

INSURANCE LAW, 1989

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IN pursuance of the Provisional National Defence Council
(Establishment) Proclamation 1981, this Law is hereby made:

PART I – ESTABLISHMENT OF NATIONAL INSURANCE COMMISSION

Establishment of
National Insurance
Commission

1. (1) There is hereby established a body corporate to be known as the National Insurance Commission (in this Law referred to as “the Commission”).
 - (2) The Commission shall have perpetual succession and a common seal and may sue and be sued in its own name.
 - (3) The Commission shall have power for the discharge of its functions under this law to acquire and hold any movable or immovable property, to dispose of such property and to enter into any contract or other transaction.

The object and
functions of the
Commission

2. (1) The object of the Commission is to ensure effective administration, supervision, regulation and control of the business of insurance in Ghana.
 - (2) For the attainment of its object under subsection (1) of this section the Commission shall exercise the following functions—
 - (a) ensure strict compliance with the provisions of this Law and regulations made thereunder and any other enactment relating to insurance;
 - (b) Register insurers and insurance intermediaries who transact insurance business in Ghana;
 - (c) Establish standards for the conduct of insurance business for compliance by insurers and insurance intermediaries;
 - (d) Approve rates of insurance premiums and commissions in respect of all classes of insurance;
 - (e) Protect insurance policy-holders, insurance beneficiaries and third parties to any insurance contract;
 - (f) Approve standards, conditions and warranties to be applicable to insurance;
 - (g) Provide a bureau to which complaints may be submitted by the members of the public;
 - (h) Settle such insurance claims as may be referred to it by parties to any insurance contract;
 - (i) Ensure adequate insurance protection and security for national strategic assets and properties;
 - (j) Formulate proposals for the promotion of sound and efficient insurance market in the country;
 - (k) supervise and control transactions between local insurers and their re-insurers abroad;

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- (l) undertake sustained and methodical public education on the insurance business in general; and
- (m) generally discharge such other functions as are necessary or incidental to the functions specified under this section.

Secretary to give directions

3. The Secretary may give directions of a general nature to the Commission on matters of policy and the Commission shall give effect to such directives.

The Board of the Commission

4. (1) The governing body of the Commission shall be a Board whose members including the Chairman shall be appointed by the Council.

(2) The Board shall consist of ---

- (a) a Chairman;
- (b) the Commissioner of Insurance appointed under section 7 of this Law;
- (c) a representative of the Ministry of Finance not below the rank of Chief Economic Officer or its equivalent;
- (d) a representative of the Ghana Insurance Association;
- (e) a representative of the Insurance Institute of Ghana;
- (f) the Director, School of Administration or his representative not below the rank of a senior lecturer;
- (g) three other persons.

(3) The term of office of members of the Board other than the Commissioner of Insurance shall be three years, and they shall be eligible for re-appointment.

(4) A member of the Board other than the Commissioner of Insurance may resign his office by writing addressed to the Secretary, and any such person may be removed from office by the Council acting on the advice of the Secretary.

Meetings of the Board

(5) The members of the board other than the Commissioner of Insurance may be paid such allowances as the Council may on the advice of the Secretary determine.

5. (1) The Board shall ordinarily meet for the dispatch of business at such times and at such places as it may determine but shall meet at least once in every month.

(2) A special meeting of the Board shall be called upon a written request signed by the Chairman or by any three members of the Board addressed to the Secretary to the Board.

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- (3) At every meeting of the Board at which he is present the Chairman shall preside and in his absence one of the members present shall preside.
- (4) The quorum for any meeting of the Board shall be four.
- (5) Decisions at meetings of the Board shall be determined by a majority of the members present.
- (6) The Chairman or the person presiding at a meeting of the Board shall in event of equality of votes have a second or casting vote.
- (7) The validity of any proceedings of the Board shall not be affected by any vacancy among its member or by any defect in the appointment of any of them.
- (8) Any member of the Board who has any interest in a contract proposed to be made with the Commission shall disclose the nature of his interest to the Board and shall be disqualified from participating in any deliberations of the Board in respect of such contract.
- (9) Except as otherwise provided in this section, the Board shall regulate its own procedure.

Committees of the Board

- 6 . (1) The Board may for the discharge of the functions of the Commission appoint such committees as may be necessary which shall consist of members of the Board or non-members or both and may assign to them such functions as the Board shall determine.
- (2) A member of the Board shall be appointed Chairman of any such committee.
- (3) The members of a committee of the Board shall be paid such allowances as the Board may determine.

Commissioner of Insurance, Deputy Commissioner of Insurance

7. (1) The Chief Executive of the Commission shall be the Commissioner of Insurance referred to in this Law as “the Commissioner” who shall be appointed by the Council.
- (2) The Deputy Chief Executive of the Commission shall be the Deputy Commissioner of Insurance referred to in this Law as “the Deputy Commissioner”, who shall be appointed by the Council.
- (3) The Commissioner and the Deputy Commissioner shall be persons of recognised competence and experience in insurance business and administration.
- (4) The Commissioner shall, subject to such general directions as the Board may give on matters of policy, be responsible for the day-to-day administration of the Commission.

