

Legal Notice No.....2018

INSURANCE ACT CAP 487

MICROINSURANCE REGULATIONS, 2018

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INSURANCE ACT CAP 487

MICROINSURANCE REGULATIONS

IN EXERCISE of the powers conferred by section 180 of the Insurance Act, the Cabinet Secretary for the National Treasury makes the following regulations.

PART I — PRELIMINARY

1. These Regulations may be cited as the Microinsurance Regulations, 2018. Short title and commencement.

2. (1) In these Regulations— Interpretation.

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

- (a) one or more classes of general insurance business;
- (b) one or more classes of long term insurance business; and
- (c) one or more classes of general and long term insurance business;

“general micro insurance product” means health insurance contract, any contract covering the belongings, such as, dwellings, livestock, crop or tools of trade or any personal accident contract, either on individual or group basis, as per terms stated in Regulation (11).

“microinsurer” means a person registered under this Act to carry on microinsurance business;

“life microinsurance product” means life insurance products designed as per terms stated in Regulation (11).

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

“microinsurance agent” means an intermediary appointed by a microinsurer to transact microinsurance business on its behalf .

“microinsurance business” is the provision of insurance products and services tailored to suit the needs of the low-income segment of the population in terms of cost, scope, coverage and delivery mechanism.

“qualified microinsurance actuary” means a person who is at least—

- (a) an Associate of The Actuarial Society of Kenya; or
- (b) has an equivalent qualification to an Associate, awarded by an actuarial association recognized by the Authority;

“waiting period” means the time an insured must wait before some or all of their coverage comes into effect.

Scope of application of microinsurance regulations

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

Meaning of “fixed sum insurance contract”

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.

(2) Despite sub-regulation (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, depending on the period of time over which the insured risk occurs; or

(b) the payment of the specified fixed sum on an instalment basis.

“Group microinsurance policy”

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

(a) the master policyholder purchases the insurance policy on behalf of members of the group and their beneficiaries.

(b) the group is identifiable and exists independently of the insurance contract;

(c) the group is not formed by—

(i) a registered 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) where group underwriting is applied, no price discrimination will be allowed between individuals within the group.

(3) the master policyholder shall disclose the premium payable by each member of the group and the benefits payable to the members at the inception of the contract.

“Grace period”

6. (1) The “grace period” in relation to a microinsurance contract means a period commencing on the date when the premium falls due for payment and ending on the date specified in the policy during which, the failure of the policyholder to pay the premium due in full does not result in the termination of cover.

(2) The grace period shall be at least 45 days from the date when the premium falls due for payment.

(3) No grace period shall be provided for index-based microinsurance products.

PART II —MICROINSURANCE CONTRACTS

7. (1) A microinsurer shall apply to the Authority for approval of a microinsurance product and any amendments to the terms of the product in line with the product approval guidelines issued under the Act. Approval of microinsurance contracts

(2) In addition to the provision under sub-regulation (1) a microinsurer shall submit;

- (a) Sample policy summary;
- (b) the proposed commission rates and fee structures;
- (c) a sales plan specifying how the product will be distributed;
- (d) copies of drafts of any agreements with agents or other persons who will be involved in the servicing of the product

8. (1) The Authority may, by written notice, revoke an approval of a microinsurance product; Revocation of approval

- (a) on application by the microinsurer;
- (b) where the product ceases to comply with the requirements of these Regulations or the Act; and
- (c) where the microinsurer ceases to comply with the obligations under the Act.

9. (1) A microinsurer shall not change the pricing of a microinsurance product without prior approval of the Authority Change in pricing

(2) The application shall be accompanied by a written certification by the microinsurance actuary that, in the actuary's opinion, the revised terms have been determined in accordance with generally accepted actuarial methodologies.

(3) Any change in pricing shall not apply to existing contracts.

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

- (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

11. A microinsurance contract shall satisfy the following criteria;

- (a) the policies shall offer protection to the individual or members of a group and their property and shall exclude third party liability risks.
- (b) the policies shall have a contract term of up to but not exceeding 12 months.
- (c) The policies shall be renewable at the end of the contract term without the need for a new policy document subject to payment of premium.
- (d) the amount of daily premiums or contributions shall not exceed Kenya shillings forty.
- (e) the sum insured shall not be more than Kenya shillings five hundred thousand.
- (f) be a fixed sum insurance contract;
- (g) not provide for the premium to increase during the term of the contract;
- (h) provide that cover under the contract does not commence until;
 - (i) the premium has been paid; or
 - (ii) where the contract provides for payment of the premium by instalments, the first instalment has been paid;

Policy summary

12. (1) A microinsurer shall prepare a simple Policy Summary of no more than one A4 page with a minimum font size of 12 for each of its micro insurance policies with a clear statement that the product is a “microinsurance” product.

