed by this Act shall, if in effect at the commencement of this Act, continue to be in effect and have effect as if made, issued, given or done under the corresponding provisions of this Act.

Application to other laws

230.—(1) The provisions of this Act shall apply notwithstanding the provisions of the —

(*a*) National Housing Funds Act ; and

Cap. N45, LFN 2004

(*b*) other applicable laws where they relate to insurance business.

(2) Where any of the provisions of the Act mentioned in Subsection (1) or any other law or enactment is inconsistent with any of the provisions of this Act, the provisions of this Act shall prevail.

Interpretation

231. In this Act —

"*a firm*" includes a partner and any other officer of a firm ;

"*a person*" means any individual, corporation, association, and other legal entity engaged in the business of insurance, including agents, insurance operators, brokers and loss adjusters ;

"*any other association of individuals*" includes a person concerned in the management of the affairs of such association ;

"*Board*" means the Governing Board of the National Insurance Commission of Nigeria ;

"*Brown Card*" means the ECOWAS Brown Card within the meaning of the Protocol ;

"*credit life insurance*" means a type of life insurance policy where the policyholder is a credit provider, and the insurer is obligated to meet the insurance requirements in case of the death of the debtor, who is the person insured under the policy, and the policy may cover one or more lives insured, and all of them shall be debtors of the credit provider ;

"*Civil Aviation Act*" means the Civil Aviation Act, No. 30, 2022 or any re-enactment or modification for the time being in effect ;

"*Commission*" means the National Insurance Commission ;

"*Commissioner*" means the Commissioner of Insurance ;

"*health insurance business*" means health insurance business not covered under the National Health Insurance Act, 2022 or any amendments or replacement to it ;

"*intermediaries*" include loss adjusters, assessors, brokers and agents ;

"*insurance operator*" means an insurer, reinsurer, insurance broker, insurance agent, loss adjuster and insurance pool, as the case may be ;

"*insurer*" includes re-insurer ;

"*Institute*" means the Chartered Insurance Institute of Nigeria ;

"*Minister*" means the Minister charged with responsibility for matters relating to finance or any Minister charged with insurance matters ;

"*principal officer*" means the chief executive officer of an insurance institution, including directors, heads of each technical department, head of human resources and administration, and head of accounts of insurers and in the case of partnership, each partner and senior officers or as the Commission may determine by regulation ;

"*Protocol*" means the Protocol on Establishment of ECOWAS Brown Card Scheme Relating to Third-Party Liability Insurance ;

"*property*" means real or personal property of every description, including money, whether tangible or intangible, and includes an interest in any such real or personal property ;

"*Regulations*" means regulations, guidelines and code of conduct ; and

"*Service Charter*" means a document indicating timelines, fees, and

other features of the products and services to be offered by the Commission to the stakeholders in the insurance industry to be published by the Commission and made available to the public in accordance with section 5(4) of the Act.

Citation

232. This Act may be cited as the Nigerian Insurance Industry Reform Act, 2025.

SCHEDULES

FIRST SCHEDULE *Section* 141 (1) *and* 199 (1)

FORM OF POLICY

Be it Known that ……as well in own name as for and in the name and names of all and every other person or persons to whom the same doth may, or shall appertain, in part or in all doth make assurance and cause and them, and every of them, to be insured lost or not lost, at and from …….....
Upon any kind of goods and merchandise, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the ……..……...……whereof is master under God, for this present voyage ……
or whosoever else shall go for master in the said ship, or by whatsoever other name or names the said ship, or the master thereof, is or shall be named or called; beginning the adventure upon the said goods and merchandises from the loading thereof aboard the said ship, ……
upon the said ship, etc. and so shall continue and endure, during her abode there, upon the said ship, etc. and further, until the said ship with all her ordnance, tackle, apparel, etc. and goods and merchandises whatsoever shall be arrived at……..... upon the said ship, etc. until she hath moored at anchor twenty-four hours in good safety; and upon the goods and merchandises, until the same be there discharged and safely landed. And it shall be lawful for the said ship, etc. in this voyage, to proceed and sail to and touch and stay at any ports or places whatsoever without prejudice to this insurance.