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- (5) The Deputy Commissioner shall assist the Commissioner in the performance of his duties and shall perform such other duties as the Board may in consultation with the Commissioner direct.
- (6) The Commissioner and the Deputy Commissioner shall hold office upon such terms and conditions as the Council may determine.
8. (1) The Commission shall have an officer to be designated as the Secretary to the Board who shall be appointed by the Secretary on such terms and conditions as the Secretary may determine.
- (2) The Secretary to the Board shall perform such functions as the Board or the Commissioner may direct.
- (3) The Commission may engage such other officers and employees as may be necessary for the proper and effective discharge of its functions on such terms and conditions as the Board may determine.
- (4) Public officers may be transferred or seconded to the Commission.
9. (1) The funds of the Commission shall include—
- (a) fees and other charges payable by insurers and intermediaries;
 - (b) grants from Government or any other sources;
 - (c) monies accruing to the Commission by way or revenue;
 - (d) loans granted to the Commission by Government, a bank or any other recognised financial institution;
 - (e) donations from any other sources;
 - (f) such other monies as may be prescribed as monies of the Commission by regulations made under this Law.
- (2) Every registered insurer and insurance intermediary shall pay to the Commission an annual contribution in such sum as shall be determined by the Commission in consultation with the Ghana Insurance Association and the Ghana Insurance Brokers Association.
10. (1) The Commission may obtain loans and other credit facilities on the guarantee of the Government from such banks and other financial institutions as the Secretary may approve.
- (2) Notwithstanding subsection (1) of this section, the Commission may with the approval of the Secretary borrow money from any other source.

Secretary and other
staff of
Commission

Funds of the
Commission

Borrowing powers.

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Accounts and audit

11. (1) The commission shall keep proper books of account and proper records in relation thereto and the account and records of the Commission shall be in such form as the Auditor-General may approve.

(2) The books and account of the Commission shall at the end of each financial year be audited by the Auditor-General or by an auditor approved by him.

(3) The Board shall pay in respect of its audits such fees if any as the Auditor-General and the Board may agree.

(4) It shall be the duty of the Board, as soon as possible but in any case not later than three months, upon receiving the report of the Auditor-General under this section, to forward the report to the Secretary who shall submit the report with his observations thereon to the Council.

Annual reports

12. The Board shall as soon as possible, but not later than three months after the expiration of each financial year, submit to the Secretary an annual report dealing with the activities of the Commission during that financial year.

Financial year of Commission

13. The financial year of the Commission shall be the same as the financial year of the Government.

Transfer of assets and liabilities

14. All assets, rights and liabilities of the Insurance Commissioner existing immediately before the commencement of this Law are hereby transferred to the Commission

PART II – INSURANCE BUSINESS, CAPITAL AND OTHER STATUTORY OBLIGATIONS OF INSURERS

All insurers to be registered

15. (1) No person shall carry on insurance business in Ghana unless he is registered as an insurer under this Law.

(2) An insurer carrying on insurance business in Ghana immediately before the commencement of this Law shall within three months from the commencement of this Law make an application for registration to continue the particular class of insurance business in respect of which the application has been made.

(3) An application for registration as an insurer shall be made to the Commission.

INSURANCE (AMENDMENT) LAW, 1993

IN pursuance of the Provisional National Defence Council (Establishment) Proclamation, 1981, this law is hereby made:

The Insurance Law, 1989 P.N.D.C.L. 227 is hereby amended by the substitution for section 16 of the following new section—

“Insurers to be corporate bodies in Ghana”

16. (1) No person other than a body corporate incorporated in Ghana shall carry on insurance business in Ghana.

(2) No person shall carry on insurance business in Ghana unless at least forty percent of the capital or other proprietary interest in that business is owned by a Ghanaian.

(3) In this section “Ghanaian” means any citizen of Ghana or any company, partnership, association or body (whether corporate or unincorporate) the majority capital or financial interest in which is owned by citizens of Ghana, and includes a statutory corporation.”

Made this 5th day of January, 1993.

Classification of insurance business

17. For the purposes of this Law, insurance business shall comprise-

- (a) life insurance;
- (b) non-life insurance consisting of—
 - (i) fire insurance;
 - (ii) marine insurance;
 - (iii) transport and aviation insurance;
 - (iv) motor vehicle insurance;
 - (v) workmen’s compensation insurance;
 - (vi) any insurance business other than the fore-going; and
- (c) reinsurance business covering any or all of the fore-going insurance businesses.

Capital requirements for carrying on insurance business

18. (1) No person shall carry on insurance business in Ghana unless he has and maintains at all times while carrying on such business, a paid-up share capital and deposited securities of the following amounts:

- (a) in the case of life insurance business, a paid-up capital of not less than twenty million cedis of which a minimum of two million cedis shall be deposited as security deposit with the Bank of Ghana in Government securities;

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Withdrawal
from security
deposit

- (b) in the case of non-life insurance business a paid-up capital of not less than forty million cedis of which a minimum of four million cedis shall be deposited as security deposit with the Bank of Ghana in Government securities;
- (c) in the case of composite insurance business, that is a combination of life and non-life insurance business, a paid-up capital of sixty million cedis out of which a minimum of six million cedis shall be deposited as security deposit with the Bank of Ghana in Government securities.
- (d) In the case of a re-insurance business, a paid-up capital of six hundred million cedis of which a minimum of sixty million cedis shall be deposited as security deposit with the Bank of Ghana in Government securities,

And satisfies such other requirements as the Secretary may prescribe.

