

INSURANCE ACT, NO. 2015

MICROINSURANCE REGULATIONS, 2015

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INSURANCE ACT, NO 2015

MICROINSURANCE REGULATIONS

PART I — PRELIMINARY

1. These Regulations may be cited as the Microinsurance Regulations, 2015. Short title and commencement.

2. (1) In these Regulations— Interpretation.

“Act” means the Insurance Act, No 2015;

“Authority” means Insurance Regulatory Authority.

“bundled microinsurance contract” means a single microinsurance product that covers—

- (a) one or more classes of general business; and
- (b) one or more classes of life business;
- (c) one or more classes of general and life business;

“file and use procedure” has the meaning specified in regulation 7;

“fixed sum insurance contract” has the meaning specified in regulation **4**;

“general micro insurance business” means microinsurance business where the products concerned are general insurance product;

“grace period”, in relation to a microinsurance contract, has the meaning specified in regulation **6**;

“group microinsurance contract” has the meaning specified in regulation **5**;

“Insurance Regulations” means the Insurance Regulations, 2015;

“insured risk” means the uncertain event or events specified in the insurance contract, the occurrence of which triggers the insurer’s liability to make a payment, or provide a benefit under the contract;

“licensed insurer” includes a licensed microinsurer;

“licensed microinsurer” means an insurer holding a microinsurer’s licence;

“life micro insurance business” means microinsurance business where the contracts concerned are life insurance contracts;

“master policyholder”, in relation to a group insurance contract, means the person who is the legal holder of the policy issued in respect of the contract;

“microinsurance agent” means a person who is exempted from the requirement to obtain an insurance agent’s licence to act as an insurance agent in respect of microinsurance contracts, in accordance with regulation **2**;

“microinsurance business” means the business of undertaking liability, as an insurer, under microinsurance contracts;

“microinsurance contract” has the meaning specified in regulation **3**;

“microinsurance criteria” means the criteria specified in, and issued by the Authority under, regulation **1**;

“microinsurer’s licence” means an insurer’s licence that, in accordance with section 17(2) of the Act, restricts the business that may be carried on by the insurer to undertaking liability as an insurer under microinsurance contracts;

“Policy Summary” means the Policy Summary prepared by an insurer in accordance with regulation **1**;

“qualified microinsurance actuary” means a person who is—

- (a) an Associate of the Actuarial Society of Kenya;
- (b) an Associate of a prescribed actuarial association;
- (c) a certified Actuarial Analyst of a prescribed actuarial association;
- (d) is recognised by a prescribed actuarial association as having equivalent status to an Associate; or
- (e) has an equivalent qualification to an Associate, awarded by an actuarial association specified by the Authority;

“waiting period” in relation to a contract of insurance, means a period commencing on the commencement of the contract and terminating on such date as may be specified in the contract, during which the insurer, if an insured event occurs, is not liable to provide the benefits, or certain specified benefits, to the policyholder.

Meaning of
“microinsurance
contract”

3. (1) Subject to subregulation (2), an insurance contract is a microinsurance contract if it is approved by the Authority as a microinsurance contract in accordance with regulation **10**.

(2) If the Authority issues a notice of revocation of approval under regulation **1**, the insurance contract ceases to be a microinsurance contract for the purposes of these Regulations, with effect from the date of the revocation notice.

4. (1) A fixed sum insurance contract is an insurance contract under which an agreed specified fixed sum is payable, or agreed specified fixed benefits must be provided, by the insurer to the policyholder on the occurrence of the insured risk, regardless of the actual loss or damage suffered by the policyholder.

Meaning of
“fixed sum
insurance
contract”

(2) Despite subregulation (1), a fixed sum insurance contract may provide for—

- (a) the payment of a series of specified sums, or the provision of a series of specified benefits, dependant on the period of time over which the insured risk occurs; or
- (b) the payment of the specified fixed sum on an instalment basis.

