



**PETROLEUM COMMISSION, GHANA
&
NATIONAL INSURANCE COMMISSION**

PROTOCOL:

**OIL AND GAS
INSURANCE
PLACEMENT
FOR THE
UPSTREAM SECTOR**



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PART ONE

1. INTRODUCTION

Ghana has huge potential to grow and transform its economy through industrialization, jobs creation and ensuring equitable distribution of wealth. The fundamental goal of the Local Content Regulations 2013 is to maximize the use of locally produced materials, personnel, financing, goods and services rendered in the petroleum industry value chain and which can be measured in monetary terms. The direction of every policy on the petroleum sub-sector is therefore intended to guide the development and management of the emerging oil and gas sector as a catalyst for economic transformation.

One major goal of government is to sustain and optimise the exploitation and utilisation of Ghana's oil and gas endowment for the overall benefit and welfare of all Ghanaians, present and future. A major challenge in meeting this policy goal is how to develop the oil and gas industry with optimal local content and participation, enhance national development and create jobs.

However, despite huge investments in projects and operations in the oil industry, there has been very little participation of indigenous Ghanaian companies, especially in the insurance sector. Further, the fragmentation of the Ghanaian insurance market renders them uncompetitive and ineffective in underwriting offshore insurance. This has resulted in the practice where international insurance companies have taken the lead role in insurance placement in Ghana at the expense of the Ghanaian insurance market.

To overcome this challenge of low participation by Ghanaian insurance companies, members of the Ghana Insurers Association underwriting non-life insurance business formed a consortium - Ghana Oil and Gas Insurance Pool (GOGIP) to pull their resources together to underwrite oil and gas risks. In this regards, petroleum industry stakeholders will have regular consultations with GOGIP over the placement of insurance for the upstream oil and gas sector.

This move is a major breakthrough for the industry as it offers avenues for spreading the risk involved in oil and gas insurance and also presents an opportunity for training and developing capacity in the Ghanaian insurance market. With the enactment of the Local Content Regulations 2013, and the formation of the consortium, all insurance shall be placed locally through GOGIP. Any person who seeks to obtain insurance offshore service relating to a petroleum activity must obtain written approval of the NIC, which shall ensure that Ghanaian local capacity has been fully exhausted.

The Petroleum Commission (PC) and National Insurance Commission (NIC) supported by industry stakeholders have developed this protocol for placing oil and gas insurance in Ghana in line with the Petroleum (Local Content and Local Participation) Regulations 2013, (L.I. 2204) and the Insurance Act 2006, (Act 724). The protocol will open a window of opportunities for the underwriting companies and brokers to actively participate and play a lead role in the oil and gas business in Ghana.



2. THE GHANA INSURANCE MARKET – REGULATION AND SUPERVISION

2.1 The National Insurance Commission

The National Insurance Commission (NIC) was established under Insurance Law 1989 (PNDC Law 227), as amended by Insurance Act, 2006 (Act 724). The object of the Commission is to ensure effective administration, supervision, regulation and control the business of Insurance in Ghana. NIC also makes recommendation to the sector Minister for policy formulation, supervision of practitioners, enforcement of compliance and public education.

2.1.1 Functions of the National Insurance Commission

The functions of the NIC include:

- i. License insurers and insurance intermediaries who transact insurance business in Ghana
- ii. In consultation with relevant bodies approve and set standards for the conduct of insurance business and insurance intermediary business
- iii. Encourage the development of and compliance with the insurance industry's codes of conduct;
- iv. Approve, where appropriate, the rate of insurance premiums and commissions in respect of any class of insurance
- v. Provide a bureau to which complaints may be submitted by members of the public for resolution
- vi. Arbitrate insurance claims referred to the Commission by any party to an insurance contract
- vii. Recommend to the Minister proposals for the formulation of policies for the promotion of a sound and efficient insurance market in the country
- viii. Supervise and approve transactions between insurers and their reinsurers
- ix. Undertake sustained and methodical public education on insurance
- x. Take action against any person carrying on insurance business or the business of insurance intermediaries without a licence
- xi. Maintain contact and develop relations with foreign insurance regulators and international associations of insurance supervisors and maintain a general review

of internationally accepted standards for the supervision of insurers and insurance intermediaries

xii. Supervise, regulate and control compliance with the provisions of the Insurance Act and Regulations made under it and any other enactment relating to insurance and

xiii. Perform other functions that are incidental to the carrying out of its functions under the Act.