(2) Every insurer shall keep deposited with the Bank of Ghana the security deposits at all times during which such person carries on insurance business in Ghana.

Mutual
Insurance
Companies

(3) The Secretary may on the recommendation of the Commission by legislative instrument increase the minimum paid-up capital or the security deposit requirements under such terms and conditions as he may determine.

19. (1) Where an insurer suffers a substantial loss, arising from liability to claimants and the loss is such that it cannot reasonably be met from its available resources, the Commission may, after ascertaining the nature of the claim, and upon application made to it by the insurer, approve the withdrawal from the security deposit of the insurer an amount of not more than ten percent of the security deposit, and any amount so withdrawn shall be replaced by the insurer not later than ninety days after the date of such withdrawal.

(2) The security deposit shall be regarded as assets held by the insurer, but except as provided in subsection (1) of this section it shall be available to the insurer only in the event of the closure or winding up of the insurance business for the discharge of any liabilities arising out of policies transacted by the insurer and remaining undischarged at the time of the closure or winding up of the insurance business.

20. (1) Sections 18 and 19 of this Law shall not apply to mutual insurance companies.

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(2) The capital requirement of mutual insurance company shall be the assets of the company plus a surplus of not less than 15 per cent of its assets over its liabilities or such other percentage as may be determined by the Commission.

(3) A mutual insurance company shall not carry on life insurance business together with any other insurance business except personal accident or health insurance.

Margin of
solvency

21. (1) The solvency margin of an insurer shall be as follows:
- (a) in the case of an insurer carrying on life insurance business the liabilities of the insurer shall not exceed the amount of the life insurance fund of the insurer;
 - (b) in the case of any other class of insurance business, the assets of the insurer shall exceed its liabilities by a minimum of one tenth of the premium income.
- (2) The Secretary may on the advise of the Commission prescribe the standard of solvency margin for insurers as he deems fit.
- (3) The Secretary shall on the advice of the Commission by regulations prescribe the method for calculating the assets and liabilities of an insurer for the purposes of this section.

Life insurance
fund and its
control

22. (1) Where an insurer carries on life insurance business together with any other class of insurance business, the insurer shall keep a separate account of all receipts in respect of the life insurance business.
- (2) The receipts referred to in subsection (1) of this section shall form a separate life insurance fund with an appropriate name.
- (3) The investments of the life insurance fund shall be kept separate from the investment of any other fund of the insurer.
- (4) The life insurance fund—
- (a) shall be absolutely the security of the policy-holders and shall be held by the insurer as though it were an insurer carrying on no business other than life insurance business;
 - (b) shall not be applied for any liability arising out of any contract of the insurer for which it would not be applicable if the business of the insurer were only life insurance business; and
 - (c) shall not be applied directly or indirectly for any purpose other than that of life insurance business referred to in subsection (1) of this section.

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Reserves

23. (1) An insurer shall establish and maintain in respect of each class of insurance business, the following reserves:
- (a) reserves for unexpired risks;
 - (b) reserves for outstanding claims, and
 - (c) contingency reserves to cover fluctuations in securities and variations in statistical estimates.
- (2) An insurer shall maintain with respect to non-life insurance business, the following reserves---
- (a) in the case of non-life insurance business other than marine insurance business, the reserves for unexpired risks amounting to not less than forty-five per cent of the total net premiums;
 - (b) in the case of marine insurance business the reserves for unexpired risks amounting to not less than seventy-five per cent of the net premiums;
 - (c) in the case of reserves for outstanding claims, the reserves shall be equal to the total estimated amount of all outstanding claims together with a further amount representing twenty per cent of the estimated amount of outstanding claims in respect of claims incurred but not reported at the end of the last preceding year; and
 - (d) in the case of contingency reserves, reserves which shall not be less than three per cent of the total premiums or twenty per cent of the net profits whichever is the greater, and such amount shall accumulate until it reaches the minimum paid-up capital or fifty per cent of the net premiums whichever is the greater.
- (3) An insurer shall maintain with respect to life insurance business the following reserves---
- (a) a general reserves fund which shall be credited with an amount equal to the net liabilities on policies in force at the time of the actuarial valuation; and
 - (b) contingency reserves which shall be credited with an amount equal to one per cent of the premiums.