The said ship, etc. goods and merchandises, etc. for so much as concerns the insured by agreement between the insured and the insurers in this policy, are and shall be valued at ……..…….
Touching the adventures and perils which we the insurers are contented to bear and do take upon us in this voyage: they are of the seas, men of war, fire, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, surprisals, takings at sea, arrests, restraints, and detainments of all kings, princes, and people, of what nation, condition, or quality so ever, barratry of the master and marines, and of all other perils, losses and misfortunes, that have or shall come to the hurt, detriment, or damage of the said goods and merchandises, and ship, etc., or any part thereof. And in case of any loss or misfortune it shall be lawful to the insured, their factors, servants and assigns, sue, labour and travel for, in and about the defence, safeguards, and recovery of the said goods and merchandises, and ship, etc., or any part thereof, without

prejudice to this insurance; to the charges whereof we, the insurers, will contribute each one according to the rate and quantity of his sum herein assured. And it is especially declared and agreed that no acts of the insurer or insured in recovering, saving, or preserving the property insured shall be considered as a waiver, or acceptance of abandonment. And it is agreed by us, the insurers, that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in any place in Nigeria. And so we, the insurers , are contended, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods to the insured, their executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this assurance by the assured, at and after the rate of …….....

IN WITNESS WHEREOF we, the insurers, have subscribed our names and sums assured in…….....

N.B.: Corn, fish, salt, fruit, flour and seed are warranted free from average, unless general, or the ship be stranded ; and sugar, tobacco, hemp, flax, hides and skins are warranted free from average, under ten naira per cent, and all other goods, also the ship and freight, are warranted free from average, under six naira per cent unless general, or the ship be stranded.

SECOND SCHEDULE

Section 9 (1) *and* 141(2)

RULES FOR CONSTRUCTION OF POLICY

1. Where the subject matter is insured "lost or not lost", and the loss has occurred before the contract is concluded, the risk attaches, unless at such time the insured was aware of the loss, and the insurer was not.

2. Where the subject matter is insured "from" a particular place, the risk does not attach until the ship starts on the voyage insured.

3. Where —

(*a*) a ship is insured "at and from" a particular place, and she is at that place in good safety when the contract is concluded, the risk attaches immediately ;

(*b*) the ship is not at that place when the contract is concluded, the risk attaches as soon as she arrives there in good safety, and, unless the policy otherwise provides, it is immaterial that she is covered by another policy for a specified time after arrival ;

(*c*) chartered freight is insured "at and from" a particular place, and the ship is at that place in good safety when the contract is concluded the risk attaches immediately, if she be not there when the contract is concluded, the risk attaches as soon as she arrives there in good safety ; and

(*d*) freight other than chartered freight, is payable without special conditions and is insured "at and from" a particular place, the risk attaches pro rata as the goods or merchandise are shipped, provided that if there be cargo in readiness which belongs to the ship owner, or which some other person has contracted with him to ship, the risk attaches as soon as the ship is ready to receive such cargo.

4. Where goods or other moveables are insured "from the loading thereof", the risk does not attach until such goods or moveables are actually on board, and the insurer is not liable for them while in transit from the shore to ship.

5. Where the risk on goods or other moveables continues until they are "safely landed", they shall be landed in the customary manner and within a reasonable time after arrival at the port of discharge, and where they are not so landed the risk ceases.

6. In the absence of any further license or usage, the liberty to touch and say "at any port or place whatsoever" does not authorise the ship to depart from the course of her voyage from the port of departure to the port of destination.

7. The term "perils of the seas" refers only to fortuitous accidents or casualties of the seas and does not include the ordinary action of the winds and waves.

