

INSURANCE BILL, 2020
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A BILL

FOR

ACT TO REPEAL THE INSURANCE ACT, CAP. I 17 LAWS OF THE FEDERATION OF NIGERIA 2004 AND ENACT THE INSURANCE BILL 2020 TO PROVIDE FOR A COMPREHENSIVE LEGAL FRAMEWORK FOR INSURANCE BUSINESS IN NIGERIA AND FOR RELATED MATTERS, 2020 .

Sponsored by Hon. Darlington Nwokocha

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 PART I - OBJECTIVE AND APPLICATION

2 1.-(1) The objective of this Bill is to regulate the insurance industry Objective
3 in order to develop the insurance sector, to protect the interest of
4 policyholders and prospective policyholders under insurance policies in
5 ways that are consistent with the continued development of a viable,
6 competitive and innovative insurance industry.

7 (2) This Bill, the regulations and other regulatory instruments
8 issued by the Commission pursuant to this Bill, shall be to achieve the
9 objective referred to in subsection (1) of this section, by:

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

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

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

18 2.-(1) Except as may otherwise be provided by this Bill, the Application
19 provisions of this Bill shall apply to regulation and supervision of all
20 insurance business, derivatives of insurance business and insurance

1 operators in Nigeria.

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

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

7 (i) canvassing of other persons to become members of the association;

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

10 (b) a company or any other body (whether corporate or
11 unincorporated) or person whose business is established outside Nigeria,
12 engaged solely in reinsurance transactions with an insurer authorized or
13 pursuant to the provisions of this Bill to carry on any class of insurance
14 business, but not otherwise however.

15 PART II - CLASSIFICATION

Classification
of insurance
business

16 3.-(1) There shall be for the purpose of this Bill two main categories of
17 insurance business, that is:

18 (a) life insurance business; and

19 (b) non-life insurance business.

20 (2) In the case of life insurance business, there shall be 4 classes, that
21 is:

22 (a) individual life insurance business;

23 (b) group life insurance and pension business;

24 (c) annuity; and

25 (d) health insurance business.

26 (3) In the case of non-life insurance business, these shall be 8 classes,
27 that is:

28 (a) fire insurance business;

29 (b) general accident insurance business;

30 (c) motor vehicle insurance business;

1 (d) marine and aviation insurance business;

2 (e) oil and gas insurance business;

3 (f) engineering insurance business;

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

5 (h) miscellaneous insurance business.

6 (4) For the purposes of this Bill:

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

9 (b) reinsurance of liabilities under an insurance policy shall be
10 treated as insurance business of the class to which such policy would have
11 belonged if it has been issued by the reinsurer.

12 (5) Subject to this Bill, an insurer may be authorized to transact any
13 new category of miscellaneous insurance business if he shows evidence of
14 adequate reinsurance arrangement in respect of that category of insurance
15 business and requisite capital where necessary and other conditions as may
16 be required from time to time by the Commission.

17 (6) The Commission may by Rules, Regulations or Guidelines
18 classify insurance business as it may determine from time to time.

19 4.-(1) A person other than an insurer, insurance broker, loss
20 adjuster licensed under this Bill or an insurer's agent duly appointed shall not
21 use the word "insurer" or any derivative thereof as part of his business name
22 or for describing the nature or object of such business.

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

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

27 (3) A person who contravenes the provisions of subsection (1) or
28 (2) of this section commits an offence and is liable on conviction to a fine of
29 N2,500.00 for every day or part thereof in which the name or description is
30 so used.

1 PART III - LICENSING AND OPERATION OF INSURER

Conditions for
licencing t

2 5.-(1) A person shall not commence or carry on insurance, or
3 reinsurance or related business in Nigeria unless licensed by the Commission
4 as an insurer or a reinsurer under this Bill.

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

8 (3) A person shall not be licenced as an insurer or a reinsurer under this
9 Bill except:

10 (a) incorporated as a limited liability company under the relevant law
11 in Nigeria or established pursuant to any other law or enactment in Nigeria;

12 (b) the company has and maintains, while carrying on the business,
13 the prescribed minimum paid-up share capital;

14 (c) the company has paid and maintained such statutory deposit with
15 the Central Bank of Nigeria as may be prescribed by the Commission from
16 time to time; and

17 (d) the company has met all other requirements specified by the
18 Commission from time to time.

19 (4) Where the Commission is satisfied that all requirements for
20 licencing have been met, it shall licence the company.

Specialisation

21 6.-(1) As from the commencement of this Bill, the Commission shall
22 licence an insurer only in the category of:

23 (a) life insurance; or

24 (b) non-life insurance.

25 (2) Notwithstanding the provisions of subsection (1) of this section, a
26 company:

27 (a) licenced to operate a life insurance business may own or acquire
28 shares in a non- life insurance company; and

29 (b) licenced to operate a non-life insurance business may own or
30 acquire shares in a life insurance company.

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

3 (4) Existing composite insurance companies shall within 24
4 months of the commencement of this Bill comply with the provisions of
5 subsection (1) of this section.

6 7.-(1) The Commission may refuse to licence a company pursuant
7 to an application made under section 5 of this Bill where it is satisfied that
8 the:

Rejection of
application

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

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

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

15 (2) Where the Commission refuses to licence an applicant, it shall
16 forthwith notify the applicant in the prescribed form stating the reasons for
17 such refusal.

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

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

23 (5) The Board shall within 90 days of receiving an appeal give its
24 decision on whether to allow or reject the appeal and may impose such
25 conditions as it deems fit where it allows the appeal.

26 8.-(1) Where the Commission is satisfied that a licenced insurer or
27 reinsurer:

Cancellation of
licence

28 (a) is not conducting insurance business in accordance with sound
29 insurance principles;

- 1 (b) has failed to satisfy the margin of solvency as prescribed by the
2 Commission;
- 3 (c) has ceased to carry on the business of insurance for which it was
4 registered for at least one year in Nigeria;
- 5 (d) has applied in writing for the cancellation of its licence as an
6 insurer;
- 7 (e) has a judgment obtained against it from a Court of competent
8 jurisdiction in Nigeria which remains unsatisfied for 90 days and there is no
9 appeal pending against the judgment;
- 10 (f) is carrying on simultaneously the insurance business with any
11 other business which is detrimental to its insurance business;
- 12 (g) subject to Part XIII of this Bill, the insurer has transferred to or
13 amalgamated with the business of any other insurer;
- 14 (h) has refused to submit to an examination of its books as provided
15 for in this Bill;
- 16 (i) has failed to comply with the provisions of this Bill relating to
17 filing of returns with the Commission;
- 18 (j) has failed to maintain adequate reinsurance arrangements and
19 treaties in respect of the category of insurance business which the insurer or
20 reinsurer is authorized to transact;
- 21 (k) lacks the necessary expertise by virtue of a substantial reduction in
22 the number of its qualified employees;
- 23 (l) has a net asset below the minimum paid-up capital and capital
24 injections have not been made within the time stipulated by the Commission;
- 25 (m) has not less than 5 complaints of failure to pay claims promptly
26 made against it which the Commission has received and verified;
- 27 (n) has failed to set up the special reserves as prescribed by the
28 Commission;
- 29 (o) acts in any manner, without the approval of the Commission, in
30 cases where this Bill requires such approval;

1 (p) has been wound-up or dissolved or has gone into liquidation: or
2 (q) has failed to maintain reserves as required under this Bill, the
3 Commission shall give notice in writing to the insurer of its intention to
4 cancel the licence of the insurer.

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

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

14 (4) Where the licence of an insurer is cancelled:

15 (a) the insurer shall forthwith discontinue to accept any new
16 business; and

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

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

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

27 (7) Where an appeal is disallowed, the Commission shall cause a
28 notice to be published in the Gazette or in such other manner to ensure
29 publicity as it may determine.

Operating an
unlicenced
insurance business

1 9. A person who transacts any insurance business without being
2 licenced for that purpose under this Bill commits an offence and is liable on
3 conviction, in the case of:

4 (a) a company, firm or other combination of persons, each principal
5 officer of the company, firm or other combination of persons responsible to a
6 fine of N5,000,000.00 or to imprisonment for a term of 2 years; or

7 (b) an individual, to a fine of N1,000,000.00 or to imprisonment for a
8 term of 2 years.

Appointment
and change of
principal officers

9 10.-(1) An insurer shall not appoint or change a director, chief
10 executive officer or principal officer except with the approval of the
11 Commission.

12 (2) An insurer shall notify the Commission of any change due to
13 death, dismissal, redundancy or resignation of its director, chief executive
14 officer or principal officer.

15 (3) An insurer who contravenes the provision of subsection (1) of this
16 section shall be liable to such penalty as may be prescribed in regulations issued
17 by the Commission from time to time.

18 (4) The term "principal officer" in this section shall be as may be
19 defined by the Commission in regulations made from time to time.

Disqualification
for appointment
as principal
officers

20 11.-(1) An insurer shall not appoint or have in its employment a chief
21 executive, director, or principal officer if such a person:

22 (a) is, or becomes of unsound mind, or as a result of ill health, is
23 incapable of carrying out his duties;

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

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

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

29 (e) has been a director of or has been directly concerned with the
30 management of an insurance or financial institution whose licence to operate

1 has been cancelled or whose business has been wound-up on grounds
2 specified in Sections 408 (d) and 409 of the Companies and Allied Matters
3 Act, Cap C20 Laws of the Federation of Nigeria, 2004;

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

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

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

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

15 **12.-(1)** An insurer registered under this Bill shall have a principal
16 office in Nigeria where all communications and notices are to be addressed.

Principal place
of business

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

19 (3) A postal box address or a private mail bag is insufficient for the
20 purposes of subsection (1) of this section.

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

24 (5) Where an insurer contravenes the provisions of this section, the
25 insurer and every director shall be liable to a penalty of a sum to be
26 prescribed by the Commission for every day during which the insurer so
27 carries on business.

28 PART IV - SHARE CAPITAL

29 **13.-(1)** No insurer shall carry on insurance business in Nigeria
30 unless the insurer has and maintained, while carrying on that business, a

Share capital

1 paid-up share capital of, in the case of:

2 (a) life insurance business, not less than N8,000,000,000.00;

3 (b) non-life insurance, not less than N10,000,000,000.00; or

4 (c) reinsurance business, not less than N20,000,000,000.00

5 (2) The paid-up share capital stipulated in subsection (1) of this
6 section in the case of existing insurer shall come into force on the expiration of
7 a period of 9 months from the date of commencement of this Bill;

8 (3) The Commission shall:

9 (a) cancel the registration of any insurer or reinsurer that fails to
10 satisfy the provisions of subsections (1) of this section as it relates to the
11 category of operation of such insurer or reinsurer; and

12 (b) not later than 3 ° days after expiry of the period specified in
13 subsection (2) of this section publish a list of all insurers- and reinsurers that
14 have complied with the provisions of this section.

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

Share capital to
be deposited with
the Central Bank
of Nigeria

17 14.-(1) An insurer intending to commence insurance business in
18 Nigeria after the commencement of this Bill shall deposit the equivalent of 50
19 per cent of the paid-up share capital referred to in section 13 of this Bill (in this
20 Bill referred to as the "Statutory Deposit") with the Central Bank.

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

23 (3) In the case of existing companies an equivalent of 10 per centum
24 of the minimum paid-up share capital stipulated in section 13 shall be
25 deposited with the Central Bank.

26 (4) Any statutory deposit made under subsection (1) of this section
27 shall attract interest at the minimum lending rate by the Central Bank on every
28 1st of January of each year.

29 (5) Notwithstanding the provisions of subsection 4 of this section, the
30 Commission may approve the investment of the statutory deposit in Treasury

1 Bills or other secured investment guaranteed by the Federal Government.

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

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

7 PART V - OPERATION OF INSURANCE COMPANY

8 15.-(1) The policy document in respect of a contract of insurance
9 shall be delivered to the insured not later than 5 days after payment of
10 premium or 30 days in respect of special and industrial risks insurance.

Delivery of
policy documents

11 (2) An insurer who contravenes the provisions of this section shall
12 be liable to a penalty of not less than 10 percent of the premium received and
13 such other penalties as may be prescribed in regulations issued by the
14 Commission from time to time.

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

20 16.-(1) No new insurance product shall be introduced in any class
21 or category of insurance business without the prior approval of the
22 Commission, provided that a reinsurer shall not be required to obtain the
23 approval for the same product.

Approval of new
insurance products

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

26 (3) An insurer who contravenes the provisions of subsection (1) of
27 this section is liable to a penalty as may be prescribed in regulations issued
28 by the Commission.

29 17.-(1) Every insurer shall keep and maintain, at its principal
30 office, such records as may be prescribed in regulations made by the

Records to be
kept by an insurer

1 Commission from time to time.

2 (2) Where an insurer contravenes the provisions of this section, the
3 insurer and every officer of the insurer who fails to comply, shall be liable to
4 such penalties as may be prescribed in regulations issued by the Commission
5 from time to time.

Provisions for
unexpired risks
and claims

6 18.-(1) An insurer shall establish and maintain, as may be applicable
7 in respect of each class of insurance business:

8 (a) provision for unearned premiums;

9 (b) provision for unexpired risks;

10 (c) provision for outstanding claims; and

11 (d) such other provisions as may be prescribed from time to time by
12 the Commission.

13 (2) The Commission shall, from time to time, prescribe the method
14 for determination of the provisions referred to in subsection (1) of this section.

15 (3) The amount of the provisions made pursuant to subsections (1)
16 and (2) of this section and other business expenses incurred by an insurance
17 company registered under this Bill shall be fully deductible for tax purposes.

Contingency
reserves

18 19.-(1) An insurer shall establish and maintain contingency reserves
19 to cover fluctuations in securities and variation in statistical estimates.

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

Reserves for life
insurance business

25 20.-(1) An insurer shall in respect of its life insurance business
26 maintain the following reserves:

27 (a) a general reserve fund which shall be credited with an amount
28 equal to the net liabilities on policies in force at the time of the actuarial
29 valuation and an additional 25 percent of net premium for every year between
30 valuation date; and

1 (b) a contingency reserve fund which shall be credited with an
2 amount equal to 1 per cent of the gross premiums or 10 per cent of the profits
3 (whichever is greater) and accumulated until it reached the amount of the
4 minimum paid-up capital.

5 **21.** A reinsurer shall establish a general reserve fund which shall Reserve for
reinsurers
6 be credited with an amount:

7 (a) not less than 50 percent of his insurer's gross profit for the year
8 where the fund is less than the authorized capital of the insurer; and

9 (b) not less than 25 percent of the reinsurer gross profit for the year
10 where the fund is equal to or exceeds the authorized capital of the reinsurer.

11 **22.-(1)** An insurer shall, in respect of its business, maintain at all Solvency margins
12 times a margin of solvency being the excess of the value of its admissible
13 assets over its liabilities in Nigeria as may be prescribed, from time to time,
14 by the Commission.

15 (2) Pursuant to subsection (1) of this section the solvency margin
16 shall be:

17 (a) the solvency margin calculated in accordance with the extant
18 regulations; or

19 (b) the solvency margin that the Commission may direct under
20 subsection (3) of this section.

21 (3) Where, having regard to the nature and extent of the insurance
22 business carried on by the insurer, the Commission considers it appropriate,
23 it may, by notice, direct an insurer to maintain a higher solvency margin.

24 (4) A direction issued under subsection (3) of this section shall
25 specify a reasonable period for compliance with the direction.

26 (5) An insurer who contravenes the provisions of this section is
27 liable to such penalty as may be prescribed, from time to time, by the
28 Commission and such contravention may constitute a ground for
29 cancellation of the insurer's licence.

Risk based capital 1 23.-(1) The Commission shall from time to time, issue risk based
2 capital requirements for each class of insurance business.

3 (2) Every insurer shall, on or before to 31st of March of each year prepare and
4 submit to the Commission, a report of its Risk Based Capital levels as at 31 st of
5 December of the preceding year in a form and containing such information as
6 may be prescribed from time
7 to time, by the Commission.

Investment of 8 24.-(1) An insurer shall at all times, in respect of the insurance
insurance funds 9 business transacted by it in Nigeria, invest and hold invested in Nigeria, assets
10 equivalent to not less than the amount of insurance funds in the accounts of the
11 insurer.

12 (2) Subject to the provisions of subsection (1) of this section, the
13 insurance funds shall be invested in such assets as may be prescribed, from
14 time to time, by the Commission.

15 (3) An insurer who contravenes the provisions of this section is liable
16 to such penalty as may be prescribed from time to time by the Commission.

Penalty in relation 17 25. An insurer who encumbers or disposes of investment or does any
to investments 18 other thing which results in diminishing the security offered by any investment
19 made under this Bill shall be liable to a penalty in such amount as may be
20 prescribed from time to time by the Commission.

Statement of 21 26.-(1) An insurer shall, not later than the 31 st day of March of each
accounts, etc. 22 year, submit in writing to the Commission the following:

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

26 (b) a revenue account applicable to each, category/class of insurance
27 business for which the insurer is required to keep separate account of receipts
28 and payments; and

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

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

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

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

12 (5) Where the Commission does not communicate its decision as
13 prescribed in subsection (4) of this section, the returns shall be deemed to
14 have been approved by the Commission with effect from the expiration of
15 that period.

16 (6) An insurer shall in each year after receipt of the approval of the
17 Commission, publish its general annual balance sheet together with its profit
18 and loss accounts in at least 2 widely circulated newspapers in Nigeria.

19 (7) An insurer shall not hold its Annual General Meeting or
20 distribute any dividends until the Commission has approved the annual
21 returns.

22 (8) An insurer who fails or neglects to comply with the provisions
23 of subsections (6) and (7) of this section is liable to such penalty as may be
24 prescribed, from time to time, by the Commission.

25 27.-(1) An insurer transacting life assurance business shall, in
26 addition to the provisions of section 26 of this Bill, submit annually to the
27 Commission, a valuation report in the form as may be prescribed, from time
28 to time, by the Commission.

Life insurance
returns

29 (2) Pursuant to the provisions of subsection (1) of this section, the
30 Commission shall require an insurer transacting life assurance business to:

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

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

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

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

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

14 (4) The Commission shall, where it appears to it that the statement
15 furnished by an insurer under subsections (1) and (2) of this section is
16 inaccurate or is not prepared in the prescribed form or is defective in any
17 material particular:

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

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

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

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

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

29 **28.**-(1) An insurer transacting non-life insurance business shall, in
30 addition to the provisions of section 26 of this Bill submit to the Commission

1 every year, a valuation report in the form as may be prescribed, from time to
2 time by the Commission.

3 (2) Pursuant to the provisions of subsection (1) of this section, the
4 Commission shall require an insurer transacting non-life insurance business
5 to:

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

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

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

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

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

19 (4) The Commission shall, where it appears to it that the statement
20 furnished by an insurer under subsections (1) and (2) of this section is
21 inaccurate or is not prepared in the prescribed form or is defective in any
22 material particular:

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

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

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

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

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

Audits

4 **29.**-(1) The financial statements and revenue account of an insurer in
5 respect of the insurance business transacted by the insurer, shall be audited
6 annually by an external auditor approved by the Commission.

