



FEMI JOHNSON & COMPANY LIMITED

Incorporated Insurance Brokers Rc7415



REVIEW OF THE INSURANCE ACT OF 2003

The Insurance Act 2003 was passed into law on 27th May 2003 with the aim of producing a new Insurance Act. It applies to all Insurance businesses and insurers with the exception of:

- ❏ Friendly societies that do not employ persons to canvass for members or collect contributions for its funds;
- ❏ A company or body corporate established outside Nigeria engaged solely in reinsurance transaction with an authorized insurer.

The Act classifies Insurance business into two broad classes, which are Life insurance business and General insurance business. These two main classes of insurance business have sub-divisions under them.

The major requirements for commencement of Insurance Underwriting business are listed below:

- ❏ The Company must be either a duly incorporated limited liability company, or a body duly established by any other enactment to transact insurance or reinsurance business,
- ❏ The Company must be registered by the National Insurance Commission (subsequently referred to as “the Commission”),
- ❏ The Commission must be satisfied that the insurer will conduct the class or category of insurance business in accordance with sound insurance principles,
- ❏ The Company must have the required paid up capital and statutory deposit as a condition precedent to registration,
- ❏ Arrangements relating to reinsurance treaties are adequate and valid,
- ❏ The company has competent and professionally qualified persons as determined by the Commission; to manage the company



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The paid up share capital for carrying on Insurance business is:

☒ Life Insurance Business	₦150,000,000
☒ General Insurance Business	₦200,000,000
☒ Composite Insurance Business	₦350,000,000
☒ Reinsurance Business	₦350,000,000

In respect of Insurance Agents, they must have a certificate of proficiency and must be duly appointed by an insurer and licensed according to the provisions of the Act. A licensed insurance agent is required to renew his license annually. The Act prohibits the under listed class of persons from being insurance agents:

- ☒ A person who is a minor,
- ☒ A person not certified by the Chartered Insurance Institute of Nigeria, or
- ☒ A person who had, prior to his appointment, been convicted of an offence in the nature of criminal misappropriation of funds or breach of trust or cheating.

An insurer is required to maintain a register reflecting the names, addresses, date of employment and termination of employment of every insurance agent it employs. On the other hand, the agent is required to pay the insurer, any premium collected by him.

An Insurance Broker must also be registered under the Act; major requirements for registration include the following:

- ☒ The Broker is either a partnership or a limited liability company.
- ☒ Each partner or Chief Executive and Executive Director is registered as an insurance broker by the Chartered Insurance Institute of Nigeria.



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Anybody transacting business as an Insurance Broker without being registered under the Act, is liable to a fine of ₦250, 000, or two year imprisonment or both.

An Insurance Broker shall maintain a professional Indemnity cover of ₦10, 000,000 or 50%of its annual brokerage income for the preceding year, whichever is greater.

The broker shall establish and maintain a client account into which all monies, premiums, claims and recoveries from and on behalf of the client shall be paid. The broker should pay to the insurer not later than 30 days, (from the day premium was collected) all premiums collected by him.

For a Broker to undertake Reinsurance Broking, it must satisfy the Commission of the following requirements:

- ❑ The broker has the required expertise to conduct the class of reinsurance,
- ❑ At least one partner or director has at least 5 years working experience in the middle management cadre of a reinsurance broking firm or company.

For a person to transact business as a Loss Adjuster, he must be registered in that regard under the Act.

The requirements for registration are as listed below:

- ❑ The applicant is duly incorporated as a partnership or a company,
- ❑ At least a partner or director is duly registered by the Institute of Loss Adjusters of Nigeria, and
- ❑ The applicant maintains a professional indemnity cover of not less than ₦5 million or 50 percent of its annual fees for the preceding year, whichever is greater.

The Loss Adjuster is required to keep proper records of all its business, which is subject to inspection, by the Commission or its agent.



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A foreign Loss Adjuster may attend to claims in Nigeria (with the permission of the Commission) provided the assignment is carried out in collaboration with a firm of Loss Adjusters based in Nigeria.

The Act stipulates in no uncertain terms that the receipt of insurance premium is a condition precedent to a valid contract of insurance and that there shall be no cover in respect of an insurance risk unless the premium has been paid in advance. In applying this provision, premium collected by a broker is premium paid.

It prohibits the arbitral increase of minimum premium rates on any class of insurance business by the insurer without prior approval by the Commission. It also places a limitation on the commission paid by the insurer, to the insurance agent, broker or any other intermediary as follows:

- ❏ 12.5% of premium on Motor Insurance,
- ❏ 15% in respect of workmen's compensation, and
- ❏ 20% in respect of any other class of insurance

These rates listed above may only be altered with the prior approval of the Commission.

Rebates on whole or part of commission or premium as a form of inducement to take out or renew an insurance contract is prohibited.

On Disclosure, where the insurer requires the insured to complete a proposal form or any other form for application, such a form is to be drawn up in a manner as to elicit such information as the insurer considers material, any information not specifically requested for shall be deemed not material. Such a form should disclose in legible characters that an insurance agent who assists the applicant in completing the form does so as the agent of the applicant.



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In the occurrence of a breach of a term in an insurance contract, whether a warranty or a condition, such a breach does not afford a defense to the insured unless the term is material and relevant to the risk or loss insured against. The insurer is not entitled to repudiate the whole or any part of a contract on the event of a breach unless the breach amounts to a fraud or it is a breach of fundamental terms of the contract. Where a material breach of term occurs, the insurer may not repudiate the contract but is liable to indemnify the insured only to the extent of the loss, which would have been suffered if there were no breach of term.

A person cannot construct a building of more than two floors without insuring his liability with respect to Construction risks which may result in injury or death or damage to property of workmen on site or members of the public.

It is mandatory for every “Public Building” to be insured against the hazards of Collapse, Fire, Earthquake, Storm and Flood. This policy shall also cover the legal liability of an owner or occupier.

“Public Building” is any building where the public has ingress or egress for the purpose of obtaining Educational, Medical Service, Recreational or transaction of business.

Insurance of goods to be imported into Nigeria is to be effected with an Insurer registered under this Act. This provision overrides any law, contract or instrument and nullifies them to the extent of their inconsistency with the provision.

No person shall use or allow any other person to use a motor vehicle on a road unless potential liabilities are insured with a Nigerian Insurer.



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In an accident claim involving two or more vehicles, where there is sufficient evidence of proof of loss, it is not necessary for a claimant to deliver a police report unless it involves death or serious bodily injury to a person.

The Act precludes transactions with foreign insurer or Reinsurer with regards to any life asset, interest or properties in Nigeria classified as domestic insurance, unless the Commission is satisfied that the risk is exceptional in nature and as such, cannot be placed in Nigeria.

In the event of the cancellation of registration of an insurer, broker or loss adjuster, the Commission is to appoint a receiver who takes charge of its assets, may apply to the court for winding up or even freeze the accounts. In cases where the insurer carries on life insurance business, the receiver is to carry on the life insurance business with a view to transferring to another Reinsurer.

The National Insurance Commission is responsible for the enforcement and administration of the Act.

The Federal High Court has jurisdiction to entertain offences with regards to the Act.