

CHANGES AFFECTING THE INSURANCE INDUSTRY CONTAINED IN THE INSURANCE (AMENDMENT) ACT NO. 11 of 2019

Issue	Budget Change	Implication	Effective Date
PROPOSED CHANGES TO THE INSURANCE ACT, CHAPTER 487 OF THE LAWS OF KENYA AS CONTAINED IN THE INSURANCE (AMENDMENT) ACT No. 11 of 2019			
Definitions	The Insurance Act is amended in Section 2 by defining the terms "Index-based insurance" and "Microinsurance"	These amendments are meant to allow for the issuing of regulations on index-based insurance and microinsurance business.	Effective date: 23rd July 2019
	The Insurance Act is amended in section 2 in the definition of "insurance business" by inserting the following new paragraphs immediately after paragraph (d) – (e) micro-insurance business; (f) social insurance schemes.	This amendment is meant to allow for the regulation of microinsurance business and social insurance business.	
Group-wide Supervision	The Insurance Act is amended by inserting a new section 5A to empower the Commissioner of Insurance to direct any member of the Insurance group to provide any information necessary for effective group wide supervision.	This amendment is meant to enhance group-wide supervision of the insurance groups for the interest of policyholders.	Effective date: 23rd July 2019
Harmonization of the power of the Minister	The Insurance Act is amended in Section 17 subsection (2) by deleting the words "with the approval of the Minister".	This amendment is meant to harmonize the power of the Minister and that of the Commissioner and allows the Commissioner to act directly on investigation reports.	Effective date: 23rd July 2019
	The Insurance Act is amended in Section 31 (1) by deleting the words "and shall notify the Cabinet Secretary accordingly" appearing immediately after the words "insurance as it may direct".	This amendment is meant to harmonize the power of the Minister and that of the Board in respect of registration of insurers.	
	The Insurance Act is amended in Section 34 by deleting the words "Cabinet Secretary" and substituting therefor the word "Board".	This amendment is meant to harmonize the power of the Minister and that of the Board in respect to registration of insurers.	
	The Insurance Act is amended in Section 39 by deleting the word "Cabinet Secretary" wherever it appears and substituting therefor with the word "Authority".	This amendment is meant to harmonize the power of the Minister and that of the Authority in respect to return of deposit for insurers who have ceased to carry out business in Kenya.	
Electronic delivery of policy documents	The Insurance Act is amended in Section 87(2) by inserting the words " or email or other electronic or telecommunication mode" immediately after the words "by post".	This amendment is meant to allow the delivery of policy documents by email or other electronic or telecommunication mode.	Effective date: 23rd July 2019
Removal of requirement of Gazettement of Lost policies	The Insurance Act is amended in Section 106(3) by deleting the words appearing after the word "shillings" and substituting therefor the words "require the policyholder or beneficiary to swear an affidavit regarding the loss of the original policy".	This amendment removes the requirement to publicise lost policies in the Kenya Gazette and at least one newspaper of wide circulation and substitutes that with the requirement for an affidavit.	Effective date: 23rd July 2019
Transfer of Insurance Business	The Insurance Act is amended in section 113 (1) by deleting the words "at least one of whom is" appearing in (a) (b)	This amendment is meant to remove the option of transferring insurance business to an insurer that is not registered under the Act.	Effective date: 23rd July 2019
Advance Payment of premium	The Insurance Act is amended by deleting section 156 and replacing with a new section 156 providing that: (a) No insurer shall assume a risk in Kenya in respect of insurance business unless and until the premium payable thereon is received by the insurer. (b) No insurance intermediary shall receive premium on behalf of the insurer; (c) Any contravention by the intermediary shall attract a penalty of 20% of the outstanding premium;	This amendment is meant to enhance prompt payment of premiums to underwriters while eliminating the perennial problem of outstanding premium.	Effective date: 23rd July 2019