2.1.2 Trade Associations and Institutes

- African Insurance Organisation (AIO)
- Ghana Oil and Gas Insurance Pool (GOGIP)
- Ghana Insurance Brokers Association (GIBA)
- Ghana Insurers Association (GIA)
- Insurance Institute of Ghana (IIG)
- International Association of Insurance Supervisors (IAIS)
- West African Insurance Companies Association (WAICA)
- West African Insurance Institute (WAI)
- Ghana Insurance College

2.1.3 Industry Stakeholders

The insurance industry in Ghana as at 31st December, 2013 has the following market players

- 25 Non-Life Insurers
- 19 Life Insurers
- 2 Reinsurers
- 59 Brokerage Companies
- 5000 Recognised Agents

2.2 Petroleum Commission

The Petroleum Commission was established in July 2011 by an Act of Parliament, Act 821, to regulate and manage the exploitation of petroleum resources and to coordinate the policies in relation to them. The Commission is also mandated to promote planned, well executed, sustainable and cost efficient petroleum activities to achieve optimal level of resource exploitation for the overall benefit and welfare of citizens.



2.2.1 Functions of Petroleum Commission

- (a) Promote planned, well executed, sustainable and cost efficient petroleum activities to achieve optimal levels of resource exploitation for the overall benefit and welfare of citizens;
- (b) Recommend to the Minister national policies related to petroleum activities;
- (c) Monitor and ensure compliance with national policies, laws; regulations and agreements related to petroleum activities;
- (d) Ensure;
 - i. compliance with health, safety and environmental standards in petroleum activities in accordance with applicable laws, regulations and agreements;
 - ii. optimum exploitation of petroleum resources;
 - iii. optimal utilization of existing and planned petroleum infrastructure;
 - iv. that contractors, subcontractors and other persons involved in petroleum activities comply with applicable laws and regulations; and
 - v. compliance with fiscal metering requirements In petroleum production activities in accordance with applicable laws and regulations;
- e) Monitor petroleum activities and carry out the necessary inspection and audit related to the activities;
- (f) Promote local content and local participation in petroleum activities as prescribed in the Petroleum Exploration and Production Act 1984 (P.N.D.C.L 84) and other applicable laws and regulations to strengthen national development;
- (g) Receive and store petroleum data, manage a national petroleum repository and at the request of the Minister, undertake reconnaissance exploration including data acquisition;
- h) Receive applications and issue permits for specific petroleum activities as required under petroleum laws and regulations;
- (i) Assess and approve appraisal programmes;
- (j) Advise the Minister on matters related to petroleum activities including
 - i. field development plans;
 - ii. plans for the development of petroleum transportation, processing and treatment facilities; and



- iii. decommissioning plans for petroleum fields and petroleum infrastructure;
- (k) Issue annually a public report on petroleum resources and activities in Ghana in accordance with the Schedule to this Act and publish the report in the *Gazette*;
- (l) Receive information from contractors as provided for under applicable laws and regulations;
- (m) Analyze petroleum economic information and submit economic forecasts on petroleum to the Minister; and
- (n) Perform any other function related to the object of the Commission or assigned to it under any enactment.

2.2.2 Stakeholders of PC

Petroleum Commission considers its stakeholders as those who will be affected and be impacted by its activities. The Commission has adopted an integrated approach in managing its stakeholders' interest and is also soliciting the support and cooperation of other governmental agencies under Section 21(1) of the Petroleum Commission Act, 2011 (Act 821) in the exercise of its mandate.

The following are the stakeholders of Petroleum Commission

- IOCs, Contractors and Subcontractors
- MDAs
- Local SMEs
- Financial Institutions
- Civil Society Organizations
- International Development Partners
- Local Communities, etc

PART TWO

3. THE LEGAL JUSTIFICATION FOR THE PROTOCOL

The Insurance Industry is governed by Insurance Act, 2006 (Act 724). This Act complies significantly with the International Association of Insurance Supervisors (IAIS) Core Principles and gives better regulatory powers to the National Insurance Commission.

