

INSURANCE ACT

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INSURANCE ACT

An Act to provide for a New Insurance Act.

2004]

[1st January,

[Commencement.]

PART I

Application of this Act

1. Application of this Act

This Act applies to all insurance businesses and insurers, other than insurance business 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 dependants where such association does not employ any person whose main occupation-

- (i) is the canvassing of other persons to become members of the association;
 - (ii) is the collecting of contributions or subscriptions towards the funds of the association from its members; or
- (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 pursuant to the provisions of this Act to carry on any class of insurance business, but not otherwise however.

2. Classification of insurance business

- (1) There shall be for the purpose of this Act two main classes of insurance that is-
- (a) life insurance business; and
 - (b) general insurance business.
- (2) In the case of life insurance, there shall be three categories-
- (a) individual life insurance business;
 - (b) group life insurance and pension business; and
 - (c) health insurance business.
- (3) In the case of general insurance, there shall be eight categories-
- (a) fire insurance business;
 - (b) general accident insurance business;
 - (c) motor vehicle insurance business;
 - (d) marine and aviation insurance business;
 - (e) oil and gas insurance business;

- (f) engineering insurance business;
 - (g) bonds credit guarantee and suretyship insurance business; and
 - (h) miscellaneous insurance business.
- (4) 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 would have belonged if it has been issued by the reinsurer.

(5) 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 from time to time.

(6) If the National Insurance Commission (in this Act referred to as the "Commission") is satisfied that an insurer-

- (a) has conducted his business in accordance with sound insurance principles; and
- (b) has complied with the provisions of this Act, it shaH in writing permit the insurer to conduct any class of insurance business in addition to those covered by his certificate of registration.

PART II

Registration

3. Persons who may commence or carry on insurance business in Nigeria, etc.

No person shall commence or carry on any class of insurance business in Nigeria except-

- (a) a company duly incorporated as a limited liability company under the Companies and Allied Matters Act, 1990; or
[L.F.N. 2004 Cap. C20.]
- (b) a body duly established by or pursuant to any other enactment to transact the business of insurance or reinsurance.

4. Insurance to be registered

(1) Subject to the provisions of this Act, no insurer shall commence insurance business in Nigeria unless the insurer is registered by the Commission under this Act.

(2) The Commission shall not grant approval if it is satisfied that it is not in the public interest or the interest of policy holders or persons who may become policy-holders for it to be granted.

(3) Where an insurer is not satisfied with the decision of the Commission under the provisions of this section, he may appeal to the Ministers for Finance within 30 days of the refusal.

(4) The Minster shall within 60 days after the receipt of an appeal give his decision.

5. Application for registration

(1) An application for registration as an insurer shall be made to the Commission in the prescribed form and be accompanied by a business plan and such other documents or information as the Commission may, from time to time, direct or require.

(2) For the purpose of this Act, life insurance and general insurance business shall be subject to separate application and registration.

6. Registration as insurer

(1) The Commission shall before registering an insurer be satisfied that-

- (a) the class or category of insurance business shall be conducted in accordance with sound insurance principles;
- (b) the applicant being one of the persons referred to under section 3 of this Act is duly established under the applicable law and has a paid-up share capital and statutory deposit as specified in section 9 of this Act for the relevant class of insurance business;
- (c) the arrangements relating to reinsurance treaties in respect of the class or category of insurance business to be transacted are adequate and valid;
- (d) the proposal forms, terms and conditions of policies are in order and acceptable;
- (e) there shall be competent and professionally qualified persons as may be determined from time to time by the Commission to manage the company;
- (f) the applicant does not have in its employment a person disqualified from being appointed by an insurer under section 12 of this Act;
- (g) the directors have attended the promoters' interview and are persons who have not been involved in or been found guilty of fraud;
- (h) the name of the applicant is not likely to be mistaken for the name of any other insurer who is or has been an insurer or so nearly resembling that name, as to be calculated to deceive;
- (i) the applicant has paid the fee prescribed for registration;
- (j) it is in the interest of public policy that the applicant be registered;
- (k) where the class of insurance is other than life insurance business, the applicant is for the purposes of transacting not less than three classes of insurance business;
- (l) the applicant has a satisfactory business plan and feasibility study of the insurance business to be transacted within the next succeeding five years from the date of the application; and
- (m) in the case of reinsurance business, that in addition to the matters referred to in this section, it has complied with section 10 (1) (d) of this Act and any other conditions which may be specified from time to time by the Commission.

(2) The Commission shall if satisfied, register the applicant as an insurer and issue to the applicant a certificate of registration.

(3) Notice of the registration of an applicant as an insurer and under section 7 (6) of this Act be published in the *Gazette* or in such other manner.

7. Rejection of application or appeal

(1) Where the Commission is not satisfied, it shall give notice in writing to the applicant within 60 days of the submission of the application of the Commission's intention to reject the application.

(2) Any applicant aggrieved by the intention of the Commission to reject an application for registration as an insurer may within 30 days after the notice of the Commission's intention to reject application, appeal to the Minister of Finance.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the applicant on satisfying the condition stipulated in the notice, may reapply to the Commission within or before the expiration of 30 days from date of receipt of the notice.

(4) The appeal under subsection (2) of this section shall be in writing, setting out the grounds on which it is made.

(5) The Minister shall, within 60 days after the receipt of an appeal lodged in accordance with this section, give his decision.

(6) The Commission shall, unless the appeal is withdrawn, give notice in writing to the applicant of the decision of the Board and where the appeal is allowed, the Commission shall register the person as an insurer and notify him in writing accordingly.

(7) If an appeal is disallowed, the Commission shall cause a notice to be published in the *Gazette* and in such other manner to ensure wide publicity as it may determine.

8. Cancellation of registration and appeal

(1) If, in the case of a registered insurer, the Commission is satisfied that-

- (a) the class of insurance business of the insurer is not being conducted in accordance with sound insurance principles;
- (b) the insurer has failed to satisfy the margin of solvency as contained in section 24 of this Act;
- (c) the insurer has ceased to carry on business of the class or category assigned to it for at least one year in Nigeria;
- (d) the insurer has applied in writing for the cancellation of its registration as an insurer;
- (e) a judgment obtained from a court of competent jurisdiction in Nigeria against the insurer remains unsatisfied for 90 days and there is no appeal pending against the judgment;
- (f) the insurer is carrying on simultaneously the insurance business and any other business which is detrimental to the insurance business of the insurer;
- (g) subject to Part V of this Act, the insurer has transferred to or amalgamated with the business of any other insurer;
- (h) the insurer has refused to submit to an examination of its books as provided for in this Act;
- (i) the insurer has failed to comply with the provisions of section 26 of this Act;
- (j) the insurer has failed to maintain adequate reinsurance arrangements and treaties in respect of the classes or category of insurance business the insurer is authorised to transact;
- (k) subject to subsection (5) of this section, the insurer lacks the necessary expertise by virtue of a substantial reduction in the number of its qualified employees;
- (l) the net asset of the insurer is below the minimum paid-up capital and the capital injections has not been made within the time stipulated by the Commission;
- (m) the Commission has received and verified not less than five complaints of failure to pay claims promptly;

- (n) the insurer has failed to set up the special reserves and provisions as prescribed under sections 20 to 22 of this Act;
- (o) the insurer acts in any manner without the approval of the Commission in cases where this Act requires such approval;
- (P) the insurer has been wound-up or otherwise dissolved or has gone into liquidation;
- (q) the insurer, in the case of a reinsurance company has failed to satisfy the provisions of section 23 of this Act.

(3) The Commission shall give notice in writing to the insurer of the Commission's intention to cancel the registration of the insurer in respect of a particular class or both classes of insurance business, as the case may be, and the provisions of section 7 of this Act shall apply to any such notice as if it were a notice to reject an application for registration.

(4) Where no appeal is lodged as provided for under section 7 of this Act, the Commission shall, with the approval of the Governing Board cancel the registration of the insurer and notice of such cancellation shall be published in the *Gazette*.

(5) Where the lack of necessary expertise specified in subsection (2) (d) of this section relates to a particular class of insurance business, the Commission may-

- (a) suspend the insurer from carrying on the class of insurance business until the deficiency is corrected; or
- (b) cancel that class of insurance business from the number of insurance business the insurer is authorised to transact.

(6) Where a certificate of registration of an insurer is cancelled, the insurer shall forthwith discontinue acceptance of any new business-

- (a) within 12 months from the date of the cancellation, in the case of the reinsurance business in accordance with the provisions of section 82 of this Act; and
- (b) in all case, the Commission may act as a receiver from the date of cancellation in accordance with the provisions of this Act, may appoint any person to act on his behalf.

PART III

Share Capital

9. Requirements as to minimum paid-up share capital

(1) No insurer shall carry on insurance business in Nigeria unless the insurer has and maintained, while carrying on that business, a paid-up share capital of the following amounts as the case may require, in the case of-

- (a) life insurance business, not less than ₦150,000,000;
- (b) general insurance, not less than ₦200,000.00;
- (c) composite insurance business, not less than ₦350,000,000; or
- (d) reinsurance business, not less than ₦350,000,000.00.

(2) The paid-up share capital stipulated in subsection (1) of this section in the case of existing insurer-

- (a) shall come into force on the expiration of a period of nine months from the date of commencement of this Act; and
- (b) may be subscribed to by the capitalisation of undistributed profits as approved by the Commission.