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Advance Payment of premium	(d) Any director, officer of the intermediary who contravenes the provision of this section commits an offence;	This amendment is meant to enhance prompt payment of premiums to underwriters while eliminating the perennial problem of outstanding premium.	Effective date: 23rd July 2019
	(e) An insurer shall pay the intermediary an insurance commission within 30 days of receipt of the premium;		
	(f) Any insurance who fails to pay the intermediary a commission is liable to a penalty of five million shillings.		
Service of Notice by Policyholders	The Insurance Act is amended in Section 199 by inserting the words "or email or other electronic mode "immediately after the word "post".	This amendment is meant to allow for notice required to be sent to a policyholder under the Act to be sent through an email or other electronic mode in addition to the use of post.	Effective date: 23rd July 2019
Settlement of Claims	The Insurance Act is amended in section 203 by inserting a new subsection (1A) to provide as follows: "(1A) Subsection (1) shall not apply to the settlement of index-based insurance or micro-insurance claims."	This amendment is meant to exempt the settlement of claims in respect to index based insurance or microinsurance from the provisions on settlement of claims as set out in in the section 203.	Effective date: 23rd July 2019
Power of the Authority to settle disputes	The Insurance Act is amended by inserting a new section 204A to empower the Commissioner to settle any dispute from any complaint lodged in writing by an insurance customer and where one is not satisfied with the decision of the Commissioner such a person has a right to appeal to the Insurance Appeals Tribunal.	This amendment is meant to empower the Commissioner to settle disputes with finality.	Effective date: 23rd July 2019
Offences of Insurance Fraud	The Insurance Act is amended by inserting a new section 204B to define the offence of insurance fraud and stipulate the punishment for committing such an offence.	This amendment is meant to deal with insurance fraud which is not defined in the penal code.	Effective date: 23rd July 2019
REGULATIONS UNDER THE INSURANCE ACT & INSURANCE (MOTOR VEHICLE THIRD PARTY RISKS) ACT			
L.N. 91 of 2019 The Insurance (policyholders Compensation Funds) (Amendment) Regulations, 2019	The Insurance (Policyholders Compensation Fund) Regulations, 2010 is amended by deleting regulations 11.	This amendment is meant to remove insolvency of the insurer as the condition for the Board of Trustees to provide compensation to the claimants.	Effective date: 17th June 2019
L.N. 92 of 2019 The Insurance (Motor Vehicle Third Party Risks) (Certificate of Insurance) (Amendment) Rules, 2019	Rule 3 of the Insurance (Motor Vehicles Third Party Risks) (Certificate of Insurance) Rules, 1999, is amended in paragraph (1) by inserting the words "and motorcycle and three-wheelers used by fare-paying customers" immediately after the words "self drive vehicles" appearing in paragraph (a).	This amendment is to classify as PSV the motor cycles used by fare paying passengers (boda bodas) and the Three-wheelers (tuk tuk).	Effective date: 17th June 2019
L.N. 93 of 2019 Insurance (Amendment) Regulations, 2019	The Insurance principal regulations is amended by deleting regulation 8 on admitted assets and liabilities.	This is to align the regulations with the use of the term "total assets and liabilities" to replace the concept of "admitted assets and liabilities" as introduced by Insurance "Amendment" Act, No. 50 of 2016	Effective date: 17th June 2019
	The Insurance Principal regulations is amended in Regulations 9 by deleting and substituting a new sub-regulation (2) to introduce definition of the terms "annuity", "deposit administration", "group credit insurance", "permanent health insurance", "personal pension", "unit link and linked investments"	These amendments define the new classes of long-term insurance business as introduced by the L.N 108 of 2016.	
	The Principal regulations is amended in regulations 17 by delating paragraph (a)	This is to align the regulations with the use of the term "total assets and liabilities" to replace the concept of "admitted assets and liabilities" as introduced by Insurance "Amendment" Act, No. 50 of 2016.	