

Kenya Gazette Supplement No. 103 (Acts No. 10)



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KENYA GAZETTE SUPPLEMENT

ACTS, 2003

NAIROBI, 19th December, 2003

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THE INSURANCE (AMENDMENT) ACT, 2003**No. 9 of 2003***Date of Assent: 10th December, 2003**Date of Commencement: 19th December, 2003***An Act of Parliament to amend the Insurance Act****ENACTED** by the Parliament of Kenya, as follows: -Short title and
commencement.

1. (1) This Act may be cited as the Insurance (Amendment) Act, 2003.

(2) the provisions of section 3 and 4 shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Amendment of
section 2 of Cap.
487.

2. Section 2(1) of the Insurance Act, in this Act referred to as "the principal Act", is amended -

(a) in the definition of "broker"-

(i) by inserting the words "and includes a health management organisation" immediately after the word "reinsurance";

(ii) by deleting the words "fee, allowances, returns or otherwise";

(b) in the definition of "insurance business"-

(i) by deleting subparagraph (iii);

(ii) by deleting subparagraph (iv)(B);

(c) in the definition of "insurer", by deleting the words "whether registered under this Act or not" and substituting therefor with the words "registered under this Act";

(e) by inserting the following new definitions in proper alphabetical sequence –

“group life insurance and group business” means insurance on the lives of groups of persons formed for purposes other than that of purchasing a group life insurance policy;

“medical insurance provider” means an intermediary, other than a broker, concerned with the placing of medical insurance business with an insurer for, or in expectation of, payment by way of a commission, fee or other remuneration.

Insertion of section 27A in Cap 487.

3. The principal Act is amended by inserting the following new section immediately after section 27 -

Qualifications of board members.

27A. A person shall not be registered under section 31 unless -

- a) the board of directors or managing board of such person comprises at least five members; and
- b) the Commissioner is satisfied that all members of such board have knowledge and experience in matters relating to insurance, actuarial studies, accounting, finance or banking.

Amendment of section 31 of Cap 487.

4. Section 31 of the principal Act is amended by deleting paragraph (h) and substituting therefor the following new paragraph -

(h) the applicant has an adequate number of technically qualified and otherwise competent staff, including –

(i) a fit and proper principal officer who holds a technical or professional qualification in insurance, accounting or banking approved by the Commissioner, and who has more than ten years' experience in a managerial capacity in the respective sector; and

(ii) a management staff comprising persons who hold technical or professional qualifications in insurance, accounting or banking approved by the Commissioner and who have more than five years' experience in the respective sector,

and suitable premises and facilities in Kenya to satisfactorily serve the public in respect of the class or classes of business specified in the application.

Amendment of
section 54 of
Cap. 487.

5. Section 54 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection—

(1) Subject to subsection (3), every insurer incorporated in Kenya shall, in respect of all insurance business wherever carried on by the insurer, after the end of each financial year, prepare for the year, in accordance with the prescribed forms, a revenue account for the year, a balance sheet as at the end of the year and a profit and loss account for the year, or, in the case of a company not trading for profit, an income and expenditure account of the year:

Provided that an insurer shall, in respect of every quarter, prepare and submit to the Commissioner, within forty-five days of the end of the quarter to which it relates, an unaudited revenue account, balance sheet, profit and loss account and statement of admitted assets and admitted liability

Amendment of
section 55 of
Cap. 487.

6. Section 55 of the principal Act is amended by deleting subsection (3).

Amendment of
section 61 of
Cap. 487.

7. Section 61 of the principal Act is amended -

(a) in subsection (1), by deleting the word "six" and substituting therefor the word "four";

(b) by inserting the following proviso at the end of subsection (1) -

"Provided that the insurer shall cause a copy of the audited balance sheet deposited with the Commissioner to be published in at least two daily newspapers of national circulation, within thirty days of such deposit.

Amendment of
section 67A of
Cap. 487.

8. Section 67A of the principal Act is amended -

(a) in subsection (1), by inserting the words "and any other person registered under this Act" immediately after the word "insurer";

(b) in subsection (2), by inserting the words "and any other person registered under this Act" immediately after the word "insurer";

(c) in subsection (4), by inserting the words "and any other person registered under this Act" immediately after the word "insurer".

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Amendment of
section 67B in
Cap 487.

9. The principal Act is amended in section 67B by inserting therefor the words "and any other person registered under this Act" immediately after the word "insurer"

Amendment of
section 67D in
Cap 487.

10. The principal Act is amended in section 67D by renumbering the existing provision as subsection (1) and inserting the following new subsection –

(2) Without prejudice to the provisions of this Part, a person who, upon inspection, is found to be –

(a) transacting insurance business without registration, renewal of registration or authorization, under this Act or with persons not so registered or authorized; or

(b) charging a rate of premium other than that filed with the Commissioner under section 75,

shall, in addition to any other penalty prescribed under this Act, be liable to pay a penalty of two hundred thousand shillings, which shall be paid by a crossed banker's draft made in favour of the Permanent Secretary to the Treasury.

Amendment of
section 68 of
Cap.487.

11. Section 68 of the principal Act is amended in subsection (1) by inserting the expression "agent, medical insurance provider" immediately before the words "insurance surveyor".

Amendment of
section 73 of
Cap 487.

12. Section 73 of the principal Act is amended –

(a) in subsection (2), by deleting the words "fee or other remuneration";

(b) in subsection (3), by deleting the words "fee or other remuneration".

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Amendment of
section 150 of
Cap.487.

13. Section 150 of the principal Act is amended by inserting the words "medical insurance provider" immediately after the words "insurance surveyor" wherever they occur.

Insertion of
section 150A in
Cap.487.

14. The principal Act is amended by inserting the following new section immediately after section 150 –

Registration of
medical
insurance
providers.

150A(1) Every person engaged in the business of undertaking liability by way of insurance in respect of funding private medical care shall, within twelve months of the commencement of this section, apply to the Commissioner for registration as a medical insurance provider under this Act.

(2) Subject to this Act, the provisions of this Act or of any regulations made there under with respect to the registration and regulation of brokers shall, *mutatis mutandis*, apply to medical insurance providers.

Amendment of
section 152 of
Cap.154.

15. Section 152 of the principal Act is amended by inserting the words "medical insurance provider" immediately after the words "insurance surveyor".

Amendment of
section 154 of
Cap. 487.

16. Section 154 of the principal Act is amended by deleting the words "more than one insurer" wherever they occur and substituting therefor the words "a maximum of three insurers".

Insertion of
section 196A in
Cap.487.

17. The principal Act is amended by inserting the following new section immediately after section 196 –

Notification of
cancellation of
registration

196A The Commissioner shall, at the beginning of each calendar year, notify in the Gazette and in at least two daily newspapers of national circulation, names of the persons whose registration is cancelled under this Act and the type of business in respect of which the cancellation of registration is done.