(3) The Commission shall-

- (a) cancel the registration of any insurer or reinsurer that fails to satisfy the provisions of subsection (1) of this section as it relates to the category of operation of such insurer or reinsurer; and
- (b) not later than 30 days after expiry of the period specified in subsection (2) of this section publish a list of all insurers and reinsurers that have complied with the provisions of this section.

(4) The Commission may increase from time to time the amount of minimum paid-up share capital stated in subsection (1).

10. Share capital to be deposited with the Central Bank

(1) An insurer intending to commence insurance business in Nigeria after the commencement of this Act shall deposit the equivalent of 50 percent of the paid-up share capital referred to in section 9 of this Act (in this Act referred to as the "Statutory Deposit") with the Central Bank.

(2) Upon registration as an insurer, 80 percent of the statutory deposit shall be returned with interest not later than 60 days after registration.

(3) In the case of existing companies an equivalent of 10 *per centum* of the minimum paid-up share capital stipulated in section 9 shall be deposited with the Central Bank.

(4) Any statutory deposit made under subsection (1) of this section shall attract interest at the minimum lending rate by the Central Bank on every 1st January of each year.

(5) Any withdrawal from the statutory deposit shall be made good within 30 days, failure of which shall constitute a ground for suspension from business and such suspension shall be published in the newspapers.

(6) Failure to deposit the statutory deposit shall constitute a ground for cancellation of the certificate of registration.

PART IV

Modes of Operation of Insurers

11. Requirements as to principal office of insurer

(1) An insurer shall, on the day it is registered to commence business in Nigeria, have a principal office to which all communications and notices may be addressed, so that a postal box address or a private mail bag address shall not by itself only be sufficient for the purposes of the foregoing requirement.

(2) Notice of the location of the principal office or any subsequent change shall be given within 21 days to the Commission who shall record the same.

(3) If an insurer carries on business without complying with the requirements of this section the insurer and every officer commits an offence and are liable each on conviction to a fine of ₦500 for every day during which the insurer so carries on business.

(4) The fact that the address of an insurer is included in its application or in its annual return or any other return to the Commission shall not be taken to satisfy the obligation imposed by this section.

(5) Where the insurer is a company incorporated under or pursuant to the Companies and Allied Matters Act, 1990, it shall ensure that its principal office under this Act is the same as its registered office within the meaning of that Act.

[L.F.N. 2004 Cap. C20.]

12. Disqualification for appointment as director, etc.

(1) No insurer shall appoint or have in its employment a director, chief executive, manager or secretary if he-

- (a) is or becomes of unsound mind, or as result of ill health, is incapable of carrying out his duties;
- (b) is convicted of any offence involving dishonesty or fraud;
- (c) is not a fit and proper person for the position;
- (d) is guilty of serious misconduct in relation to his duties;
- (e) in the case of a person with professional qualification, has been disqualified or suspended from practising his profession in Nigeria by the order of any competent authority made in respect of him personally;
- (f) is a person who has been a director of or has been directly concerned with the management of an insurance or financial institution whose licence to operate is cancelled or whose business has been wound-up on grounds specified in sections 408 (d) and 409 of the Companies and Allied Matters Act, 1990;

[L.F.N. 2004 Cap. C20.]

- (g) is a person whose appointment with an insurance or a financial institution has been terminated or who has been dismissed for reason of fraud or dishonesty; or
- (h) has been convicted by a court or tribunal of an offence in the nature of criminal misappropriation of funds or breach of trust or cheating.

(2) No insurer shall appoint or have in its full time employment a partner or director in a firm or insurance brokers or loss adjusting firm.

(3) An insurer who contravenes subsection (1) of this section commits an offence and is liable on conviction to a fine of ₦5,000 for every day during which the contravention continues.

13. Appointment of chief executive subject to the approval of the Commission

(1) No insurer shall appoint a person as a chief executive whether designated as the managing director, executive chairman or otherwise if the appointment contravenes the provisions of section 12 of this Act unless-

- (a) the insurer has served on the Commission a written notice that it proposes to appoint that person to the position and containing such particulars as may from time to time be prescribed by the Commission; and
- (b) such an appointment is approved by the Commission.

(2) A notice served by the insurer under subsection (1) (a) of this section shall contain a statement signed by the person proposed to be appointed that it is served with his knowledge and consent.

(3) The Commission may-

- (a) before the expiration of the period of 30 days serve a notice of objection to the appointment of the proposed chief executive; and
- (b) give the insurer and the person proposed to be appointed a period of 21 days within which to make written representation to the Board.

(4) The Board shall after receiving the representation made pursuant to subsection (2) of this section give notice in writing to the insurer and the proposed chief executive of the decision of the Board.

(5) If an insurer carries on business without complying with the requirements of this section, the insurer and the person proposed to be appointed each commits an offence and is liable on conviction to a fine of ₦1,000 for every day during which the insurer so carries on business.

14. Change of chief executive to be notified to Commission

(1) A person who becomes or ceases to be the chief executive of an insurer shall, before the expiration of a period of 30 days beginning with the day on which he does so, notify the insurer in writing and send an advanced copy to the Commission on such matters as may, from time to time, be prescribed.

(2) An insurer shall give written notice to the Commission of the fact that a person has become or ceased to be a chief executive of the insurer and of any matter which the

person is required to notify the insurer under subsection (1) of this section and that notice shall be given before the expiration of the period of 30 days.

(3) A person who fails to comply with subsection (1) or (2) of this section commits an offence and is liable on conviction to a fine of ₦1,000 per day during which the default continues.

15. Time for delivering policy documents, etc.

(1) The policy document evidencing the contract of insurance shall be delivered to the insured not later than 60 days after payment of the first premium.

(2) An insurer who contravenes the provisions of this section commits an offence and is liable on conviction to a fine of ₦5,000.

16. Approval of new products

(1) No new product shall 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.

(3) The approval or otherwise of the Commission shall be communicated within 30 days of the receipt of the application.

(4) An insurer who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine of ₦10,000.

17. Records to be kept by insurer

(1) An insurer 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 insurer;
- (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 policy-holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice;
- (e) a register of claims in which shall be entered every claims 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 rejection 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 from time to time;

- (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 accounts book;
 - (k) a register of open policies in respect of marine insurance transactions; and
 - (l) management report by external auditors.
- (2) An insurer shall in respect of its life insurance business maintain and keep the following additional record, that is-
- (a) a register of assured under group policies;
 - (b) a register of loans on policies;
 - (c) a register of cash surrendered values; and
 - (d) a register of lapsed and expired policies.
- (3) Where an insurer fails to comply with any of the provisions of subsection (1) or (2) of this section, the insurer and every officer of the insurer who fails to comply commits an offence and is liable on conviction to a fine of ₦25,000.

18. Records to be kept by reinsurer

- (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 address of the owners of the reinsurer (whether known as or called shareholders or otherwise);
 - (c) minutes of any meeting of the owners and of the policy-making executive (whether known as the Board of Directors or otherwise);
 - (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 also any alteration in value from time to time;
 - (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 cash book; 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; and
 - (c) a register of claims showing the names of the cedant and when the claim is settled.

(3) Where a reinsurer fails to comply with any of the provisions of subsection (1) or (2) of this section, the reinsurer and every officer of the reinsurer who fails to comply each commits an offence and is liable on conviction to a fine of ₦25,000.

19. Separation of accounts and reserves funds

(1) Where an insurer carries on the two classes of insurance business, all the receipts of each of those classes of insurance business shall be entered in a separate and distinct account and shall be carried to and from a separate insurance fund with the appropriate name so that in case of life insurance there shall be-

- (a) the individual life insurance business fund;
- (b) the group life insurance business and pension fund; and
- (c) health insurance business.

(2) Each insurance fund shall represent the liabilities in respect of all contracts of insurance of that particular class and shall consist-

- (a) in the case of life insurance business, the life business funds shall be a sum not less than the mathematical reserve; and
- (b) in the case of general insurance business of the provisions for unexpired risk and provisions for outstanding claims, including in the case of the latter, provisions estimated to provide for the expenses of adjustment or settlement of such claims.

(3) The insurance fund of each particular class shall-

- (a) be absolutely the security of the policy holders of that class as though it belonged to an insurer carrying on other business than insurance business of that class;
- (b) not be liable for any contract of the insurer for which it would not have been liable had the business of the insurer been only that of particular insurance class; and
- (c) not be applied, directly or indirectly, for any purposes other than those of the class of business to which the fund is applicable.

20. Provisions for unexpected risks and claims

(1) An insurer shall in respect of its general business, establish and maintain the following provisions applicable in respect of each class of insurance business-

- (a) provisions for unexpired risks which shall be calculated on a time apportionment basis of the risks accepted in the year;

- (b) provisions for outstanding claims which shall be credited with an amount equal to the total estimated amount of all outstanding claims with a further amount representing 10 *per centum* of the estimated figure for outstanding claims in respect of claims incurred but not reported at the end of the year under review; and
- (c) provisions for outstanding claims.

21. Contingency reserves

(1) An insurer shall establish and maintain contingency reserves to cover fluctuations in securities and variations in statistical estimates.

(2) The contingency reserves shall be credited with an amount not less than 3 *per centum* of the total premium or 20 *per centum* of the net profits (whichever is greater) and the amount shall accumulate until it reaches the amount of the minimum paid-up capital or 50 *per centum* of the net premiums (whichever is greater).