Dividend of an insurer

24. (1) No insurer shall declare or distribute any dividend except from profits approved by its governing body as profits on hand after retaining unimpaired:
- (a) the entire paid-up capital stock;
 - (b) the statutory margin of solvency, the statutory reserve fund or technical reserve as the case may be; and

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- (c) a sum sufficient to pay all net losses reported or in the course of settlement, and all liabilities for expenses of management, rates and taxes.
- (2) Any dividend declared or distributed under subsection (1) of this section shall be reported to the Commission within thirty days after such declaration or distribution.
- Credit which no insurer may allow
25. An insurer shall not allow credit on the premium payable on an annual policy for a period exceeding three months.
- Investments
26. (1) An insurer shall at all times in respect of the insurance business transacted by it in Ghana invest and hold invested in Ghana assets equivalent to not less than the amount of the funds in such insurance business as shown in the balance sheet.
- (2) Subject to any other provision of this Law, the investment of insurance funds referred to under subsection (1) of this section shall be made up as follows---
- (a) in respect of life insurance fund---
- (i) fifty per cent in Government securities; and
- (ii) fifty per cent in such investments as shall be approved by the Commission;
- (b) in respect of non-life insurance fund---
- (i) twenty-five per cent in Government securities; and
- (ii) seventy-five per cent in such other investments as the Commission may approve.
- (3) The Secretary may by legislative instrument vary the proportion of the percentage of the insurance fund to be so invested under this section.
- Prior approval for increase of premium rates
27. (1) An insurer shall not, except with the prior approval in writing of the Commission, make increase in the rates of premium for the time being charged by it.
- (2) The Commission may by written directives adjust the rates of premium when it is deemed necessary.

PART III--- APPLICATION FOR REGISTRATION OF INSURERS, APPEALS, SUSPENSION AND CANCELLATION OF REGISTRATION

- Application for and registration of insurers
28. (1) Every application for registration as an insurer shall be made to the Commission in the prescribed form and shall be accompanied by such documents as the Commission may direct or as may be prescribed.

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- (2) The Commission may grant an application for registration as an insurer where it is satisfied that---
- (a) the class of insurance business in respect of which the application is made will be conducted in accordance with sound insurance principles;
 - (b) the relevant capital and all other requirements for insurers specified under this Law have been complied with by the applicant;
 - (c) the margin of solvency of the insurer is adequate having regard to any regulations made in relation thereto under section 72 of this Law;
 - (d) there are at least two professionally qualified principal officers in insurance business with not less than ten years experience in the business of insurance in the managerial position of the company; and
 - (e) the management and administration of the applicant assure the safety and protection of the interest of policyholders and the public.
- (3) Where an application for registration as an insurer is granted, the Commission shall issue to the applicant a certificate of registration and publish in the Gazette a notice of the registration

Notice of refusal to grant applications

29. Where the Commission refuses to grant an application for registration under section 28 it shall notify the applicant in writing of its refusal to grant the application.

Appeal to the High Court

30. (1) Any person aggrieved by the refusal of the Commission to grant an application for registration as an insurer may, within sixty days after the date of the notice of refusal, appeal to the High Court.
- (2) If the appeal is allowed, the Commission shall register the applicant as an insurer.
- (3) Notice of the registration or of the dismissal of the appeal, as the case may be, shall be published in the Gazette.

Restriction of the use of words "insurance" and "assurance"

31. No person other than a person registered under this Law shall, after the expiration of three months from the commencement of this Law, use the words "insurance" or "assurance" or any combination or derivative thereof as part of the business name, style or title of that person.

Suspension or cancellation of registration

32. (1) The Commission may suspend or cancel the registration of an insurer where it is satisfied that---
- (a) the insurer lacks the prescribed calibre of personnel or facilities; or

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- (b) the class of insurance business of the insurer is not being conducted in accordance with sound insurance principles and ethics or practices; or
- (c) the relevant capital requirements specified in Part II or in regulations made under this Law have not been complied with by the insurer; or
- (d) the insurer has ceased to carry on insurance business in Ghana for at least twelve months without the written permission of the Commission; or
- (e) the insurer has requested in writing for the suspension or cancellation of his registration; or
- (f) a judgment arising out of any insurance liability obtained in any court in Ghana against the insurer remains unsatisfied without good reason for thirty days after the date of the judgment; or
- (g) the insurer has made a statement to the Commission material to his registration which he knows or ought to have known to be false; or
- (h) the insurer has ceased to qualify as an insurer under this law.

(2) The Commission shall before the suspension or cancellation of any registration, give notice to the insurer in such manner as it shall determine and shall in such notice require the insurer to remedy any breach, and where such breach cannot be remedied, to show cause to the satisfaction of the Commission why the registration should not be suspended or cancelled.

(3) The Commission shall give notice in writing to an insurer where his registration is suspended or cancelled.

(4) An insurer may within sixty days of the suspension or cancellation of his registration appeal to the High Court against such action.

Prohibition of
business on
cancellation of
registration

33. Except for the purposes of winding up its business, no insurer shall carry on insurance business in Ghana after the expiration of three months from the date of the cancellation of its registration and where there is an appeal to the High Court under subsection (4) of section 32 and the appeal is dismissed, after the expiration of three months from such dismissal.

PART IV—PROVISIONS COVERING THE CARRYING ON OF INSURANCE BUSINESS BY INSURERS

Head office and
opening and closing
of branches

34. (1) An insurer shall maintain a head office in Ghana and shall notify the Commission in writing of the location and address of the head office.

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(2) No insurer shall undertake any new class of insurance business, open a new branch or agency or close down or change the location of any branch or agency of its business without the prior approval in writing of the Commission.

Standards of principal officers of insurers.

35. (1) An insurer shall have at all times high calibre directors, principal officers and expert technical and professional staff and shall maintain such insurance business standards as may from time to time be prescribed or as may be directed by the Commission.

