

LEGAL NOTICE NO.....

THE INSURANCE ACT

(Cap. 487)

INSURANCE (CLAIMS MANAGEMENT) GUIDELINES, 2018

IN EXERCISE of the powers conferred by section 3A(a), (b) and (g) of the Insurance Act, the Insurance Regulatory Authority issues the following guidelines—

GUIDELINES ON CLAIMS MANAGEMENT, 2018

1. These guidelines may be cited as the Insurance (Claims Management) Guidelines, 2018. Citation.

2. In these guidelines, unless the context otherwise requires— Interpretation.

“claim” means a request to an insurance company asking for a payment based on the terms of an insurance policy including claims related expenses.

“Claimant” means a person who has a right to a settlement arising from a contract of insurance.

“Service Provider” means any person appointed to provide a service in facilitating a claim process

3. These guidelines provide principles of management of insurance claims by an insurer as well as the market conduct relating to the claims process. Introduction

4. The purpose of these guidelines is to ensure prompt payment of claims and to promote consumer confidence in the insurance industry. Objective

5. These guidelines shall apply to all insurers, intermediaries, and the service providers involved in the process of claims management. Scope

6. The board of an insurer shall develop, document and implement policies and procedures for effective claims management. General requirement
7. An insurer shall at the time of issuing an insurance policy provide in writing the procedures to be followed by a claimant when lodging a claim. Pre-loss information
8. An insurer shall not ask for underwriting information that ought to have been provided at the time of policy issuance.
9. The insurer shall explain to the policyholder the claim conditions such as depreciation, average, pre-loss value, reinstatement, excess or deductibles among others.
10. An insurer shall ensure that the claims procedure provided to the claimant contains information on:-
- (a) Loss minimization;
 - (b) Claims notification as provided under the terms of the policy; and
 - (c) The need for claimant to cooperate with the insurer and other service providers in the processing of the claim;
10. Notification of the claim may be done as per the insurance policy. Claim notification
11. Where a claim notification is received by an insurance intermediary, such notification shall immediately be transmitted to the insurer not later than forty eight hours. An intermediary who contravenes the provision of this clause shall be liable for a penalty of Kenya shillings twenty thousand.
12. Any claims notified through an intermediary shall be deemed to have been notified to the insurer.
13. An insurer shall take the following action immediately but not later than two (2) working days, upon receipt of claim notification:-
- (a) Acknowledge the notification;
 - (b) Avail an appropriate claim form and if specific documents are required for processing a claim, the insurer will provide a list of these documents;
 - (c) Provide any additional information or advice that will assist in dealing with the claim; and

(d) Appoint a service provider(s) as necessary.

14. An insurer shall upon receipt of all the documents from the claimant:-

- (a) Acknowledge receipt of the documents within 2 days. The date of acknowledgement of the documentation as provided in paragraph 13 (b) shall be construed to be the date of reporting of the claim within the meaning of the Insurance Act.
- (b) If a claim is admissible and can be settled immediately without any further assessment, the insurer shall effect the settlement of the claim. Acknowledgement
of a claim
notification
- (c) If the claim is admissible but further assessment by a service provider is necessary to quantify the loss, the insurer shall appoint a service provider and advise the claimant on the action being taken. The insurer shall upon receipt of the assessment report make an offer to settle the claim.
- (d) Where further investigation is necessary to determine admissibility of the loss under the policy, the insurer shall notify the claimant of this requirement. Receipt of claims by
the company
- (e) An insurer shall within seven days of receipt of the investigation report, make an offer or communicate declination and the reasons thereof.
- (f) An admission of liability as contemplated under the Insurance Act shall be construed to mean performance of an act by an insurer that is consistent with the settlement of the claim and shall include but not limited to making of an offer, issue of a discharge voucher, authorizing repair and replacements.
- (g) If in the opinion of the insurer the loss is not covered by the insurance policy, the insurer shall after exhausting their internal mechanisms on declining a claim, immediately send a notification to the claimant explaining the reasons for declining the claim.

- (h) If the amount offered is different from the amount claimed, the insurer shall explain the reason for this to the claimant and avail to the claimant the assessment report.
 - (i) Where the insurer declines part of a claim, the insurer shall promptly notify the claimant of this fact and explain the reasons.
15. An insurer shall not repudiate a claim on the basis of late notification without establishing the reasons thereof.
16. Every insurer shall develop and maintain a manual on their claims handling procedures which shall include all steps from claim intimation to settlement for different classes of insurance business. The manual shall provide expected timeframes in each of the steps, provided that the insurer shall, while setting the time frames take into consideration the provisions of the Insurance Act.
17. Every insurer while formulating the manual shall put in place clearly defined controls and reporting systems surrounding the claims management process.
18. The insurer shall update the claimant on status of the claim in a timely and fair manner.
19. An insurer shall not decline a claim on the grounds of:-
- (a) non-disclosure of material facts which a policyholder will not reasonably be expected to have known.
 - (b) misrepresentation unless it is fraudulent or negligent misrepresentation of material facts.
 - (c) breach of warranty or condition where the circumstances of the loss are unconnected with the breach.
 - (d) late reporting without establishing and considering the reasons for the late notification.
 - (e) a breach of policy conditions where the policyholder was not aware of such condition.
 - (f) where non payment of premium to an insurance company is caused by delay by an insurance intermediary;
- Procedure manual

(g) expiry of a driving license at the time of the accident provided that the driver was not disqualified from holding such a license at the time of the accident.

20. An insurer shall take the following steps to control fraudulent claims;
- (a) establish systems and controls for detecting and prevention of fraudulent claims.
 - (b) discourage fraudulent practices by making the claimant aware of the consequences of submitting false statements in the claims filing phase.

21. An insurer shall report fraudulent claims to the Authority and maintain a database of the same.

22. An insurer shall not dispose of salvage before the insured is indemnified.

23. An insurer shall establish a well-resourced customer service function, depending on the nature, scale and complexity of the insurer's operations, to address queries and complaints.

Insurance fraud

24. An insurer shall have a documented procedure and timelines for receiving, registering and disposing of complaints in each of its offices.

Salvage disposal

Customer service

26. Where the Authority determines non-compliance with the provisions of these guidelines, it may take any intervention prescribed in the Insurance Act.

Enforcement.

27. Where the Authority determines that the regulated entity has not met the requirements of these guidelines, the Authority may impose any or all of the administrative sanctions to correct the situation in accordance with the provisions of the Insurance Act, including but not limited to—

Administrative
Sanctions

- (1) Direct the regulated entity to take appropriate remedial action.
- (2) Impose additional reporting requirements and monitoring activities;
- (3) Withdraw or impose conditions on the business license taking into account the nature of the breach and;
- (4) Monetary penalties not exceeding Kenya Shillings One Million.

Issued on the 2018.

ABDIRAHIN H ABDI
Chairman,
Insurance Regulatory Authority.

GODFREY K KIPTUM
Ag. CEO & Commissioner of Insurance
Insurance Regulatory Authority.