22. Reserve for life insurance business

(1) An insurer shall in respect of its life insurance business maintain the following reserves-

- (a) a general reserve fund which shall be credited with an amount equal to the net liabilities on policies in force at the time of the actuarial valuation and an additional 25 percent of net premium for every year between valuation date; and
- (b) a contingency reserve fund which shall be credited with an amount equal to one percent of the gross premiums or 10 percent of the profits (whichever is greater) and accumulated until it reached the amount of the minimum paid-up capital.

23. Reserve of reinsurers

A reinsurer shall establish a general reserve fund which shall be credited with an amount-

- (a) not less than 50 *per centum* of his 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 *per centum* of the reinsurer gross profit for the year where the fund is equal to or exceed the authorised capital of the reinsurer.

24. Solvency margin, etc.

(1) An insurer shall in respect of its business other than its life insurance business, maintain at all times a margin of solvency being the excess of the value of its admissible assets in Nigeria over its liabilities in Nigeria consisting of-

- (a) provisions for unexpired risks;
- (b) provisions for outstanding claims;
- (c) provisions for claims incurred but not yet reported; and
- (d) funds to meet other liabilities.

(2) The solvency margin referred to in subsection (1) of this section shall not be less than 15 *per centum* of the gross premium income less reinsurance premiums paid out during the year under review or the minimum paid-up capital whichever is greater.

(3) For the purpose of calculating the solvency margin, all moneys owned by policy holders brokers or agents by way of premiums due to but not received by the insurer as at the end of the relevant year shall not count as admissible assets or be included in determining qualifying liabilities.

(4) Any amount due as liability to reinsurers which are attributable to outstanding premiums in respect of the current year excluded under subsection (3) of this section shall be excluded from liabilities.

(5) Where the commission finds that the solvency margin of an insurer has fallen below the margin stipulated in this section it shall forthwith direct the insurer to make good the deficiency by way of cash payment into its accounts and satisfactory evidence of such payment shall be produced to the Commission within 60 days of the receipt of the directive.

(6) If satisfactory evidence of payment is not produced to the Commission within the time stipulated in subsection (5) of this section, the insurer shall not undertake a new insurance business until it produces satisfactory evidence of payment to the Commission.

(7) Failure to make payment and produce satisfactory evidence of the payment as required under subsections (5) and (6) of this section, within a period of 60 days of the receipt of the direction, shall constitute a ground for the cancellation of the registration of an insurer under section 8 of this Act.

(8) An insurer who transacts a new insurance business in contravention of subsection (6) of this section shall be liable to have its registration cancelled under section 8 of this Act notwithstanding that the period of 60 days referred to in subsection (7) of this section has not expired.

(9) An auditor who audits a balance sheet profit and loss and revenue account of an insurer under section 28 of this Act shall insure a certification stating the extent to which the insurer has satisfied the margin of solvency required under this section.

(10) If the Commission is not satisfied with a certification issued under subsection (9) of this section, it may conduct an independent investigation on the matter with a view to determining what action to take against the insurer or the auditor.

(11) Where an investigation conducted under subsection (10) of this section discloses a false certification by an auditor, the Commission may make a report on the auditor to the appropriate professional body for necessary disciplinary action.

(12) Where an insurer or reinsurance company fails to account of it being insolvent, any auditor or official of the Commission who in the three previous years certifies the said company as being solvent shall be held liable.

(13) In this section-

"admissible assets" means assets designated as admissible assets consisting of the following-

(a) cash and bank balances;

- (b) quoted investment at market value;
- (c) unquoted stock at cost;
- (d) land and buildings;
- (e) furniture and fittings;
- (f) office equipment;
- (g) motor vehicles;
- (h) prepared expenses made to member of staff;
- (i) amount due from retrocession;
- (j) staff loans and advances; and
- (k) claims receivable.

25. Investment

(1) An insurer shall at all times in respect of the insurance transacted by it in Nigeria, invest and hold invested in Nigeria assets equivalent to not less than the amount of policy holder's funds in such insurance business as shown in the balance sheet and the revenue accounts of the insurer.

(2) Subject to the other provisions of this section, the policy-holder's funds shall not be invested in property and securities except-

- (a) shares of limited liability companies;
- (b) shares in other securities of a co-operative society registered under a law relating to co-operative societies;
- (c) loans to building societies approved by the Commissions;
- (d) loans on real property, machinery and plant in Nigeria;
- (e) loans on life policies within their surrender values;
- (f) cash deposit in or bills of exchange accepted by licensed banks; and
- (g) such investments as may be prescribed by the Commission.

(3) No insurer shall-

- (a) in respect of its general insurance business, invest more than 25 *per centum* of its assets as defined in subsection (1) of this section in real property; or
- (b) in contract of its life insurance business, invest more than 35 *per centum* of its assets as defined in subsection (1) of this section in real property.

(4) An insurer which contravenes the provisions of this section commits an offence and is liable on conviction to a fine of ₦50,000.

(5) In this section, references to real property include references to an estate in land, a lease or a right of occupancy under the Land Use Act.

26. Statement of accounts, etc.

(1) An insurer shall not later than 30th June of each year submit in writing to the Commission the following-

- (a) a balance sheet duly audited showing the financial position of the insurance business of the insurer and its subsidiaries at the close of that year together with a copy of the relevant profit and loss account which the insurer is to present to its shareholders at its annual general meeting;
- (b) a revenue account applicable to each class of insurance business for which the insurer is required to keep a separate account of receipts and payment; and
- (c) a statement of investments representing the insurance funds.

(2) The returns and accounts required to be submitted under subsections (1) (a) and (b) of this section shall be in such form as may be approved by the Commission.

(3) An insurer which fails, neglects or refuses to file the returns and accounts under this section commits an offence and is liable on conviction to a fine of ₦5,000 per day for each day of default.

(4) An insurer shall in each year after receipt of the approval of the Commission, publish its general annual balance sheet together with its profit and loss accounts in at least one newspaper having wide circulation in Nigeria.

(5) No insurer shall distribute any dividends until the Commission has approved the annual returns of the insurer within 30 days of its submission to the Commission.

27. Life insurance accounts

(1) An insurer transacting life insurance business shall submit to the Commission every three years in the prescribed form, the following-

- (a) an abstract of the report of an actuary and valuation report of the life insurance businesses;
- (b) a summary and valuation of the life policies;
- (c) a table showing premium, policy reserve values and guaranteed surrender values together with the relationship between premium paid and such guaranteed surrender values; and
- (d) a certificate of solvency signed by an actuary stating that the value of the assets representing the funds maintained by the insurer in respect of the life insurance business exceeds the value of the liabilities.

(2) The Commission may require an insurer transacting business to--

- (a) cause the person who is for the time being the actuary of the insurer to make an investigation into its financial condition (including evaluation of its liabilities) in respect of that business as at a specified date;
- (b) cause an abstract of that persons' report of the investigation to be made and submitted to it;
- (c) prepare and submit to it a statement of its life insurance business or part thereof as at the date of the request; and

- (d) show sufficient evidence that not more than 40 *per centum* of the actuarial surplus declared is appropriated for shareholders.
- (3) An insurer transacting life insurance shall at the expiration of each year-
 - (a) prepare with reference to that year in the prescribed form a statement and exhibit of the life policies; and
 - (b) submit the statement and exhibit together with such other documents and information relating to the relevant accounts and balance sheet (including copies of reports on the affairs of the insurer for the year as submitted to the policyholders of the insurer) as the Commission may from time to time require.
- (4) On receipt of the documents mentioned in subsections (2) and (3) of this section, the Commission shall, if it appears to it that the statement furnished by an insurer under any of those subsections is inaccurate or is 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 documents;
 - (c) require the insurer to confirm on oath or by a sworn declaration the authenticity of any statement submitted by the insurer;
 - (d) refuse to approve the insurer's annual statement unless or until the inaccuracies have been corrected or the deficiencies have been supplied.
- (5) An insurer who fails, neglects or refuses to me the required returns or accounts under this section is guilty of an offence and liable on conviction to a fine of ₦5,000 per day for every day of default.
- (6) An insurer shall in each year after receipt of the approval of the Commission publish its general annual balance sheet together with its profit and loss account in at least one newspaper having wide circulation in Nigeria.

28. Audits

- (1) The balance sheet profit and loss account and revenue account of an insurer in respect of the insurance business transacted by the insurer shall be audited annually by an external auditor.
- (2) At the conclusion of the audit, the auditor shall issue certificate signed by him stating whether in his opinion-
 - (a) he has obtained adequate information from the books and records of the insurer;
 - (b) the books of the insurer have been properly kept and the affairs and transactions of the insurer have been properly recorded;
 - (c) the accounts and balance sheet of the insurer are in accordance with the information given to him for the purpose of his audit;
 - (d) the accounts and balance sheet are in accordance with the applicable provisions of this Part of this Act; and

- (e) the balance sheet of the insurer and the profit and loss account respectively gives a true and fair view of the financial position of the insurer.

29. Actuarial valuation

(1) An insurer transacting life insurance business shall in respect of its life insurance business once in every period of three years, cause an investigation to be made into its financial position by an actuary appointed or secured by the insurer.

(2) An investigation under subsection (1) of this section shall include-

- (a) a valuation of the assets and liabilities of the insurer; and
- (b) a determination of any excess over those liabilities of the assets representing the funds maintained by the insurer.

(3) For the purposes of an investigation under this section, the value of any asset and the amount of liability shall be determined in accordance with applicable valuation regulations.