7 (2) At the conclusion of the audit, the auditor shall issue a report
8 signed by him in line with relevant auditing standards and other requirements
9 as may be prescribed, from time to time, by the Commission.

Termination of
auditor's
appointment by
insurer

10 **30.**-(1) Where the external auditor's appointment is terminated for
11 any reason, the auditor shall submit to the Commission a statement of what the
12 auditor believes to be the reasons for that termination.

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

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

PART VI - INSURANCE INTERMEDIARIES

Insurance agents t

22 **31.**-(1) A person shall not be licenced as an insurance agent unless:

23 (a) he possesses a certificate of proficiency issued by the Institute;

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

26 (c) where insurance business is to be transacted through more than
27 one outlet of a corporate body seeking registration as an insurance agent, the
28 desk officer in each of the outlets possesses a certificate of proficiency issued
29 by the Institute; and

30 (d) prior to the date of his appointment, he has not been convicted by a

1 court or tribunal for an offence involving dishonesty or fraud by whatever
2 name called.

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

7 (3) Where the Commission is satisfied that the applicant has
8 satisfied the requirements of this section and such other requirements as may
9 be prescribed, it shall licence the applicant as an insurance agent.

10 (4) Where the Commission is not satisfied as to any of the matters
11 referred to in this section and such other requirements as may be prescribed,
12 the Commission shall inform the applicant in writing of its decision
13 rejecting the application within a period of 45 days from the date of receipt
14 of the application or submission of any other relevant document or evidence
15 as may be required by the Commission.

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

19 (6) The Board shall within 90 days of receiving the appeal give its
20 decision on whether to allow or reject the appeal and may impose such
21 conditions as it deems fit where it allows the appeal.

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

24 (8) A license issued under this section is renewable every year or at
25 such times and upon payment of such fee as may be prescribed, from time to
26 time, by the Commission.

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

30 (10) A person who transacts business as an insurance agent without

1 having been licenced as required under this Part of this Bill commits an offence
2 and is liable on conviction to a fine not exceeding N250,000.00 or to a term of
3 imprisonment not exceeding 6 months or to both fine and imprisonment.

4 (11) In addition to subsection (10) of this section, the court may make
5 an order requiring the person to refund any sums collected by him, while so
6 transacting the business, to the rightful owners or other entitled persons.

Duties of insurers
and agents

7 32.-(1) An insurer who carries on insurance business through
8 insurance agents shall maintain a register showing the name and address of
9 every insurance agent and the date on which the services were contracted and,
10 where applicable, terminated.

11 (2) Where an insurance business is transacted through an insurance
12 agent, the insurance agent shall immediately, but not later than 24 hours, pay to
13 the insurer any premium collected by him, weekends and public holidays
14 exempted.

15 (3) An insurance agent who fails to pay any premium collected by him
16 to the insurer in accordance with subsection (2) of this section:

17 (a) commits an offence and is liable on conviction to a term of
18 imprisonment of 12 months or to a fine of an amount equal to 5 times of
19 premium involved;

20 (b) shall have his appointment terminated by the insurance company;
21 and

22 (c) shall not be eligible for further engagement as an insurance agent
23 or employee by any insurance operator for a period of 6 months.

24 (4) Notwithstanding the provisions of subsection (3) of this section,
25 the Commission may, where appropriate, impose such penalties on the
26 insurance agent as may be prescribed, from time to time, by the Commission.

Licensing of
insurance brokers

27 33.-(1) Notwithstanding the provisions of any other law, no person
28 shall transact business in Nigeria as an insurance broker unless he is licenced
29 under the provisions of this Bill.

30 (2) Application for a licence as an insurance broker shall be made to

1 the Commission in the form and accompanied by the fee and such other
2 documents as may be prescribed, from time to time, by the Commission.

3 (3) Where the Commission is satisfied that:

4 (a) the applicant is a partnership or a limited liability company duly
5 registered under the Companies and Allied Matters Act, Cap C20 Laws of
6 the Federation of Nigeria, 2004 with such minimum fully paid up share
7 capital as may be prescribed, from time to time, by the Commission;

8 (b) the partner or chief executive officer of the applicant company
9 is a qualified person with cognate experience and is a member of the
10 Institute; and

11 (c) the applicant has met such requirements as may be prescribed,
12 from time to time, by the Commission, the Commission shall licence the
13 applicant as an insurance broker.

14 (4) Where the Commission is not satisfied as to any of the matters
15 referred to in subsection (3) of this section, the Commission shall inform the
16 applicant in writing of its decision rejecting the application within 45 days
17 from the date of receipt of the application or submission of any other
18 relevant document or evidence as may be required by the Commission.

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

22 (6) The Board shall within 90 days of receiving the appeal give its
23 decision on whether to allow or reject the appeal and may impose such
24 conditions as it deems fit where it allows the appeal.

25 (7) A person who transacts business as an insurance broker without
26 having been licenced for that purpose under this Bill commits an offence and
27 is liable on conviction:

28 (a) in the case of a company, firm or other combination of persons,
29 each principal officer of the company, firm or other combination of persons
30 to a fine not exceeding N1,000,000.00; and

1 (b) in the case of an individual, to a fine of not exceeding N500,000.00
2 or to a term of imprisonment not exceeding 12 months.

3 (8) In addition to the provisions of subsection (7) of this section, the
4 Commission shall make an order requiring the refund of the monies collected
5 by the company, firm or individual to the rightful owners or other persons
6 entitled to the monies collected.

7 (9) An insurer who knowingly or recklessly transacts insurance
8 business with any person mentioned in subsection (7) of this section or pays
9 commission to a broker whose licence has lapsed and has not been renewed is
10 liable to a penalty of a sum equal to ten times the commission due on the
11 business transacted.

Reinsurance
broking

12 **34.-(1)** An insurance broker shall not undertake reinsurance broking
13 without being licenced by the Commission.

14 (2) The Commission may grant licence to an insurance broker for
15 purposes of subsection (1) of this section where it is satisfied that:

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

18 (b) at least one partner or director of the insurance broking firm or
19 company has a minimum of 7 years working experience in the middle
20 management cadre of a reinsurance broking firm or company.

21 (3) Where the Commission is not satisfied as to any of the matters
22 referred to in subsection (2) of this section or any other matter, the Commission
23 shall inform the applicant in writing of its decision rejecting the application
24 within a period of 45 days from the date of receipt of the application or
25 submission of any other relevant document or evidence as may be required by
26 the Commission.

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

30 (5) The Board shall within 90 days of receiving the appeal give its

1 decision on whether to allow or reject the appeal and may impose such
2 conditions as it deems fit where it allows the appeal.

3 (6) A person who transacts business as a reinsurance broker
4 without having been licenced for that purpose under this Bill commits an
5 offence and is liable on conviction:

6 (a) in the case of a company, firm or other combination of persons,
7 each principal officer of the company, firm or other combination of persons
8 to a fine not exceeding N1,000,000.00; and

9 (b) in the case of an individual, to a fine of not less than
10 N500,000.00 or to a term of imprisonment not exceeding 12 months.

11 (7) In addition to the provisions of subsection [6] of this section,
12 the Commission shall make an order requiring the refund of the monies
13 collected by the company, firm or individual to the rightful owners or other
14 persons entitled to the monies collected.

15 35.-(1) All insurance and reinsurance brokers shall renew their
16 licences on or before such date as may be prescribed by the Commission in
17 the licence.

Renewal of licence

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

21 (3) The Commission shall publish the list of all brokers with valid
22 licences not later than 30 days after the date specified in subsection (1) of
23 this section.

24 (4) Where the Commission informs an applicant rejecting the
25 application for renewal of licence, the provisions of section 33 (4),(5) and
26 (6) of this Bill shall apply in relation to insurance and reinsurance brokers.

27 36.-(1) The Commission shall give notice in writing to the broker
28 of its intention to cancel the licence of the broker where it is satisfied that the
29 broker:

Cancellation of
licence of an
insurance or
reinsurance broker

30 (a) has knowingly or recklessly contravened the provisions of this

- 1 Bill or Regulations issued pursuant to this Bill;
- 2 (b) is carrying on business as a loss adjuster;
- 3 (c) has, for the purpose of obtaining a licence or paying a levy to the
- 4 Commission, knowingly or recklessly made a statement which is false in any
- 5 material particular;
- 6 (d) has knowingly or recklessly made false declaration of its income
- 7 or false declaration of remittance of premiums collected;
- 8 (e) has been found guilty by a court of competent jurisdiction of
- 9 dishonesty or fraud by whatever name called, including misappropriation of
- 10 clients' money; or
- 11 (f) has knowingly or recklessly taken action contrary to the code of
- 12 conduct of the profession.
- 13 (2) The Commission shall in the notice of its intention to cancel the
- 14 licence give the broker a specified period of time, as it may deem necessary,
- 15 within which to remedy any of the defects or breaches identified in subsection
- 16 (1) of this section, where the defects or breaches are capable of being remedied.
- 17 (3) Where the defect or breach is not capable of being remedied or
- 18 where it is not remedied within the time specified by the Commission in the
- 19 notice given, the Commission shall proceed forthwith to cancel the licence of
- 20 the broker.
- 21 (4) Where the licence of a broker is cancelled:
- 22 (a) the broker shall forthwith discontinue to accept any new business;
- 23 and
- 24 (b) in all cases, the Commission may act as a receiver from the date of
- 25 cancellation in accordance with the provisions of this Bill, or may appoint any
- 26 person to act on its behalf.
- 27 (5) A broker whose licence has been cancelled by the Commission
- 28 may within 30 days after the notice of the Commission's cancellation of its
- 29 licence appeal to the Board in writing setting out the grounds of appeal.
- 30 (6) The Board shall within 90 days of receiving the appeal give its

1 decision on whether to allow or reject the appeal and may impose such
2 conditions as it deems fit where it allows the appeal.

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

5 37. An insurance and reinsurance broking firm shall:

6 (a) maintain a professional indemnity cover of not less than N100
7 Million or 50 percent of its annual brokerage income for the preceding year,
8 whichever is greater;

9 (b) not directly or indirectly hold financial interest in excess of 10
10 percent in:

11 (i) an insurance company, or

12 (ii) a loss adjusting company in Nigeria;

13 (c) have as a member of its senior management staff at least one
14 person who has professional qualification in insurance or at least 7 years'
15 experience at senior management level with an insurer or insurance broking
16 firm; and

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

20 38.-(1) An insurance or reinsurance broker shall keep records of all
21 insurance business handled by him and accounting records in such form and
22 for such period as may be prescribed, from time to time, by the Commission.

23 (2) An insurance or reinsurance broker shall submit audited
24 financial statements and revenue account to the Commission not later than
25 30th March in each year in the form prescribed, from time to time, by the
26 Commission.

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

Requirement as
to indemnity cover,
staff, etc.

Records of
transactions, etc.

Suspension of
licence

1 **39.**-(1) Where an insurance broker fails to comply with the provisions
2 of this Bill, the Commission may, without prejudice to any further sanction,
3 suspend his licence for a period not exceeding 6 months.

4 (2) An insurer who transacts business with an insurance broker whose
5 licence has been suspended is liable to a penalty of N250,000.00 or the amount
6 of premium involved, whichever is higher.

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

Audit of insurance
broker

10 **40.**-(1) An external auditor who audits the accounts of an insurance or
11 reinsurance broker shall, at the conclusion of each audit issue a certificate that
12 all premiums collected by the insurance or reinsurance broker have been paid
13 to the insurer with whom he transacted business during the year or otherwise.

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

Insurance broker
to establish client's
account

17 **41.**-(1) An insurance broker shall establish and maintain, at all times,
18 a clients' account into which all monies, premiums, claims and recoveries from
19 and on behalf of clients, insurers and reinsurers shall be paid.

20 (2) An insurance broker who contravenes the provisions of subsection
21 (1) of this section shall be liable to a penalty not exceeding the sum of
22 N1,000,000.00.

Licensing of
loss adjusters

23 **42.**-(1) A person shall not transact business as a loss adjuster in
24 Nigeria unless:

25 (a) the person is licenced for that purpose under this Bill; and

26 (b) the chief executive or executive director is a member of the
27 Institute and a registered member of a professional body of loss adjusters
28 recognised by law.

29 (2) An application for licencing as a loss adjuster shall be made to the
30 Commission in the form and be accompanied by such fee and other documents

1 as may be prescribed, from time to time, by the Commission.

2 (3) The Commission shall licence the applicant as a loss adjuster,
3 where it is satisfied that:

4 (a) the applicant has the prescribed qualifications;

5 (b) the applicant is either a partnership or a limited liability
6 company duly registered under the Companies and Allied Matters Act, Cap
7 C20 Laws of the Federation of Nigeria, 2004, with such minimum fully paid
8 up share capital, as may be prescribed, from time to time, by the
9 Commission;

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

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

15 (e) the applicant has met such requirements as may be prescribed,
16 from time to time, by the Commission.

17 (4) A person who transacts business as a loss adjuster without
18 having been licenced for that purpose under this Bill commits an offence and
19 is liable on conviction:

20 (a) in the case of a company, firm or other combination of persons,
21 each principal officer of the company, firm or other combination of persons
22 to a fine not exceeding N500,000.00; and

23 (b) in the case of an individual, to a fine of not less than
24 N200,000.00 or to a term of imprisonment not exceeding 12 months.

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

28 **43.-(1)** All loss adjusters shall renew their licences on or before
29 such date as may be prescribed, from time to time, by the Commission.

30 (2) For the purposes of renewal, all documents shall be submitted

Renewal of licence
of loss adjusters

1 to the Commission within such time as may be prescribed, from time to time,
2 by the Commission.

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

5 (4) Where the Commission informs an applicant rejecting the
6 application for renewal of licence, the provisions of section 34 (4), (5) and (6)
7 of this Bill shall apply as if references in that section to insurance broker were
8 referred to loss adjusters.

Cancellation of
licence of a loss
adjuster

9 44.-(1) The Commission shall give notice in writing of its intention to
10 cancel the licence of a loss adjuster where it is satisfied that a licenced loss
11 adjuster has:

12 (a) knowingly or recklessly contravened the provisions of this Bill;

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

15 (c) been found guilty, by a court of competent jurisdiction of
16 dishonesty or fraud by whatever name called (including misappropriation of
17 client's monies); or

18 (d) in any manner displayed any act of professional misconduct,

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

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

28 (4) Where the licence of a loss adjuster is cancelled:

29 (a) the loss adjuster shall forthwith discontinue to accept any new
30 business; and

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

4 (5) A loss adjuster whose licence has been cancelled by the
5 Commission may within 30 days after the cancellation appeal to the Board
6 in writing setting out the grounds of appeal.

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

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

12 45. A loss adjuster shall keep proper records of all its business in
13 such forms as may be prescribed which shall be subject to inspection by the
14 Commission or any person authorized by the Commission.

Records to be kept
by loss adjuster

15 46. The Commission may permit a recognized foreign loss adjuster
16 to attend to claims in Nigeria on such terms and conditions as it may, from
17 time to time prescribe, provided that the foreign loss adjuster carries out the
18 assignment in collaboration with at least one firm of loss adjusters registered
19 under this Bill.

Attendance to
claims by foreign
loss adjusters

20 PART VII - ACTUARY

21 47.-(1) Where an insurer is required to appoint an Actuary and fails
22 to so appoint, the Commission may appoint a qualified person to act as the
23 Actuary for the business of the insurer under this Bill.

Powers of the
Commission to
appoint Actuary

24 (2) An Actuary appointed under subsection (1) of this section is
25 considered, for the purposes of this Bill, to have been appointed by the
26 insurer.

27 48.-(1) The Actuary of an insurer:

Powers of Actuary

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

1 (b) may require any director or employee of the insurer to answer
2 questions or produce documents for the purpose of enabling the Actuary to
3 properly perform his functions and duties under this Bill.

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

7 (3) Where, without reasonable ground:

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

10 (b) a director or employee of the insurer contravenes the provisions of
11 subsection (1) (b) of this section, the Actuary shall report the matter to the
12 Commission.

Obligations of
Actuary

13 49.-(1) The Actuary of an insurer shall report immediately to the
14 Commission where:

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

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

20 (2) Where in the course of carrying out his duties under this Bill, the
21 Actuary comes across any matter in relation to the business of the insurer
22 which, in the opinion of the Actuary, requires action to be taken by the insurer,
23 or its directors, to avoid:

24 (a) any contravention of the provisions of this Bill; or

25 (b) the interest of policy holders of the insurer, being adversely
26 affected, the Actuary shall immediately report such matter to the insurer.

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

1 (4) Where the appointment of an Actuary is terminated by an
2 insurer, the Actuary shall:

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

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

8 (5) Where, in good faith, an Actuary provides a report or
9 information to the Commission under the provisions of subsections (1), (2)
10 or (4) of this section, the Actuary shall not be in contravention of any
11 enactment, rule or law or professional code of conduct to which the Actuary
12 is subject and no civil, criminal or disciplinary proceedings shall lie against
13 the Actuary in respect of the report or information provided to the
14 Commission.

15 (6) The failure, in good faith, of an Actuary to provide a report or
16 information to the Commission under subsections (1), (2) or (4) of this
17 section, does not confer upon any other person a right of action against the
18 Actuary which, but for the failure, the person would not have had.

19 (7) An Actuary who contravenes the provisions of subsections (1),
20 (2), (3) or (4) of this section, is liable to such penalty as prescribed, from time
21 to time, by the Commission.

22 **50.-(1)** An insurer shall, at least once every year, cause an
23 investigation to be carried out by its Actuary into its financial condition in
24 respect of its insurance business.

Annual actuarial
investigations

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

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

1 (2) A broker who contravenes the provisions of subsection (1) of
2 this section is liable to:

3 (a) pay the net premium due to the insurer with interest at 2 percent
4 above the Central Bank of Nigeria Minimum Rediscount Rate from the date
5 of the breach; and

6 (b) a penalty in the sum of N500,000.00 or two times the value of
7 the commission earned, whichever is higher.

8 (3) Non-remittance of premium may constitute a ground for
9 cancellation of the licence.

10 54.-(1) An insurer shall not pay, by way of commission to an
11 insurance agent, insurance broker or any other intermediary an amount
12 exceeding:

Payment of
insurance
commission

13 (a) 3 percent of single premium annuity;

14 (b) 5 percent in respect of periodic premium annuity;

15 (c) 10 percent of the premium in respect of group life assurance;

16 (d) 12.5 percent of the premium in respect of motor insurance
17 business;

18 (e) 15 percent of the premium in respect of workmen's
19 compensation; or

20 (f) 20 percent of the premium in respect of any other class of non-
21 life insurance business.