The Act among other things prohibits composite insurance companies. All composite insurance companies therefore have to separate their life and non-life operations into different companies by December 2007.

Insurance placement for the upstream oil and gas sector is governed by the Insurance Act 2006, (Act 724) and the Petroleum Local Content and Local Participation Regulations 2013, (L.I.2204). In Ghana, insurers are regulated and supervised by the National Insurance Commission (NIC). However, the Petroleum Commission, which has the mandate to ensure companies comply with the Local Content Regulations, (L.I.2204) shall collaborate with NIC to ensure compliance with respect to insurance placement in the upstream sector.

3.1 The Insurance Act 2006, Act 724 on Petroleum and Offshore Insurance

3.1.1 Restriction on Contract with Offshore Insurer

Section 37

(1) Unless authorised by the Commission a person shall not enter into a contract of insurance with an offshore insurer in respect of:

- (a) property situate in the country
- (b) liabilities arising in the country, or
- (c) goods other than personal effects, being imported into the country

(2) A person who contravenes subsection (1) commits an offence.

3.1.2 Authorisation to enter into Contract of Insurance with Offshore Insurer

Section 38

- (1) A person may apply to the Commission, or through an insurance intermediary, for authorization to enter into a contract of insurance of a type specified in section 37(1) with an offshore insurer.
- (2) The Commission may authorise the applicant to enter into a contract of insurance with an offshore insurer in respect of that risk subject to such conditions, as the Commission considers appropriate.
- (3) In determining whether to grant an authorisation under subsection (2), the Commission shall have regard to the local capacity available to insure the risk in respect of which the application is made.
- (4) Where the Commission issues an authorisation under subsection (2), the offshore insurer is considered not to be in breach of section 36.
- (5) A person who is issued an authorisation under subsection (2) shall pay a premium to be determined by the Commission.

3.1.3 Approval of Reinsurance Arrangements by NIC

Section 53

- (1) An insurer shall have arrangements approved by the Commission in accordance with the Regulations for the reinsurance of liabilities in respect of risks insured by the insurer in the course of its business as an insurer.
- (2) An insurer or re-insurer shall utilise the local capacity available in insurance business originating from the local market before recourse to any overseas re-insurance.
- (3) The Commission may, by written notice, exempt reinsurance contracts of a type specified in the notice from the requirements for approval under subsection (1).

(4) An insurer that contravenes subsection (1) is liable to pay to the Commission the pecuniary penalty stated in the First Schedule.

3.1.4 Reinsurance Statements and Documents to be filed

Section 54

(1) The Commission shall examine the (a) retention policy of insurance companies, (b) securities of reinsurers, and (c) appropriateness of reinsurance contracts.

(2) For purposes of subsection (1), an insurer shall, on or before a date each year determined by the Commission for that insurer, file with the Commission a statement setting out the details as to its reinsurance arrangements as may be prescribed. ,

(3) The statement filed under subsection (2) shall be accompanied with copies of every reinsurance agreement referred to in the statement.

(4) A person who contravenes this section is liable to pay to the Commission the pecuniary penalty stated in the First Schedule.

3.2 Petroleum (Local Content and Local Participation) Regulations 2013, (L.I.2204)

3.2.1 Insurance and Reinsurance

27. (1) A contractor, subcontractor, licensee or other allied entity engaged in a petroleum activity in the country shall comply with the provisions of the Insurance Act, 2006 (Act 724).

(2) The insurable risks relating to petroleum activity in the country shall be insured through an indigenous brokerage firm or where applicable, a reinsurance broker.

3.2.2 Approval of Offshore Insurance

28. (1) A person who seeks to obtain an insurance offshore service relating to a petroleum activity in the country shall obtain written approval of the National Insurance Commission.

(2) In granting an approval for procuring insurance services offshore, the National Insurance Commission shall ensure that Ghanaian local capacity has been fully exhausted.



PART THREE

4. PROTOCOL FOR UPSTREAM OIL & GAS INSURANCE PLACEMENT

This Protocol sets out the rationale and principles underlying placement of insurance in the upstream petroleum sector in accordance with the Insurance Act 2007, Act 724 and the Petroleum (Local Content and Local Participation) Regulations 2013, (L.I. 2204). Additionally, it sets out the procedures which must be complied with in placing upstream insurance.