PART V

Amalgamation and Transfer

30. Procedure for amalgamation

(1) Subject to the provisions of this section, no insurer shall-

- (a) amalgamate with, transfer to or acquire from any other insurer any insurance business or part thereof, without the approval of the Commission; or
- (b) without the sanction of the Court-
 - (i) amalgamate with any other insurer carrying on life insurance business, or workmen's compensation insurance business; or
 - (ii) transfer to or acquire from any other insurer, any such insurance business or part thereof.

(2) The Commission may, before granting an approval under subsection (1) (a) of this section, call for such statements, documents and other information as shall enable it to reach a decision on the matter.

(3) If a class of insurance business mentioned in subsection (1) (b) of this section is intended to be amalgamated with another insurance business or where an insurer or the class of insurance business is intended to be transferred or acquired in whole or in part, the insurers concerned shall apply to the Court to sanction the proposed amalgamation or transfer as the case may be.

(4) Before an application is made to the Commission for approval or to the Court to sanction any transaction under this section, notice of intention to make the application together with a statement of the nature of the amalgamation, transfer or acquisition shall, at least three months before the application is made, be published in at least five national newspapers and be served on the Commission.

(5) During the three months referred to in subsection (4) of this section, certified copies of each of the following documents shall be kept open for inspection by the members and policy-holders at the principal and branch offices of the insurers concerned that is-

- (a) a draft of the agreement or deed under which it is proposed to effect the amalgamation, acquisition or transfer;
- (b) auditor's report in respect of the insurance business of each of the insurers concerned, prepared in the prescribed form;
- (c) actuarial reports in respect of the life 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.

(6) The deed 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 policy-holders and shareholders at all reasonable times in all the offices of the insurers in Nigeria, for a period of 21 days after the publication of the notice in the newspapers.

(7) The Commission or Court in its discretion may approve or sanction the amalgamation, transfer or acquisition if it is satisfied that no sufficient objection has been established by those entitled to be heard.

(8) For the purposes of subsection (7) of this section, it shall be sufficient objection if it appears to the Commission or Court that policy-holders representing not less than one-fifth of the total number insured by any of the insurers carrying on the insurance business concerned, dissent from the amalgamation, transfer or acquisition, as the case may be.

(9) If an amalgamation, transfer or acquisition under this section is approved by the Commission or sanctioned by the Court, no policy-holder shall be regarded as having abandoned a claim which he would have had against the original insurer or as having accepted in place of the original insurer the liability of that insurer.

(10) A policy-holder who abandons his claim under subsection (9) of this section shall have the right to cancel his contract, in which case he shall be entitled to claim the portion of premium corresponding to the unexpired term of the risk insured by him or to the mathematical reserve, in the case of life assurance.

(11) Any insurer from whom the business is transferred shall not be registered anew to undertake the same class or, as the case may be, classes of insurance business until after the expiration of five years from the issue of the approval by the Commission or sanction of the Court.

31. Documents to be deposited with the Commission after amalgamation or transfer

Within three months after the date of completion of the amalgamation, transfer or acquisition of insurance business under section 30 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-

- (a) certified copy of the agreement or deed under which the amalgamation, transfer or acquisition had been effected;

- (b) certified copy of the agreement or deed under which the amalgamation, transfer or acquisition had been effected;
- (c) a certified copy of the actuarial or other reports upon which the agreement or deed was founded; and
- (d) a declaration signed by each of the insurers concerned-
 - (i) that to the best of their knowledge and belief, every payment made or to be made to any person on account of the amalgamation or transfer is therein fully set forth; and
 - (ii) that no other payments beyond these set forth have been made either in money, policies, securities or other valuable consideration by or with the knowledge of any of the parties to the amalgamation or transfer.

PART VI

Winding-up

32. Winding-up petition

- (1) 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 not less than 50 policy-holders, each of whom holds a policy that has been in force for not less than three years, on the grounds specified in sections 408 and 409 of the Companies and Allied Matters Act, 1990; or
 - (b) by the Commission on any of the following grounds, that is-
 - (i) that the registration of the insurer has been cancelled in accordance with section 8 (2) of this Act; or
 - (ii) that the insurance company cannot be revived despite the intervention of the Commission.
- (2) The provisions of the Companies and Allied Matters Act, 1990 shall have effect, subject to this Act, as if the petition under subsection (1) of this section was presented under that Act.
- (3) In all cases the Commission shall monitor the winding-up processes.
- (4) Notwithstanding the provisions of the Companies and Allied Matters Act, 1990 or any other enactment, the following priority list shall be followed in settling debts owed by the company-
 - (a) liquidation fees;
 - (b) secured creditors;
 - (c) policy-holders;
 - (d) other creditors;
 - (e) staff; and
 - (f) shareholders and Directors.

33. Prohibition of voluntary winding-up

Notwithstanding the provisions of the Companies and Allied Matters Act, 1990 or any other enactment, no insurer which transacts life insurance business shall voluntarily wind-up its business except for the purpose of effecting an amalgamation, transfer or acquisition under this Act.

PART VII

Insurance Agents, Brokers and Loss Adjuster

34. Insurance agents

(1) No person shall transact business as an insurance agent unless he-

- (a) possesses a certificate of proficiency issued in the name of the individual applicant by the Chartered Insurance Institute of Nigeria (referred to in this Act as the "Institute");
- (b) is duly appointed by an insurer and licensed in that behalf under this Act.

(2) An application for a licence as an insurance agent shall be made to the Commission in the prescribed form and be accompanied by the prescribed fee and such other documents as may be prescribed, from time to time.

(3) If the Commission is satisfied that the applicant has satisfied the requirements of this section or such other requirements as may be prescribed, it shall license the applicant as an insurance agent.

(4) A licence issued under this section shall entitle the holder to act as an insurance agent for the insurers named in the licence and shall, subject to this section, be renewable every year on payment of the prescribed fee.

(5) A person who--

- (a) is a minor;
- (b) has not been certified as an insurance agent by the Institute;
- (c) had, prior to the date of his appointment, been convicted by a court or tribunal of an offence in the nature of criminal misappropriation of funds or breach of trust or cheating,

shall not be qualified for appointment as an insurance agent or be licensed under this Act.

35. Duties of insurers and agents *inter se*

(1) An insurer who employs the services of an insurance agent and every person who acts for an insurer in that behalf shall maintain a register showing the name and address of every insurance agent and the date on which his services were employed and, where applicable, terminated.

(2) Where an insurance business is transacted through an insurance agent, the agent shall immediately pay to the insurer any premium collected by him.

(3) An insurance agent who contravenes subsection (2) of this section commits an offence and is liable on conviction for-

- (a) a first offence, to a fine of ₦10,000 or imprisonment for a term of six months;
- (b) a second offence, to a fine of ₦50,000 or to imprisonment for a term of one year; and
- (c) a third offence, to a fine of ₦100,000 or to imprisonment for a term of three years or to both such fine and imprisonment and in addition he shall be disqualified from being appointed again as an insurance agent.

(4) A person who transacts business as an insurance agent without having been duly appointed commits an offence and is liable on conviction to a fine of ₦100,000 or to imprisonment for a term of three years or to both such fine and imprisonment, and in addition, the Court may make an order requiring the person to refund any sums collected by him while so transacting the business, to the rightful owners or other persons entitled thereto.

(5) An insurer who knowingly or recklessly transacts any insurance business with any person mentioned in subsection (4) of this section commits an offence and is liable on conviction to a fine of ₦100,000 and the Court may make such additional order as to the refund of the sums involved as specified under subsection (4) of this section.

36. Insurance brokers to be registered

(1) No person shall transact business in Nigeria as an insurance broker unless he is registered under this Act.

(2) Application for registration as an insurance broker shall be made to the Commission in the prescribed form and accompanied by the prescribed fee and such other documents as may be prescribed, from time to time.

(3) If the Commission is satisfied that the applicant-

- (a) has the prescribed qualifications; and
- (b) is a partnership or a company with limited liability duly registered under the Companies and Allied Matters Act, 1990, it shall register the applicant as an insurance broker by issuing the applicant with a certificate of registration.

(4) No firm or company shall be registered under this section unless each partner, Chief Executive and Executive Director is registered as an insurance broker by the Institute.

(5) If the Commission is not satisfied as to any of the matters referred to in subsection (3) of this section, the Commission shall give notice in writing to the applicant of the Commission's intention to reject the application.

(6) A person aggrieved by the intention of the Commission to reject an application for registration as an insurance broker, may give notice of appeal and the provisions of section 7 of this Act shall apply as if references in that section to an applicant were referred to an applicant under this section.

(7) A certificate issued to an insurance broker shall lapse if not renewed within three months from the date of expiry.

(8) A person who transacts business as an insurance broker without having been registered in that behalf under this Act commits an offence and is liable on conviction-

- (a) in the case of a firm or other combination of persons, each officer of the firm to a fine of ₦250,000 or to imprisonment for a term of two years or to both such fine and imprisonment and, in addition, the Court may make an order requiring the refund of the sums collected by the individual or firm while so transacting the business to the rightful owners or other persons entitled thereto; and
- (b) in any other case, to a fine of ₦250,000.

(9) An insurer who knowingly or recklessly transacts insurance business with any person mentioned in subsection (8) of this section commits an offence and is liable on conviction to a fine of ₦500,000 and the Court may make such additional order as to the refund of the sums involved as referred to in that subsection.