(2) Without prejudice to subsection (1) of this section no person shall qualify to be a director, manager, secretary or other officer concerned in the management of an insurance company if--

- (a) he is certified by a medical practitioner to be a person suffering from mental disorder; or
- (b) he is adjudged or otherwise declared bankrupt by a court; or
- (c) compounds with his creditors; or
- (d) he is convicted by a court or tribunal of any offence involving fraud or dishonesty.

(3) Except with the express authority of the Commission, no person who has been concerned in the management of an insurance company (whether or not as a director) which has been wound up pursuant to an order of a court, shall be directly concerned in the management of any other insurance company.

Notification of certain changes and particulars.

36. An insurer shall, within two months after the end of each financial year notify the Commission in writing of any change in the senior executive personnel or technical operation of the insurer which occurred in that financial year and of any particulars relating thereto required to be so notified under this Law.

Furnishing of information to Commission.

37. An insurer shall furnish the Commission with all essential information concerning its capitalization, its reserves, the classes of insurance business it carries on and such other information as the Commission may require.

Records to be kept.

38. An insurer shall keep records of its business transacted in and outside Ghana as may be prescribed.

Accounts, etc. to be furnished to the Commission.

39. An insurer shall, within six months after the end of each financial year prepare and furnish to the Commission in the prescribed form—
(a) a certificate as to the solvency of the insurer, signed in the case of a life insurer, by an actuary;

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- (b) a balance sheet duly audited showing the financial position of the insurance business of the insurer at the close of that year together with a copy of the relevant profit and loss account;
- (c) a statement of life insurance business, other than business in connection with industrial insurance and sinking fund policies, if any, carried on by the insurer in Ghana in that year;
- (d) a certified copy of the revenue account in respect of any non-life insurance business carried on by the insurer in Ghana in that year;
- (e) copies of board and management reports on the affairs of the insurer for the financial year as submitted to the policyholders or shareholders of the insurer duly signed and certified;
- (f) analysis of the investments, deposits and expenses of management separately for life and non-life business; and
- (g) documents and information relating to the relevant accounts and balance sheet as the Commission may request.

Amendment of
accounts, etc.

40. (1) Where in the opinion of the Commission an account or balance sheet furnished by an insurer under section 39 is incorrect or is not prepared as prescribed, the Commission may, by notice in writing call upon the insurer to amend the account or balance sheet, or to furnish a correct account or balance sheet, as the case may be.

(2) Where an insurer fails to comply with a notice referred to in subsection (1) of this section to the satisfaction of the Commission, the Commission may itself either amend the account or balance sheet giving the insurer particulars of the amendment or it may reject the account or balance sheet.

(3) An account or balance sheet amended by an insurer or the Commission under this section shall be treated as if it had been originally submitted in its amended form.

(4) Where the Commission amends an account or balance sheet under this section, the insurer if dissatisfied with such amendment may appeal to the Secretary.

(5) The appeal shall be lodged with the Secretary within thirty days after receipt by the insurer of the amended account or balance sheet.

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- Approved auditor and audit of account of insurers.
41. (1) The accounts of every insurer shall be audited annually by an auditor approved by the Commission.
 (2) The auditor shall not be an employee, manager or director of the insurer.
 (3) The auditor shall satisfy himself that the accounts of the insurer have been properly prepared in accordance with the books and records of the insurer.
 (4) The auditor shall certify whether—
 (a) he has obtained adequate information from the books and records of the insurer;
 (b) the accounts of the insurer accord with the information given him by the insurer for the purposes of the audit; and
 (c) the balance sheet and profit and loss account respectively of the insurer give a true and fair view of the insurer's financial position and profit or loss.
- Financial year of insurers.
42. The financial year of every insurer shall end on the 31st day of December of the year.
- Publication of authorised capital etc. of insurers.
43. An insurer shall not publish or issue a document in which is printed a statement—
 (a) of his authorised capital, unless the statement also sets out the amount of his subscribed capital and of his paid-up capital; or
 (b) of his subscribed capital, unless the statement also sets out the amount of his paid-up capital
- Inspection of balance sheet by policyholders, etc.
44. (1) A policy-holder may inspect a copy of the balance sheet of the insurer at any time during normal business hours at the principal office of the insurer.
 (2) No fee shall be paid to the insurer for an inspection of the balance sheet of the insurer under this section.
 (3) Upon a request by a policyholder for a copy of the balance sheet, and on payment by him to the insurer of the prescribed fee, the insurer shall supply a copy of the balance sheet to the policyholder.
- No payment of commission to unregistered intermediaries.
45. No insurer shall pay any commission to any insurance intermediary not registered under this Law
- Investigation by the Commission
46. (1) Where an insurer fails to comply with any of the provisions of this Law or of the regulations made thereunder, the Commission may carry out investigation into the affairs of that insurer.