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

25 (3) The rate of commission payable to an insurance agent shall not
26 be more than 50 percent of the rate of commission payable to insurance
27 brokers or as may be determined, from time to time, by the Commission.

28 (4) A person who pays or receives any commission other than in
29 compliance with the provisions of this section, is liable to a penalty of 5
30 times the amount of excess commission paid or received.

1 (5) Notwithstanding the provisions of subsection (4) of this section,
2 the Commission may refer the person to the appropriate law enforcement
3 agency for prosecution.

4 (6) A person referred for prosecution under subsection (5) of this
5 section, shall on conviction be liable to a fine of N1,000,000.00 or
6 imprisonment for a maximum term of 12 months.

Prohibition of
certain discounts
and rebates

7 **55.-(1)** An insurer shall not grant any discount or rebate in the
8 approved rate of premium in respect of insurance made compulsory by law
9 unless such discount or rebate is approved by the Commission.

10 (2) An insurer who contravenes the provisions of subsection (1) of
11 this section, is liable to a penalty of 5 times the amount of premium chargeable.

12 (3) A person shall not offer or receive, either directly or indirectly, as
13 an inducement to any person to take out or renew or continue an insurance
14 contract, any rebate of the:

15 (a) whole or part of the commission payable under this Bill; or

16 (b) premium shown on the policy, except such rebate as may be
17 approved by the Commission and published in the prospectus or table of rates
18 of the insurer.

19 (4) Any insurance operator who offers or receives any rebate
20 otherwise than as provided for in subsection (3) of this section:

21 (a) is liable to a penalty of 10 times the amount of rebate offered or
22 received; and

23 (b) shall constitute a ground for the cancellation of the licence of the
24 insurance operator under this Bill, where the contravention is continuous.

25 PART IX - INSURANCE CONTRACTS: DISCLOSURE, CONDITIONS

26 AND WARRANTIES

Proposal form

27 **56.-(1)** Where an insurer requires an insured to complete a proposal
28 form or any other application form for insurance, the form shall be drawn up in
29 such a manner as to elicit such information as the insurer considers material in
30 accepting the application for insurance of the risk and any information not

1 specifically requested shall be deemed not to be material.

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

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

10 **57.-(1)** In a contract of insurance, a breach of a term of the contract,
11 whether called a warranty or a condition, shall not give rise to any right by, or
12 afford a defence to the insurer unless the term is material and relevant to the
13 risk or loss insured against.

Breach of material
and relevant terms

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

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

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

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

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

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

29 (6) For the purpose of subsection (2) of this section, "fundamental
30 term" means a warranty, condition or other term of an insurance contract

1 which a prudent insurer will regard as material and relevant in accepting to
2 underwrite a risk and in fixing the amount of premium.

3 (7) In this section, the word "insured" includes a person making an
4 application to procure an insurance.

Insurable interest

5 58.-(1) A policy of insurance made by a person on the life of any other
6 person or on any other event whatsoever shall be null and void where the
7 person, for whose benefit, or on whose account the policy of insurance is made,
8 has no insurable interest in the life or subject matter insured or where it is made
9 by way of gaming or wagering.

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

15 (3) In this section, "legal relationship" includes the relationship which
16 exists between persons under customary law or Islamic law whereby one
17 person assumes responsibility for the maintenance and care of the other.

Policy document
to specify insured
or event

18 59.-(1) A policy of insurance shall not be made on the life of a person
19 or event without inserting in the policy, the name of the insured or the event or
20 those for whose benefit or on whose account the policy is made.

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

Limitation on
amount receivable

26 60. A person with an insurable interest in the life or event insured,
27 shall not be entitled to receive from the insurer an amount greater than that
28 value of the interest of the insured in such life or other event.

Right of assignee
to sue

29 61. A person who:

30 (a) is entitled by assignment or other derivative title to a policy of

1 insurance; and

2 (b) has, at the time when action is brought on the policy, the right in
3 equity to receive and to give an effectual discharge to the insurer liable under
4 such policy for money thereby assured or secured, shall be entitled to sue in
5 the name of such person to recover such money, but such assignee shall not
6 have a better title than the insured.

7 62.-(1) An assignment of a policy of life insurance shall not confer
8 on the assignee or his personal representatives any right to sue for the
9 amount of the policy or the insured money, unless a written notice of the date
10 and purport of the assignment is given to the insurer liable under the policy
11 at his principal address of business.

Notice of
assignment

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

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

17 63.-(1) An insurer to whom a notice of assignment is given in
18 respect of any policy for which the insurer is liable, shall acknowledge such
19 notice and that acknowledgement, shall be a conclusive evidence against the
20 insurer of his having received the notice.

Acknowledgment
of notice

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

24 64. The provisions of this Part shall not apply to contracts of
25 marine insurance.

Provisions
inapplicable to
marine insurance

26 PART X - COMPULSORY INSURANCE

27 65.-(1) A person shall not construct or cause to be constructed any
28 building of more than two floors without insuring his liability in respect of
29 the construction risks that may be caused by his negligence or the negligence
30 of his servants, agents, consultants or public authority which may result in

Insurance of
building under
construction

1 bodily injury or loss of life to any person or workman working on the site or to
2 any member of the public.

3 (2) The duty to insure as required under the provision of subsection
4 (1) of this section arises immediately upon commencement of construction of a
5 building.

6 (3) A person who contravenes the provision of subsection (1) of this
7 section commits an offence and is liable on conviction to a fine of
8 N5,000,000.00 or imprisonment to a maximum term of 12 months or to both
9 fine and imprisonment.

10 (4) Notwithstanding the provisions of any other law, no building plan
11 approval of more than two floors shall be granted by any approving authority
12 without evidence of insurance under this section.

Insurance of
public buildings

13 66.-(1) Every public building shall be insured against the hazards of
14 collapse, fire, earthquake, storm, flood and such other hazards as the
15 Commission may determine from time to time.

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

20 (3) Every insurer shall pay quarterly 0.5 percent of the net premium
21 received on policies issued under subsection (1) of this section into a Fire
22 Service Maintenance Fund which shall be established, administered and
23 disbursed by the Commission for the purpose of providing grant or equipment
24 to institutions engaged in fire-fighting services.

25 (4) An insurer who defaults in making payment as required under
26 subsection (3) of this section is liable to a penalty of a fine of 10 times the
27 amount payable, provided that persistence in non-compliance with the
28 provision shall be a ground for the cancellation of
29 registration of an insurer.

30 (5) An owner or occupier of premises who contravenes the provision

1 of this section commits an offence and is liable on conviction to a fine of not
2 less than N1,000,000.00 or imprisonment for a term not exceeding 12
3 months or to both fine and imprisonment.

4 (6) In this section, "public building" includes a tenement house of
5 not less than two floors, hostel, a building occupied by a tenant, lodger or
6 licensee and any building to which members of the public have access for
7 the purpose of obtaining educational or medical service, or for the purpose
8 of recreation or transaction of business.

9 (7) The Commission shall have powers to seal up any building on
10 reasonable suspicion that it possesses serious risk to the public and no
11 adequate insurance has been provided in line with this section or section 65
12 of this Bill.

13 67.-(1) Where a house or any other building insured against loss by
14 fire is damaged or destroyed by fire and there is no reasonable ground to
15 suspect that the owner, occupier or any other person who insured the house
16 or other building is guilty of fraud in respect of the insurance, or of willfully
17 causing the fire, the insurer who is liable to make good the loss may, on the
18 request of any person entitled or interested in the insured house or building
19 cause the insurance money payable to be paid out and expended as set out in
20 subsection (2) of this section.

Application of
proceed of claims
on business
destroyed by fire

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

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

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

1 (2) The Committee set up by the Commission under subsection (1) of
2 this section shall consist of such number of persons and perform such functions
3 as the Commission may determine.

4 PART XI - MOTOR VEHICLES (THIRD PARTY) INSURANCE

Insurance against
third party risks

5 72.-(1) Subject to the provisions of this Part, a person shall not use,
6 cause or permit any other person to use a motor vehicle or be in effective
7 control of such a vehicle unless there is in force in relation to the use of that
8 motor vehicle by such person or such other person as the case may be, a policy
9 of insurance in respect of third party risks in compliance with the provisions of
10 this Part.

11 (2) A person who contravenes the provision of this section is liable on
12 conviction to a fine of not less than N250,000.00 or imprisonment to a
13 maximum term of 12 months or to both term of imprisonment and fine.

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

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

21 (5) Pursuant to the provisions of subsection (4) of this section, the
22 Commission shall specify from time to time the amount of compensation due
23 to each passenger in respect of death or bodily injury.

Limitation of
time for
proceedings

24 73. Notwithstanding the provisions of any written law, proceedings in
25 respect of an offence under section 72 of this Bill may be instituted within a
26 period:

27 (a) of 6 months from the date of the commission of the alleged
28 offence; or

29 (b) not exceeding 6 months from the date on which it came to the
30 knowledge of the prosecutor that the offence had been committed or 1 year

1 from the date of the commission of the offence, whichever period is the
2 longer.

3 74.-(1) The provisions of this Part shall not apply to:

Exemptions

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

6 (b) vehicles of government of a foreign State with which there is
7 reciprocal agreement with the Government of the Federal Republic of
8 Nigeria in use by the Diplomatic Mission or officials of such State while
9 such vehicles are being used in the course of official duties.

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

13 (3) With respect to subsection (1)(b) of this section, where there is
14 no reciprocal Agreement, the Diplomatic Mission shall be liable for all third
15 party risks.

16 75.-(1) A policy of insurance, for the purposes of this Part, shall be
17 a policy which:

Requirements in
respect of policies
and certificates
of insurance

18 (a) is issued by a registered insurer;

19 (b) insures such persons or classes of persons as may be specified
20 in the policy in respect of liability which may be incurred by him or them in
21 respect of:

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

23 (ii) medical expenses of any third party accident victim not
24 exceeding N100,000.00 for out-patient treatment and N250,000.00 for in-
25 patient treatment or such sum as may be prescribed from time to time by the
26 Commission, and

27 (iii) damage to the property of third parties not exceeding
28 N5,000,000.00 or such sum as may be prescribed from time to time by the
29 Commission, caused by or arising out of the use of a motor vehicle covered
30 by the policy.

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

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

13 Provided that the amount to be paid by the insurer shall not exceed
 14 N500,000.00 or such sum as may be prescribed by the Commission for each
 15 person so treated.

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

20 (5) A policy shall be of no effect for the purposes of this Part, unless
 21 there is issued, by the insurer to the insured, a Certificate of Insurance or such
 22 other evidence as approved by the Commission.

23 76.-(1) Any condition in a policy issued under this Part shall be of no
 24 effect in connection with such claims where it provides that:

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

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

29 (2) Nothing in this section shall be so construed as to render void any
 30 provision in a policy requiring the person insured to repay to the insurer any

Certain conditions
 in policies to be
 of no effect

1 sums which the insurer may have become liable to pay under the policy and
2 which have been applied to the satisfaction of the claims of third parties.

3 77.--(1) Where a certificate of insurance has been issued under the
4 provisions of subsection (5) of section 75 of this Bill to the insured, so much
5 of the policy as purports to restrict the insurance of the person insured
6 thereby, in respect of any of the following matters, the:

Avoidance of
restriction on
third party policies

7 (a) age or physical or mental condition of persons driving the motor
8 vehicle;

9 (b) condition of the motor vehicle;

10 (c) number of persons that the motor vehicle carries;

11 (d) weight or physical characteristics of the goods that the motor
12 vehicle carries;

13 (e) times at which or the areas within which the motor vehicle is
14 used;

15 (f) horsepower or value of the motor vehicle;

16 (g) carrying on the motor vehicle of any particular apparatus; or

17 (h) the carrying on the motor vehicle of any means of identification
18 required to be carried under the provisions of the Road Traffic Laws, in
19 respect of such liabilities as are required to be covered by a policy under
20 paragraph (b) of subsection (1) of section 103 of this Bill, shall be of no
21 effect.

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

25 78.--(1) Where a judgment in respect of any liability covered by the
26 terms of the policy is obtained against any person insured, notwithstanding
27 that the insurer may be entitled to avoid or cancel or may have avoided or
28 cancelled the policy, the insurer shall, subject to the provisions of this
29 section, pay to the persons entitled to the benefit of such judgment, any sum
30 payable there under, including any sum payable in respect of costs, written

Duty of insurer
to satisfy judgments

1 law or any interest on that judgment sum.

2 (2) No sum shall be payable by an insurer under the provisions of
3 subsection (1) of this section in connection with any liability if before the
4 happening of the event, which was the cause of the death or bodily injury or
5 property damage giving rise to the liability, the policy was cancelled by mutual
6 consent or by virtue of any provision contained therein (a) before the
7 happening of such event the certificate of insurance was surrendered to the
8 insurer or the person to whom the certificate of insurance was delivered, made a
9 statutory declaration stating that the certificate of insurance had been lost or
10 destroyed and so could not be surrendered;

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

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

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

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

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

1 (4) An insurer who obtained the declaration referred to in
2 subsection (3) of this section, in an action shall not be entitled to the benefit
3 of the provisions of this subsection in respect of any judgment obtained in
4 any proceedings commenced before the commencement of that action
5 unless, within 7 days after the commencement of that action, has given
6 notice thereof to the plaintiff in the action under the policy, specifying the
7 non-disclosure or false representation on which he proposes to rely and that
8 he intends to seek a declaration and any person to whom notice of such
9 action is given may, if he desires, be made a party thereto.

10 (5) Where the amount which an insurer under the provisions of this
11 section, becomes liable to pay in respect of the liability of a person insured
12 by the policy exceeds the amount for which he would, apart from the
13 provisions of this section, be liable to pay under the policy in respect of that
14 liability, he shall be entitled to recover the excess from that person.

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

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

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

21 79.-(1) Where, in a policy issued under this Bill for the purposes of
22 this Part, a person, (hereinafter referred to as 'the insured') is insured against
23 liabilities to third parties which the insured may incur:

Right of third
parties against
insurers

24 (a) in the event of the insured becoming bankrupt or making a
25 composition or arrangement with his creditors; or

26 (b) where the insured is a company, and a winding-up order has
27 been made or a resolution for the voluntary winding up of the company
28 passed or a receiver or manager of the company's business or undertaking
29 has been appointed or in the event of possession having been taken by or on
30 behalf of the holders of any debentures secured by a floating charge on any

1 property comprised in or subject to the charge, before or after any such liability
2 is incurred by the insured, his rights against the insurer under the policy in
3 respect of that liability shall, notwithstanding anything to the contrary
4 contained in any written law, be transferred to and vested in the third party to
5 whom the liability was incurred.

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

14 (3) Any condition in a policy issued for the purposes of this Part
15 purporting directly or indirectly to avoid the policy or to alter the rights of the
16 parties thereunder upon the happening of any of the events specified in
17 subsections (1) or (2) of this section, shall be of no effect.

18 (4) Upon a transfer of rights under subsection (1) or (2) of this section
19 the insurer shall, subject to the provisions of section 109, be under the same
20 liability to the third party as he would have been to the insured except where the
21 liability of the insurer to the insured:

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

25 (b) is less than the liability of the insured to the third party, nothing in
26 this Bill shall affect the rights of the third party against the insured in respect of
27 the balance.

28 (5) The provisions of this section shall:

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

1 (b) apply to other insurances made compulsory under this Bill,

2 (6) For the purposes of sections 78 and 79 of this Bill the
3 expression "liabilities to third parties", in relation to a person insured under a
4 policy of insurance, shall not include any liability of that person in the
5 capacity of insurer under some other policy of insurance.

6 80,-(1) Any person against whom a claim is made in respect of any
7 liability required to be covered by a policy shall, on demand by or on behalf
8 of the person making such claim, state whether or not he was insured in
9 respect of that liability by any policy having effect for the purposes of this
10 Bill or would have been so insured if the insurer had not cancelled or
11 avoided the policy and, if he were or would have been so insured, give such
12 particulars with regard to that policy as were specified in the certificate of
13 insurance issued to him.

Duty to give
information to
third parties

14 (2) In the event of:

15 (a) a person becoming bankrupt or making a composition or
16 arrangement with his creditors;

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

19 (c) a winding-up order being made or a resolution for a voluntary
20 winding up being passed with respect to any company or of a receiver or
21 manager of the company's business or undertaking being duly appointed or
22 of possession being taken, by or on behalf of the holders of any debentures
23 secured by a floating charge, of any property comprised in or subject to the
24 charge, it shall be the duty of the bankrupt debtor, personal representative of
25 the deceased debtor and, as the case may be, of the official assignee, trustee,
26 liquidator, receiver, manager, or person in possession of the property to give,
27 at the request of any person claiming in respect of liability of him, such
28 information as may reasonably be required to ascertain whether any rights
29 have been transferred to and vested in him under the provisions of this Bill.

30 (3) for the purpose of enforcing the right provided under

1 subsection (2) of this section and any contract of insurance in so far as it
2 purports either directly to avoid the contract or to alter the rights of the parties
3 thereunder upon the giving of any such information or otherwise to prohibit,
4 prevent or limit the giving of such information shall be of no effect.

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

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

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

Certain settlements
between insurer
and insured to be
of no effect

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

1 82. Where, under the provisions of this Part, a certificate of
 2 insurance has been delivered to the person by whom a policy has been
 3 effected, the happening in relation to any person insured by the policy of any
 4 of the events specified in subsections (1) or (2) of section 107
 5 notwithstanding anything contained in this Part, the liability of that person
 6 as is required to be covered by a policy under the provisions of this Part, shall
 7 not be affected and nothing in this section shall affect any right against the
 8 insurer conferred under the provisions of sections 79, 81 and 82 of this Bill
 9 on the person to whom the liability was incurred.

Bankruptcy of
 insured person
 not to affect certain
 claims

10 83.-(1) Any settlement made by an insurer in respect of a claim
 11 which might be made by a third party in respect of any liability as is required
 12 to be covered by a policy issued under the provisions of this Part shall not be
 13 valid unless such third party is a party to such settlement.

Further right of
 third parties against
 insurers

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

17 84.-(1) Where a certificate of insurance has been delivered under
 18 the provisions of this Part to the person by whom a policy has been effected
 19 and the policy is cancelled by mutual consent or by virtue of any provision in
 20 the policy, the person to whom such certificate was delivered shall, within 7
 21 days of the cancellation of such policy, surrender such certificate to the
 22 insurer or if such certificate has been lost or destroyed, make a statutory
 23 declaration to that effect.

Duty to surrender
 certificate on
 cancellation of
 policy

24 (2) A person who contravenes the provisions of this section
 25 commits an offence under this Part and is liable on conviction to a fine not
 26 exceeding N25,000.00.

27 85.-(1) A person driving a motor vehicle on a highway or on any
 28 public place shall, on being required by a law enforcement officer:

Certificates to
 be produced

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

1 (b) produce his certificate of insurance or insurance cover note.