5. (1) A group microinsurance policy is a microinsurance policy that meets the following conditions—

Meaning of
“group
microinsurance
contract”

- (a) the master policyholder purchases the insurance policy on the policyholder’s behalf and on behalf of other persons who, although not legal holders of the policy, are or will become, beneficiaries under the policy;
- (b) the beneficiaries are members of an identifiable group that exists independently of the insurance contract;
- (c) the group is not brought about by—
 - (i) a licensed insurer;
 - (ii) a person acting as an insurance broker, an insurance agent or any other type of insurance intermediary; and
- (d) the risks insured under the policy are related to the common interests or activities of the beneficiaries.

(2) For the purposes of the definition of “group microinsurance policy”, it is immaterial whether—

- (a) the premium is paid by the master policyholder of the policy or recovered by the master policyholder, or the insurer, from the beneficiaries, whether directly or indirectly; or
- (b) the master policyholder receives a payment or monetary benefit, whether directly or indirectly, arising out of the policy.

6. The “grace period” in relation to a microinsurance contract where the premium is payable, or may be paid, by instalments means a period commencing on the date when the instalment falls due for payment and ending on the date specified in the policy during which, the failure of the

Meaning of
“grace period”

policyholder to pay the instalment due in full does not result in the termination of cover.

Application of
Insurance
Regulations to
microinsurers
and
microinsurance

7. The Insurance Regulations apply to a licensed microinsurer, a licensed insurer when undertaking microinsurance business, microinsurance contracts and microinsurance intermediaries, except to the extent that they are inconsistent with these Regulations.

PART II —MICROINSURANCE CONTRACTS

Approvals process

Restrictions on
the sale of
microinsurance

- 8.** (1) A licensed insurer shall not—
- (a) enter into, sell or market an insurance contract as microinsurance unless the insurance contract is a microinsurance contract within the meaning of these Regulations;
 - (b) enter into, sell or market an insurance contract in respect of which the Authority has issued a directive under subregulation (3);
 - (c) without the written approval of the Authority—
 - (i) enter into, sell or market a microinsurance contract where the terms of the contract are materially different to those approved by the Authority under regulation 9; or
 - (ii) materially change any matter details of which are required to be submitted to the Authority under regulation 9(2)(b) to (f).

(2) Subregulation (1)(c) does not apply to changes in premium, which are governed by regulation 11.

(3) Without limiting subregulation (1)(a), a licensed insurer sells or markets an insurance contract as microinsurance if it—

- (a) uses the word “microinsurance” in the insurance contract or policy or in any marketing or other documentation issued in relation to the contract; or
- (b) makes any representation whether in a document or in any other manner that is likely to suggest that the contract—
 - (i) is a microinsurance contract; or
 - (ii) has been designed for, or is intended to be sold to, low income persons.

(4) The Authority may issue a written directive to an insurer that an insurance contract, other than a microinsurance contract, that is being sold or is proposed to be sold by the insurer is to be regarded as microinsurance if the Authority is of the opinion that—

- (a) the insurance contract has been designed for, or is intended to be sold to, low income persons; or
- (b) policyholders or potential policyholders may reasonably form the opinion that the insurance contract has been designed for, or is intended to be sold to, low income persons.

9. (1) A licensed insurer may apply to the Authority for—

Approval of
microinsurance
contracts

- (a) the approval of an insurance contract as a microinsurance contract; or
- (b) approval to amend the terms .

(2) An application under subregulation (1) shall be accompanied by the following—

- (a) copies of documents relating to the proposed insurance contract the form specified by the Authority;
- (b) written details of the premiums and how the product has been rated;
- (c) written certification of the microinsurance actuary that, in the actuary's opinion-
 - (i) the contract is rated in accordance with accepted actuarial methodologies; and
 - (ii) the insurer has sufficient financial capacity or reinsurance, to support the risk on the basis of the sales projections referred to in paragraph (f);
- (d) the proposed commission rates and fee structures;
- (e) written details of the claim procedures;
- (f) a sales plan specifying how it is proposed that the contract will be sold and distributed, including relevant agreements entered into or proposed to be entered into with agents or other persons who will be involved in the sales process and projected sales over the following 3 years;
- (g) a written statement detailing how the product complies with the criteria specified in regulation 1(3) and the microinsurance criteria; and
- (h) the proposed Policy Summary.