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- (2) For the purposes of an investigation under this section the Commission may require any person—
- (a) to attend at such time and place as may be indicated by the Commission to give evidence or produce any document in his possession or control which relates to any matter indicated by the Commission or;
 - (b) to give to the Commission any information or document that it may require for the purposes of any investigation before it.
- (3) Any person who appears before the Commission under subsection (2) of this section may be examined on oath or affirmation, and the Commission may for that purpose administer the oath or affirmation.
- (4) Any person who---
- (a) refuses or wilfully neglects to attend in obedience to a requirement by the Commission under paragraph (a) of subsection (2) of this section to give evidence as required thereunder; or
 - (b) wilfully alters, suppresses, conceals, destroys or refuses to produce any document which he is required to produce under paragraph (a) of subsection (2) of this section; or
 - (c) refuses or wilfully neglects to furnish any information required of him under paragraph (b) of subsection (2) of this section,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₦100,000.00 or to imprisonment for a term not exceeding six months or to both.

47. (1) Notwithstanding anything to the contrary in this Law, where an insurer carrying on life insurance business exclusively or with any other insurance business intends to transfer his entire insurance business or his life insurance business to another insurer, the insurer by whom the transfer is to be effected, hereafter referred to as the “transferor” shall apply to the Commission for approval of the transfer, and the Commission may after hearing the transferor, the insurer to whom the business is to be transferred, the policyholders and any other interested person whom the Commission deems fit, approve such transfer subject to such conditions if any as it may specify.

(2) Before any application is made to the Commission under subsection (1) of this section—

- (a) notice of the intention of the transferor to make the application shall be published in the *Gazette*; and

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(b) a statement of the nature of the proposed transfer, together with an abstract containing the material facts relating to such transfer, and such other matters as may be prescribed, shall be transmitted to each policyholder of the transferor at the same time as the notice referred to in paragraph (a) of this subsection is published in the *Gazette*.

(3) A policyholder may instead of continuing as a policyholder of the insurer to whom the insurance business was transferred, elect in writing—

- (a) to surrender his policy and accept the surrender value of the policy, whereupon the amount representing such surrender value shall be paid to him forthwith; or
- (b) to accept a paid-up policy, whereupon the actual value shall be deposited in trust with the Bank of Ghana or any person authorised in that behalf by the Bank of Ghana to be made available to the policyholder on fulfilment of the contract.

48. Where---

Winding up of insurers.

- (a) the Commission is satisfied that a person is carrying on insurance business without being registered under this Law; or
- (b) the margin of solvency of an insurer is less than that specified under this Law; or
- (c) in the absence of an appeal or dismissal of an appeal under subsection (4) of section 32 the suspension or cancellation of a registration takes effect,

the Commission may petition the High Court for a winding up of the business of such insurer and the Court shall observe such procedure, give such directions and make such order as it may deem fit.

**PART V—REGISTRATION OF INSURANCE BROKERS,
ADJUSTERS, CHIEF AGENTS AND AGENTS**

Registration of insurance brokers, adjusters, chief agents and agents.

49. (1) Subject to the provisions of subsection (2) of this section, no person shall act in Ghana as an insurance broker, insurance adjuster, insurance chief agent or insurance agent (hereafter referred to in this Law as an “insurance intermediary”) unless he is registered as such insurance intermediary under this Law.

(2) Nothing in subsection (1) of this section shall apply to a person who has acted in Ghana as an insurance intermediary on or after the commencement of this Law if---

- (a) immediately before such commencement he was acting in Ghana as such insurance intermediary; and

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(b) within three months after such commencement, he applies for registration under section 50 and he is so registered within that period.

Application for registration as insurance intermediary.

50. (1) An application for registration as an insurance intermediary may be made to the Commission by any person who has the prescribed qualifications.
- (2) Every application shall be in such form, contain such particulars and shall be made in such manner as may be prescribed.
- (3) The Commission may grant or refuse to grant any such application.
- (4) The Commission shall refuse to grant the application of any person who has—
- (a) in terms of any enactment in force—
 - (i) been adjudged insolvent or bankrupt and has not been discharged; or
 - (ii) made an assessment to or an arrangement or composition with creditors which has been rescinded or set aside; or
 - (b) been convicted by a court or tribunal of an offence involving fraud or dishonesty, an appeal against the conviction not having been brought or having been brought was withdrawn or dismissed.

Terms and conditions of operation of registered agent, chief agent.

51. An insurance chief agent or agent shall act only as an insurance chief agent or agent for an insurer named in his certificate of registration and shall operate under the terms and conditions of that insurer as approved by the Commission.

Insurance agents to be agents of insurers.

52. (1) Notwithstanding anything to the contrary contained in any contract of insurance where an insurance chief agent or agent completes an insurance proposal form or such similar document on behalf of any person, he shall be deemed to be the agent of the insurer and not the agent of the person on whose behalf he completes the proposal form.
- (2) Any knowledge acquired by an insurance chief agent or agent in the course of completing an insurance proposal form or such similar document under subsection (1) of this section shall be deemed to be knowledge acquired by the insurer.
- (3) Nothing contained in any contract of insurance shall absolve the insurer from liability in respect of any knowledge obtained by the insurance agent or chief agent under subsection (2) of this section.

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Qualification and special provisions relating to insurance brokers and adjusters.