8. The term "pirates" includes passengers who mutiny, and riots who attack the ship from the shore.

9. The term "thieves" does not cover clandestine theft or a theft committed by any one of the ship company, whether crew or passengers.

10. The term "arrests, etc. of kings, princes, and people" refers to political or executive acts, and does not include a loss caused by riot or by ordinary judicial process.

11. The term "barratry" includes every wrongful act willfully committed by the master or crew to the prejudice of the owner, or, as the case may be, the charterer.

12. The term "all other perils" includes only perils similar in kind to the perils specifically mentioned in the policy.

13. The term "average unless general" means a partial loss of the subject matter insured other than a general average loss and does not include "particular charges".

14. Where the ship is stranded, the insurer is liable for the excepted losses, although the loss is not attributable to the stranding, provided that when the stranding takes place the risk has attached and, if the policy be on goods that the damaged goods are on board.

15. The term "ship" includes the hull, materials and outfit, stores and provisions for the officers and crew, and in the case of vessels engaged in a special trade, the ordinary fittings requisite for the trade, and also, in the case of a steamship, the machinery, boilers, coals and engine stores, if owned by the assured.

16. The term "freight" includes the profit derivable by a ship owner from the employment of his ship to carry his own goods or moveables, as well as freight payable by a third-party, but does not include passage money.

17. The term "goods" means goods in the nature of merchandise and does not include personal effects or provisions and stores for use on board.

18. In the absence of any usage to the contrary, deck cargo and living animals shall be insured specifically, and not under the general denomination of goods.

I, certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria, 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

KAMORU OGUNLANA ESQ.
Clerk to the National Assembly
21*st Day of May*, 2025

EXPLANATORY MEMORANDUM

This Act makes comprehensive legal framework for the regulation and supervision of all manner of insurance businesses in Nigeria.

SCHEDULE TO THE NIGERIAN INSURANCE INDUSTRY REFORM BILL, 2025

(1) *Short Title of the Bill*	(2) *Long Title of the Bill*	(3) *Summary of the Contents of the Bill*	(4) *Date Passed by the Senate*	(5) *Date Passed by the House of Representatives*
Nigerian Insurance Industry Reform Bill, 2025	An Act to repeal the Insurance Act, Cap. I17, Laws of the Federation of Nigeria, 2004, the Marine Insurance Act, Cap. M2 Laws of the Federation of Nigeria, 2004, the Motor Vehicles (Third Party Insurance) Act, Cap. M22, Laws of the Federation of Nigeria, 2004, the National Insurance Corporation of Nigeria Act, Cap. N54, Laws of the Federation of Nigeria, 2004 and the Nigeria Reinsurance Corporation Act, Cap. N131, Laws of the Federation of Nigeria, 2004, and enact the Nigerian Insurance Industry Reform Act, 2025 to provide for a comprehensive legal and regulatory framework for insurance business in Nigeria; and for related matters.	This Bill repeals the Insurance Act, Cap. I17, Laws of the Federation of Nigeria, 2004, the Marine Insurance Act, Cap. M2 Laws of the Federation of Nigeria, 2004, the Motor Vehicles (Third Party Insurance) Act, Cap. M22, Laws of the Federation of Nigeria, 2004, the National Insurance Corporation of Nigeria Act, Cap. N54, Laws of the Federation of Nigeria, 2004 and the Nigeria Reinsurance Corporation Act, Cap. N131, Laws of the Federation of Nigeria, 2004, and enact the Nigerian Insurance Industry Reform Act, 2025 to provide for a comprehensive legal and regulatory framework for insurance business in Nigeria.	17th December, 2024	12th March, 2025

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

KAMORU OGUNLANA, ESQ.
Clerk to the National Assembly
21*st Day of May,* 2025

I ASSENT

LS

BOLA AHMED TINUBU, GCFR
President of the Federal Republic of Nigeria
31*st Day of July,* 2025