1. All upstream petroleum sector contractors, subcontractors, licensees or other allied entities shall give full consideration to existing Laws and Regulations prior to signing the financing agreements regarding petroleum activities in the country.
2. The National Insurance Commission and Petroleum Commission require all insurance and reinsurance of a contractor, subcontractor, licensee or other allied entity to be in strict compliance with the Insurance Act 2006, (Act 724), the Petroleum (Local Content and Local Participation) Regulations 2013, (L.I. 2204) and all other relevant laws and regulations.
3. All insurable risks of petroleum sector contractors, subcontractors, licensees or other allied entities shall be insured with the Ghana Oil and Gas Insurance Pool as the representative of all the licensed insurance companies in Ghana.
4. No insurance shall be directly placed on the overseas insurance market by any contractor, subcontractor, licensee or other allied entity without the prior written approval of the National Insurance Commission in accordance with section 38 of the Insurance Act 2006, (Act 724) and Regulation 28 (1) of the Petroleum (Local Content and Local Participation) Regulations 2013, (L.I. 2204).
5. A contractor, subcontractor, licensee or other allied entity shall utilize

the services of indigenous insurance brokerage firms in the primary placement of all insurances relating to petroleum activities; ensuring that as many indigenous Ghanaian firms are given maximum opportunity to fully participate in the sector in accordance with Regulations 1, 3 and 27(2) of the Petroleum (Local Content and Local Participation) Regulations, 2013, (L.I. 2204).

6. The excess of all insurance covers over and above the capacity of GOGIP shall be appropriately reinsured overseas after exhausting available local reinsurance capacity in accordance with Section 53(1) of the Insurance Act 2006, (Act 724).
7. The arrangements for the reinsurance of the risks over and above the capacity of GOGIP shall be submitted to the National Insurance Commission for approval in accordance with Section 53(1) of the Insurance Act 2006, (Act 724).
8. GOGIP shall in consultation with the contractor, subcontractor, licensee or other allied entity appoint a reinsurance broker to handle the placement of reinsurance(s) referred to in paragraph 6 above.
9. GOGIP and the appointed reinsurance brokers shall ensure prompt remittance of the overseas reinsurance levy to the National Insurance Commission (NIC).
10. All persons providing services in the upstream oil and gas industry (including insurance services) must register and obtain permit from the Petroleum Commission.

5. ASSETS TO BE INSURED THROUGH GOGIP

GOGIP is required to provide insurance for assets and liabilities in respect of all activities and /or operations directly relating to the exploration, appraisal, production, storage and transport of crude oil and gas in Ghana, in accordance with

the Insurance Act 2006, (Act724). These shall include but not be limited to the following:

- Assets to be used directly in the exploration and production processes.
- Plant, machinery and equipment used in the exploration and production stages.
- Other assets such as Wells and their accessories and oil and/or gas processing and storage, gas pipelines and other allied facilities.
- Remotely Operated Vehicles (ROVs) used in subsea operations.
- FPSO, Production Platforms, and Platform Support and Security Vessels.
- Storage and transport of crude oil and gas.

All other insurable assets/properties and liabilities such as, motor vehicles, office buildings, machinery, equipment, workmen compensation, group life/accident shall be insured locally with individual insurers in accordance with the Insurance Act 2006, (Act724).

6. COMPLIANCE MONITORING

Petroleum Commission and National Insurance Commission shall monitor compliance with this Protocol in accordance with Regulation 44 and 45 of the Petroleum Local Content and Local Participation Regulations 2013, (L.I.2204) and Section 168 of the Insurance Act 2006, (Act 724). The compliance monitoring shall include request for validation of information contained in the quarterly and annual reports, and submission of documentary evidence of insurance services utilized.

7. PENALTY FOR NON-COMPLIANCE

Regulation 46 of the Petroleum (Local Content and Local Participation) Regulations 2013, (L.I.2204) and Sections 168 and 205 of the Insurance Act 2006, (Act 724) set out penalties for non-compliance.


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