(10) Every insurance broker shall pay to the Commission, not later than 30th of June every year, a levy equivalent to one percent of its gross commission or ₦25,000, whichever is higher.

(11) The Commission may, from time to time, increase the minimum amount of the levy under subsection (10) of this section.

37. Cancellation of registration of an insurance broker

If the Commission is satisfied that a registered insurance broker-

- (a) has knowingly or recklessly contravened the provisions of this Part of this Act;
- (b) practises as a loss adjuster;
- (c) has, for the purpose of obtaining a licence or paying a levy to the Commission made a statement which is false in any material particular;
- (d) has been found guilty by a court of competent jurisdiction of fraudulent or dishonest practice (including misappropriation of clients money); or
- (e) has taken actions contrary to the Code of Conduct of the profession,

the Commission shall inform the broker in writing and give notice of the Commission's intentions to cancel the registration and the provision of section 7 of this Act shall apply as if references in that section to the applicant were references to an insurance broking firm or company.

38. Requirement as to indemnity cover, staff, etc.

An insurance broking firm or company shall-

- (a) maintain a professional indemnity cover of not less than 10 million naira or 50 *per centum* of its annual brokerage income for the preceding year, whichever is the greater;
- (b) have as a member of its senior management staff at least one person who has professional qualifications in insurance or at least seven years experience at senior management level with an insurer or insurance broking firm;
- (c) not hold directly or indirectly financial interest-
 - (i) in excess of 10 *per centum* in an insurance company; or
 - (ii) in a loss adjusting company in Nigeria; and
- (d) keep a register of business transacted by him on annual basis.

39. Suspension of registration

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

(2) An insurer who transacts business with an insurance broker who has been suspended, commits an offence and is liable on conviction to a fine of ₦100,000.

(3) If an insurer continues to commit an offence under subsection (2) of this section

after the second conviction, the Commission may give to the insurer notice of its intention to cancel the registration of the insurer under section 8 of this Act.

40. Insurance broker to establish client's account

(1) An insurance broker shall establish and maintain at all times a client's accounts into which all monies, 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) of this section is guilty of an offence and liable on a conviction to a fine of ~~₦~~250,000 or to imprisonment for a term of three years or to both such fine and imprisonment.

41. Payment of premium to insurer

(1) Where an insurance business is transacted through an insurance broker, the insurance broker shall, not later than 30 days of collecting the premium paid to the insurers collected by him.

(2) An insurance broker who contravenes the provisions of subsection (1) of this section commits an offence and liable on a conviction as-

- (a) a first offence, to a fine of ~~₦~~10,000 or five times the value of the premium whichever is greater;
- (b) a second offence, to a fine of ~~₦~~25,000 or to ten times the value of the premium whichever is greater; or
- (c) a third offence, to a fine of ~~₦~~250,000 and in addition, the certificate of the insurance broker shall be called and the persons or in the case of a firm, the persons constituting the firm or directors of the company shall be disqualified from being again involved in the setting up of the business of insurance brokage under this Act either by himself or themselves or in conjunction with any other persons or body.

(3) An external auditor who audits the accounts of an insurance broker shall at the conclusion of each audit issue a certificate that all premiums collected by the insurance broker have been paid to the insurer with whom he transacted business during the year.

(4) Failure by an insurance broker to pay an insurer any premium collected under subsection (1) of this section may constitute a ground for the cancellation of registration of the insurance broker.

(5) False declaration by the insurance broker of its income or remittance of premiums collected shall constitute a ground for the cancellation of the registration.

42. Records of transactions, etc.

(1) An insurance broker shall keep records of all insurance business handled by him and, for the purposes of this section, separate records shall be kept by the broker with respect to--

- (a) insurance business entered into with insurers registered under or pursuant to this Act; and
- (b) subject to subsection (3) of this section, insurance business entered into with persons outside Nigeria.

(2) An insurance broker shall-

- (a) keep accounting records which shall show and explain the business transacted by the insurance broker and to disclose his true financial position; and
- (b) ensure that the accounting records kept under paragraph (a) of this subsection give a true and fair view of his business at the accounting date.

(3) An insurance broker shall submit an audited statement of account comprising-

- (a) revenue;
- (b) the profit and loss account; and
- (c) balanced sheet,

in the prescribed form to the Commission not later than six months after the accounting date.

(4) An insurance broking firm that contravenes the provisions of this section commits an offence and is liable on conviction to a fine of ₦5,000 per day for each day of default.

43. Reinsurance Broking

(1) No insurance broker shall undertake reinsurance broking without the approval of the Commission.

(2) The Commission may grant an approval to an insurance broker for purposes of subsection (1) of this section if 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 insurance broking firm or company has at least five years working experience in the middle management cadre of a reinsurance broking firm or company.

(3) An insurance broker who contravenes the provisions of this section commits an offence and is liable on conviction to a fine of ₦250,000 and in addition the reinsurance business transacted shall be null and void.

44. Service of notice, etc.

(1) A direct insurance broker who places a business of insurance with a foreign insurance company shall-

- (a) serve the Commission notice of the contract within 30 days of its being signed; and
- (b) include any commission received on the transaction as part of the gross commission received by the insurance broker during the relevant year.

(2) An insurance broker who contravenes any of the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine of ₦250,000 and a continuous contravention shall constitute a ground for the cancellation of the insurance broker's registration.

45. Loss adjusters to be registered

(1) No person shall transact business as a loss adjuster in Nigeria unless he is registered in that behalf under this Act.

(2) An application for registration as a loss adjuster shall be made to the Commission in the prescribed form and be accompanied by payment of such fee and other documents as may, from time to time, determine.

(3) An applicant shall be duly registered as a loss adjuster if the Commission is satisfied that-

- (a) it is duly incorporated as a partnership or a company registered under the Companies and Allied Matters Act, 1990;
- (b) at least a partner in the firm or a director of the company is duly registered by the Institute of Loss Adjusters of Nigeria; and
- (c) that the firm or company maintains a professional indemnity cover of not less than ₦5 million or 50% of its annual fees for the preceding year, whichever is the greater.

(4) No person shall be a chief executive of a loss adjusting company or firm unless he is registered as a loss adjuster by the Institute upon recommendation of the Institute of Loss Adjusters of Nigeria.

(5) A loss adjuster shall pay to the Commission, not later than 30th of June every year, a levy equivalent to one percent of its gross fees or ₦10,000, whichever is higher.

(6) The Commission may, from time to time, increase the minimum amount of the levy under subsection (5) of this section.

(7) A person who transacts business as a loss adjuster without having been registered in that behalf commits an offence and is liable on conviction to a fine of ₦250,000.

(8) An insurer or any other person who knowingly or recklessly transacts business with or engages the services of an unregistered loss adjuster commits an offence and is liable on conviction to a fine of ₦100,000.

46. Cancellation of registration of a loss adjuster

- (1) If the Commission is satisfied that a registered loss adjuster-
- (a) has knowingly or recklessly contravened the provisions of this Part of this Act;
 - (b) has, for the purpose of registration or payment of a levy to the Commission, made a statement which is false in any material particular;
 - (c) has been found guilty by a court of competent jurisdiction of fraudulent or dishonest practices (including misappropriation of client's moneys); or
 - (d) has in any manner displayed any act of professional misconduct, the Commission shall give notice in writing of its intention to cancel the registration or to refuse its renewal and the provisions of section 7 of this Act shall apply as if references therein to the applicant were references to a loss adjuster under this subsection.

(2) A person aggrieved by the intention of the Commission to cancel the registration of a loss adjuster may within 30 days after the date of the notice of the Commission's intention to so act, lodge with the Commissioner, a notice of appeal to the Board.

47. Records to be kept by loss adjuster

A loss adjuster shall keep proper records of all its business as may be prescribed which shall be subject to inspection by the Commission or any person authorised by it in that behalf, for the purpose of ascertaining proper conduct of the business.

48. Attendance to claims by foreign loss adjusters

The Commission may permit a qualified or other recognised foreign loss adjuster to attend to claims in Nigeria on such terms and conditions as it may, from time to time, specify provided that the foreign loss adjuster handles the assignment with and in collaboration with at least one registered firm of loss adjusters already based in Nigeria.

49. Power of Commission to investigate agents, brokers and loss adjusters

Without prejudice to the power conferred on the Commission to inspect, investigate or examine any insurance broker or loss adjuster by this Act or any other enactment, the Commission may, for the purposes of satisfying itself as to whether or not the provisions of this Part of this Act are being complied with at any time-

- (a) authorise an investigator to conduct an examination of any insurance agent, insurance broker or loss adjuster as may be reasonable in the circumstances; and
- (b) by notice in writing, require any insurance agent, insurance broker or loss adjuster to produce any document or information on any matter relating to the insurance business negotiated or to be negotiated or solicited by the insurance agent, insurance broker or loss adjuster.

PART VIII

Premiums and Commissions

50. Receipt of insurance premium vital to contract of insurance

(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 an insurance broker in respect of an insurance business transacted through the insurance broker shall be deemed to be premium paid to the insurer involved in the transaction.

51. Restriction on general increases in premium charged on motor insurance, etc.

(1) No insurer shall either by itself or as a member of an association of insurers make a general increase in the minimum rates of premiums charged or to be charged with respect to any class of insurance business made compulsory by law except with a prior approval of the Commission.