2 (2) A person who contravenes the provisions of subsection (1) of this
3 section commits an offence and is liable on conviction, to a fine not
4 exceeding N25,000.00.

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

14 (4) A person who contravenes the provision of subsection (3) of this
15 section commits an offence and is liable on conviction, to a fine not exceeding
16 N50,000.00.

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

19 (6) In this section, the expression "to produce a certificate of
20 insurance" means to produce for examination the relevant certificate of
21 insurance or cover note that the motor vehicle is not being driven in
22 contravention of the provision of this Part.

Duty of owner

23 86. The owner of a motor vehicle shall give such information as may
24 be required by a law enforcement officer for the purpose of determining
25 whether the motor vehicle is not being driven in contravention of the
26 provisions of this Part on any occasion in which the driver is required to
27 produce his certificate and, any owner who fails to do so commits an offence
28 and is liable on conviction to a fine of N25,000.00.

False statements,
forging, etc.
certificates

29 87. (1) Where a person, for the purpose of obtaining a certificate of
30 insurance makes any statement, either oral or written, which is false or

1 misleading or withholds any material information, such person shall, unless
 2 he proves to the satisfaction of the court that he acted without any intent to
 3 deceive, commits an offence and is liable on conviction to a fine not
 4 exceeding N100,000.00 or to imprisonment for a period of 6 months or to
 5 both fine and imprisonment;

6 (2) Any person who:
 7 (a) forges, alters, defaces or mutilates any certificate of insurance
 8 or any other document issued under this Part;
 9 (b) uses or allows to be used by any other person any forged,
 10 altered, defaced or mutilated certificate of insurance or any other document
 11 issued under this Part;

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

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

17 (e) issues a certificate of insurance or other document to be issued
 18 under the provisions of this Part commits of an offence and is liable on
 19 conviction to a fine not exceeding N200,000.00 or imprisonment for a term
 20 of 1 year or to both fine and imprisonment;

21 **88.** In this Part:
 22 "drivers licence" means a licence to drive a motor vehicle granted under the
 23 provisions of the Road Traffic Act or law applicable in a State in Nigeria;

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

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

29 "material" means of such a nature as to influence the judgment of a prudent
 30 insurer in determining whether he will accept the risk and, if so, at what

Interpretation
 in this Part

1 premium and on what conditions;
 2 "motorcycle" or "tricycle" means a motor vehicle designed to travel on not
 3 more than three wheels and includes a combination of motorcycle and side car;
 4 "motor-vehicle" means a vehicle propelled by mechanical power other than a
 5 vehicle constructed to run on rails and includes a motor-cycle and tricycle;
 6 "owner" in relation to a motor vehicle which is subject of a hiring or hire
 7 purchase agreement means the person in possession of the vehicle under the
 8 agreement;
 9 "third party" means any person other than the insurer and the insured who
 10 sustains injury or property damage as a result of an accident caused by or
 11 involving a motor vehicle in use or under the control of a person whose liability
 12 is covered under a policy; and
 13 "use" with its grammatical variations and cognate expressions means use on a
 14 highway or other public place and where any word or expression used in this
 15 Bill is defined in the Road Traffic laws, such word or expression, unless the
 16 context otherwise requires, shall bear in this Bill the meaning assigned to it in
 17 the Road Traffic laws.

18 PART XII - ECOWAS BROWN CARD SCHEME

19 **89.**-(1) Notwithstanding anything to the contrary contained in any
 20 other enactment and in accordance with the provisions of Article 5 of the
 21 Protocol on the ECOWAS BROWN CARD SCHEME ("the Scheme") there is
 22 established a National Bureau for the purpose of the Protocol (in this Bill
 23 referred to as *the Bureau*).

24 (2) The Bureau shall:

25 (a) be a body corporate with perpetual succession; and
 26 (b) have a common seal with power to sue and be sued in its corporate
 27 name.

28 (3) The Bureau shall be managed by a board of directors (hereinafter
 29 referred to as *the Management Board*) comprising:

30 (a) a Chairman, to be appointed by the Commission who shall not be

Establishment
 of the National
 Bureau for the
 purpose of the
 Protocol on the
 ECOWAS Brown
 Card Scheme

1 below the rank of a director;

2 (b) 3 representatives of motor underwriting companies that are
3 members of the Bureau elected at a general meeting of the Bureau;

4 (c) a representative of the Governing Council of the Nigerian
5 Insurers Association; and

6 (d) 2 persons representing the public to be appointed by the
7 Commission.

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

10 (5) The Bureau shall:

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

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

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

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

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

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

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

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

Savings and transitional provisions pertaining to the Bureau

1 90.-(1) The Bureau established under section 89 of this Bill shall be
2 subject to all the obligations and liabilities to which the former Bureau was
3 subject to immediately before the commencement of this Bill and all other
4 persons shall have the same rights, powers and remedies against the Bureau
5 established by this Bill as they had against the Bureau immediately before the
6 commencement of this Bill.

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

16 (3) All assets, funds, resources and other movable property which,
17 immediately before the commencement of this Bill were vested in the former
18 Bureau shall be vested in the Bureau established by section 89 of this Bill.

Appointment of staff by the Bureau

19 91. The Bureau established by this Bill shall be competent to appoint a
20 Secretary and other officers as may be necessary for the administration of the
21 Bureau.

Road Safety and Accident Victims Compensation Fund

22 92. There is established a Fund to be known as the Road Safety and
23 Accident Victims Compensation Fund (hereinafter referred to as "the Fund")
24 into which shall be paid 3 percent of the net premium received by every insurer
25 in respect of insurance of motor vehicles.

Road Safety and Accident Victims Compensation Committee

26 93.-(1) There is established for the Fund a Road Safety and Accident
27 Victims Compensation Committee (in this Bill referred to as "the
28 Compensation Committee") responsible for over-seeing the management of
29 the Fund.

30 (2) The Compensation Committee shall consist of:

1 (a) a chairman representing the insurance industry appointed by
2 the Minister on the recommendation of the Commission.

3 (b) 3 persons appointed by the Commission one of whom shall be a
4 medical practitioner with cognate experience in orthopedic or trauma
5 medicine;

6 (c) 2 representatives of the Commission;

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

8 (e) a representative of the Nigeria Police Force;

9 (f) a person to be appointed by the State Traffic Agencies on
10 rotational basis among the States of the Federation; and

11 (g) a representative of the Federal Ministry of Finance from the
12 directorate cadre.

13 (3) The amount due from every insurer pursuant to subsection (1)
14 of this section shall be paid quarterly to the Fund which shall be
15 administered and disbursed, on the recommendation of the Compensation
16 Committee, by the Commission.

17 (4) The Commission shall on the recommendation of the
18 Compensation Committee administer and disburse monies accruing to the
19 Fund as follows:

20 (a) 30 per cent to the Federal Road Safety Commission as grant for
21 the procurement of equipment;

22 (b) 20 per cent to the Nigeria Police Force as grant for the
23 procurement of equipment;

24 (c) 10 per cent to road-traffic agencies for the procurement of
25 equipment;

26 (d) 35 per cent into a separate fund out of which the Commission
27 shall pay compensation, in accordance with regulations made by the
28 Commission, to any person in respect of death or bodily injury following a
29 motor vehicle accident caused by an uninsured vehicle or an unidentified
30 driver and expenses reasonably incurred by any hospital known to have

1 treated any person involved in any motor accident by an uninsured vehicle or
2 unidentified driver provided such hospital expenses shall not exceed the sum of
3 N250,000.00 for any person treated; and

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

6 (5) An insurer who defaults in making payment as required under
7 subsection (1) of this section is liable to a penalty of a sum equal to 5 times the
8 amount payable, Provided that persistent non-compliance with the
9 requirement of subsection (1) of this section shall be a ground for suspension of
10 authorization to underwrite motor insurance policies by the Commission.

11 (6) Subject to the approval of the Minister, on the recommendation of
12 the Commission, the percentage contributions stipulated in subsection (4) of
13 this section may be reviewed every 5 years after the commencement of this
14 Bill.

General penalty
under this Part

15 **94.** Any person who is found guilty of an offence under this Part for
16 which no specific penalty is provided is liable in respect of a first conviction, to
17 a fine of N50,000.00 or to 6 months imprisonment or to both fine and
18 imprisonment and in the case of a second or subsequent conviction to a fine of
19 N100,000.00 or to imprisonment for a maximum term of 12 months or to both
20 fine and imprisonment.

Police report in
motor accidents
cases

21 **95.**-(1) Where any claim referred to under this Part and Part XI arises
22 out of an accident involving one or more vehicles, it shall not be necessary, if
23 there is sufficient evidence of proof of loss or damage, for any claimant to
24 report and deliver a police report to the insurer, except death of or serious
25 bodily injury to a person is involved.

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

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

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

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

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

11 PART XIII - AMALGAMATION AND TRANSFERS

12 96.-(1) Subject to the provisions of this section, an insurer shall not
13 amalgamate with, transfer to or acquire from any other insurer any insurance
14 business or part thereof, without the prior approval of the Commission.

Procedure for
amalgamation

15 (2) The Commission may, before granting an approval under
16 subsection (1) of this section, call for such statements, documents and other
17 information as may be prescribed, from time to time, by the Commission.

18 (3) Where a class of insurance business is intended to be
19 amalgamated with another insurance business or an insurer or the class of
20 insurance business is intended to be transferred or acquired in whole or in
21 part, the insurers concerned shall apply to the Court to sanction the proposed
22 amalgamation or transfer as the case may be.

23 (4) Prior to making an application to the Commission for approval
24 or to the Court to sanction any transaction under this section, notice of
25 intention to make the application together with a statement of the nature of
26 the amalgamation, transfer or acquisition shall, at least 3 months before the
27 application is made, be published in at least 3 national newspapers and filed
28 with the Commission.

29 (5) Within the 3 months referred to in subsection (4) of this section,
30 certified copies of each of the following documents shall be kept open for

1 inspection by the members and policyholders at the principal and branch
2 offices of the insurers concerned:

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

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

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

9 (d) a report on the proposed amalgamation, transfer or acquisition
10 prepared by an independent actuary.

11 (6) The deed or agreement under which an amalgamation, transfer or
12 acquisition as the case may be, is proposed to be effected, shall be available for
13 inspection without payment of any fee by policyholders and shareholders at all
14 reasonable times in all the offices of the insurers in Nigeria, for a period of 21
15 days after the publication of the notice in the newspapers.

16 (7) The Commission or Court may approve or sanction the
17 amalgamation, transfer or acquisition if satisfied that no sufficient objection
18 has been established by those entitled to be heard.

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

24 (9) Where an amalgamation, transfer or acquisition under this section
25 is approved by the Commission, a policyholder shall not be regarded as having
26 abandoned a claim which he would have had against the original insurer or the
27 insurer that has accepted the liability of the original insurer.

28 (10) A policyholder who abandons his claim saved under subsection
29 (9) of this section shall have the right to cancel his contract, in which case he
30 shall be entitled to claim the portion of premium corresponding to the

1 unexpired term of the risk insured by him or to the mathematical reserve, in
2 the case of life assurance.

3 (11) Any insurer from whom the business is transferred shall not be
4 re-registered to undertake the same category I class or, as the case may be,
5 classes of insurance business until after the expiration of 5 years from the
6 date of the approval by the Commission or sanction of the Court.

7 97. Within 3 months after the date of completion of the
8 amalgamation, transfer or acquisition of insurance business under section
9 95 of this Bill, the insurer carrying on the amalgamated business or to whom
10 the business is transferred or by whom the business is acquired as the case
11 may be, shall furnish, in duplicate, to the Commission such documents as
12 the Commission may prescribe from time to time.

Post
amalgamation

13 PART XIV - WINDING UP

14 98.-(1) Where the licence of an insurance operator is cancelled
15 under this Bill, the Commission may, unless the insurance operator is a body
16 corporate being wound up by the Court, appoint a receiver or provisional
17 liquidator to:

Appointment of
receiver or
provisional
liquidator

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

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

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

23 (2) The Commission or the appointed receiver or provisional
24 liquidator after his appointment may apply to the Court to wind up the
25 business of the insurance operator and for this purpose, the provisions of the
26 Companies and Allied Matters Act, Cap C20 Laws of the Federation of
27 Nigeria, 2004 relating to winding-up of companies by the Court shall,
28 subject to the provision of this Bill, apply.

29 (3) The receiver or provisional liquidator may, immediately after
30 his appointment freeze the accounts of the insurance operator and shall take

1 charge of its management and control.

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

4 (5) Notwithstanding the provisions of the Companies and Allied
5 Matters Act, Cap C20 Laws of the Federation of Nigeria, 2004 or any other
6 enactment, the following order of priority shall apply in the settlement of debts
7 owed by a failed insurance operator being wound up:

8 (a) liquidation fees and expenses;

9 (b) policy holders;

10 (c) secured creditors;

11 (d) other creditors;

12 (e) staff;

13 (f) shareholders and directors.

14 (6) Where in any action challenging:

15 (a) the cancellation of the licence of an insurance operator;

16 (b) a Petition for winding up the affairs of an insurance operator; or

17 (c) the appointment of a liquidator, an application for an interim or
18 interlocutory injunction is brought against the Commission or the liquidator
19 appointed by it seeking to restrain the Commission or the appointed liquidator
20 from paying policyholders of a failed insurance operator, the party applying
21 shall put the Commission or the liquidator on notice. parte

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

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

28 (a) realize the assets of the failed insurance operator;

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

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

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

6 **99.** A petition for the winding-up of an insurer may be presented to
7 the Court either:

Petition for
winding up in
other cases

8 (a) subject to the approval of the Commission by not less than 50
9 policyholders, each of whom holds a policy that has been in force for not less
10 than 3 years, on the grounds specified in section 408 and 409 of the
11 Companies and Allied Matters Act, Cap C20 Laws of the Federation of
12 Nigeria, 2004; or

13 (b) by the Commission on any of the following grounds that the:

14 (i) licence of the insurer has been cancelled in accordance with
15 section 8 of this Bill, or

16 (ii) insurer cannot be revived despite the intervention of the
17 Commission.

18 **100.** Notwithstanding the provisions of the Companies and Allied
19 Matters Act, Cap C20 Laws of the Federation of Nigeria, 2004 or any other
20 enactment, no insurer which transacts life insurance business shall
21 voluntarily wind-up its business except for the purpose of effecting an
22 amalgamation, transfer or acquisition under this Bill.

Prohibition of
voluntary winding
up

23 **101.-(1)** The Commission or receiver or liquidator appointed for
24 the winding-up shall, unless the Court otherwise orders, carry on the life
25 insurance business of the insurer with a view to its being transferred, as a
26 going concern, to another insurer, whether an existing insurer or an insurer
27 registered for that purpose.

Continuation of
life insurance
business in
liquidation

28 (2) In carrying on the business as specified in subsection (1) of this
29 section, the Commission or receiver or liquidator appointed may agree to the
30 variation of any contract of insurance in existence when the winding-up

1 order is made, provided it shall not affect new contracts of insurance.

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

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

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

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

14 (7) Notwithstanding anything to the contrary in a life insurance
15 contract, upon cancellation of the registration of a life insurance company, the
16 requirement for the payment of premium in the contract shall abate until the life
17 insurance business of the company is transferred to another life insurance
18 company pursuant to the provisions of this Bill,

19 Provided that where the life policyholder elects to continue to pay
20 such premium, the receiver or liquidator appointed to manage the life
21 insurance company whose registration has been cancelled pursuant to this Bill,
22 shall ensure the collection of such premiums.

23 **102.** Notwithstanding the provisions of any other law, no policy
24 holder's funds or assets kept with an insurer shall be seized or subject of any
25 execution of judgment debt or be used to meet the claims of any of the insurer's
26 creditors in the event of liquidation, winding up or otherwise cessation of
27 business of the insurer.

28 **PART XV - MARINE INSURANCE**

29 **103.** A contract of marine insurance is a contract of the utmost good
30 faith whereby the insurer undertakes to indemnify the assured, in the manner

Exemption of
Insurance Funds
from Liquidation
or Garnishee

Marine insurance
defined

1 and to the extent thereby agreed, against marine losses, that is to say, the
2 loses incident to marine adventure.

3 104.-(1) A contract of marine insurance may, by its express terms, Mixed sea and
4 or by usage of trade, be extended so as to protect the assured against losses land risks
5 on inland waters or any land risk which may be incidental to any sea voyage.

6 (2) Where a ship in the course of building, or the launch of a ship, or
7 any adventure analogous' to a marine adventure, is covered by a policy in the
8 form of a marine policy, the provisions of this Part, in so far as applicable,
9 shall apply thereto; but, except as by this section provided, nothing in this
10 Part shall alter or affect any rule of law applicable to any contract of
11 insurance other than a contract of marine insurance as defined in section 103
12 of this Bill.

13 105.-(1) Subject to the provisions of this Part, every lawful marine Marine adventure
14 adventure may be the subject of a contract of marine insurance. and maritime
15 perils

16 (2) In particular, there is a marine adventure where:

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

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

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

26 106.-(1) Every contract of marine insurance by way of gaming or Avoidance of
27 wagering is void. wagering or
28 gaming contracts

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

(a) the assured has no insurable interest as defined by this Part, and

1 the contract is entered into with no expectation of acquiring such an interest; or
 2 (b) the policy is made "interest or no interest" or "without further
 3 proof of interest than the policy itself", or "without benefit of salvage to the
 4 insurer" or subject to any other like term, Provided that, where there is no
 5 possibility of salvage, a policy may be effected without benefit of salvage to the
 6 insurer.

Insurable interest

7 **107.**-(1) Subject to the provisions of this Part every person has an
 8 insurable interest who is interested in a marine adventure.

9 (2) In particular a person is interested in a marine adventure where he
 10 stands in any legal or equitable relation to the adventure or to any insurable
 11 property at risk in consequence of which he may benefit by the safety or due
 12 arrival of insurable property, or may be prejudiced by its loss, or damage
 13 thereto, or by the detention thereof, or may incur liability in respect thereof.

When interest
attaches

14 **108.**-1) The assured must be interested in the subject matter insured at
 15 the time of the loss though he need not be interested when the insurance is
 16 effected:

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

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

Defeasible or
contingent interest

23 **109.**-(1) A defeasible interest shall be insurable, as also shall be a
 24 contingent interest.

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

Partial interest

29 **110.** A partial interest of any nature shall be insurable.

Reinsurance

30 **111.** The insurer under a contract of marine insurance has an

1 insurable interest in his risk, and may re-insure in respect of it; but unless the
2 policy otherwise provides, the original assured shall have no right or interest
3 in respect of such reinsurance.

4 **112.** The lender of money on bottomry or respondential has an Bottomry
5 insurable interest in respect of the loan.

6 **113.** The master or any member of the crew of a ship has an Master's and
seamen's wages
7 insurable interest in respect of his wages.

