

## Legal Alert – April 2011 – Compulsory Insurance Regime

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### Legal News

Effective 21<sup>st</sup> March 2011, copies of the tax clearance certificates of the shareholders of a registered company and of the company itself will be required to be furnished at the Stamp Duties Office when a new company is to be incorporated or where an existing company applies to register an increase in its share capital.

### Legal Alert – April 2011 - Introduction – Compulsory Insurance Policies in Nigeria

The National Insurance Commission (“NAICOM”), in pursuance of the provisions of the Nigerian Insurance Act 2003, and in a renewed attempt to reinvigorate insurance use, practice and regulations, recently fixed the end of March 2011 as the cut-off date from when all compulsory insurance policies, under various Nigerian statutes, will be fully enforced and penalties applied to defaulters.

This Legal Alert provides you with a summary of the various compulsory insurance policies in Nigeria.

### Kinds of Compulsory Insurance Covers

There are six kinds of insurance policies that must be obtained and retained in Nigeria. They are:-

1. Statutory Group Life Insurance as required by Section 9(3) of the Pension Reform Act, 2004.

2. Employee's Compensation (which replaced Workmen Compensation) as required by Section 33 of the Employee's Compensation Act, 2010.
3. Occupier's Liability Insurance as required by Section 65 of the Insurance Act, 2003.
4. Motor Third-Party Insurance as required by Section 68 of the Insurance Act, 2003.
5. Builder's Liability Insurance as required by Section 64 of the Insurance Act.
6. Health Care Professional Indemnity Insurance as required by Section 45 of the National Health Insurance Act, 1999.

Now following is a summary of what each of the above insurance policy entails.

### Statutory Group Life Insurance

In addition to the statutory pension contributions that employers and employees must remit under the Pension Reform Act, Section 9(3) of the Pension Reform Act mandatorily requires all employers to also make group life insurance premium payments towards "... maintain life insurance policy in favour of the employee for a minimum of three times the annual total emolument of the employee."

### Employee's Compensation Contribution

The Employee's Compensation Act 2010 abrogated the Workmen's Compensation Act. Under the new 2010 legal regime, every employer is required, within the first two years of the commencement of the Employee's Compensation Act, to make a minimum monthly contribution of 1% of the employer's total employees' monthly payroll to the Employee's Compensation Fund. The Employee's Compensation Fund is created to pay adequate compensation to employees or their dependents for any injury, disease or disability arising out of or in the course of the employee's employment.

### Occupier's Liability Insurance

Section 65 of the Insurance Act requires all public buildings to be insured against various hazards among which hazards are building collapse, fire, earthquake, storm and flood. The Insurance Act 2003 describes “public buildings” to be any tenement house, hostel, a building occupied by a tenant, a lodger or a licensee or any building used for the purposes of educational, medical or recreational services or for the transaction of any business.

#### Motor Third-Party Insurance

Section 68 of the Insurance Act and Section 3 of the Motor Vehicle (Third Party) Insurance Act requires that no person shall use, or cause or permit any other person to use, a motor vehicle unless such a motor vehicle is insured against damage to the property of third parties.

#### Builder’s Liability Insurance

All Builder’s of real property that have more than two floors must compulsorily register and insure such a building against all construction risks resulting from the Builder’s negligence or the negligence of the Builder’s servants, agents or consultants which negligence may result in bodily injury or loss of life or damage to the property.

#### Health Care Professional Indemnity Insurance

All Health Care Providers in Nigeria must compulsorily obtain and retain a Professional Indemnity Insurance cover from an Assurance Company approved by the National Health Insurance Scheme (“NHIS”) Council.

#### Tax Benefit of Insurance

All insurance expenses are tax deductible in the computation of the tax payable by the employer and the employee under the various tax legislations in Nigeria.

#### Conclusion

Insurance administration and regulation in Nigeria has remained at a very appalling low ebb due to the general

practice of insurance companies in only collecting insurance premiums but not settling legitimate insurance claims that may arise afterwards. The Regulator of all insurance businesses in Nigeria has equally failed to apply the statutory provisions on compulsory insurance compliance, as contained in the various statute books in Nigeria, to businesses and individuals in Nigeria.

Entrepreneurs will however now need to be on the alert by proactively assessing their businesses vis-a-viz what insurable risks they will need to obtain insurance covers against in order for these risks not to adversely affect their businesses or in some cases, out-rightly liquidate the business(es) should the insurable event occur.

In addition, there are very punitive penalties where an entrepreneur or business or individual fails to comply with the above-mentioned compulsory insurance provisions. The statutory penalties outstrip whatever short-term savings that the entrepreneur or business owner might think he or she is obtaining by non-compliance with these compulsory insurance regulations. You will therefore do well to assess your business insurance requirements and immediately contact your chosen licensed insurance company or agent to obtain the required insurance covers.

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