53. (1) No person shall qualify for registration as an insurance broker, or an insurance adjuster unless it is a company or a partnership.
- (2) No insurance broker or adjuster shall carry on the business of insurance broking or insurance adjusting in Ghana unless the broker or adjuster has and maintains at all times while carrying on that business a paid-up share capital of not less than five million cedis of which a security deposit of not less than one half of a million shall be deposited with the Bank of Ghana in Government securities.
- (3) The Secretary may on the advice of the Commission by regulations increase the minimum paid-up capital or the security deposit requirement specified in subsection (2) of this section.
- (4) An insurance broker or adjuster shall prepare in the prescribed form and furnish to the Commission within three months after the end of each financial year—
- (a) a report containing the prescribed particulars relating to all insurance transactions undertaken by him during that financial year;
 - (b) a certified true copy of its financial statement and annual report; and
 - (c) any other information that the Commission may request.

Cancellation of registration.

54. (1) The Commission—
- (a) may cancel or suspend the registration of any insurance intermediary on any ground on which it could have refused to grant the application for registration; and
 - (b) shall cancel the registration of any broker or adjuster who fails to satisfy the paid-up capital and security deposit requirements under section 53.

(2) Before cancelling or suspending any registration, the Commission shall give notice in writing to the insurance intermediary concerned setting out the grounds for the proposed cancellation or suspension and shall afford such insurance intermediary an opportunity to be heard by the Commission.

(3) Upon cancellation of registration, the relevant certificate of registration shall be surrendered by the holder to the Commission.

Records to be kept by insurance intermediaries.

55. (1) Every insurance intermediary shall keep records of all insurance transactions undertaken by him.

(2) Records kept by virtue of subsection (1) of this section shall contain particulars as to the names and addresses of the insured persons and the insurers under coverages procured by the

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insurance intermediary, the nature of the coverages, the premiums collected and such other particulars as may be prescribed.

Power of Commission to investigate insurance intermediaries.

56. For the purposes of satisfying itself as to whether or not provisions of this Law are being complied with the Commission may at any time---

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

PART VI—SUPPLEMENTARY AND MISCELLANEOUS PROVISIONS

Duty to disclose material facts.

57. (1) A party to a contract of insurance shall not be under any obligation to disclose any fact about which no question is asked by the insurer or his agent.

(2) Notwithstanding subsection (1) of this section, where a party to a contract of insurance with intent to avoid the rejection of the risk by the insurer or the payment of higher premiums, conceals from, or fails to disclose to the other party to the contract any fact which he knows or believes or has reasons to believe to be material to the contract, the contract may be rescinded by that other party.

Test of materiality.

58. For the purposes of any contract of insurance, a fact shall be deemed to be material if in the circumstances it would be considered material by a reasonable person.

Effect of misstatement.

59. Subject to section 57 of this Law and notwithstanding anything contained in any contract of insurance, no defence to a claim shall be maintainable by reason of any misstatement of fact by the insured, where---

- (a) the insured can prove that the statement was true to the best of his knowledge or belief; or
- (b) the fact misstated is not material to the risk.

Jurisdiction for insurance contracts entered into in Ghana.

60. Unless otherwise provided in the contract of insurance only the courts of Ghana shall be competent to hear actions arising from insurance contracts entered into in Ghana or in respect of persons or entities who, at the date of the contracts, were resident or domiciled in Ghana or who had assets situated therein.

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Insurer to notify
Commission of
judgment obtained.

61. (1) Every insurer shall notify the Commission of any judgment obtained against him and shall provide the Commission with evidence whether such judgement has been satisfied or not.
(2) Every insurer shall notify the Commission of any judgment obtained against any policyholder of that insurer in respect of which judgment the insurer has liability under the policy.

Non destruction of
documents of disabled
claimants.

62. No insurer shall destroy any document relevant to a contract of insurance involving a person under disability from personal injury connected with the contract, unless the extension of the period of limitation provided under subsection (2) of section 16 of the Limitation Decree 1972 (N.R.C.D. 54) has expired.

All imports to be
insured with insurers
registered under this
Law.

63. (1) Except in the case of personal effects every insurance effected in respect of any goods imported into Ghana shall be placed with an insurer registered under this Law.

(2) An insurer or re-insurer shall utilise all available local capacity in any class of insurance business before recourse to any overseas facultative reinsurance.

Government agencies
to insure with State
Insurance Corporation
of Ghana.

64. All insurance effected by the Government, any statutory corporation or a body in which the Government or any statutory corporation owns more than fifty per cent of the proprietary interest and also all insurance effected in respect of any property or interest held by or in trust for the Government, a statutory corporation or any such body shall be placed with the State Insurance Corporation of Ghana without the intervention of any intermediary to whom commission is payable by the Corporation.

Avoidance of conflict
of interests.

65. (1) No person holding five per cent or more of the proprietary interests in any one insurance company shall serve as a management personnel or a principal officer of an insurance intermediary firm registered under this Law.

(2) No person holding five per cent or more of the proprietary interest of any one insurance company shall own more than fifty per cent of the equity share of an insurance brokerage or intermediary firm registered under this Law.

Inspection of
documents in custody
of Commission.

66. Any person may, on payment to the Commission of the prescribed fee, inspect or make copies of or obtain certified copies of any document in the custody of the Commission which has been submitted to the Commission under this Law.

Fees.

67. The Commission may charge such fees as may be prescribed in connection with the registration and renewal of registration of insurers and insurance intermediaries.