8 **114.** In the case of advance freight, the person advancing the freight Advance freight
9 has an insurable interest, in so far as such freight is not payable in case of
10 loss.

11 **115.** The assured has an insurable interest in the charges of any Charges of
insurance
12 insurance which he may effect.

13 **116.**-(1) Where the subject matter insured is mortgaged, the Quantum of
interest
14 mortgagor has an insurable interest in the full value thereof, and the
15 mortgagee has an insurable interest in respect of any sum due or to become
16 due under the mortgage.

17 (2) A mortgagee, consignee, or other person having an interest in
18 the subject matter insured may insure on behalf and for the benefit of other
19 persons interested as well as for his own benefit.

20 (3) The owner of insurable property has an insurable interest in
21 respect of the full value thereof, notwithstanding that some third person may
22 have agreed, or be liable, to indemnify him in case of loss.

23 **117.**-(1) When the assured assigns or otherwise parts with his Assignment of
interest
24 interest in the subject matter insured, he shall not thereby transfer to the
25 assignee his rights under the contract of insurance, unless there is an express
26 or implied agreement with the assignee to that effect.

27 (2) Nothing in this section shall affect transmission of interest by
28 operation of law.

29 **118.** Subject to the express provision or valuation in the policy, the Measure of
insurable value
30 insurable value of the subject matter insured shall be ascertained as follows,

1 in insurance on:

2 (a) ship, the insurable value which, in the case of a steamship,
3 includes also the machinery, boilers, and coals and engine stores if owned by
4 the assured, and, in the case of a ship engaged in a special trade, the ordinary
5 fittings requisite for that trade, is the value at the commencement of the risk, of
6 the ship, including her outfit, provisions and stores for the officers and crew,
7 money advanced for seamen's wages, and other disbursement (if any) incurred
8 to make the ship fit for the voyage or adventure contemplated by the policy plus
9 the charges of insurance upon the whole;

10 (b) freight, whether paid in advance or otherwise, the insurable value
11 is gross amount of freight at the risk of the assured, plus the charges of
12 insurance;

13 (c) goods or merchandise, the insurable value is the prime cost of the
14 property insured, plus the expenses of and incidental to shipping and the
15 charges of insurance upon the whole; and

16 (d) any subject matter, the insurable value is the amount at the risk of
17 the assured when the policy attaches, plus the charges of insurance.

The duty of fair
representation

18 **119.-(1)** Before a contract of insurance is entered into, the insured
19 must make to the insurer a fair presentation of the risk.

20 (2) The duty imposed by subsection (1) is referred to in this Bill as
21 "the duty of fair presentation".

22 (3) A fair presentation of the risk is one:

23 (a) which makes the disclosure required by subsection (4);

24 (b) which makes that disclosure in a manner which would be
25 reasonably clear and accessible to a prudent insurer; and

26 (c) in which every material representation as to a matter of fact is
27 substantially correct, and every material representation as to a matter of
28 expectation or belief is made in good faith.

29 (4) The disclosure required is as follows, except as provided in
30 subsection (5):

1 (a) disclosure of every material circumstance which the insured
2 knows or ought to know, or

3 (b) failing that, disclosure which gives the insurer sufficient
4 information to put a prudent insurer on notice that it needs to make further
5 enquiries for the purpose of revealing those material circumstances.

6 (5) In the absence of enquiry, subsection (4) does not require the
7 insured to disclose a circumstance if:

8 (a) it diminishes the risk;

9 (b) the insurer knows it;

10 (c) the insurer ought to know it;

11 (d) the insurer is presumed to know it; or

12 (e) it is something as to which the insurer waives information.

13 (6) Sections 120 (1) to (6) make further provision about the
14 knowledge of the insured and of the insurer, and section 127 contains
15 supplementary provision.

16 **120,-(1)** This section provides for what an insured knows or ought
17 to know for the purposes of section 119 (4)(a).

Knowledge of
insured

18 (2) An insured who is an individual knows only:

19 (a) what is known to the individual; and

20 (b) what is known to one or more of the individuals who are
21 responsible for the insured's insurance.

22 (3) An insured who is not an individual knows only what is known
23 to one or more of the individuals who are:

24 (a) part of the insured's senior management; or

25 (b) responsible for the insured's insurance.

26 (4) An insured is not by virtue of subsection (2)(b) or (3)(b) of this
27 section taken to know confidential information known to an individual if:

28 (a) the individual is, or is an employee of, the insured's agent; and

29 (b) the information was acquired by the insured's agent (or by an
30 employee of that agent) through a business relationship with a person who is

1 not connected with the contract of insurance.

2 (5) For the purposes of subsection (4) the persons connected with a
3 contract of insurance are:

4 (a) the insured and any other persons for whom cover is provided by
5 the contract, and

6 (b) if the contract re-insures risks covered by another contract, the
7 persons who are, by virtue of this subsection, connected with that other
8 contract (6) Whether an individual or not, an insured ought to know what
9 should reasonably have been revealed by a reasonable search of information
10 available to the insured, whether the search is conducted by making enquiries
11 or by any other means.

12 (7) In subsection (6) "information" includes information held within
13 the insured's organisation or by any other person, such as the insured's agent or
14 a person for whom cover is provided by the contract of insurance.

15 (8) For the purposes of this section:

16 (a) "employee", in relation to the insured's agent, includes any
17 individual working for the agent, whatever the capacity in which the individual
18 acts;

19 (b) an individual is responsible for the insured's insurance if the
20 individual participates on behalf of the insured in the process of procuring the
21 insured's insurance (whether the individual does so as the insured's employee
22 or agent, as an employee of the insured's agent or in any other capacity); and

23 (c) "senior management" means those individuals who play
24 significant roles in the making of decisions about how the insured's activities
25 are to be managed or organised.

26 **121.-(1)** For the purposes of section 119(5)(b), an insurer knows
27 something only if it is known to one or more of the individuals who participate
28 on behalf of the insurer in the decision whether to take the risk, and if so on
29 what terms (whether the individual does so as the insurer's employee or agent,
30 as an employee of the insurer's agent or in any other capacity).

1 (2) For the purposes of section 119(5)(c), an insurer ought to know
2 something only if:

3 (a) an employee or agent of the insurer knows it, and ought
4 reasonably to have passed on the relevant information to an individual
5 mentioned in subsection (1); or

6 (b) the relevant information is held by the insurer and is readily
7 available to an individual mentioned in subsection (1).

8 (3) For the purposes of section 119(5)(d), an insurer is presumed to
9 know things which:

10 (a) are common knowledge, and

11 (b) an insurer offering insurance of the class in question to insured
12 in the field of activity in question would reasonably be expected to know in
13 the ordinary course of business.

14 **122.**-(1) For the purposes of sections 119 to 121, references to an
15 individual's knowledge include not only actual knowledge, but also matters
16 which the individual suspected, and of which the individual would have had
17 knowledge but for deliberately refraining from confirming them or
18 enquiring about them.

Knowledge
general

19 (2) Nothing in this Part affects the operation of any rule of law
20 according to which knowledge of a fraud perpetrated by an individual ("F")
21 either on the insured or on the insurer is not to be attributed to the insured or
22 to the insurer (respectively); where:

23 (a) if the fraud is on the insured, F is any of the individuals
24 mentioned in section 120(2)(b) or (3), or

25 (b) if the fraud is on the insurer, F is any of the individuals
26 mentioned in section 121(1).

27 **123.**-(1) A fair presentation need not be contained in only one
28 document or oral presentation.

Supplementary

29 (2) The term "circumstance" includes any communication made to,
30 or information received by, the insured.

1 (3) A circumstance or representation is material if it would influence
2 the judgment of a prudent insurer in determining whether to take the risk and, if
3 so, on what terms.

4 (4) Examples of things which may be material circumstances are:

5 (a) special or unusual facts relating to the risk;

6 (b) any particular concerns which led the insured to seek insurance
7 cover for the risk; and

8 (c) anything which those concerned with the class of insurance and
9 field of activity in question would generally understand as being something
10 that should be dealt with in a fair presentation of risks of the type in question.

11 (5) A material representation is substantially correct if a prudent
12 insurer would not consider the difference between what is represented and
13 what is actually correct to be material.

14 (6) A representation may be withdrawn or corrected before the
15 contract of insurance is entered into.

Remedies for
breach

16 124.-(1) The insurer has a remedy against the insured for a breach of
17 the duty of fair presentation only if the insurer shows that, but for the breach,
18 the insurer would:

19 (a) not have entered into the contract of insurance at all; or

20 (b) have done so only on different terms.

21 (2) A breach for which the insurer has a remedy against the insured is
22 referred to in this Bill as a "qualifying breach".

23 (3) A qualifying breach is either:

24 (a) deliberate or reckless, or

25 (b) neither deliberate nor reckless.

26 (4) A qualifying breach is deliberate or reckless if the insured:

27 (a) knew that it was in breach of the duty of fair presentation; or

28 (b) did not care whether or not it was in breach of that duty.

29 (5) It is for the insurer to show that a qualifying breach was deliberate
30 or reckless.

1 125.-(1) Any rule of law permitting a party to a contract of insurance to avoid the contract on the ground that the utmost good faith has not been observed by the other party is abolished.

Good faith

2
3
4 (2) Any rule of law to the effect that a contract of insurance is a contract based on the utmost good faith is modified to the extent required by the provisions of this Part.

5
6
7 126.-(1) A representation is material which would influence the judgment of a prudent insurer in fixing the premium, or determining whether he will take the risk.

Representation
pending negotiation
of contract

8
9
10 (2) A representation may be either a representation as to a matter of fact, or as to a matter of expectation or belief.

11
12 (3) A representation as to a matter of fact is true, if it is substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

13
14
15 (4) A representation as to a matter of expectation or belief is true, if it is made in good faith.

16
17 (5) A representation may be withdrawn or corrected before the contract is concluded.

18
19 (6) Whether a particular representation is material or not is, in each case, a question of fact.

20
21 127. A contract of marine insurance shall be deemed to be concluded when the proposal of the assured is accepted by the insurer, whether the policy is then issued or not; and, for the purpose of showing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract.

When contract
deemed to be
concluded

22
23
24
25
26 128.-(1) Subject to the provisions of any statute, a contract of marine insurance shall not be admissible in evidence unless it is embodied in a marine policy in accordance with the form in the Second Schedule to this Bill or to the like effect.

Contract to be
embodied in a
policy

27
28
29
30 (2) The policy may be executed and issued either at the time when

1 the contract is concluded, or afterwards; and subject to the provisions of this
2 Part and unless the context of the policy otherwise requires, the terms and
3 expressions mentioned in the Second Schedule to this Bill shall be construed as
4 having the scope and meaning in that Schedule assigned to them.

Name of insured
to be specified
in policy
documents

5 **129.** A marine policy shall specify the name of the insured, or of some
6 person who effects the insurance on his behalf.

Signature of
insurer

7 **130.**-(1) A marine policy shall, be signed by or on behalf of the
8 insurer, or if the insurer is a corporation, the corporate seal may be sufficient.

9 (2) A policy is subscribed by or on behalf of two or more insurers,
10 each subscription, unless the contrary be expressed, shall constitute a distinct
11 contract with the assured.

12 (3) Nothing in this section shall be construed as requiring the
13 subscription of a corporation to be under seal.

Designation of
subject matter

14 **131.**-(1) The subject matter insured shall be designated in a marine
15 policy with reasonable certainty; but the nature and extent of the interest of the
16 assured in the subject matter insured need not be specified in the policy.

17 (2) Where the policy designates the subject matter insured in general
18 terms, it shall be construed to apply to the interest intended by the assured to be
19 covered.

20 (3) In the application of this section, regard shall be had to any usage
21 regulating the designation of the subject matter insured.

Floating policy
by ship or ships

22 **132.**-(1) A floating policy is a policy which describes the insurance in
23 general terms, and leaves the name of the ship or ships and other particular to be
24 defined by subsequent declaration.

25 (2) The subsequent declaration or declarations may be made by
26 endorsement on the policy or in other customary manner.

27 (3) Unless the policy otherwise provides, the declaration shall be
28 made in the order of dispatch or shipment. In the case of goods, they shall
29 comprise all consignments within the terms of the policy, and the value of the
30 goods or other property shall be honestly stated; but any omission or erroneous

1 declaration may be rectified even after loss or arrival; provided the omission
2 or declaration was made in good faith.

3 (4) Unless the policy otherwise provides, where a declaration of
4 value is not made until after notice of loss or arrival, the policy shall be
5 treated as an unvalued policy as regards the subject matter of that
6 declaration.

7 **133.**-(1) Where two or more policies are effected by or on behalf of
8 the assured on the same adventure and interest or any part thereof, and the
9 sums insured exceed the indemnity allowed by this Part, the assured is said to
10 be over-insured by double insurance.

Double insurance

11 (2) Where the assured is over-insured by double insurance:

12 (a) the assured, unless the policy otherwise provides, may claim
13 payment from the insurers in such order as he may think fit; provided that he
14 shall not be entitled to receive any sum in excess of the indemnity allowed
15 by this Part;

16 (b) where the policy under which the assured claims is a valued
17 policy, the assured shall give credit as against the valuation for any sum
18 received by him under any other policy without regard to the actual value of
19 the subject matter insured;

20 (c) where the policy under which the assured claims is an unvalued
21 policy, he shall give credit, as against the full insurable value, for any sum
22 received by him under any other policy;

23 (d) where the assured receives any sum in excess of the indemnity
24 allowed by this Part, shall he deemed to hold such sum in trust for the
25 insurers, according to their right of contribution among themselves.

26 **134.**-(1) Any rule of law that breach of a warranty (express or
27 implied) in a contract of insurance results in the discharge of the insurer's
28 liability under the contract is abolished.

Breach of warranty

29 (2) An insurer has no liability under a contract of insurance in
30 respect of any loss occurring, or attributable to something happening, after a

1 warranty (express or implied) in the contract has been breached but before the
2 breach has been remedied.

3 (3) But subsection (2) does not apply if:

4 (a) because of a change of circumstances, the warranty ceases to be
5 applicable to the circumstances of the contract;

6 (b) compliance with the warranty is rendered unlawful by any
7 subsequent law; or

8 (c) the insurer waives the breach of warranty.

9 (4) Subsection (2) does not affect the liability of the insurer in respect
10 of losses occurring, or attributable to something happening:

11 (a) before the breach of warranty; or

12 (b) if the breach can be remedied, after it has been remedied.

13 (5) For the purposes of this section, a breach of warranty is to be taken
14 as remedied:

15 (a) in a case falling within subsection (6), if the risk to which the
16 warranty relates later becomes essentially the same as that originally
17 contemplated by the parties; or

18 (b) in any other case, if the insured ceases to be in breach of the
19 warranty.

20 (6) A case falls within this subsection if:

21 (a) the warranty in question requires that by an ascertainable time
22 something is to be done or not done), or a condition is to be fulfilled, or
23 something is (or is not) to be the case, and

24 (b) that requirement is not complied with.

Express warranties

25 **135. An express warranty:**

26 (a) may be in any form of words from which the intention to warrant is
27 to be inferred;

28 (b) shall be included in or written upon the policy, or be contained in
29 some document incorporated by reference into the policy; and

1 (c) shall not exclude an implied warranty, unless it is inconsistent
2 therewith.

3 136.-(1) Where insurable property, whether ship or goods, is
4 expressly warranted neutral, there is an implied condition that the property
5 shall have a neutral character at the commencement of the risk, and that, so
6 far as the assured can control the matter, its neutral character shall be
7 preserved during the risk

Warranty
neutrality

8 (2) Where a ship is expressly warranted "neutral", there is also an
9 implied condition that, so far as the assured can control the matter, she shall
10 be properly documented, that is to say, that she shall carry the necessary
11 papers to establish her neutrality, and that she shall not falsify or suppress
12 her papers, or use simulated papers. Where any loss occurs through breach
13 of this condition, the insurer may avoid the contract.

14 137. There is no implied warranty as to the Nationality of a ship, or
15 that her nationality shall not be changed during the risk.

No implied
warranty of
nationality

16 138. Where the subject matter insured is warranted "well" or "in
17 good safety" on a particular day, it is sufficient if it be safe at anytime during
18 that day.

Warranty of good
safety

19 139.-(1) In a voyage policy, there is an implied warranty that, at the
20 commencement of the voyage, the ship shall be seaworthy for the purpose of
21 the particular adventure insured.

Warranty of
seaworthiness
of ship

22 (2) Where the policy attaches while the ship is in port, there is also
23 an implied warranty that 'she shall, at the commencement of the risk, be
24 reasonably fit to encounter the ordinary perils of the port.

25 (3) Where the policy relates to a voyage which is performed in
26 different stages, during which the ship requires different kinds of or further
27 preparation or equipment, there is an implied warranty that, at the
28 commencement of each stage, the ship is seaworthy in respect of such
29 preparation or equipment for the purposes of that stage.

30 (4) A ship is deemed to be seaworthy when she is reasonably fit in

1 all respects to encounter the ordinary perils of the seas of the adventure insured.

2 (5) In a time policy, there is no implied warranty that a ship shall be
3 seaworthy at any stage of the adventure, but where, with the privity of the
4 assured, the ship is sent to sea in
5 an unseaworthy state, the insurer is not liable for any loss attributable to unsea
6 worthiness.

No implied
warranty that
goods are seaworthy

7 **140.**-(1) In a policy on goods or other moveables, there is no implied
8 warranty that the goods or movable are seaworthy.

9 (2) In voyage policy on goods or other moveables, there is an implied
10 warranty that, at the commencement of the voyage, the ship is not only
11 seaworthy as a ship, but also that she is reasonably fit to carry the goods or other
12 moveables to the destination contemplated by the policy.

Warranty of
legality

13 **141.** There is an implied warranty that the adventure insured is a
14 lawful one, and that, so far as the assured can control the matter, the adventure
15 shall be carried out in a lawful manner.

Implied condition
as to commencement
of risk

16 **142.**-(1) Where the subject matter is insured by a voyage policy "at
17 and from" or "from" a particular place, it is not necessary that the ship should be
18 at that place when the contract is concluded, but there is an implied condition
19 that the adventure shall be commenced within a reasonable time, and that if the
20 adventure be not so commenced, the insurer may avoid the contract.

21 (2) The implied condition may be negative by showing that the delay
22 was caused by circumstances known to the insurer before the contract was
23 concluded, or by showing that he waived the condition.

Alteration of
port of departure

24 **143.** Where the place of departure is specified by the policy, and the
25 ship instead of sailing from that place sails from any other place, the risk does
26 not attach.

Sailing for
different
destination

27 **144.** Where the destination is specified in the policy, and the ship,
28 instead of sailing for that destination, sails for any other destination, the risk
29 shall not attach.

1 **145.**-(1) Where, after the commencement of the risk, the
2 destination of the ship is voluntarily changed from the destination
3 contemplated by the policy, there is said to be a change of voyage.