(3) The Authority will not approve an application under this regulation unless it is of the opinion that—

- (a) the insurer has complied with the requirements of these Regulations concerning the development of microinsurance contracts; and
- (b) the insurance contract satisfies—
 - (i) the microinsurance criteria; and
 - (ii) the product design requirements specified in Schedule 1.

(4) If the Authority refuses to grant an approval under this regulation, or imposes conditions on the grant of the approval, the decision notice will contain, or be accompanied by, a statement of the Authority's reasons for the refusal or for the imposition of conditions.

(5) This regulation applies to an application for approval under regulation 8(1)(c) with such modifications as are appropriate.

Revocation of approval

10. (1) The Authority may, by written notice, revoke its approval of an insurance contract as a microinsurance contract—

- (a) on the application of the licensed insurer that is entitled to sell the contract; or
- (b) if it forms the opinion that the contract—
 - (i) no longer satisfies, or never satisfied, the criteria specified in regulation 12(3) or the microinsurance criteria; or
 - (ii) does not comply with the these Regulations or, where appropriate, the Act or the Insurance Regulations; or
- (c) if it forms the opinion that the insurer is not complying with the obligations of the Act, the Insurance Regulations or these Regulations in relation to the sale of the contract.

(2) Before revoking the approval of a microinsurance contract under sub-regulation (1)(b), the Authority will give the licensed insurer concerned written notice of its intention to revoke the approval, stating—

- (a) the grounds upon which it intends to revoke the approval; and
- (b) that unless the insurer objects in writing, to the revocation of approval of a microinsurance contract, the approval will be revoked on a date not less than 14 days after the date of the notice.

(3) The Authority shall consider any objections it receives before deciding whether or not to revoke the approval.

(4) The Authority shall provide the insurer with written reasons for the revocation of approval under this regulation.

(5) If the Authority revokes the approval of a microinsurance contract, the contract shall forthwith cease to be marketed or sold in the market, but this shall not affect the rights of the existing policyholders

11. (1) A licensed insurer shall not change the premium rate applicable to a microinsurance contract unless it seeks an approval from the Authority of its intention to make the change together with written certification by the microinsurance actuary that, in the actuary's opinion, the revised premiums have been determined in accordance with accepted actuarial methodologies.

Change in
premium rates

(2) Any change in premium rates shall not affect any microinsurance contract entered into before the completion of the file and use procedures.

Microinsurance contract and policy document

12. (1) Unless the Authority otherwise consents in writing, a microinsurance contract shall—

Microinsurance
contracts

- (a) be a fixed sum insurance contract;
- (b) provide for a maximum sum assured;
- (c) subject to subregulation (2), limit the period for which the insurer is at risk to a maximum period of 12 months;
- (d) not provide for the premium to increase during the term of the contract;
- (e) provide that cover under the contract does not commence until—
 - (i) the premium has been paid in full; or
 - (ii) where the contract provides for payment of the premium by instalments, the first instalment has been paid in full;
- (f) unless the policy is a micro index insurance contract, provide for a grace period for the payment of instalment premiums in accordance with the Guidance issued by the Authority.

(2) Subregulation (1)(c) does not apply to a micro life insurance contract issued by a licensed insurer or a licensed microinsurer, that is authorised to carry on life insurance business.