(2) The Policy Summary shall be issued to prospective policyholders, whether in electronic form or otherwise, prior to selling the policy.

- (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 sub-regulation (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, date when premium is payable, amount of premium payable including consequences of non-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.

13. (1) A microinsurer shall, within 3 working days of the commencement of a microinsurance contract, provide a policyholder with a policy document and a confirmation of receipt of premium.

Provision of
policy document
and receipt

(2) A microinsurer may provide the documents provided for in sub-regulation (1) through the use of electronic technology.

14. Any marketing material developed in relation to a microinsurance contract shall be in the same language as the policy document and shall be in a clear, plain and easy to understand language.

Marketing material

Claim payments **15.** (1) A microinsurer shall within 10 days of receipt of a claim notification under a microinsurance policy pay or reject the claim and notify the claimant of the reasons for rejection.

(2) Where a claim notification is received by a microinsurance agent such notification shall be deemed to have been received by the microinsurer.

(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 10 days from the Authority.

PART III — REGULATION OF MICROINSURANCE BUSINESS

Registration requirements

16. (1) Except as otherwise provided in or under the Insurance Act, only a person registered under these regulations shall carry on microinsurance business in Kenya.

(2) All microinsurers will have to use the word “microinsurance” in its registered name.

(3) Any licensed insurer transacting microinsurance business shall continue to provide these microinsurance products under their existing licenses.

(4) Where a licensed insurer sets up a separate microinsurance company for microinsurance purposes, the management and governance structure of the parent company may be used for the subsidiary.

(17).(1).Microinsurance license applications will be subject to similar registration requirements as currently required for insurers under the Act, but with the capital and reserving regime and operational requirements as set out in these regulations.

Licensing requirements

(2). Applicants for a microinsurance license shall;

(a) have a minimum paid up capital of Kenya Shillings fifty (50) million; or

(b) a Risk Based Capital as determined from time to time by the Authority.

(3) The reserving requirements for microinsurance products sold under a microinsurance license will be the same as for products sold under a general insurance business.

Complaints

18. (1) A microinsurer shall establish and maintain a function, and put in place procedures for dealing with enquiries, complaints and disputes

(2) A microinsurer shall within 14 days of receiving a complaint, resolve the complaint and notify the complainant of its decision.

19. (1) A microinsurance agent shall be appointed by an insurer by entering into an agreement which shall clearly specify the terms and conditions of such appointment including the duties and responsibilities of both the microinsurance agent and the insurer.

Appointment of
Microinsurance
agents

(2) An individual may be appointed and may act as a microinsurance agent without obtaining an insurance agent's licence under the Act in accordance with these regulations.

(3) A microinsurer may appoint an individual as its microinsurance agent in accordance with these regulations provided that;

(a) the insurer is satisfied 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 microinsurer.

20. (1) A microinsurer that appoints a person to act as its microinsurance agent shall make the appointment through a written agreement which shall contain the following;

Appointment
requirements

(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 an 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 microinsurer shall keep a register of all microinsurance agents that it has appointed which shall include;

(a) the full name, business address and contact details of each agent; and

(b) details of;

- (i) the date upon which the agent was appointed and on which the appointment was terminated, where applicable;
- (ii) the volume of business generated by the agent by class or type;
- (iii) the source of business by County;
- (iv) the amount of commissions or fees paid to the agent

Training obligations

21. (1) Every microinsurer shall provide at least twenty five hours of training at its expense to all microinsurance agents in the areas of insurance selling, policyholder servicing and claims handling.

(2) A microinsurer shall ensure that its microinsurance agents undergo refresher training of at least fifteen hours after every three years from the date of entering into the agreement.

(3) Microinsurance training programme shall include appropriate and relevant training on;

- (i) the provisions of the Act and the Insurance Regulations in relation to micro insurance;
- (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;

Commissions and fees

22. The commissions or fees payable to a microinsurance agent shall not exceed 15% of the premium paid.

Reporting requirements

23. In addition to any other reporting requirements under the Act, Microinsurers shall be required to report periodically to the Authority the following;

- (a) Information in respect of microinsurance business in such form and manner and containing such particulars as may be required by the Authority from time to time;
- (b) Quarterly information regarding the handling of complaints or grievances against the microinsurer or its agents;
- (c) Annual reports on microinsurance agents engaged during the year.

PART IV — MISCELLANEOUS

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

Applications
under these
Regulation

Dated2018

HENRY ROTICH.
Cabinet Secretary for the National Treasury