Change of voyage

4 (2) Unless the policy otherwise provides, where there is a change
5 of voyage, the insurer is discharged from liability as from the time of change,
6 that is to say, as from the time when the determination to change it is
7 manifested; and it is immaterial that the ship may not in fact have left the
8 course of voyage contemplated by the policy when the loss occurs.

9 **146.**-(1) Where a ship, without lawful excuse, deviates from the
10 voyage contemplated by the policy, the insurer is discharged from liability
11 as from the time of deviation, and it is immaterial that the ship may have
12 regained her route before any loss occurs.

Deviation

13 (2) There is a deviation from the voyage contemplated by the
14 policy, where the course of the voyage is specifically designated by the
15 policy:

16 (a) and that course is departed from; or

17 (b) but the usual and customary course is departed from.

18 (3) The intention to deviate is immaterial and if there is a deviation
19 in fact the insurer is discharged from his liability under the contract.

20 **147.**-(1) Where several ports of discharge are specified by the
21 policy, the ship may proceed to all or any of them, but, in the absence of any
22 usage or sufficient cause to the contrary, the ship shall proceed to all or any
23 of them as she goes to, in the order designated by the policy; and if she does
24 not, there is a deviation.

Several ports of
discharge

25 (2) Where the policy is to "ports of discharge", within a given area,
26 which are not named, the ship shall, in the absence of any usage or sufficient
27 cause to the contrary, proceed to them, or such of them as she goes to, in their
28 geographical order, and if she does not, there is a deviation.

29 **148.** In the case of a voyage policy, the adventure insured shall be
30 prosecuted throughout its course with reasonable dispatch, and, if without

Delay in voyage

1 lawful excuse it is not so prosecuted, the insurer shall be discharged from
2 liability as from the time when the delay became unreasonable.

Excuses for
deviation or delay

3 **149.**-(1) Deviation or delay in prosecuting the voyage contemplated
4 by the policy is excused:

5 (a) where authorized by any special term in the policy;

6 (b) where caused by circumstances beyond the control of the master and his
7 employer;

8 (c) where reasonably necessary in order to comply with an express or
9 implied warranty;

10 (d) where reasonably necessary for the safety of the ship or subject
11 matter insured;

12 (e) for the purpose of saving human life, or aiding a ship in distress
13 where human life may be in danger;

14 (f) where reasonably necessary for the purpose of obtaining medical
15 or surgical aid for any person on board the ship; or

16 (g) where caused by the barratrous conduct of the master or crew, if
17 barratry is one of the perils insured against.

18 (2) When the cause excusing the deviation or delay ceases to operate,
19 the ship shall resume her course, and prosecute her voyage with reasonable
20 dispatch.

When and how
policy is assignable

21 **150.**-(1) A marine policy shall be assignable unless it contains terms
22 expressly prohibiting assignment; and it may be assigned either before or after
23 loss.

24 (2) Where a marine policy has been assigned so as to pass the
25 beneficial interest in such policy, the assignee of the policy shall be entitled to
26 sue thereon in his own name; and the defendant shall be entitled to make any
27 defence arising out of the contract which he would have been entitled to make if
28 the action had been brought in the name of the person by or on behalf of whom
29 the policy was effected.

30 (3) A marine policy may be assigned by endorsement thereon or in

1 other customary manner.

2 151.-(1) Where the assured has parted with or lost his interest in the
3 subject matter insured, and has not, before or at the time of doing so,
4 expressly or impliedly agreed to assign the policy, any subsequent
5 assignment of the policy shall be inoperative.

Assured who has
no interest cannot
assign

6 (2) Nothing in this section shall be construed so as to affect the
7 assignment of a policy after loss.

8 152. Where a marine policy effected on behalf of the assured by a
9 broker acknowledges the receipt of the premium, such acknowledgement is,
10 in the absence of fraud, conclusive as between the insurer and the assured,
11 but not as between the insurer and broker.

Effect of receipt
on policy

12 153.-(1) Subject to the provisions of this Part, and unless the policy
13 otherwise provides, the insurer shall be liable for any loss proximately
14 caused by a peril insured against, but, subject, as aforesaid, he shall not be
15 liable for any loss which is not proximately caused by a peril insured against.

Included and
excluded losses

16 (2) In particular:

17 (a) the insurer shall not be liable for any loss attributable to the
18 willful misconduct of the assured, but unless the policy otherwise provides,
19 he shall be liable for any loss proximately caused by a peril insured against,
20 even though the loss would not have happened but for the misconduct or
21 negligence of the master or crew;

22 (b) unless the policy otherwise provides, the insurer on ship or
23 goods shall not be liable for any loss proximately caused by delay, although
24 the delay be caused by a peril insured against; and

25 (c) unless the policy otherwise provides, the insurer shall not be
26 liable for ordinary wear and tear, ordinary leakage and breakage, inherent
27 vice or nature of the subject matter insured, or for any loss proximately
28 caused by rats or vermin, or for any injury to machinery not proximately
29 caused by maritime perils.

Total and partial loss	1	154. -(1) A total loss may be either an actual total loss or a constructive
	2	total loss and any loss other than a total loss, is a partial loss.
	3	(2) Unless a different intention appears from the terms of the policy,
	4	an insurance against total loss includes a constructive, as well as an actual total
	5	loss.
	6	(3) Where the assured brings an action for a total loss and the evidence
	7	proves only a partial loss, he may, unless the policy otherwise provides, recover
	8	a partial loss.
	9	(4) Where goods reach their destination in specie, but by reason of
	10	obliteration of marks, or otherwise, they are incapable of identification the
	11	loss, if any, is partial, and not total.
Actual total loss	12	155. -(1) Where the subject matter insured is destroyed, or so damaged
	13	as to cease to be a thing of the kind insured, or where the assured is irretrievably
	14	deprived thereof, there is an actual total loss.
	15	(2) In the case of an actual total loss, no notice of abandonment need
	16	be given.
Missing ship	17	156. Where the ship concerned in the adventure is missing and after
	18	the lapse of a reasonable time no news of her has been received, an actual total
	19	loss may be presumed.
Effect of transshipment, etc.	20	157. Where, by a peril insured against, the voyage is interrupted at an
	21	intermediate port or place, under such circumstances as, apart from any special
	22	stipulation in the contract of affreightment to justify the master in landing and
	23	re-shipping the goods or other moveables, or in transshipping them, and
	24	sending them on to their destination, the liability of the insurer continues,
	25	notwithstanding the landing or transshipment.
Constructive total loss defined	26	158. -(1) Subject to any express provision in the policy, there is a
	27	constructive total loss where the subject matter insured is reasonably
	28	abandoned on account of its actual total loss appearing to be unavoidable, or
	29	because it could not be preserved from actual loss without an expenditure
	30	which would exceed its value when the expenditure had been incurred.

1 (2) In particular, there is a constructive total loss:

2 (a) where the assured is deprived of the possession of his ship or
3 goods by a peril insured against and:

4 (i) it is unlikely that he can recover the ship or goods as the case
5 may be, or

6 (ii) the cost of recovering the ship or goods as the case may be,
7 would exceed their value when recovered;

8 (b) in the case of damage to a ship, where she is so damaged by a
9 peril insured against that the cost of repairing the damage would exceed the
10 value of the ship when repaired; and for the purposes of this paragraph, in
11 estimating the cost of repairs, no deduction is to be made in respect of
12 general average contributions to those repairs payable by other interests, but
13 account is to be taken of the expenses of future salvage operations, and of
14 any future general average contributions to which the ship would be liable if
15 repaired; or

16 (c) in the case of damage to goods, where the cost of repairing the
17 damage and forwarding the goods to their destination would exceed their
18 value on arrival.

19 **159.** Where there is a constructive total loss, the assured may either
20 treat the loss as a partial loss, or abandon the subject matter insured to the
21 insurer and treat the loss as 23 if it were an actual total loss.

Effect of
constructive total
loss

22 **160.**-(1) Subject to the provisions of this section, where the assured
23 elects to abandon the subject matter insured to the insurer, he shall give
24 notice of abandonment, and if he fails to give notice of abandonment, the
25 loss shall only be treated as a partial loss.

Notice of
abandonment

26 (2) Notice of abandonment may be given in writing, or by word of
27 mouth, or partly in writing, and partly by word of mouth, and may be given
28 in terms which indicate the intention of the assured to abandon his insured
29 interest in the subject matter insured unconditionally to the insurer.

30 (3) Notice of abandonment shall be given with reasonable

1 diligence after the receipt of reliable information of the loss, but where the
2 information is of a doubtful character, the assured is entitled to a reasonable
3 time to make inquiry.

4 (4) Where notice of abandonment is properly given, the rights of the
5 assured shall not be prejudiced by the fact that the insurer refuses to accept the
6 abandonment.

7 (5) The acceptance of abandonment may be either express or implied
8 from the conduct of the insurer, but the mere silence of the insurer after notice
9 shall not be construed as an acceptance.

10 (6) Where notice of abandonment is accepted, the abandonment is
11 irrevocable, and the acceptance of the notice shall be construed as conclusive
12 admission of liability for the loss and the sufficiency of the notice.

13 (7) Notice of abandonment is unnecessary where, at the time when the
14 assured receives the information of the loss, there would be no possibility of
15 benefit to the insurer if notice were given to the insurer.

16 (8) Notice of abandonment may be waived by the insurer.

17 (9) Where an insurer has re-insured his risk, no notice of
18 abandonment need be given by him.

Effect of
abandonment

19 **161.**-(1) Where there is a valid abandonment, the insurer shall be
20 entitled to take over the interest of the assured in whatever may remain of the
21 subject matter insured, and all proprietary rights incidental thereto.

22 (2) Upon the abandonment of a ship, the insurer thereof shall be entitled to any
23 freight in course of being earned, and which is earned by her subsequent to the
24 casualty causing the loss, less the expenses of earning it incurred after the
25 casualty; and, where the ship is carrying the owner's goods, the insurer shall be
26 entitled to a reasonable remuneration for the carriage of them subsequent to the
27 casualty causing the loss.

Particular average
loss

28 **162.**-(1) A particular average loss is a partial loss of the subject matter
29 insured, caused by a peril insured against, and which is not a general average
30 loss.

1 (2) Expenses incurred by or on behalf of the assured for the safety
2 or preservation of the subject matter insured, other than general average and
3 salvage charges, are called particular charges, and particular charges are not
4 included in particular average.

5 163.-(1) Subject to any express provision in the policy, salvage Salvage charges
6 charges incurred in preventing a loss by perils insured against may be
7 recovered as a loss by those perils.

8 (2) For the purposes of this section, 'salvage charges' means the
9 charges recoverable under maritime law by a salvor independently of
10 contract, but does not include expenses of services in the nature of salvage
11 which are recoverable, if properly incurred, as particular charges of general
12 average loss, as the case may be, where rendered by the assured or his
13 agents, or any person employed for hire by them, for the purpose of averting
14 a peril insured against.

15 164.-(1) A general average loss is a loss caused by or directly General average
loss
16 consequential on a general average act, and includes a general average
17 expenditure as well as a general average sacrifice.

18 (2) There is a general average act where any extraordinary sacrifice
19 or expenditure is voluntarily and reasonably made or incurred in time of
20 peril for the purpose of preserving the property imperiled in the common
21 adventure.

22 (3) Where there is a general average loss, the party on whom it falls
23 shall be entitled, subject to the, conditions imposed by maritime law, to a
24 rateable contribution, called a general average contribution, from the other
25 parties interested.

26 (4) Subject to any express provision in the policy, where the
27 assured has incurred a general average expenditure, he may recover from the
28 insurer in respect of the proportion of the loss which falls upon him; and, in
29 the case of general average sacrifice, he may recover from the insurer in
30 respect of the whole loss without having enforced his right of contribution

1 from the other parties liable to contribute.

2 (5) Subject to any express provision in the policy, where the assured
3 has paid; or is liable to pay, a general average contribution in respect of the
4 subject matter insured, he may recover from the insurer.

5 (6) In the absence of express stipulation, the insurer shall not be liable
6 for any general average loss or contribution where the loss was not incurred for
7 the purpose of avoiding, or in connection with the avoidance of, a peril insured
8 against.

9 (7) Where ship, freight, and cargo, or any two of those interests, are
10 owned by the same assured, the liability of the insurer in respect of general
11 average losses or contributions shall be determined as if those subjects were
12 owned by different persons.

Extent of liability
of insurer for loss

13 165.-(1) Where there is a loss recoverable under the policy, the
14 insurer, or each insurer if there are more insurers than one, shall be liable for
15 such proportion of the measure of indemnity as the amount his subscription
16 bears to the value fixed by the policy in the case of a valued policy, or to the
17 insurable value in the case of an unvalued policy.

18 (2) For the purposes of this section "measure of indemnity" means the
19 sum which the assured may recover in respect of a loss on a policy by which he
20 is insured, being in the case of a valued policy the full extent of the value
21 fixed by the policy, and in the case of an unvalued policy, the full extent of the
22 insurable value.

Total loss

23 166. Subject to the provisions of this Part and to any express provision
24 in the policy, where there is a total loss of the subject matter insured, where the
25 policy is:

26 (a) a valued policy, the measure of indemnity shall be the sum fixed by
27 the policy; and

28 (b) an unvalued policy, the measure of indemnity shall be the
29 insurable value of the subject matter insured.

1 167. Where a ship is damaged, but is not totally lost, the measure
2 of indemnity, subject to any express provision in the policy, shall be, where
3 the ship:

Partial loss of a
ship

4 (a) has been repaired, the assured shall be entitled to the reasonable
5 cost of the repairs, less the customary deductions, but not exceeding the sum
6 insured in respect any one cause by;

7 (b) had been only partially repaired, the assured shall be entitled to
8 the reasonable cost of such repairs, computed as above, and be indemnified
9 for the reasonable depreciation, if any, arising from the unrepaired damage,
10 provided that the aggregate amount shall not exceed the cost of repairing the
11 whole damage, computed as in paragraph (a) of this section; and

12 (c) has not been repaired, and has not been sold in her damaged
13 state during the risk, the assured shall be entitled to be indemnified for the
14 reasonable depreciation arising from the unrepaired damage, but not
15 exceeding the reasonable cost of repairing such damage, computed in
16 paragraph (a) of this section.

17 168. Subject to any express provisions in the policy, where there is
18 a partial loss of freight, the measure of indemnity shall be such proportion of
19 the sum fixed by the policy in the case of a valued policy, or of the insurable
20 value in the case of an unvalued policy, as the proportion of freight lost by
21 the assured bears to the whole freight at the risk of the
22 assured under the policy.

Partial loss of
freight

23 169.-(1) Where there is a partial loss of goods, merchandise or
24 other moveables, the measure of indemnity, subject to any express provision
25 in the policy, shall be, where:

Partial loss of
goods, merchandise,
etc.

26 (a) part of the goods, merchandise or other moveables insured by a
27 valued policy is totally lost, the measure of indemnity shall be such
28 proportion of the sum fixed by the policy of the insurable value of the part
29 lost bears to the insurable value of the whole, ascertained as in the case of an
30 unvalued policy;

1 (b) part of the goods, merchandise, or other moveables insured by an
2 unvalued policy is totally lost, the measure of indemnity shall be the insurable
3 value of the part lost, ascertained as in case of total loss; and

4 (c) the whole or any part of the goods or merchandise insured has been
5 delivered damaged at its destination, the measure of indemnity shall be such
6 proportion of the sum fixed by the policy in the case of a valued policy, or of the
7 insurable value in the case of an unvalued policy, as the difference between the
8 gross sound and damaged values at the place of arrival bears to the gross sound
9 value.

Apportionment
of valuation

10 **170.**-(1) Where different species of property are insured under a
11 single valuation, the valuation shall be apportioned over the different species in
12 proportion to their respective insurable values, as in the case of an unvalued
13 policy; and for the purposes of this subsection, the insured value of any part of a
14 species is such proportion of the total insured value of the same as the insurable
15 value of the part bears to the insurable value of the whole, ascertained in both
16 cases as provided by this Part.

17 (2) Where a valuation is to be apportioned, and particulars of the
18 prime cost of each separate species, quality, or description of goods are not
19 ascertainable, the division of the valuation may be made over the net arrived
20 sound values of the different species, qualities, or descriptions of goods.

General average
contribution and
salvage charges

21 **171.**-(1) Subject to any express provision in the policy:

22 (a) where the assured has paid, or is liable for, any general average
23 contribution, the measure of indemnity is the full amount of such contribution,
24 if the subject matter liable to contribution is insured for its full contributory
25 value;

26 (b) but, where such subject matter is not insured for its full
27 contributory value or if only part of it is insured, the indemnity payable by the
28 insurer shall be reduced in proportion to the under insurance; and

29 (c) where there has been a particular average loss which constitutes a
30 deduction from the contributory value, and for which the insurer is liable, that

1 amount shall be deducted from the insured value in order to ascertain what
2 the insurer is liable to contribute.

3 (2) Where the insurer is liable for salvage charges, the extent of his
4 liability shall be determined on the like principle.

5 172. Where the assured has effected an insurance in express terms
6 against any liability to a third party, the measure of indemnity, subject to any
7 express provision in the policy, is the amount paid or payable by him to such
8 third party in respect of such liability.

Liabilities to
third parties

9 173.-(1) Where there has been a loss in respect of any subject
10 matter not expressly provided for in the foregoing provisions of this Part, the
11 measure of indemnity shall be ascertained, as nearly as may be, in
12 accordance with those provisions, in so far as applicable to the particular
13 case.

General provisions
as to measure of
indemnity

14 (2) Nothing in this Part relating to the measure of indemnity shall
15 affect the rules relating to double insurance, or prohibit the insurer from
16 disproving interest wholly or in part, or from showing that at the time of the
17 loss the whole or any part of the subject matter insured was not at risk under
18 the policy.

19 174.-(1) Where the subject matter insured is warranted free from
20 particular average, the assured shall not recover for a loss of part other than a
21 loss incurred by a general average sacrifice, unless the contract contained in
22 the policy is apportionable; but, if the contract is apportionable, the -assured
23 may recover for a total loss of any apportionable part.

Particular average
warranties

24 (2) Where the subject matter insured is warranted free from
25 particular average, either wholly or under a certain percentage, the insurer
26 shall nevertheless be liable for salvage charges: and the insurer shall also be
27 liable for particular charges for and other expenses of averting a loss insured
28 against, where properly incurred pursuant to the provisions of a suing and
29 laboring clause to the like effect as set out in the prescribed form, if
30 contained in the policy.

1 (3) Unless the policy otherwise provides, where the subject matter
2 insured is warranted free from particular average under a specified percentage,
3 a general average loss shall not be added to a particular average loss to make up
4 the specified percentage.

5 (4) For the purpose of ascertaining whether the specified percentage
6 has been reached, regard shall be had only to the actual loss suffered by the
7 subject matter insured, and particular charges and the expenses of and
8 incidental to ascertaining and proving the loss shall be excluded.