(3) A microinsurance contract may—

- (a) provide for the application of one or more waiting periods, in accordance with such Guidance as may be issued by the Authority;

Policy document

13. (1) A licensed insurer shall take all reasonable steps to ensure that the policy document for a micro insurance contract—

- (a) is written in clear and straightforward language with no, or minimal, use of technical and legal language; and
- (b) will be readily understood by any persons to whom it is to be marketed and sold.

(2) A micro insurance policy document shall—

- (a) be written in English or Kiswahili;
- (b) state in clear terms that it is a micro insurance policy;
- (c) contain no, or few, exclusions; and
- (d) shall specify—
 - (i) the name of the insurer and the policyholder ;
 - (ii) the insured risk;
 - (iii) the payment to be made, or the benefits to be provided, on the occurrence of the insured risk;
 - (iv) any exclusions applicable to the contract; and
 - (v) the procedures for making a claim.

Microinsurance
criteria

14. (1) A microinsurance contract must satisfy the following criteria—

- (a) the contract must be developed with the intention of meeting the needs of, and being marketed and sold to—
 - (i) low-income persons generally;
 - (ii) specific types or descriptions of low income persons; or
 - (iii) low income persons in one or more specific geographical areas;
- (b) the premiums to be charged under the contract must be affordable for those low-income persons for whom the contract was designed and developed;
- (c) the insurance contract must be accessible to those low-income persons for whom the contract was designed and developed.

(2) The Authority will issue guidelines on microinsurance criteria, not inconsistent with subregulation (1), that may—

- (a) include quantitative and qualitative criteria, designed to assist the Authority in assessing whether an insurance contract meets the conditions specified in subregulation (1);
- (b) concern the design of microinsurance contracts; and
- (c) specify detailed guidance for complying with the requirements for a microinsurance contract specified in regulation 12.

(3) Without limiting subregulation (2), the microinsurance criteria may include detailed criteria with respect to—

- (a) the characteristics of a microinsurance contract;
- (b) persons who are considered as low income persons;
- (c) whether premiums are affordable; and
- (d) such other matters as the Authority considers appropriate.

(4) Neither these Regulations, nor the microinsurance criteria shall be taken as preventing the purchase of a microinsurance contract by a person who is not a low-income person and the purchase of a microinsurance contract by a person who is not a low-income person shall not affect its status as a microinsurance contract under the Act or these regulations.

15. (1) A licensed insurer shall, taking account of the Guidance issued by the Authority, prepare a Policy Summary complying with this regulation in relation to each of its approved micro insurance policies.

Policy summary

(2) A licensed insurer shall not amend a Policy Summary without the prior written approval of the Authority.

(3) A Policy Summary shall—

- (a) be written in clear, plain and easy to understand language, with no, or minimal, use of technical and legal language;
- (b) be in the same language as the policy document;
- (c) contain a summary of the cover provided by, and the key features of, the micro insurance policy; and
- (d) where any technical or legal language is used, this shall be fully explained.

(4) Without limiting subregulation (3), the Policy Summary shall contain the following information—

- (a) the name of the insurer and the address of its principal office in Kenya;
- (b) a description of the insured risks and any exclusions or limitations that apply;
- (c) the duration of the policy, the period of cover, the grace period and any waiting periods that apply;
- (d) the principal benefits provided under the policy;
- (e) any obligations on a prospective policyholder to disclose material facts before purchasing the policy;
- (f) procedures for the payment of premiums;
- (g) whether, and in what circumstances the policy is renewable and the procedures for renewal;
- (h) the insurer's contact details—
 - (i) for notifying a claim under the policy; and
 - (ii) for any other matter;
- (i) the claims procedures;
- (j) the right to complain and the method of lodging a complaint;
- (k) a statement that the Policy Summary does not contain the full terms of the insurance policy, which are to be found in the policy document; and
- (l) how the policyholder may obtain a copy of the policy document.

(5) The Policy Summary shall not contain any information other than the information provided for in this paragraph.

