

As you may be aware, the Minister for Finance vide Legal Notice No. 105 of 24th September, 2004, has established the Insurance Policyholders' Compensation Fund under the provisions of Section 179 of the Insurance Act, Cap 487.

Already, a Board of Trustees has been appointed by the Minister in accordance with the regulations.

The Board of Trustees as provided for under regulation 9(2) has mandated me to serve notice to all insurers as under:

- The Fund shall receive contributions made by policyholders at the rate of 0.25% of premium payable per policy and a similar amount made by the insurer.
- The contribution shall apply to all policies issued or renewed from 1st January 2005 except superannuation business which is excluded.
- Life assurance policies existing prior to 1st January 2005, are not required to contribute to the Fund and shall not be eligible for compensation unless the policyholder opts to contribute and have his premium adjusted accordingly.
- All insurers are required to collect a levy at the prescribed rate together with premium payments in respect of every policy.
- The insurer shall draw a crossed bankers' cheque in favour of "The Policyholders' Compensation Fund" equivalent to 0.5% of the premiums written and deposits the same in our offices within fifteen (15) days after the end of the month to which it relates.
- An insurer who fails to pay its contribution to the Fund within one month after the end of the month of the contribution period shall pay a penalty in accordance with regulation 9(5).
- A policyholder who has contributed to the Fund shall be eligible to make a claim for compensation from the Fund except those excluded under regulation 11.
- An appropriate Form of Monthly Return is being worked on and shall be sent out to you before end of January 2005.

You are advised to take note of the contents of this circular and to ensure compliance.

As you are aware, the Insurance (Amendment) Act 2003 was given Presidential Assent on 10th December 2003 and the Finance Minister gave it a commencement date of 19th December 2003. In view of the several implications it will have in insurance supervision, I find it necessary to clarify pertinent issues contained therein.

- All insurance brokers will henceforth be remunerated by way of commissions only. Any fees, allowances, returns or otherwise paid to/or charged by a broker is therefore outlawed.
- The Board of Directors of insurance companies must have at least five members. These members must have relevant knowledge and experience and must be approved by the Commissioner.
- Each insurer should employ technically qualified and competent staff including:-
 - A fit and proper principal officer who hold technical or professional qualifications with more than ten years experience in a managerial capacity and approved by the Commissioner.
 - Management staff should also hold technical or professional qualifications in the relevant field with more than five years experience. In this regard, it is important that all technical staff attempt to attain professional qualification from College of Insurance; and any other Institutes approved by the commissioner.

To comply with this part, I would expect all companies to submit to my office a list of Board of Directors for approval as well as a list of their management staff detailing their respective technical, academic and professional qualifications.

- All insurers should prepare and submit quarterly un-audited revenue account, balance sheet, profit and loss account and statement of admitted assets and admitted liabilities. Late submission of these returns attracts a penalty of Kshs.200,000 and an additional Kshs.10,000 for each day they remain unsubmitted.
- The deadline for submission of annual accounts and returns has been brought forward to the end of April from end of June as provided for previously.
- Insurers are now required to publish a copy of the audited balance sheet deposited with the Commissioner in at least two daily newspaper of national circulation within thirty 30 days after such deposit.
- All members of the insurance industry will be subjected to

On-site Inspection. An inspection team from my office will therefore be making visits to conduct detailed on-site inspections.

- Any member of the insurance industry, who transacts insurance business without registration, renewal of registration or authorization or with persons not registered or authorized will be liable to pay a penalty of two hundred thousand shillings.

I note with concern that some insurers have been transacting insurance business with agents who although registered are not authorized to place business with these insurers. Such insurers will be deemed to be in contravention of the Act and will be subjected to a penalty as described above.

- Insurance agents are allowed to solicit or procure insurance business for a maximum of three companies. These insurers must be endorsed on the agents' certificate.
- An insurer who charges a rate of premium other than that filed with the Commissioner under Section 75 shall be liable to a penalty of two hundred thousand shillings.
- Health maintenance organization and other related persons who carry on medical insurance financing have now been brought under the Insurance Act as "Medical Insurance Providers". Details regarding their registration requirements and modalities are being worked upon and shall be communicated in due course.

All insurers should communicate the above changes to their respective agents.

I enclose herein a copy of the Insurance Amendment Act 2003 for your perusal and retention. Do not hesitate to call my office should you require further clarification.