Successive
losses

9 **175.**-(1) Unless the policy otherwise provides, and subject to the
10 provisions of this Part, the insurer shall be liable for successive losses, even
11 though the total amount of such losses may exceed the sum insured.

12 (2) Where, under the same policy, a partial loss, which has not been
13 repaired or otherwise made good, is followed by a total loss, the assured may
14 recover in respect only of the total loss.

15 (3) Nothing in this section shall affect the liability of an insurer under
16 a suing and labouring clause in the prescribed form or to the like effect if
17 contained in the policy.

Sailing and laboring
clause

18 **176.**-(1) Where the policy contains a suing and labouring clause in the
19 prescribed form to the like effect, the agreement thereby entered into shall
20 deemed to be supplementary to the contract of insurance, and the assured may
21 recover from the insurer any expenses properly incurred pursuant to the clause,
22 notwithstanding that the insurer may have paid for a total loss, or that the
23 subject matter may have been warranted free from particular average, either
24 wholly or under a certain percentage.

25 (2) General average losses and contributions and salvage charges, as
26 defined by this Part, shall not be recoverable under the suing and labouring
27 clause.

28 (3) Expenses incurred for the purpose of averting or diminishing any
29 loss not covered by the policy are not recoverable under the suing and
30 labouring clause.

1 (4) It shall be the duty of the assured and his agents, in all cases, to take
 2 such measures as may be reasonable for the purpose of averting or
 3 minimizing a loss.

4 177.-(1) Where the insurer pays for a total loss, either of the whole,
 5 or in the case of goods of any apportionable part, of the subject matter
 6 insured, he shall thereupon become entitled to take over the interest of the
 7 assured in whatever may remain of the subject matter so paid for, and shall
 8 thereby be subrogated to all the rights and remedies of the assured in and in
 9 respect of that subject matter as from the time of the casualty causing the
 10 loss.

Right of subrogation

11 (2) Subject to subsection (1) of this section, where the insurer pays
 12 for a partial loss, he shall acquire no title to the subject matter insured, or
 13 such part of it as may remain, but shall thereupon be subrogated to all rights
 14 and remedies of the assured in and in respect of the subject matter insured as
 15 from the time of the casualty causing the loss, in so far as the assured has
 16 been indemnified, according to this Part, by such payment for the loss.

17 178.-(1) Where the assured is over insured by double insurance,
 18 each insurer shall be bound, as between himself and the other insurers, to
 19 contribute rateably to the loss in proportion to the amount for which he is
 20 liable under his contract.

Right of contribution

21 (2) Where any insurer pays more than his proportion of the loss, he
 22 shall be entitled to maintain an action for contribution against the other
 23 insurers, and be entitled to the like remedies as a surety who has paid more
 24 than his proportion of the debt.

25 179. Where the assured is insured for an amount less than the
 26 insurable value or, in the case of a valued policy, for an amount less than the
 27 policy valuation, he shall be deemed to be his own insurer in respect of the
 28 uninsured balance.

Effect of under insurance

29 180. Where the premium or a proportionate part thereof is, by this
 30 Part, declared to be returnable where:

Enforcement of return

1 (a) already paid, it may be recovered by the assured from the insurer;
2 and

3 (b) unpaid, it may be retained by the assured or his agent.

Return by
agreement

4 **181.** Where the policy contains a stipulation for the return of the
5 premium, or a proportionate part thereof, on the happening of a certain event,
6 and that event happens, the premium, or, as the case may be, the proportionate
7 part thereof, shall thereupon be returned to the assured.

Return for failure
of consideration

8 **182.**-(1) Where the consideration for the payment of the premium
9 totally fails, and there has been no fraud or illegality on the part of the assured
10 or his agents, the premium shall thereupon be returned to the assured.

11 (2) Where the consideration for the payment of the premium is
12 apportionable and there is total failure of any apportionable part of the
13 consideration, a proportionate part of the premium shall under the like
14 conditions, be returned to the assured.

15 (3) In particular, where:

16 (a) a policy is void, or is avoided by the insurer as from the
17 commencement of the risk, the premium shall be returnable, provided that
18 there has been no fraud or illegality on the part of the assured; but if the risk is
19 not apportionable, and has once attached, the premium shall not be returnable;

20 (b) the subject matter insured, or part thereof, has never been
21 imperiled, premium, or as the case may be a proportionate part thereof, is
22 returnable:

23 Provided that where the subject matter has been insured "lost or not
24 lost" and has arrived in safety at the time when the contract is concluded, the
25 premium is not returnable unless, at such time, the insurer knew of the safe
26 arrival where the assured be;

27 (c) no insurable interest throughout the currency of the risk, the
28 premium shall be returnable: but nothing in this paragraph shall be construed to
29 apply to a policy effected by way of gaming or wagering;

30 (d) a defeasible interest which is terminated during the currency of the

1 risk, the premium shall not be returnable; and

2 (e) over insured under an unvalued policy, a proportionate part of
3 the premium shall be returnable.

4 (4) Subject to the foregoing provisions of this section, where the
5 assured has over insurer: by double insurance, a proportionate part of the
6 several premiums shall be returnable:

7 Provided that, if the policies are effected at different times, and any
8 earlier policy has at any time borne the entire risk, or if a claim has been paid
9 on the policy in respect of the full sum insured thereby, no premium shall be
10 returnable in respect of that policy, and when the double insurance is
11 effected knowingly by the assured no premium shall be returnable.

12 **183.** Where a contract of marine insurance is, in good faith,
13 effected by one person on behalf of another, the person on whose behalf it is
14 effected may ratify the contract even after he is aware of a loss.

Ratification by
assured

15 **184.-(1)** Where any right, duty, or liability would arise under a
16 contract of marine insurance by implication of law, it may be negative or
17 varied by express agreement, or by usage, if the usage is such as to bind both
18 parties to the contract.

Implied obligations
varied by agreement
or usage

19 (2) The provisions of this section shall extend to any right, duty, or
20 liability declared by this part which may be lawfully modified by
21 agreement.

22 **185.** Where there is a duly stamped policy, reference may be made
23 to the slip or covering note, in any legal proceeding.

Ship as evidence

24 **186.-(1)** If any person:

Gambling on loss
by maritime perils
prohibited

25 (a) effects a contract of marine insurance without having any bona
26 fide interest, direct or indirect, either in the safe arrival of the ship in relation
27 to which the contract is made or in the safety or preservation of the subject
28 matter insured, or a bona fide expectation of acquiring such an interest; or

29 (b) in the employment of the owner of a ship, not being a part owner
30 of the ship, effects a contract of marine insurance in relation to the ship and

1 the contract is made:

2 (i) "interest or no interest",

3 (ii) "without further proof of interest than the policy itself,

4 (iii) "without benefit or salvage to the insurer", or

5 (iv) subject to any other like term, the contract shall be deemed to be a

6 contract by way of gambling on loss by marine perils and the person effecting

7 the contract shall be guilty of an offence and liable, on conviction, to

8 imprisonment for a term not exceeding 12 months or to a fine not exceeding

9 N250,000.00 and, in either case, to forfeit any money he may have received

10 under the contract.

11 (2) Any broker or other person through whom, and any insurer: with

12 whom, any such contract is effected shall be guilty of an offence and liable, on

13 conviction, to the like penalties, if he acted knowing that the contract was by

14 way of gambling on loss by maritime perils within the meaning of this section.

15 (3) Proceedings shall not be instituted under this section against a

16 person (other than a person in the employment of the owner of the ship in

17 relation to which the contract was made) alleged to have effected a contract by

18 way of gambling on loss by marine perils until an opportunity has been

19 afforded him of showing that the contract was not such a contract as aforesaid,

20 and any information given by that person for that purpose shall not be

21 admissible in evidence against him in any prosecution under this section.

22 (4) Where proceedings under this section are taken against any person

23 (other than a person in the employment of the owner of the ship in relation to

24 which the contract was made) or effecting such a contract and the contract was

25 made:

26 (a) interest or no interest";

27 (b) "without further proof of interest than the policy itself;

28 (c) "without benefit of salvage to the insurer"; or

29 (d) subject to any other like term, the contract shall be deemed to be a

1 contract by way of gambling on loss by maritime perils unless the contrary is
2 proved.

3 (5) For the purpose of giving jurisdiction under this section, every
4 offence shall be determine to have been committed either in the place in
5 which the same actually was committed or in any place in which the offender
6 may be.

7 (6) For the purposes of this section, the expression "owner"
8 includes charterer.

9 187.-(1) In this Part unless the context otherwise requires-

Interpretation of
this Part

10 "action" includes "counter-claim" and "set-off";

11 "freight" includes the profit derivable by a ship owner from the employment
12 of his ship to carry his own goods or moveables, as well as freight payable by
13 a third party, but does not include passage money;

14 "gross proceeds" means the actual price obtained at a sale where all charges
15 on sale are paid by the sellers;

16 "gross value" means the wholesale price or, if there is no such price, the
17 estimated value, with in either case, freight, landing charges, and duty paid
18 before-hand;

19 provided that, in the case of goods or merchandise customarily sold in bond,
20 the bonded price shall be deemed to be the gross value;

21 "maritime perils" means the perils consequent on, or incidental to, the
22 navigation of the sea, that is to say, perils of the seas, fire, war perils, pirates,
23 rovers, thieves, captures, seizures, restraints, and detainment of princes and
24 peoples, jettisons, barratry, and any other perils, either of the like kind or
25 which may be designated by the policy;

26 "moveables" means any moveable tangible property other than the ship and
27 includes money, valuable securities and other documents;

28 "policy" means a marine policy;

29 "prescribed form" means the form of policy in the Second Schedule or such
30 other Policy as may be approved by the Commission;

1 "time Policy" is a policy where the contract is to insure the subject matter for a
2 definite period of time;

3 "unvalued policy" means a policy which does not specify the value of the
4 subject matter insured, but, subject to the limit of the sum insured, leaves the
5 insurable value to be subsequently ascertained, in the manner specified in
6 section 118 of this Bill;

7 "\valued policy" means a policy which specifies the agreed value of the subject
8 matter insured. Subject to the provisions of this Part, and in the absence of
9 fraud, the value fixed by the policy is, as between the insurer and assured,
10 conclusive of the insurable value of the subject intended to be insured, whether
11 the loss is total or partial. Unless the policy otherwise provides, the value fixed
12 by the policy is not conclusive for the purposes of determining whether there
13 has been a constructive total loss; and

14 "Voyage policy" is a policy where the contract is to ensure the subject matter "at
15 and from", or from one place to another or others,

16 (2 For the purposes of this Bill, where there is a reference to-

17 (a) reasonable time;

18 (b) reasonable premium; or

19 (c) reasonable diligence;

20 the question of what is reasonable shall be a question of fact.

21 PART XVI - MISCELLANEOUS

Contract with
foreign insurer
and reinsurer

22 188.-(1) A person shall not place insurance or reinsurance business
23 with a foreign insurer or reinsurer in respect of any life, asset, interest or other
24 properties in Nigeria classified as domestic insurance or re-insurance business
25 unless with a company, register under this Bill.

26 (2) In this section, "domestic insurance or reinsurance business"
27 includes-

28 (a) fire insurance and reinsurance;

29 (b) motor insurance and reinsurance;

30 (c) liability insurance and reinsurance;

- 1 life insurance and reinsurance;
- 2 (e) accident insurance and reinsurance;
- 3 (f) engineering insurance and reinsurance;
- 4 (g) oil and gas insurance and reinsurance;
- 5 (h) aviation insurance and reinsurance;
- 6 (i) energy and power insurance and reinsurance; and
- 7 (j) such other insurance and reinsurance business as the
- 8 Commission may, from time-to-time, determine in regulations made by it

9 (3) For all other classes not specified in subsection (2) of this

10 section, local capacity shall be fully utilized before they are insured or

11 reinsured abroad subject to prior approval by the Commission.

12 (4) A person who contravenes the provisions of subsection (1) of

13 this section is liable to a penalty to the sum not less than the total premium

14 involved and a maximum of 5 times the premium involved.

15 (5) Notwithstanding the provisions of subsection (1) of this

16 section, where a person satisfies the Commission that by reason of

17 exceptional nature of the risk in or emanating from Nigeria or any other

18 exceptional circumstances, such risk cannot be placed with an insurer or

19 reinsurer registered under this Bill, the Commission may in writing permit

20 such person to-effect such insurance or reinsurance with an insurer or

21 reinsurer registered, outside Nigeria.

22 **189.-(1)** Notwithstanding any other provision of this Bill and the

23 contract of insurance, a third party beneficiary under a contract of general

24 insurance has a right to recover from the insurer the amount of any loss

25 suffered by the third party beneficiary within the limit insured in the contract

26 even though the third party beneficiary is not a party to the contract.

Contracts of
general insurance
entitlement of
third party benefit

27 **190.-(1)** An insurance operator shall establish a system of internal

28 control over its financial reporting and security of its assets and it shall be the

29 responsibility of the board of directors to ensure the integrity of the

30 operator's financial controls and reporting,

Internal control
system of insurance
operators

1 (2) The board of directors of an insurance operator shall report on the
2 effectiveness of the operator's internal control systems in its annual report

3 (3) In this section, "internal control" means policies, procedures and
4 practices put in place by management to ensure safety of assets, accuracy of
5 financial records and reports, achievement of corporate objectives and
6 compliance with laws and regulations,

Code of conduct
and corporate
governance

7 191.-(1) Every insurance operator shall be bound by the code of
8 conduct on corporate governance issued, from time to time, by the
9 Commission.

10 (2) An operator who neglects or fails to comply with the code of
11 conduct and regulations on corporate governance issued pursuant to
12 subsection (1) of this section is liable to such penalties as may be prescribed in
13 regulations made by the Commission, from time to time.

Duty of insurers
to report fraudulent
insurance conduct

14 192.-(1) Where an insurer reasonably believes that a fraudulent
15 insurance conduct is being or has been committed, the insurer shall furnish the
16 Commission, on a form to be prescribed by the Commission, all information
17 relating to such conduct as the Commission may require.

18 (2) The provisions of subsection (1) of this section does not prevent or
19 prohibit a person from voluntarily disclosing any information concerning
20 insurance fraud to any law enforcement agency other than the Commission.

Advertisement

21 193.-(1) The Commission shall have power to make regulations as to
22 the form and contents of insurance advertisement.

23 (2) No insurance operator shall issue, publish or cause to be issued or
24 published on its behalf, any form of insurance advertisement without the prior
25 approval of the Commission.

26 (3) Subject to the provisions of subsections (1) and (2) of this section:

27 (a) an insurance operator who issues an insurance advertisement
28 contrary to the provisions of this section is liable to a penalty of such sum as
29 may be prescribed if regulations issued by the Commission; and

30 (b) any person, other than an insurance operator, who issues an

1 insurance advertisement in contravention of the provisions of this section
2 commits an offence and is liable on conviction to a fine of a sum of not less
3 than N500,000.00.

4 (4) For the purpose of:

5 (a) this section, an advertisement issued by any person on behalf of
6 or by the order of another person, shall be treated as an advertisement issued
7 by that person; and

8 (b) any proceedings under this section, an advertisement inviting
9 persons to enter into contracts of insurance with a person specified in the
10 advertisement shall be presumed,
11 unless the contrary is proved, to have been issued by that person.

12 (5) In this section:

13 (a) "advertisement" includes every form of advertising, whether in
14 a publication, display of notice, circulars, other documents, an exhibition of
15 photographs or cinematography films, electronic media, sound
16 broadcasting or television, and references to the issue of an advertisement
17 shall be construed accordingly; and

18 (b) "insurance advertisement" means an advertisement inviting
19 persons to enter into or offer to enter into contracts of insurance, and an
20 advertisement which contains information calculated to lead directly to
21 persons entering into or offering such contracts shall be treated as an
22 advertisement inviting them to do so.

23 **194.** A person who, by any statement, promise or forecast which
24 he knows or reasonably believes to be misleading, false or deceptive, or by
25 any dishonest concealment of material facts, or by the reckless making
26 either dishonestly or otherwise, of any statement induces another person to
27 enter into or offer to enter into any contract of insurance with an insurance
28 company commits an offence and is liable on conviction to a fine not less
29 than N500,000.00 or imprisonment for a term of 2 years or to both fine and
30 imprisonment.

Misleading
statement, etc.

Claims
settlement

1 **195.**-(1) Subject to the provisions of Parts XI and XII of this Bill, in
2 every case where a claim is made in writing by the insured or any other party
3 entitled to claim under an insurance policy, the insurer shall, where he accepts
4 liability, settle the claim not later than 30 days after the issuance of a discharge
5 voucher or such period of time as may be prescribed in regulations made by the
6 Commission from time to time.

7 (2) Where any claim remains unpaid as provided in subsection (1) of
8 this section, the insured may request the Commission to effect the payment
9 from the statutory deposit of the insurer and the Commission shall have power
10 to effect such payment.

11 (3) Where the insurer does not accept liability, he shall deliver a
12 statement in writing stating the reason for disclaiming such liability to the
13 person making the claim or his authorized representative not later than 60 days
14 from the date on which the person delivered his claim to the insurer, or such
15 period of time as may be prescribed in regulations made by the Commission
16 from time to time.

17 (4) An insurer who contravenes the provisions of this section is liable
18 to a penalty of N500,000.00.

19 (5) Notwithstanding anything contained in the contract of insurance,
20 in all cases of insurances made compulsory under this Bill, an insurer shall be
21 liable to compensate the insured or third party for damages suffered as a result
22 of the insurer's unreasonable delay in settling a claim as may be awarded by a
23 court of competent jurisdiction or the dispute resolution panel set up under this
24 Bill.

Restriction on
loans to Directors,
etc.

25 **196.**-(1) An insurer shall not grant loans to a non-executive director of
26 the insurer directly or indirectly except a loan:

27 (a) on life policies issued to such person by the insurer; or

28 (b) normally forming part of the terms and conditions of service of
29 such person.

30 (2) An insurer who grants, and a non-executive director who receives

1 any loan other than as provided for in subsection (1) of this section is liable
2 to a penalty of a sum of 2 times the amount of such loan.

3 (3) An employee of the insurance operator shall not engage in any
4 business transaction or trade in any manner whatsoever with the insurance
5 operator as a counterpart or with the subsidiary in relation to insurance funds
6 or assets.

7 197.-(1) The Security and Insurance Development Fund provided
8 under the National Insurance Commission Act, Cap N53 Laws of the
9 Federation of Nigeria, 2004 shall be used:

Security and
insurance
Development
Fund

10 (a) for the payment of any claim admitted by or allowed against a
11 licensed insurance operator which remains unpaid by reason of insolvency
12 or cancellation of the licence of the insurance operator;

13 (b) to compensate innocent individual third parties permanently
14 disabled or killed by uninsured or unidentified motor vehicle.

15 (2) The proportion of claim to be paid pursuant to subsection (1) of
16 this section shall be determined by the Commission.