16. (1) A licensed insurer or, where the policy is sold through an insurance intermediary the intermediary, shall provide any person who purchases or renews a microinsurance policy with the Policy Summary and a copy of the policy document, whether in an electronic form or otherwise, in sufficient time for the person to make an informed decision about whether to enter into, or renew, the micro insurance policy.

Provision of
Policy Summary
and other
information

(2) Where a licensed insurer, or a licensed insurance intermediary provides a person with a Policy Summary it shall also provide that person with the following additional information details of the premium payable, the date when the premium is required to be paid and the consequences for non-payment of the premium.

17. (1) A licensed insurer shall, within 10 working days of the commencement of a microinsurance contract, provide a policyholder with—

Provision of
policy document
and receipt

- (a) the policy document;
- (b) details of the policy number, if not on the policy document; and
- (b) a copy of the Policy Summary.

(2) Subregulation (1)(b) applies despite the fact that the policyholder has been provided with a Policy Summary before purchasing the policy.

(3) A licensed insurer or, where the policy is sold through an insurance intermediary, the intermediary, shall provide a policyholder with a written receipt for premium or part premium paid, immediately on receipt of payment.

(4) A licensed insurer may provide the documents provided in subregulation (1) through the use of electronic technology.

18. (1) Any marketing material published by a licensed insurer in relation to a microinsurance contract shall be— Marketing material

- (a) written in clear, plain and easy to understand language; and
- (b) in the same language as the policy document.

Claims

19. (1) A claim under a microinsurance policy shall be accepted or rejected by a licensed insurer within 7 days of receipt of the claim by the insurer or on its behalf. Claim payments

(2) Where an insurer accepts a claim made under a microinsurance contract, it shall, within 10 days of the receipt of the claim—

- (a) pay the claim; and
- (b) provide the policyholder with written confirmation of payment, setting out how the amount paid has been calculated.

(3) Where an Insurer is unable to complete the claim process due to a reasonable cause, the insurer shall be required to obtain an extension of time of not more than five days from the Authority.

(4) Where an insurer rejects a claim made under a microinsurance contract, it shall, within 10 days of the receipt of the claim, provide the policyholder with a written notice of the rejection of the claim, specifying brief reasons for its rejection of the claim.

(5) A licensed insurer shall—

- (a) provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress; and

- (b) not unreasonably reject a claim, including by terminating or avoiding a microinsurance policy.

PART III — REGULATION OF MICROINSURANCE BUSINESS

Licensed insurers and licensed microinsurers

Microinsurer's
licence

20. (1) Subject to any conditions imposed by the Authority under section 165 of the Act, a microinsurer's licence authorises the holder to carry on both general microinsurance business and life micro insurance business.

(2) Subject to obtaining the approval of the Authority under regulation 9, a licensed microinsurer may issue and sell bundled microinsurance contracts.

(3) For the avoidance of doubt, a licensed insurer other than a licensed microinsurer has no power to, and shall not, issue and sell bundled microinsurance products.

Prudential
requirements

21. (1) The minimum paid up capital requirement of a licensed microinsurer for the purposes of section 33(1)(a) of the Act is Kenya Shillings fifty (50) million.

(2) The capital requirements specified in the Insurance Regulations apply to a licensed microinsurer with the following modifications—

- (a) a licensed microinsurer is not required to hold capital calculated on the basis of its net earned premiums for the preceding financial year;
- (b) the technical provisions held by a licensed insurer in respect of life microinsurance contracts where the period of cover does not exceed 12 months, shall be calculated as if the contracts were general insurance contracts.

(3) For the avoidance of doubt, the requirements of the Insurance Regulations shall apply to the technical provisions held by a licensed insurer, not being a licensed microinsurer, in respect of life microinsurance contracts where the period of cover exceeds 12 months.

Consumer care

22. (1) A licensed insurer shall establish and maintain—

- (a) procedures for dealing with complaints and disputes in relation to its microinsurance business in a fair manner; and
- (b) a unit responsible for dealing with enquiries and complaints made in respect of its microinsurance business by policyholders.