(2) An insurer who makes a general increase otherwise than in compliance with subsection (1) of this section commits an offence and is liable on conviction to a fine often times the amount of premium charged and received by the insurer or ₦100,000.00 whichever is greater.

(3) An insurer who increases rates of premium charged or to be charged with respect to a any class of insurance business made compulsory by law otherwise than in compliance with subsection (1) of this section commits an offence and is liable on conviction to either of the additional penalties-

- (a) suspension of its operations in respect of a new insurance business for a period of not less than six months or more than three years; or
- (b) cancellation of its certificate of registration, and in addition to either of the foregoing, the insurer shall refund the excess payment to every person making such excess payment or to other person entitled thereto.

(4) The penalties referred to in subsection (3) of this section shall be imposed by the Commission and an insurer who feels aggrieved may appeal to the Minister of Finance in accordance with the provisions of section 7 of this Act.

(5) The provisions of this section shall not apply to non-tariff insurance business where premiums are charged according to the risk covered by the insurance policy.

52. Appointment of *ad hoc* committee on compulsory insurance business

(1) The Commission may, from time to time, appoint an *ad hoc* committee to deal with matters relating to any class of insurance business made compulsory by law in Nigeria.

(2) The Committee appointed under subsection (1) of this section shall consist of such number of persons and perform such functions as the Commission may, from time to time, prescribe.

53. Limitation on the payment of insurance commission

(1) No insurer shall pay by way of commission to an insurance agent, insurance broker or any other intermediary an amount-

- (a) exceeding 12.5 *per centum* of the premium in respect of motor insurance business;
- (b) 15 *per centum* in respect of workmen's compensation; or
- (c) 20 *per centum* of the premium in respect of any other subdivision not being one mentioned in paragraphs (a) and (b) of this subsection of general business.

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

(3) The rate of commission payable to insurance agent shall not be more than 50 *per centum* of the rate of commission payable to insurance brokers or as determined by the Commission, from time to time, on the recommendation of the *ad hoc* committee appointed under section 52 of this Act.

(4) A person who pays or who receives any commission otherwise than in compliance with the provisions of this section commits an offence and is liable on conviction to a fine of ₦100,000 plus an additional fine being an amount equal to the excess commission.

PART IX

Disclosure, Condition and Warranty

54. Proposal to contain request for all material facts

(1) Where an insurer requires an insured to complete a proposal form or other application form for insurance, the form shall be drawn up in such 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 other application form for insurance shall be printed in easily readable letters and shall state, as a note in a conspicuous place on the front page, that "An insurance agent who assists an applicant to complete an application or proposal form for insurance shall be deemed to have one 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) In this section, the expression "**insured**" includes an applicant for insurance.

55. Only breach of material and relevant terms to give rise to a right

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

(2) Notwithstanding any provision in any written law or enactment to the contrary, 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 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 would have been 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) In subsection (2) of this section, "**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.

PART X

Insurance Interest and Assignment in Life or other Insurance

56. No insurance to be made on lives, without insurable interest

(1) A policy of insurance made by a person on the life of any other person or on any other event whatsoever shall be null and void where the person for whose benefit, or on whose account the policy of insurance is made has no insurable interest in the policy of insurance 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 in any other event where he stands in any legal relationship to that person or other event in consequence of which he may benefit by the safety of that person or event or be prejudiced by the death of that person or the loss from the occurrence of the event.

(3) In this section, "**legal relationship**" includes 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.

57. No policies on lives without inserting the names of persons interested

(1) A policy of insurance shall not be made on the life of a person or other event without inserting in the policy the name of the person interested in it, or for those whose benefit or on whose account the policy is made.

(2) The provisions of subsection (1) of this section shall not invalidate a policy for the benefit of unnamed persons from time to time, 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.

58. Limitation on amount receivable by person with insurable interest

Subject to the provisions of any other written law or enactment, where a person has an insurable interest in the life or event insured, he shall not be entitled to receive from the insurer an amount greater than that of the value of the interest of the insured in such life or other event.

59. Limitation of application of sections 56-58 of this Act

The provisions of sections 56-58 of this Act shall not apply to the insurance of ships and carriage of goods by sea.

60. Assignee of life policies may sue in his own name

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 such person to recover such money, but the assignee shall not have a better title than the insured.

61. Notice of assignment to be given

(1) No assignment of a policy of life insurance shall 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 insurer 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.

62. Assignment by endorsement or separate instrument

Assignment of a policy of life insurance may be made by endorsement on the policy or by a separate instrument in the following words to that effect namely "[.....] of in consideration ofdo hereby assign unto , his executors, administrators, and assignees, the (within mentioned) policy of life insurance granted of (here describe the policy).

In witness whereof! have hereunto set my hand and seal this day of 20

63. Notice of assignment to be acknowledged

An insurer to whom notice of assignment is duly given of assignment of any policy under which it is liable, shall upon request in writing by any person by whom the notice was given or his personal representative, deliver to him an acknowledgment of receipt of the notice and that acknowledgment, if signed by a person duly authorised by the insurers, shall be conclusive evidence against the insurer of his having duly received the notice.

PART XI

Insurance of Property

64. Insurance of building under construction

(1) No person shall cause to be constructed any building of more than two floors without insuring with a registered insurer his liability in respect of construction risks caused by his negligence or the negligence of his servants, agents or consultants which may result in bodily injury or loss of life to or damage to property of any workman on the site or of any member of the public.

(2) The duty to insure under subsection (1) of this section shall arise when a building is under construction.

(3) A person who contravenes subsection (1) of this section commits an offence and on conviction shall be liable to a fine of ₦250,000 or imprisonment for three years or both.

65. Insurance of public buildings

(1) Every public building shall be insured with a registered insurer against the hazards of collapse, fire, earthquake, storm and flood.

(2) "**Public building**", in this section includes a tenement house, hostel, a building occupied by a tenant, lodger or licensee and any building to which members of the public have ingress and egress for the purpose of obtaining educational or medical service, or for the purpose of recreation or transaction of business.

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

(4) 0.25 percent of the net premium received by every direct insurer on policies issued under subsection (1) of this section shall be paid quarterly by every insurer 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.

(5) An insurer who defaults in making payment as required under subsection (4) of this section commits an offence and is liable on conviction to a fine ten 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.

(6) An occupier or owner of premises who is in default of this section commits an offence and is liable on conviction to a fine of not more than ₦100,000 or to imprisonment for one year or both.

(7) A person who intends to insure any other property located in Nigeria, whether movable or immovable, or any insurable interest or liability in relation thereto, shall place such an insurance with all insurers registered in accordance with this Act who may, subject to the provisions of this Act, reinsure such property or liability overseas where the Nigerian insurance industry lacks the capacity to retain the risk.

(8) A person who contravenes the provision of subsection (7) of this section commits an offence and is liable on conviction to a fine equivalent to ten times the amount of premium paid in respect of the policy.

66. Money insured on houses burnt, how to be applied

(1) Where a house or 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 other person who insured the house or other building is guilty of fraud in respect of the insurance, or of wilfully 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) of this section.

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

- (a) the party or parties claiming such insurance money shall within 60 days after the claim is agreed, give security to the satisfaction of the insurer that the insurance money shall be paid out and expended as stated herein; or
- (b) the insurance money is, at the time, settled and disposed of and 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) of this section, the insurer shall have the right to elect whether to reinstate the house or building damaged or destroyed by fire, or to pay the insured for the loss suffered but not exceeding the insured sum.

67. Insurance of imports to be effected with insurer in Nigeria

(1) Subject to subsection (4) of this section, an insurance in respect of goods to be imported into Nigeria shall be made with an insurer registered under this Act.

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

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

(4) An importer, broker or agent who effect any insurance otherwise than in compliance with the provisions of this section commits an offence and is liable on conviction to a fine of ₦500,000 naira.

68. Insurance of third party property damage

(1) No person shall use or cause or permit any other person to use a motor vehicle on a road unless a liability which he may thereby incur in respect of damage to the property of third parties is insured with an insurer registered under this Act.

(2) The insurance taken out pursuant to subsection (1) of this section shall cover liability of not less than ₦1 million.

(3) The insurance under this section shall be in addition to the liabilities required to be insured under the Motor Vehicle (Third Party) Insurance Act, 1950 and shall be regulated *mutatis mutandis* by the provisions of the Act.

[L.F.N. 2004 Cap. M22.]

(4) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine of ₦250,000 or imprisonment for one year or both.

69. Settlement of claims

(1) Where-

- (a) civil proceedings are taken in court in respect of any claim relating to any risk required to be insured against under this Act or any other law; and
- (b) a judgment is obtained against the person insured then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy,

the insurer shall, subject to this section pay to the person entitled to the benefit of such judgment the sum payable (including costs and interest sum) not later than 30 days from the date of delivery of the judgment.

(2) No sum shall be payable by an insurer under the provisions of subsection (1) of this section-

- (a) in respect of any judgment, unless before or within seven days after the commencement of the proceeding in which the judgment was given, the insurer has notice of the bringing of the proceedings;
- (b) in respect of any judgment, if execution thereon is stayed, pending an appeal; or
- (c) in connection with any liability, if before the happening of the event which gave rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained therein and-
 - (i) 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 that the certificate of insurance had been lost or destroyed and so could not be surrendered; or
 - (ii) before or after the happening of the event or within a period of 14 days from the taking effect of the cancellation of the policy, the insurers had commenced the proceedings under this Act, 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-

- (a) in an action commenced before or within three months, after the commencement of the proceedings in which the judgment was given, the insurer has obtained a declaration that apart from any provisions 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) the insurer has avoided the policy on the ground that he was entitled to do so apart from any provision contained in it.