17 (3) The Security and Insurance Development Fund shall be used
18 for all such insurance development purposes as the Commission may
19 determine.

20 198.-(1) A person, other than an insurance operator, required to
21 furnish returns or information to the Commission under this Bill who fails to
22 furnish such returns or information, commits an offence and is liable, on
23 conviction, to a fine of N500,000.00 or
24 to imprisonment for a term of 6 months or to both fine and imprisonment.

Offences as to
Returns

25 (2) A person who, in purported compliance with subsection (1) of
26 this section, knowingly or recklessly:

27 (a) makes a statement in the returns; or

28 (b) gives information; which is false, commits an offence and is
29 liable on conviction to a fine of not less than N500,000.00 or to
30 imprisonment for a term of 1 year or to both fine and imprisonment.

Production of
documents

1 **199.**-(1) Where an original document is to be produced to the
2 Commission, it shall be accompanied by two duly certified true copies of the
3 document for retention by the Commission, unless the Commission dispenses
4 with their production .

5 (2) Where only a copy of a document is produced, the Commission
6 may require production of further evidence to account for the absence of the
7 original and if it is satisfied, 2 copies shall be prepared, and shall, when duly
8 certified on behalf of the insurance operator be retained by the Commission,
9 unless the Commission dispenses with their production.

10 (3) For the purpose of this section, a document shall be deemed to be
11 duly signed or certified where it is signed:

12 (a) on behalf of the insurance operator by the chief executive officer
13 of such insurance operator in Nigeria, issued under the seal of the insurance
14 operator; or

15 (b) by some persons approved by the Commission.

Service of process

16 **200.**-(1) Service of process in any legal proceeding against an
17 insurance operator, registered or licensed under this Bill, may be effected at the
18 principal office of such insurance operator.

19 (2) Where the principal office of the insurance operator in Nigeria has
20 ceased to exist, process in any legal proceeding against such insurance
21 operator, may be served at the office of the Commissioner of insurance and
22 such service shall be deemed to be service on the insurance operator.

Penalty for
non-compliance

23 **201.**-(1) Notwithstanding any other provision of this Bill, the
24 Commission may in writing, suspend an insurance operator from conducting a
25 new or further insurance business for a period of not exceeding 12 months,
26 where the insurance operator fails to pay any penalty or fine imposed under this
27 Bill or regulations made thereto within 30 days from the date of imposition
28 thereof.

29 (2) Where the insurance operator fails to pay the penalty or fine
30 referred to under subsection (1) of this section within the period of suspension

1 mentioned in that subsection, the Commission may cancel the certificate of
2 registration of the insurance operator.

3 (3) Any person who is found guilty of an offence under this Bill for
4 which no specific penalty is provided shall, on conviction, be liable in the
5 case of a:

6 (a) first conviction, to a fine of N50,000.00 or to a maximum term
7 of 6 months' imprisonment or to both fine and imprisonment; and

8 (b) second or subsequent conviction to a fine of N100,000.00 or to
9 imprisonment for a maximum term of 12 months or to both fine and
10 imprisonment.

11 **202.** Where fees are to be prescribed under this Bill or are specified
12 herein, such fees shall be prescribed, or as the case may be, varied, from time
13 to time, by the Commission.

Fees

14 **203.**-(1) The Provisions of this Bill are without prejudice to the
15 application of the Companies and Allied Matters Act, Cap N20 Laws of the
16 Federation of Nigeria, 2004 and any other enactment applicable to insurance
17 institutions under this Bill which are companies registered under that Act, so
18 however that where any of the provisions of the "Companies and Allied
19 Matters Act, Cap N20 Laws of the Federation of Nigeria, 2004 and other
20 enactment is inconsistent with any provision of this Bill, the provision of
21 this Bill shall prevail to the extent of that inconsistency.

Application of
the provisions of
the Companies
and Allied Matters
Act, Cap. N20
LFN, 2004

22 (2) Any provision in any written law that has the effect of limiting
23 or subjecting to any other entity the powers of the Commission to register,
24 deregister or licence or withdraw the licence of any insurance operator shall
25 be of no effect from the date of coming into force of this Bill.

26 **204.** Without prejudice to the power of the Attorney General of the
27 Federation, under the Constitution of the Federal Republic of Nigeria, 1999
28 to continue or discontinue criminal proceedings against any person in any
29 court of law, the Commission may compound any offence punishable under
30 this Bill by accepting such sums of money as it deems fit not exceeding the

Compounding
of offences

1 amount of the maximum fine to which that person would have been liable if he
2 had been convicted of the offence.

Recovery of sums
involved in the
commission of
offences

3 205.-(1) Where an insurance operator or any other person commits an
4 offence under this Bill, the Commission shall, in addition to the imposition of
5 the penalty specified for the offence, make an order for the payment of the
6 amount involved in the commission of the offence.

7 (2) Where the Commission makes an order under subsection (1) of
8 this section and the person fails to comply within the time specified in the order,
9 the Commission shall make an order to levy execution on such of the property
10 of the person as is sufficient to cover the amount involved.

11 (3) Any amount paid or recovered under this section shall be used to
12 compensate any person who, the Commission is satisfied, suffered in any way
13 as a result of the insurance transaction connected with the offence.

14 (4) Where the amount referred to in subsection (3) of this section is
15 not fully utilized for the purpose specified in that subsection, the balance shall
16 be paid into the Security and Insurance Development Fund established under
17 the National Insurance Commission Act, Cap N53 Laws of the Federation of
18 Nigeria, 2004.

Offences by
body corporate

19 206.-(1) Where an offence under this Bill has been committed by a
20 body corporate, firm or other association of individuals, a person who at the
21 time of the commission of the offence was an officer or was purporting to act in
22 such capacity severally commits that offence and liable to be prosecuted and
23 punished for the offence in like manner as if he had himself committed the
24 offence, unless he proves that the act or omission constituting the offence took
25 place without his knowledge, consent or connivance.

26 (2) In this section and in the other provisions of this Bill, officer:

27 (a) in relation to a body corporate, means a director, chief executive,
28 manager and Company Secretary; and

29 (b) in relation to the firm, includes a partner and other officers of the
30 firm.

1 207.-(1) An offence under this Bill shall, subject to the Rules of the
2 Court, be tried in the Federal High Court and references in this Bill to
3 "Court" shall be construed accordingly. Jurisdiction and
prosecution

4 (2) Without prejudice to powers of the Attorney-General of the
5 Federation in criminal proceedings, the Commission may with the prior
6 approval of the Board, prosecute offenders under this Bill.

7 208. Any person who willfully obstructs, interferes with, assaults Obstruction of
public officers
8 or resists a public officer in the performance of his lawful duties under this
9 Bill or aids, invites, or abets any other person to obstruct, interfere with,
10 assault or resist any such officer, commits an offence and is liable on
11 conviction to a fine not less than N500,000.00 or imprisonment
12 for a term of 1 year or to both fine and imprisonment.

13 209.-(1) A public officer commits an offence if, in the discharge of Misrepresentation
by public officers
14 his lawful duties under this Act, he knowingly or recklessly presents to
15 another public officer, who is to take a decision thereon or do any other act in
16 relation thereto, information which is false in any material particular, unless
17 he proves that such information was supplied to him by another person and
18 that he exercised all due diligence to prevent the commission of the offence
19 as he ought to have exercised, having regard to the nature of his functions in
20 that capacity and in all the circumstances.

21 (2) A public officer who commits an offence under subsection (1)
22 of this section is liable on conviction to a fine not exceeding N500,000.00 or
23 imprisonment for a maximum term of 12 months or to both fine and
24 imprisonment.

25 210.-(1) The Federal Government, the Commission or any officer Protection against
adverse claims
26 of the Government or Commission shall not be subject to any action, claim
27 or demand by or liability to any person in respect of anything done or
28 omitted to be done in good faith in pursuance or in execution of, or in
29 connection with the execution or intended execution of any power conferred
30 upon the Government, the Commission or such officer, by this Bill or the

1 National Insurance Commission Act, Cap N 53 Laws of the Federation of
2 Nigeria, 2004.

3 (2) For the purpose of this section, the Minister or any officer duly
4 acting on his behalf shall be deemed to be an officer of the Federal Government
5 and the Commissioner, and the Deputy Commissioners of the Commission or
6 other employee shall be deemed to be an officer of the Commission.

Power to make
regulations

7 **211.** The Commission may make regulations generally for the
8 purpose of implementing and enforcing the provisions of this Bill.

Repeal and
savings provision

9 **212.**-(1) The Acts:

10 (a) Insurance Act, Cap. 117, Laws of the Federation of Nigeria, 2004;

11 (b) Marine Insurance Act, Cap. M3, Laws of the Federation of
12 Nigeria, 2004;

13 (c) Motor Vehicles (Third Party Insurance) Act, Cap. M22, Laws of
14 the Federation of Nigeria, 2004;

15 (d) National Insurance Corporation of Nigeria Act, Cap. N54, Laws
16 of the Federation of Nigeria, 2004; and

17 (e) Nigeria Reinsurance Corporation Act, Cap. N131, Laws of the
18 Federation of Nigeria, 2004, are hereby repealed.

19 (2) Without prejudice to section 6 of the Interpretation Act, Cap 123
20 Laws of the Federation of Nigeria, 2004, the repeal of the Acts specified in
21 subsection (1) of this section, shall not affect anything done under or pursuant
22 to the Acts.

23 (3) Every order, requirement, certificate, notice, direction, decision,
24 authorization, consent, application, request or thing made, issued, given or
25 done under any of the Acts repealed by this Bill shall, if in force at the
26 commencement of this Bill, continue to be in force and have effect as if made,
27 issued, given or done under the corresponding provisions of this Bill.

Interpretation

28 **213.** In this Bill, unless the context otherwise requires:

29 "a firm" includes a partner and other officer of a firm;

30 "a person" means any individual, corporation, association, and other legal

1 entity engaged in the business of insurance, including agents, insurance
2 operators, brokers and loss adjusters;
3 "any other association of individuals" includes a person concerned in the
4 management of the affairs of such association;
5 "Board" means the governing board of the National Insurance Commission
6 of Nigeria;
7 "Brown Card" means the ECOWAS Brown Card within the meaning of the
8 Protocol;
9 "Civil Aviation Act" means the Civil Aviation Act, 2006 or any re-enactment
10 or modification thereof for the time being in force;
11 "Commission" means the National Insurance Commission;
12 "Commissioner" means the Commissioner of Insurance;
13 "intermediaries" include loss adjusters;
14 "Insurance operator" means an insurer, reinsurer, insurance broker,
15 insurance, agent, loss adjuster and insurance pool, as the case may be;
16 "Insurer" includes re-insurer;
17 "Institute" means the Chartered Insurance Institute of Nigeria;
18 "Minister" means the Minister charged with responsibility for matters
19 relating to finance or any Minister charged with insurance matters;
20 "Protocol" means the Protocol on Establishment of ECOWAS Brown Card
21 Scheme Relating to Third Party Liability Insurance;
22 "property" means real or personal property of every description, including
23 money, whether tangible or intangible, and includes an interest in any such
24 real or personal property; and
25 "regulations" means regulations, orders, guidelines, code of conduct,
26 circular or any other directive made by the Commission and approved by the
27 Board pursuant to this Bill.

28

214. This Bill may be cited as the Insurance Bill, 2020.

Short title

SCHEDULES

FIRST SCHEDULE

[Section 128 (1)]

FORM OF POLICY

1 BE IT KNOWN THAT..... as well in..... own name as for
2 and in the name and names of all and every other person or persons to whom the
3 same doth may, or shall appertain, in part or in all doth make assurance and
4 cause..... and them, and every of them, to be insured lost or not lost,
5 at and from.....
6 Upon any kind of goods and merchandise, and also upon the body, tackle,
7 apparel, ordnance, munition, artillery, boat, and other furniture, of and in the
8 good ship or vessel called the.....whereof is master
9 under God, for this present voyage.....or whosoever else shall
10 go for master in the said ship, or by whatsoever other name or names the said
11 ship, or the master thereof, is or shall be named or called; beginning the
12 adventure upon the said goods and merchandises from the loading thereof
13 aboard the said ship.....upon the said ship, etc., and so shall
14 continue and endure, during her abode there, upon the said ship, etc. And
15 further, until the said ship with all her ordnance, tackle, apparel, etc., and goods
16 and merchandises whatsoever shall be arrived at.....
17 upon the said ship, etc, until she hath moored at anchor twenty-four hours in
18 good safety; and upon the goods and merchandises, until the same be there
19 discharged and safely landed. And it shall be lawful for the said ship, etc, in
20 this voyage, to proceed and sail to and touch and stay at any ports or places
21 whatsoever..... without prejudice to this insurance.
22 The said ship, etc., goods and merchandises, etc., for so much as concerns the
23 assured by agreement between the assured and assurers in this policy, are and
24 shall be valued at.....
25 Touching the adventures and perils which we the assurers are contented to bear
26 and do take upon us in this voyage: they are of the seas, men of war, fire,

1 enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart,
 2 surprisals, takings at sea, arrests, restraints, and detainments of all kings,
 3 princes, and people of what nation, condition, or quality soever, barratry of
 4 the master and marines, and of all other perils, losses and misfortunes, that
 5 have or shall come to the hurt, detriment, or damage of the said goods and
 6 merchandises, and ship, etc., or any part thereof. And in case of any loss or
 7 misfortune it shall be lawful to the assured, their factors, servants and
 8 assigns, sue, labour and travel for, in and about the defence, safeguards, and
 9 recovery of the said goods and merchandises, and ship, etc., or any part
 10 thereof, without prejudice to this insurance; to the charges whereof we, the
 11 assurers, will contribute each one according to the rate and quantity of his
 12 sum herein assured. And it is especially declared and agreed that no acts of
 13 the insurer or insured in recovering, saving, or preserving the property
 14 insured shall be considered as a waiver, or acceptance of abandonment. And
 15 it is agreed by us, the insurers, that this writing or policy of assurance shall be
 16 of as much force and effect as the surest writing or policy of assurance
 17 heretofore made in any place in Nigeria. And so we, the assurers, are
 18 contended, and do hereby promise and bind ourselves, each one for his own
 19 part, our heirs, executors, and goods to the assured, their executors,
 20 administrators, and assigns, for the true performance of the premises,
 21 confessing ourselves paid the consideration due unto us for this assurance by
 22 the assured, at and after the rate of.....

23 In Witness whereof we, the assurers, have subscribed our names and sums
 24 assured in.....

25 N.B. - Corn, fish, salt, fruit, flour and seed are warranted free from average,
 26 unless general, or the ship be stranded; and sugar, tobacco, hemp, flax, hides
 27 and skins are warranted free from average, under ten naira per cent, and all
 28 other goods, also the ship and freight, are warranted free from average,
 29 under six naira per cent unless general, or the ship be stranded.

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SECOND SCHEDULE

[Section 128(2)]

RULES FOR CONSTRUCTION OF POLICY

1. Where the subject matter is insured "lost or not lost", and the loss has occurred before the contract is concluded, the risk attaches, unless at such time the assured was aware of the loss, and the insurer was not

2. Where the subject matter is insured "from" a particular place, the risk does not attach until the ship starts on the voyage insured.

3. Where:

(a) a ship is insured "at and from" a particular place, and she is at that place in good safety when the contract is concluded, the risk attaches immediately;

(b) the ship is not at that place when the contract is concluded, the risk attaches as soon as she arrives there in good safety, and, unless the policy otherwise provides, it is immaterial that she is covered by another policy for a specified time after arrival;

(c) chartered freight is insured "at and from" a particular place, and the ship is at that place in good safety when the contract is concluded the risk attaches immediately. If she be not there when the contract is concluded, the risk attaches as soon as she arrives there in good safety; and

(d) freight other than chartered freight, is payable without special conditions and is insured "at and from" a particular place, the risk attaches pro rata as the goods or merchandise are shipped; provided that if there be cargo in readiness which belongs to the shipowner, or which some other person has contracted with him to ship, the risk attaches as soon as the ship is ready to receive such cargo.

4. Where goods or other moveables are insured "from the loading thereof, the risk does not attach until such goods or moveables are actually on board; and the insurer is not liable for them while in transit from the shore to ship.

1 5. Where the risk on goods or other moveables continues until they
2 are "safely landed", they shall be landed in the customary manner and within
3 a reasonable time after arrival at the port of discharge, and where they are not
4 so landed the risk ceases.

5 6. In the absence of any further license or usage, the liberty to
6 touch and say "at any port or place whatsoever" does not authorize the ship
7 to depart from the course of her voyage from the port of departure to the port
8 of destination.

9 7. The term "perils of the seas" refers only to fortuitous accidents or
10 casualties of the seas and does not include the ordinary action of the winds
11 and waves.

12 8. The term "pirates" includes passengers who mutiny and riots
13 who attack the ship from the shore.

14 9. The term "thieves" does not cover clandestine theft or a theft
15 committed by anyone of the ship company, whether crew or passengers.

16 10. The term "arrests, etc., of kings, princes, and people" refers to
17 political or executive acts, and does not include a loss caused by riot or by
18 ordinary judicial process.

19 11. The term "barratry" includes every wrongful act willfully
20 committed by the master or crew to the prejudice of the owner, or, as the case
21 may be, the charterer.

22 12. The term "all other perils" includes only perils similar in kind
23 to the perils specifically mentioned in the policy.

24 13. The term "average unless general" means a partial loss of the
25 subject matter insured other than a general average loss, and does not
26 include "particular charges".

27 14. Where the ship has stranded, the insurer is liable for the
28 excepted losses, although the loss is not attributable to the stranding,
29 provided that when the stranding takes place the risk has attached and, if the
30 policy be on goods, that the damaged goods are on-board.

1 15. The term "ship" includes the hull, materials and outfit, stores and
2 provisions for the officers and crew, and in the case of vessels engaged in a
3 special trade, the ordinary fittings requisite for the trade, and also, in the case of
4 a steamship, the machinery, boilers, and coals and engine stores, if owned by
5 the assured.

6 16. The term "freight" includes the profit derivable by a shipowner
7 from the employment of his ship to carry his own goods or moveables, as well
8 as freight payable by a third party, but does not include passage money.

9 17. The term "goods" means goods in the nature of merchandise, and
10 does not include personal effects or provisions and stores for use on board.

11 18. In the absence of any usage to the contrary deck cargo and living
12 animals shall be insured specifically, and not under the general denomination
13 of goods.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Insurance Act, Cap. I 17 Laws of the Federation of Nigeria 2004 and enact the Insurance Bill, 2020 to provide for a comprehensive legal framework for Insurance Business in Nigeria.

The Bill also seeks to repeal:

- (1) The Marine Insurance Act;
- (2) Motor Vehicles (Third Party Insurance) Act;
- (3) National Insurance Corporation of Nigeria Act;
- (4) Nigeria Reinsurance Corporation Act.