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- Exemption
68. The Council may, on the advice of the Commission and in the public interest, by legislative instrument, exempt any insurer or body or person from all or any of the provisions of this Law or regulations made thereunder.
- Inspection of premises.
69. (1) The Board shall have power to inspect the premises of any person engaged in the insurance business and may for that purpose appoint inspectors.
- (2) An inspector appointed under this Law may, at all reasonable times, enter any premises which he reasonably suspects to be used for any purpose to which this Law applies to inspect the premises or generally to carry out any function directed by the Board or the Commissioner or for ensuring that the provisions of this Law are complied with.
- Offences and penalties.
70. Any person who contravenes any of the provisions of this Law or of the regulations made there under, shall be guilty of an offence and shall except where the penalty is specified be liable on summary conviction to a fine not exceeding ₦500,000.00 or to imprisonment for a term not exceeding two years or to both.
- Offences by bodies of persons.
71. (1) Where an offence is committed under this Law or under regulations made thereunder by a body of persons---
- (a) in the case of a body corporate, other than a partnership every director or an officer of the body shall also be deemed to be guilty of the offence; and
- (b) in the case of a partnership every partner or officer of that body shall also be deemed to be guilty of that offence.
- (2) No person shall be deemed to be guilty of an offence by virtue of subsection (1) of this section if he proves that the offence was committed without his knowledge or connivance and that he exercised all due care and diligence to prevent the commission of the offence having regard to all the circumstances.
- Regulations.
72. (1) The Secretary may on the advice of the Board, by legislative instrument, make regulations---
- (a) prescribing the amount of compensation payable by insurers for personal injuries;
- (b) prescribing fees and other charges in respect of registration of insurers and intermediaries;
- (c) prescribing any matter or thing to be prescribed or required by this Law;

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(d) in relation to any other matter or thing authorised or required by this Law to be done by or in accordance with regulations; and

(e) generally, for the purpose of giving effect to this Law.

(2) Regulations made under this section may make different provisions for different classes of insurers and insurance intermediaries.

Interpretation

73. In this law unless the context otherwise requires---

“Commission” means the National Insurance Commission;

“Commissioner” means the Commissioner of Insurance;

“Council” means the Provisional National Defence Council;

“Court” includes Public Tribunal;

“Government” means the Government of Ghana;

“insurer” means a person carrying on insurance business (otherwise than as an insurance agent, insurance broker or insurance chief agent) and includes an association of underwriters;

“insurance adjuster” means a person duly registered under this Law to undertake professional insurance adjusting business for or on behalf of an insurer, an insured or any person;

“insurance agent” means a person appointed and authorised by an insurer to solicit applications for insurance or negotiate for insurance coverages on behalf of the insurer and to perform such other functions as may be assigned to him by the insurer;

“insurance broker” means a person who acts as an independent contractor and for commission or other compensation and not being an agent of the insurer, solicits or negotiates insurance business on behalf of an insured or prospective insured, other than himself;

“insurance business” includes assurance and reinsurance;

“insurance chief agent” means an agent who is authorised by power of attorney by the insurer to accept proposals and to sign and issue all cover notes, policies renewals and receipts in connection therewith, in his own office, on behalf of the said insurer;

“insurance intermediary” means an insurance broker, insurance adjuster, chief agent, or an insurance agent;

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“life insurance business” means the business of assuming the obligations of an insurer under any life policy, industrial insurance policy or sinking fund policy;

“life insurance fund” means the fund into which the receipts of an insurer in respect of his life insurance business are paid;

“life policy” means any policy relating to the business of life insurance;

“mutual insurance company” means an insurance company without share capital which is owned by and operated in the interests of its policyholders or members only and the affairs of which are directed by the Board of Trustees or Directors elected by the members;

“policy” includes writing whereby any contract of insurance is made or agreed to be made;

“Secretary” means the Provisional National Defence Council Secretary responsible for Finance;

“sinking fund policy” means a policy where one party to the contract assumes the obligation to pay, during a specified period of time or after the expiration of an agreed period of time, a sum of money to a particular person in return for the payment or the promise of payment, from time to time of a specified sum of money by the other person to the contract but does not include annuity business or industrial insurance business;

“stock insurance company” means an insurance company with permanent share capital owned and controlled by its shareholders and includes a statutory corporation carrying on insurance business.

Repeal and saving

74. (1) The following enactments are hereby repealed—
- (a) the Insurance Act, 1965 (Act 288);
 - (b) the Insurance Act, 1965 (Amendment) Decree, 1967 (N.L.C.D. 181);
 - (c) sections 8, 9 and 18 of the Insurance (Amendment) Decree, 1972 (N.R.C.D.95);
 - (d) the Insurance (Amendment) Decree, 1975 (N.R.C.D. 313);
- (2) The Gazette Notice under section 9 of the Insurance (Amendment) Decree, 1972 (N.R.C.D. 130) is hereby cancelled.

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- (3) Notwithstanding the repeal of the enactments specified in subsection (1) of this section, any regulations made under the repealed enactments shall, so far as they are consistent with the provisions of this Law continue in force as if they were regulations made under section 72 of this Law.

Made this 19th day of September, 1989

FLT-LT. JERRY JOHN RAWLINGS
Chairman of the Provisional National Defence Council

Date of Gazette notification: 29th December, 1989