(4) An insurer who has obtained a declaration under subsection (3) of this section in an action shall not by that declaration be entitled to the benefit of the provisions of that subsection in respect of any judgment obtained in any proceeding commenced before the commencement of that action, unless before or within seven days after the commencement of that action, he has given notice to the person who is the plaintiff in the action under the policy-

- (a) specifying the non-disclosure or false representation on which he proposes to rely; and
- (b) that he intends to seek a declaration.

(5) A person to whom notice of such action is given under subsection (4) of this section may, if he desires, be made a party thereto.

(6) In the case of claims arising from life insurance policies, it shall be sufficient for the insurer to make any payment due to the policy to the beneficiary named in the policy document.

70. Time to settle claims

(1) Subject to section 69 of this Act, in every case where a claim is made in writing by the insured or any other party entitled thereto under insurance policy, the insurer shall-

- (a) where he accepts liability, settle the claim not later than 90 days after the insurance of discharge voucher;
- (b) where any claim remains unpaid as provided in (a) above, the insured may request the Commission to effect the payment from the statutory deposit or the insurer and the Commission shall have power to effect such payment; or
- (c) where he does not accept liability, deliver a statement in writing stating the reason for disclaiming such liability to the person making the claim or his authorised representative not later than 90 days from the date on which the person delivered his claim to the insurer.

(2) Any insurer who contravenes this section commits an offence and on conviction is liable to a fine of ₦500,000.

71. Dispensation with police report in certain motor accident cases

(1) Where any claim referred to in section 69 or 70 of this Act 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, but where death of or serious bodily injury to a person is involved in any such accident, the provisions of this section shall not apply.

(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 if-

- (a) where 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) where 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 not required in the case of claims arising from car theft.

(4) In this section and sections 69 and 70 of this Act, "insurer" includes-

- (a) a person who is carrying insurance risks and is registered for that purpose under this Act; and
- (b) 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 motor vehicle third party liability insurance.

PART XII

Miscellaneous and Supplementary

72. Contract with foreign insurer and reinsurer

(1) No person shall transact an insurance or reinsurance business with a foreign insurer or reinsurer in respect of any life, asset, interest or other properties in Nigeria businesses classified as domestic insurance unless with a company registered under this Act.

(2) In subsection (1) of this section, "domestic insurance or reinsurance" business includes-

- (a) fire insurance and reinsurance business;
- (b) motor insurance and reinsurance business;
- (c) liability insurance and reinsurance;
- (d) life insurance and reinsurance business;
- (e) accident insurance and reinsurance business; and
- (f) such other insurance and reinsurance business as the Commission may, from time to time, prescribe.

(3) A person who contravenes the provision of subsection (1) of this section commits an offence and is liable on conviction to five times the premium involved or an imprisonment for three years or both.

(4) Notwithstanding subsection (1) of this section, where in any particular circumstances 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 can 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 registered outside Nigeria.

73. Protection of interests of the beneficiaries

For purposes of security and the protection of the interest of beneficiaries of retirement and pension schemes, such schemes shall be adequately insured with an insurer registered under the provisions of this Act, and it shall be the sole responsibility of the insurer to protect such funds for the absolute benefit of such beneficiaries.

74. Advertisement

(1) The Commission may, with the approval of the Board, make regulations as to the form and contents of insurance advertisement.

(2) Regulations under this section may make different provisions in relation to insurance of different classes or descriptions.

(3) Subject to subsection (4) of this section, any person who issues an insurance advertisement which contravenes regulations under this section commits an offence and is liable on conviction to a fine of ₦100,000.

(4) A person who in the ordinary course of business issues an advertisement to the order of another person, being an advertisement the issue of which by that person constitutes an offence under subsection (3) of this section, shall not himself be guilty of the offence if he proves that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by a person under his direction or control.

(5) For the purposes of this section an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that person, and for the purposes of any proceedings under this section an advertisement inviting persons to enter into contracts with a person specified in the advertisement shall be presumed unless the contrary is proved to have been issued by that person.

(6) In this section "advertisement" includes every form of advertising, whether in a publication or by the display of notice or by means of circulars or other documents or by an exhibition of photographs or cinematography films or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly and insurance advertisement means an advertisement inviting persons to enter into or to offer to enter into contracts of insurance, and an advertisement which contains information calculated to lead directly to persons entering into or offering into such contracts shall be treated as an advertisement inviting them to do so.

75. Misleading statements, etc.

A person who by any statement promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (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 fine of ₦100,000 or imprisonment for a term of two years or to both such fine and imprisonment.

76. Prohibition of certain rebates

(1) No person shall offer, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance contract in respect of any kind of risk to lives and property in Nigeria-

- (a) any rebate of the whole or part of the commission payable under this Act; or
- (b) any rebate of the premium shown on the policy, except such rebate as may be allowed in accordance with the published prospectus or table of the insurer.

(2) A person who offers or receives any rebate otherwise than as provided for in subsection (1) of this section commits an offence and is liable on conviction to a fine of ₦250,000 and a continuous contravention shall constitute a ground for the cancellation of his certificate of registration under this Act.

77. Restriction on loans to directors, etc.

(1) No insurer shall grant loans to an officer of the insurer directly or indirectly except-

- (a) loans on life policies issued to such person by the insurer; or
- (b) loans normally forming part of the terms and conditions of service of such officer.

(2) An insurer who grants and an officer of the insurer who receives any loan otherwise than as provided for in subsection (1) of this section commits an offence and is liable on conviction to a fine of double the amount of such loans.

78. Security and Development Fund

(1) The Security and Development Fund established under the National Insurance Commission Act, 1997 shall-

[L.F.N. 2004 Cap. N53.]

- (a) be used for the payment of any claim admitted by or allowed against a registered insurer where such claim remains unpaid by reason of insolvency or cancellation of the registration of the insurer; and
- (b) be used to compensate innocent individual third parties permanently disabled or killed by uninsured or unidentified drivers.

(2) The proportion of compensation to be paid in respect of any claim, shall be determined by the Commission.

79. Code of Conduct

Every registered insurer, reinsurer insurance agent, insurance broker or loss adjuster shall subscribe to and conform to the Code of Conduct of the insurance profession.

80. Jurisdiction and prosecution

(1) An offence under this Act shall, subject to the Rules of the Court, be tried in the Federal High Court and references in this Act to "Court" shall be construed accordingly.

(2) Prosecution for offences under this Act shall be instituted before the Court in the name of the Federal Republic of Nigeria by the Attorney-General of the Federation or such officer in the Federal Ministry of Justice as he may authorise so to do, and in addition thereto, he may-

- (a) after consultation with the Attorney-General of any State in the Federation, authorise the Attorney-General or any officer in the Ministry of Justice of that State; or
- (b) if a Court so directs or if the Commission so requests, authorise any other legal practitioner in Nigeria.

(3) Notwithstanding the provisions of this section or any other law or enactment contrary, any legal practitioner employed by the Commission shall be entitled to represent the Commission before any Court or Tribunal.

(4) The question whether any or what authority has been given in pursuance of subsection (2) of this section shall not be inquired into by a person other than the Attorney-General of the Federation.

(5) A person accused of an offence under this Act shall be entitled to defend himself in person or by a person of his own choice who is a legal practitioner resident in Nigeria.

81. Offences as to returns

(1) If a person required to furnish returns or information to the Commission under this Act fails to furnish such returns or information commits an offence and is liable on conviction to a fine of ₦100,000 or to imprisonment for a term of six months or to both.

(2) If a person in purported compliance required to furnish with returns of information as specified in subsection (1) of this section, knowingly or recklessly-

- (a) makes a statement in the returns; or
- (b) gives information which is false in any material particular,

commits an offence and is liable on conviction to a fine of ₦100,000 or to imprisonment for a term of one year or to both.

82. Appointment of receivers where certificates is cancelled

(1) In every case where the certification of registration of an insurer, insurance broker or loss adjuster is cancelled under this Act, the Commission may, unless the insurer, broker or loss adjuster is a body corporate being wound up by the Court, appoint a receiver to immediately take charge of its assets and to collect and gather in all other assets due to the insurer, broker or loss adjuster and administer same as expeditiously as possible for the benefit of the policy-holders, clients and creditors thereof or appoint a receiver to act on its behalf.

(2) The Commission or the appointed receiver after his appointment may apply to the Court to wind up the business of the insurer, broker or loss adjuster and, for this purpose, the provisions of the Companies and Allied Matters Act, 1990 relating to winding-up of companies by the Court shall, subject to section 91 of this Act apply.

(3) The receiver may, immediately after his appointment, freeze the accounts of the insurer, broker or loss adjuster and shall take charge of its management and control.

83. Continuation of life insurance business of insurer in liquidation

(1) This section has effect in relation to the winding-up of an insurer, carrying on life insurance business.

(2) 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 other reinsurers, whether an existing insurer or an insurer registered for that purpose.

(3) In carrying on the business as specified in subsection (2) of this section, the liquidator may agree to the variation of any contract of insurance in existence when the winding-up order is made but shall not affect new contracts of insurance.

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

(5) 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.

(6) The actuary shall report to the authority by whom he was appointed under subsection (5) of this section, as the case may require, on 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.