(2) A licensed insurer shall—

- (a) within 5 business days of receiving a (written) complaint, provide an initial response to the complainant; and
- (b) within one month of receiving a (written) complaint, notify the complainant of its final decision on the complaint.

Intermediation of microinsurance contracts

23. (1) An individual may be appointed, and may act, as an insurance agent in relation to microinsurance contracts without obtaining an insurance agent's licence under the Act in accordance with this regulation. Microinsurance agents

(2) A licensed insurer may appoint an individual as its microinsurance agent in accordance with regulation 24 provided that—

- (a) the insurer is satisfied, following enquiry, that the individual is fit and proper to be a microinsurance agent;
- (b) the individual has successfully completed a microinsurance training program approved by the Authority;
- (c) the individual will be monitored and supervised, as a microinsurance agent, by a licensed insurer.

24. (1) A licensed insurer that appoints a person to act as its microinsurance agent shall make the appointment through a written agreement entered into with the agent that complies with this regulation. Appointment requirements

(2) The agreement shall include—

- (a) the terms and conditions of the appointment;
- (b) the scope of the agent's authority, in relation to microinsurance policies that may be distributed, functions that may be performed and actions that may be undertaken, as agent;
- (c) any limitations on the agent's authority;
- (d) the rights, responsibilities and duties of the agent and of the insurer;
- (e) the procedures for the handling and remittance of premiums collected by the agent;
- (f) provision for monitoring the performance of the agency agreement by the agent;
- (g) the basis for the remuneration of the agent; and
- (h) provision for the termination of the agreement by both the insurer and the agent.

(3)_A licensed insurer shall keep a register of all microinsuranceagents that it has appointed which shall—

- (a) contain the full name, business address and contact details of each agent; and
- (b) record—
 - (i) the date upon which the agent was appointed and on which the appointment was terminated; and
 - (ii) the scope of the microinsurance agent’s authority.

Training obligations

25. (1) A licensed insurer, a licensed insurance broker and a licensed agent with employees shall provide appropriate micro insurance training to—

- (a) any of its employees that have responsibilities in relation to the distribution of micro insurance policies; and
- (b) in the case of a licensed insurer, its microinsurance agents.

(2) Micro insurance training shall—

- (a) include appropriate and relevant training on—
 - (i) the provisions of the Act and the Insurance Regulations in relation to micro insurance, and these Regulations;
 - (ii) the duties and responsibilities of the agent or employee in relation to the distribution of microinsurance policies;
 - (iii) the specific micro insurance policies and products that the agent or employee will be authorised to distribute;
 - (iv) the Kenya microinsurance market;
 - (v) changes to the insurer’s policies and products; and
 - (vi) consumer protection and the fair treatment of policyholders and potential policyholders;
- (b) be tailored to the procedures and controls of the insurer and its microinsurance policies and products;
- (c) provide the agent or employee with sufficient technical knowledge to explain the policies and products to policyholders and potential policyholders.

(3) Subject to subregulation (4), training under this regulation shall be provided to agents and employees as soon as practicable after their appointment and on an ongoing basis, at least annually.

(4) A licensed insurer is not required to provide training under this regulation to a microinsurance agent immediately after appointment, provided that the matters specified in subregulation (3) were covered in the approved training program completed by the microinsurance agent.

26. (1) This regulation applies to the commissions and fees payable in relation to the distribution of microinsurance contracts.

Commissions
and fees

(2) A licensed insurer shall not pay commission and fees to an agent or broker that exceed 15% of the premium payable.

(3) The agreement entered into with an insurance agent, including a microinsurance agent, may provide for the repayment of commission to the insurer in the event of early termination of the contract, in accordance with Guidance issued by the Authority.

PART IV — MISCELLANEOUS

27. Section 163 of the Act applies to any application made under these Regulations.

Applications
under these
Regulation