(7) The Commission or the liquidator may petition the Court in the name or on behalf of the insurer under section 32 of this Act.

84. Additional penalties to be imposed on insurers

(1) Notwithstanding any other provision of this Act, the Commission may, in writing, suspend an insurer from writing a new insurance business for a period of not less than 12 months as it may think fit, if the insurer fails to pay any fine imposed for an offence under this Act-

- (a) within 30 days from the imposition thereof; or
- (b) in the case of an appeal to a higher court where no further appeal is made, within 30 days from the confirmation of the judgment of the lower Court.

(2) If the insurer fails to pay the fine referred to under subsection (1) of this section within the period of suspension mentioned in that subsection, the Commission shall cancel the certificate of registration of the insurer.

85. Restriction on use of the word "Insurance" or "Underwriter"

(1) No person other than an insurer, insurance broker or loss adjuster under this Act or an insurer's agent duly appointed shall, use the word "insurance" or any derivative thereof as part of his business name or for describing the nature or object of such business.

(2) No person other than an insurer registered under this Act or a duly appointed insurer's agent shall use the word "underwriter" or any derivative thereof as part of his business name or for describing the nature or object of such business.

(3) Any person who uses the word "insurer" or "underwriter" otherwise than in compliance with the provisions of subsection (1) or (2) of this section commits an offence and is liable on conviction to a fine of ₦2,500 for every day or part thereof in which the name or description is so used.

PART XIV

Administration-Enforcement

86. Administration of this Act

Subject to the provisions of this Act, the National Insurance Commission (in this Act referred to as "the Commission") shall be responsible for administration and enforcement of this Act and is hereby authorised to carry out the provisions of this Act.

87. Obstruction of public officers

A person who wilfully obstructs, interferes with, assaults or resists a public officer in the performance of his 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 fine of ₦500,000 or to imprisonment for a term of one year or to both.

88. Offence by insurers in relation to investments

(1) An insurer who encumbers or disposes of investment or does any other thing which results in diminishing the security offered by any investment made under this Act commits an offence and is liable on conviction to a fine of ₦500,000 or to imprisonment for a term of two years or to both.

(2) An insurer who distributes dividends otherwise than in compliance with section 26 (5) of this Act commits an offence and is liable on conviction to a fine of ₦250,000.

89. Misrepresentation by public officers

(1) A public officer commits an offence if, in the discharge of his duties under this Act, he presents to another public officer, who is to take a decision thereon or do any other act in relation thereto, 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 such 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 commits an offence under subsection (1) of this section is liable on conviction to a fine of not less than ₦50,000 or to imprisonment for a term of two years or to both.

90. Offences by body corporate

(1) Where an offence under this Act has been committed by a body corporate or 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 is severally guilty of that offence and liable to be proceeded against 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 the other provisions of this Act, officer-

- (a) in relation to a body corporate, includes a director, chief executive, manager and secretary;
- (b) in relation to the firm, includes a partner and other officer thereof; and
- (c) in relation to any other association of individuals, includes a person concerned in the management of the affairs of such association.

91. Powers as to production of books, etc.

(1) Any power conferred on the Commission by this Act to require an insurer, reinsurers broker or loss adjuster or other person to produce books or other documents shall include-

- (a) if the books or documents are produced-
 - (i) power to take copies of them or extracts from them; and
 - (ii) power to require the insurer, reinsurer, insurance broker, loss adjuster or other person, or any person who is or was at any time employed as an officer, auditor or in any other office by the insurer, reinsurer insurance broker or loss adjuster or other person provide an explanation of such books or documents; and
- (b) if the books or documents are not produced, power to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(2) In this section, "**books or documents**" includes accounts, deeds, writing, registers, ledgers and documents of all descriptions.

PART XV

Supplementary

92. Inspection of documents, etc.

(1) A person may, on payment to the Commission of the prescribed fee, inspect or make copies of any filed document or obtain certified copies of any such document in the custody of Commission under this Act.

(2) No fee shall be paid to the Commission for information supplied by it to the chief executive or to the address of the principal office in Nigeria of the insurer, reinsurers insurance broker or loss adjuster.

93. Original documents to be accompanied by two certified copies

(1) Where an original document is produced to the Commission, it shall be accompanied by two copies duly certified as true copies of the document for retention by the Commission, unless the Commission dispenses with the production of the copies or any copy.

(2) Where a copy only 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 insurer, reinsurers insurance broker or loss adjuster 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 if it appears to be signed on behalf of the insurer, reinsurers insurance broker or loss adjuster by the chief executive in Nigeria of the insurer, reinsurers insurance broker or loss adjuster or is issued under the seal or as the case may be, is signed by some persons approved by the Commission.

94. Service of process

(1) Service of process in any legal proceeding against any insurer, reinsurers, insurance broker, or loss adjuster registered under this Act, may be effected at the principal office of the insurer, reinsurers, insurance broker or loss adjuster in Nigeria.

(2) In any case where the principal office of the insurer, reinsurers insurance broker, or loss adjuster in Nigeria has ceased to exist, process in any legal proceeding against such insurer, reinsurers, insurance broker, or loss adjuster may be served at the office of the Commissioner and service on the Commissioner in any such case, shall be deemed to be service on the insurer, reinsurers insurance broker, or loss adjuster.

95. Conformity with the National Insurance Commission Act, 1997

The provision of this Act shall be read in conformity with that of the National Insurance Commission Act, 1997 and if any provision of that Act is inconsistent with those of this Act, the provision of this Act shall prevail and that other provision shall to the extent of its inconsistency be void.

96. Compounding of fees

Without prejudice to the power of the Attorney-General of the Federation, under the Constitution of the Federal Republic of Nigeria to continue or discontinue criminal proceedings against any person in any court of law and the Commission may compound any offence punishable under this Act by accepting such sums of money as it thinks fit, not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence.

(2) Register kept under the enactment hereby repealed shall be deemed part of the register to be kept under the corresponding provisions of this Act and, accordingly, any person registered or licensed under the repealed enactment shall be deemed to be registered or licensed under this Act.

(3) Funds and accounts constituted under this Act shall be deemed to be in continuation of the corresponding funds and accounts under the enactment hereby repealed.

(4) Where an offence, being an offence for the continuance of which a penalty was provided, has been committed under the enactment hereby repealed, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence has been committed under the corresponding provisions of this Act.

(5) An insurance company, broker or loss adjuster registered or licensed under the Insurance Act No.2 of 1997 and whose registration or license has not been cancelled or withdrawn at the date of commencement of this Act shall be deemed to have been registered or licensed under this Act subject to complying with any additional requirements stipulated by this Act.

99. Repeal of section 4 of the National Insurance Corporation Act, 1969 and section 7 of the Nigerian Reinsurance Corporation Act, 1977

Section 4 of the National Insurance Corporation of Nigeria Act, 1969 and section 7 of Nigerian Reinsurance Corporation Act, 1977 are hereby repealed.

100. Companies and Allied Matters Act, 1990, etc., to supplement this Act

The provisions of this Act are without prejudice to the application of the Companies and Allied Matters Act, 1990 and any other enactment applicable to insurance institutions under this Act which are companies registered under that Act, so however that where any of the provisions of the Companies and Allied Matters Act, 1990 and other enactment is inconsistent with any provision of this Act the provision of this Act shall prevail to the extent of that inconsistency.

101. Regulations

The Commission may make rules and regulations generally for the purposes of giving effect to this Act.

102. Interpretation

In this Act-

"actuary" means-

- (a) a person who has prescribed actuarial qualifications; or
- (b) a member of a professional actuarial society or institute approved by the Commission;

"auditor" means a person enrolled or registered as an accountant pursuant to any enactment in Nigeria;

"Board" means the Governing Board of the National Insurance Commission at a formal meeting;

"Central Bank" means the Central Bank of Nigeria established pursuant to the Central Bank of Nigeria Act, 1991;

"Chartered Insurance Institute of Nigeria" (CIIN) means the Body established under Act 22 of 1992;

"Commission" means the National Insurance Commission constituted under Act I of 1997;

"Commissioner" means the Commissioner for Insurance appointed pursuant to the National Insurance Commission Act, 1997;

"Co-operative Insurance Society" means a society registered under any enactment or law relating to co-operative societies and which carries on the business of insurance and of which, by its constitution, all policy-holders are members thereof;

"Court" means the Federal High Court;

"Friendly Society" means a society registered under any enactment or law relating to co-operative societies and which carries on the business of insurance and of which, by its constitution, all policy-holder's are members thereof;

"Group Life Insurance Fund" means a fund relating to life insurance business on a group of lives;

"Individual Life Insurance Business" includes annuity business, that is, the business of effecting contracts of insurance for the granting of annuities on human life and if so provided in the contract of insurance, disability amid double indemnity accident benefit;

"Industrial Life Policy" means a policy whereby the insurer assures a contingent obligation dependent on human life in an amount not exceeding the sum of fifty thousand naira as may be specified by the Commission in return for a premium or the provision of a premium payable or intervals not exceeding two months, if the insurer has expressly or tacitly undertaken to send a person from time to time, to the policy holder or to his residence or place of work to collect the premiums;

"Institute of Loss Adjusters of Nigeria" means the Umbrella body of Loss Adjusting Companies registered to practise in Nigeria;

"insurance" includes assurance.

103. Citation

This Act may be cited as the Insurance Act, 2003.

INSURANCE ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation